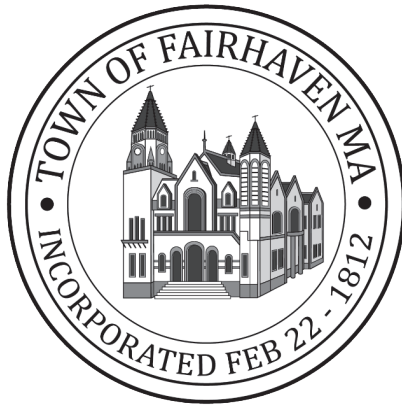


TOWN MEETING WARRANT and REPORT
of the
TOWN of FAIRHAVEN
MASSACHUSETTS

FOR THE
ANNUAL TOWN MEETING
TO BE VOTED UPON
SATURDAY, MAY 4, 2024
AT 9:00 A.M.



SATURDAY, MAY 4, 2024 at 9:00 a.m.

IN THE
WALTER SILVEIRA AUDITORIUM
AT THE
ELIZABETH I. HASTINGS MIDDLE SCHOOL
30 SCHOOL STREET

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**NOTE: Calendar Year (CY) 2023 Salaries can be
found in the 2023 Annual Report**

Please bring this copy to Town Meeting

Letter from the Town Moderator

Dear Town Meeting Member:

On Saturday, May 4, 2024 at 9:00 a.m., we will convene the 2024 Annual Town Meeting in person at Hastings Middle School in the Silveira Auditorium.

In advance of Town Meeting, our precinct meetings and the Town Meeting preview will be held on Wednesday, May 1, 2024 beginning at 6:30 p.m. at Hastings Middle School in the Silveira Auditorium. Town Meeting members will meet in classrooms designated for their precinct (see below) beginning at 6:30 p.m. followed immediately by the Town Meeting preview. At your precinct meeting, you will elect the chair, fill vacant town meeting seats and discuss matters important to your precinct, including any vacancies on the Finance Committee. During the Town Meeting preview, we will run through all of the articles contained in the Annual Town Meeting warrant and elected and appointed officials will be on hand to answer questions you may have.

To ensure that the precinct meetings are easily accessible, we have designated specific classrooms at Hastings Middle School for these meetings. These same classrooms will be available to the precincts the morning of Town Meeting. Below are the room assignments. Each of the classrooms is in close proximity to Silveira Auditorium.

Precinct	Class Room	Location
1	23	Main Hallway to the right of the 6th Grade wing
2	24	
3	25	
4	35	6th Grade wing – closest to Auditorium
5	36	
6	37	

Town Meeting orientation will also take place on Wednesday, May 1, 2024 and will start at 5:30 p.m. in the Silveira Auditorium. Whether you are a newly elected Town Meeting member or an existing Town Meeting member all are welcome to attend and learn more about the Town Meeting process and how it works.

TOWN MEETING INFORMATION

You can also find Information about Town Meeting including warrants, minutes, etc. on the Town Moderator webpage (link below). The warrant and other information will also be mailed to you in advance of Town Meeting.

<https://www.fairhaven-ma.gov/town-moderator>

Also, to improve communication, an email distribution list for Town Meeting members was created for our remote meetings in 2020 and 2021. We will continue to use the email list as a means to share information and updates about Town Meeting as needed. To add or update your contact information please use the following link:

<https://docs.google.com/forms/d/e/1FAIpQLSdsYhT2FfRO58ci1PKgSVV06xyfXR1UwZKb5ccVpv5p-AVVAw/viewform>

I look forward to seeing you at Town Meeting on Saturday, May 4, 2024 and hope you can join us for the precinct meetings and the Town Meeting Preview on Wednesday, May 1, 2024. As always, please contact me with any questions you may have at (508) 858-7123 or via email at msylvia@fairhaven-ma.gov or msylvia11@comcast.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Sylvia". The signature is fluid and cursive, with the first name "Mark" being the most prominent part.

Mark D. Sylvia
TOWN MODERATOR

Letter from the Finance Committee

April 2, 2024

To Fairhaven Town Meeting Members:

The duty of the Finance Committee is to thoroughly review all articles on the warrant that call for appropriations of money and any articles that may affect the finances of the town. Once complete, the Finance Committee provides written recommendations to Town Meeting.

This year, you are being presented with a balanced General Fund budget and a fully funded Capital plan.

Keep in mind that just 2 months ago, we were presented with a massive 2.2-million-dollar deficit, that was caused by expenditures outpacing revenues. It took the establishment of a trash fee and requesting all departments to cut their budgets to close the gap.

In reducing department budgets, there are a few structural reductions, with the most significant being sharing of administrative staff at Town Hall, reductions in Police and Fire OT, and staffing and OT reductions in Highway. The School Department was able to secure funds to close the remaining \$447,000 deficit and keep the system above the net school spending limit. The result of all this is that department heads need to put extra effort to closely monitor expenditures next year. It's possible that money available for capital projects will go down next year.

In regards to Capital, we are presented with the smallest general fund capital budget of at least the past 7 years and includes the smallest expenditure on roads in memory.

With expenditures still outpacing revenue, our financial situation will need to be closely monitored. It is possible there will be more difficult choices down the road.

The Broadband Study Committee has also presented Town Meeting members with a proposal to borrow \$20,000,000 to start a new fiber optic internet service in town. If enough people commit to this project (roughly 50% of residents), rate payers could see some reduction in their monthly cost and increased internet speed. There are concerns to be addressed such as what department will manage the project, how it will be rolled out and how rate payers will be committed to make the project viable. The consensus of the Finance Committee is that this is a good beneficial project, but there are too many unanswered questions. There needs to be the formation of a specific plan before embarking on the project. As of this writing the expectation is the article is going to be modified and more discussion at the Selectboard before Town Meeting. As a result, the Finance Committee has noted "At Town Meeting" in your mailed warrant with expectation that we will make our final recommendation prior to Town Meeting.

Respectfully submitted,
The Fairhaven Finance Committee

Finance Committee

The Member at-large is appointed by the Moderator, the Chair of the Select Board and the Chair of the Finance Committee in joint session

PRECINCT 1

Padraic Elliott, Chair	39 Union Street	Term Expires 2024
Robert Grindrod	48 Center Street	Term Expires 2025

PRECINCT 2

Claire Millette, Vice-Chair	138 Main Street	Term Expires 2025
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PRECINCT 3

Stephen Levesque	42 Daniel Street	Term Expires 2024
David Patterson	271 Alden Road	Term Expires 2025

PRECINCT 4

Peter Gardner	20 Bellvue Street	Term Expires 2025
James Souza	60 Hacker Street	Term Expires 2024

PRECINCT 5

Lisa Plante	5 Harvard Street	Term Expires 2024
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PRECINCT 6

Linda Gallant	361 Bridge Street	Term Expires 2024
Pattie Pacella	11 Forestview Drive	Term Expires 2024

MEMBER AT LARGE

Chris Fidalgo	47 Union Street	Term Expires 2024
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Warrant

The inhabitants qualified as Town Meeting Members shall meet on
Saturday, May 4, 2024 at 9:00 am
in the Walter Silveira Auditorium at the Elizabeth I. Hastings Middle School
to Act on the following Articles in the Warrant:

Majority Vote needed unless stated otherwise

ARTICLE 1: MEASURER OF WOOD AND BARK

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

Petitioned by: Select Board

Motion: To adopt as written in the warrant

Select Board: Recommend Adoption

ARTICLE 2: TOWN REPORT

To receive the Annual Report of Town Officers.

Petitioned by: Select Board

Motion: To receive the Annual Report of Town Officers

Select Board: Recommend Adoption

ARTICLE 3: REPORT OF COMMITTEES

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

Petitioned by: Select Board

Motion: To adopt as written in the warrant

Select Board: Recommend Adoption

ARTICLE 4: BILLS OF PRIOR YEAR

To see if the Town will vote to pay the unpaid bills of a prior fiscal year. And others that may be brought forward, or take any other action relative thereto

Petitioned by: Town Accountant

<u>Vendor</u>	<u>Amount</u>	<u>Petitioner</u>
Stryker	\$2,191.90	Fire Department
GCG Associates, Inc.	\$195.00	Planning Department

Motion: To approve as listed in the warrant, with funds coming from Surplus Revenue (Free Cash)

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

Vote Required: Four-Fifths (4/5) Vote

ARTICLE 5 TOWN OPERATING BUDGETS -FY25

5A: GENERAL FUND OPERATING BUDGET-FY25

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds the amounts listed on the accompanying table to fund the Fiscal Year 2025 General Fund Operating Budget or take any other action relative thereto:

Petitioned by: Town Administrator

See Appendix A, page 27 for full budget description

Dept. Name/Function Totals	FY2024 Budgeted	FY2025 Budget
GENERAL GOVERNMENT		
General Government Salaries & Wages	\$1,997,857	\$2,133,179
General Government Operating Expenses	\$913,761	\$1,027,339
Subtotal General Government	\$2,911,618	\$3,160,518

Motion: To raise and appropriate the sum of \$3,160,518 to fund general government departments FY25 budget, which includes salaries and wages for appointed and elected officials and operating expenses, and to defray this cost transfer \$10,000 from Wetlands Protection Fund.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

	FY2024 Budgeted	FY2025 Budget
PUBLIC SAFETY		
Public Safety Salaries & Wages	\$8,517,141	\$9,049,221
Public Safety Operating Expenses	\$989,137	\$880,772
Subtotal Public Safety	\$9,506,278	\$9,929,993

Motion: To raise and appropriate the sum of \$9,929,993 to fund Public Safety departments FY25 budget, which includes salaries and wages for appointed and elected officials and operating expenses, and to defray the cost transfer \$1,555,000 from Ambulance Reserve Fund, \$13,000 from Animal Control Gift Fund and \$52,000 from Waterway Improvement Fund.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

	FY2024 Budgeted	FY2025 Budget
EDUCATION		
Subtotal Fairhaven Public Schools	\$23,753,641	\$24,702,183
Subtotal New Bedford Regional Technical HS	\$2,397,000	\$2,626,000
Subtotal Bristol County Agricultural HS	\$235,000	\$310,100

Motion: To raise and appropriate the sum of \$24,702,183 to fund the Fairhaven Public School district FY25 budget.

Select Board: Recommend Adoption
 Finance Committee: Recommend Adoption

Motion: To raise and appropriate the sum of \$2,626,000 to fund the New Bedford Regional Technical High School FY25 budget.

Select Board: Recommend Adoption
 Finance Committee: Recommend Adoption

Motion: To raise and appropriate the sum of \$310,100 to fund the Bristol County Agricultural High School FY25 budget.

Select Board: Recommend Adoption
 Finance Committee: Recommend Adoption

	FY2024 Budgeted	FY2025 Budget
PUBLIC WORKS		
Public Works Salaries & Wages	\$1,671,107	\$1,612,579
Public Works Operating Expenses	\$2,634,961	\$2,766,432
Subtotal Public Works	\$4,305,068	\$4,379,011

Motion: To raise and appropriate the sum of \$4,379,011 to fund public works departments FY25 budget, which includes salaries and wages for appointed and elected officials and operating expenses, and to defray the cost, transfer \$10,000 from Stormwater Subdivision Fund and \$94,001 from Trash Fees Fund.

Select Board: Recommend Adoption
 Finance Committee: Recommend Adoption

	FY2024 Budgeted	FY2025 Budget
HEALTH AND ENVIRONMENT		
Board of Health Salaries & Wages	\$164,353	\$172,797
Board of Health Operating Expenses	\$24,570	\$22,710
Subtotal Board of Health	\$188,923	\$195,507

Motion: To raise and appropriate the sum of \$195,507 to fund Health and Environmental departments FY25 budget, which includes salaries and wages for appointed and elected officials and operating expenses.

Select Board: Recommend Adoption
 Finance Committee: Recommend Adoption

	FY2024 Budgeted	FY2025 Budget
COMMUNITY SERVICES		
Community Services Salaries & Wages	\$584,768	\$542,295
Community Services Operating Expenses	\$1,681,025	\$1,586,994
Subtotal Community Services	\$2,265,793	\$2,129,289

Motion: To raise and appropriate the sum of \$2,129,289 to fund Community Services departments FY25 budget, which includes salaries and wages for appointed and elected officials and operating expenses; and to defray the cost, transfer \$20,000 from the Council on Aging Social Day Program and \$7,000 from the Tourism Gift Fund.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

	FY2024 Budgeted	FY2025 Budget
NON-DEPARTMENTAL		
Non-Departmental Salaries & Wages	\$750,000	\$0
Non-Departmental Operating Expenses	\$10,911,560	\$11,669,792
Subtotal Non-Departmental	\$11,661,560	\$11,669,792

Motion: To raise and appropriate the sum of \$11,669,792 to fund the Non-Departmental departments FY25 budget, which includes salaries and wages for appointed and elected officials and operating expenses.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

	FY2024 Budgeted	FY2025 Budget
DEBT SERVICE		
General Fund	\$1,131,020	\$1,094,605

Motion: To raise and appropriate the sum of \$1,094,605 to fund debt services FY25 budget.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

5B: WATER ENTERPRISE FUND OPERATING BUDGET

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds the following amounts to fund the operating budget of the Water Enterprise Fund for Fiscal Year 2025 or take any other action relative thereto:

	FY 2024 Budgeted	FY2025 Budget
Amounts Appropriated:		
Salaries and Wages	704,809	807,523
Operating Expenses	2,083,300	2,145,338
Debt Service	434,251	295,725
Subtotal Water Enterprise Appropriations	3,222,360	3,248,586
Transfer for Amounts Appropriated in the General Fund	536,795	516,795
TOTAL WATER ENTERPRISE FUND OPERATING BUDGET	3,759,155	3,765,381

Funding Sources:		
Water Revenue	3,465,000	3,550,000
Water Retained Earnings	294,155	215,381
TOTAL FUNDING SOURCES	3,759,155	3,765,381

Petitioned by: Town Administrator and Board of Public Works

Motion: To raise and appropriate a sum of \$3,248,586 to fund the Water Enterprise Fund for fiscal year 2025, and to defray this cost, transfer \$215,381 from Water Enterprise Fund Retained Earnings.

Select Board: Recommend Adoption

Finance Committee:

5C: SEWER ENTERPRISE FUND OPERATING BUDGET

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds the following amounts to fund the operating budget of the Sewer Enterprise Fund for Fiscal Year 2025 or take any other action relative thereto:

	FY 2024 Budgeted	FY2025 Budget
Amounts Appropriated:		
Salaries and Wages	1,257,009	1,397,067
Operating Expenses	1,284,325	1,591,826
Debt Service	775,465	956,904
Subtotal Sewer Enterprise Appropriations	3,316,799	3,945,797
Transfer for Amounts Appropriated in the General Fund	858,700	838,700
TOTAL SEWER ENTERPRISE FUND OPERATING BUDGET	4,175,499	4,784,497
Funding Sources:		
Sewer Revenue	4,175,499	4,704,497
Sewer Retained Earnings	0	80,000
TOTAL FUNDING SOURCES	4,175,499	4,784,497

Petitioned by: Town Administrator and Board of Public Works

Motion: To raise and appropriate a sum of \$3,945,797 to fund the Sewer Enterprise Fund for fiscal year 2025, and to defray this cost, transfer \$80,000 from Sewer Enterprise Fund Retained Earnings.

Select Board: Recommend Adoption

Finance Committee:

5D: TOWN CABLE ENTERPRISE FUND OPERATING BUDGET

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds the following amounts to fund the operating budget of the Town Cable Enterprise Fund for Fiscal Year 2025 or take any other action relative thereto:

	FY 2024 Budgeted	FY2025 Budget
Amounts Appropriated:		
Salaries and Wages	183,158	184,773
Operating Expenses	30,800	30,700
Debt Service	0	0
Subtotal Town Cable Enterprise Appropriations	213,958	215,473
Transfer for Amounts Appropriated in the General Fund	16,422	24,671
TOTAL TOWN CABLE ENTERPRISE FUND	4,175,499	4,784,497
OPERATING BUDGET	230,380	240,144
Funding Sources:		
Town Cable Revenue	190,000	202,665
Town Cable Retained Earnings	40,380	37,479
TOTAL FUNDING SOURCES	230,380	240,144

Petitioned by: Town Administrator

Motion: To raise and appropriate a sum of \$215,473 to fund the Town Cable Enterprise Fund for fiscal year 2025, and to defray this cost, transfer \$37,479 from the Town Cable Enterprise Fund Retained Earnings.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

5E: SCHOOL CABLE ENTERPRISE FUND OPERATING BUDGET

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds the following amounts to fund the operating budget of the School Cable Enterprise Fund for Fiscal Year 2025 or take any other action relative thereto:

	FY 2024 Budgeted	FY2025 Budget
Amounts Appropriated:		
Salaries and Wages	138,860	115,214
Operating Expenses	19,391	28,840
Debt Service	0	0
Subtotal School Cable Enterprise Appropriations	158,251	144,054
Transfer for Amounts Appropriated in the General Fund	2,064	12,849
TOTAL SCHOOL CABLE ENTERPRISE FUND	4,175,499	4,784,497
OPERATING BUDGET	160,315	156,903

Funding Sources:		
School Cable Revenue	154,939	156,903
School Cable Retained Earnings	5,376	0
TOTAL FUNDING SOURCES	160,315	156,903

Petitioned by: Town Administrator and School Committee

Motion: To raise and appropriate a sum of \$144,054 to fund the School Cable Enterprise Fund for fiscal year 2025

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

ARTICLE 6: GENERAL FUND CAPITAL PLAN

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds the following sums of monies to fund the capital equipment and projects listed below, or take any other action relative thereto:

Line	Department/Project	Amount	Funding Source
	Public Works Department		
1	Road Work	\$125,000	Free Cash
2	Tub Grinder/Recycling Center Relocation	\$300,000	Free Cash
3	Vehicle #12 Replacement	\$100,000	Free Cash
4	BPW Admin Building Floor Tile	\$45,000	Free Cash
5	Tractor Replacement	\$200,000	Free Cash
	Fire		
6	Gear Equipment	\$185,000	Free Cash
7	Replace Fire Prevention Vehicle	\$74,500	Free Cash
8	Used Bucket Truck	\$69,900	Free Cash
	Police		
9	Cruiser Replacement	\$140,306	Free Cash
	School		
10	Maintenance. Vehicle Replacement	\$58,500	Free Cash
	Information Technology (IT)		
11	IT Equipment	\$30,000	Free Cash
	Total recommended General Fund Capital Budget	\$1,328,206	

Petitioned by: Town Administrator

Motion: To transfer a sum of \$1,328,206 from Surplus Revenue (Free Cash) to fund the capital projects as listed (items 1-11) for fiscal year 2025

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

ARTICLE 7: WATER ENTERPRISE FUND CAPITAL PLAN

7A: WATER ENTERPRISE FUND CAPITAL BUDGET

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds the following sums of monies to fund the capital equipment and projects of the Water Enterprise Fund listed below, or take any other action relative thereto:

Line	Project	Amount	Funding Source
1	Portable Trailer	\$50,000	Water Retained Earnings

Petitioned by: Town Administrator

Motion: To transfer from Water Retained Earnings the sum of \$50,000 to fund the capital equipment and projects as listed.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

7B: BORROWING AUTHORIZATION – WATER TOWER MAINTENANCE

To see if the Town will vote to raise and appropriate or borrow the sum of \$1,000,000, or any other sum, for the purpose of funding the cost of the Scoticut Neck Water Tower Maintenance, including the payment of all costs incidental and related thereto; and that the Treasurer, with approval of the Select Board, is authorized to borrow such sum pursuant to Massachusetts General Law Chapter 44, section 8, or any other enabling authority, and to issue bonds or notes of the Town therefore.

Line	Project	Amount	Funding Source
1	Scoticut Neck Water Tower Maintenance	\$1,000,000	Borrowing

Petitioned by: Board of Public Works

Motion: To borrow the sum of \$1,000,000 for funding the Scoticut Neck Water Tower Maintenance, the principal interest of which shall be repaid, in the first instance, through Water Enterprise Fund revenues.

Vote Required: Two-Thirds (2/3) Vote

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

ARTICLE 8 SEWER ENTERPRISE FUND CAPITAL PLAN

8A: SEWER ENTERPRISE FUND CAPITAL BUDGET

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds the following sums of monies to fund the capital equipment and projects of the Sewer Enterprise Fund listed below, or take any other action relative thereto:

Line	Project	Amount	Funding Source
1	Inflow and Infiltration Study	\$250,000	Sewer Retained Earnings
2	4" Goodwin Pump	\$75,000	Sewer Retained Earnings
3	South Street Pump Station Pump Replacement	\$500,000	Sewer Retained Earnings

Petitioned by: Board of Public Works

Motion: To transfer from sewer retaining earnings a sum of \$825,000 to fund the inflow and infiltration study, 4" Goodwin Pump equipment and South Street Pump Station Pump Replacement with each amount as specified in the article.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

8B: SEWER CAPITAL STABILIZATION FUND

To see if the Town will vote to transfer \$2,328,760.07 from the Sewer Capital Improvements Stabilization Fund to the Sewer Nitrogen Plant, Article 15A of the June 18, 2022 Town Meeting, or take any other action relative thereto:

Petitioned by: Board of Public Works

Motion: To adopt as written in the warrant.

Vote Required: Two-Thirds (2/3) Vote

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

8C: SEWER ENTERPRISE FUND

To see if the Town will vote to transfer \$280,364.48 from the Sewer Capital Project Article 14B of the May 6, 2017 Town Meeting to the Sewer Nitrogen Plant Article 15A of the June 18, 2022 Town Meeting, or take any other action relative thereto:

Petitioned by: Board of Public Works

Motion: To adopt as written in the warrant.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

ARTICLE 9 OTHER BUDGET ITEMS - APPROPRIATIONS

9A FUNDING OF ARTICLES

To see if the Town will vote to raise and appropriate, and/or transfer from available funds, a sum of monies for the following purposes or take any action relative thereto.

Line	Fund	Amount	Source
1	Transfer to Ambulance Stabilization Fund	50,000	Ambulance Fund
2	Transfer to Other Post-Employment Benefit (OPEB) Trust Fund	200,000	Free Cash
3	Capital Stabilization	150,000	Free Cash

4	Compensated Absences (retirement payouts)	300,000	Free Cash
5	Preventative Building Repairs (Town Facilities)	50,000	Free Cash
6	Grant Writing Consultant (Town Hall)	60,000	Free Cash
7	Clerical Tuition (per Collective Bargaining Agreement)	10,000	Free Cash
8	Shellfish Propagation Program	17,250	Free Cash
9	FEMA 5% Match – Gear Equipment (Fire)	12,000	Free Cash
10	Mannequin (Fire)	2,450	Free Cash
11	Recreation Center Equipment	10,000	Free Cash
12	Recreation Center/Council on Aging Wall Divider	17,780	Free Cash
13	Highway Equipment	30,000	Free Cash
14	Leaf Vacuum	7,500	Free Cash
15	Basketball Hoops – Livsey Park (Town Facilities)	7,000	Free Cash
16	Utility Trailer (Public Works)	3,000	Free Cash
17	Breakroom Cabinets (Town Hall)	1,200	Free Cash
18	Special Education Reserve Fund	34,801	Free cash
19	Zoning Bylaw consultant (Planning)	25,000	Free Cash
	Total	\$987,981	

Petitioned by: Town Administrator

Motion: To transfer the sum of \$937,981 from Surplus Revenue (Free Cash) and the sum of \$50,000 from the Ambulance Reserve Fund to fund the Reserve line articles for the amounts as written.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

9B: INCREASE AND FUND COLA BASE FOR RETIREES

To see if the Town will vote to raise and appropriate, borrow or transfer from Surplus Revenue (Free Cash) the amount of \$89,000 to increase the cost of living (COLA) base for retirees, beneficiaries, and survivors beginning July 1, 2024, from \$16,000 to \$17,000 consistent with the provisions of Chapter 188, Section 19 of the Acts of 2010.

Article Summary and Description

State law allows Massachusetts Municipal Retirement systems to increase the base pension amount upon which an annual cost of living adjustment (COLA) up to 3% can be applied. These increases in the base are required to be in increments of \$1,000 up to a maximum base amount of \$18,000. Currently the Fairhaven Retirement System’s COLA base is set at \$16,000 and this article, if approved, would increase

the base to \$17,000. This would result in an annual increase in pension benefits of \$30 per retiree. The average annual pension benefit for a Fairhaven retiree is \$26,967, so applying the additional COLA would result in an increase of 1.8%, significantly below the current rate of inflation. It should also be noted that Town of Fairhaven employees do not participate in the Federal Government Social Security System which applies their annual COLA to the entire pension amount and not a portion of it as does the Retirement Systems in Massachusetts.

Petitioned by: Select Board

Motion: To transfer from available Surplus Revenue (Free Cash) \$89,000 to increase the cost of living (COLA) base for retirees, beneficiaries, and survivors beginning July 1, 2024, from \$16,000 to \$17,000 consistent with the provisions of Chapter 188, Section 19 of the Acts of 2010.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

ARTICLE 10 STATE AID TO HIGHWAYS, CHAPTER 90

To see if the Town will vote to authorize the Board of Public Works to accept and enter into contract for the expenditure of any funds allotted or to be allotted by the Commonwealth of Massachusetts for the construction, reconstruction and improvement of Town roads, or to take any other action relative thereto.

Petitioned by: Board of Public Works

Motion: To adopt as written in the warrant.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

ARTICLE 11 MUNICIPAL FIBER OPTIC PROGRAM

11A: BORROWING AUTHORIZATION – FIBER OPTIC PROGRAM

To see if the Town will vote to raise and appropriate or borrow the sum of up to \$20,645,527, or any other sum, for the purpose of funding the cost of a Town-wide Fiber Optic Internet System, including the payment of all costs incidental and related thereto; and that the Treasurer, with approval of the Select Board, is authorized to borrow such sum pursuant to Massachusetts General Law Chapter 44, section 8, or any other enabling authority, and to issue bonds or notes of the Town therefore.

Petitioned by: Broadband Study Committee

Motion: To be provided at Town Meeting

Vote Required: Two-Thirds (2/3) Vote

Select Board: Recommend Pass Over

Finance Committee: Recommend At Town Meeting

11B: ESTABLISH A MUNICIPAL FIBER ENTERPRISE FUND

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 44, Section 53F ½ establishing the Fairhaven Municipal Fiber as an Enterprise Fund effective for the fiscal year beginning July 1, 2025; or to take any other action relative thereto.

Petitioned by: Broadband Study Committee

Motion: To be provided at Town Meeting

Vote Required: Two-Thirds (2/3) Vote

Select Board: Recommend Pass Over

Finance Committee: Recommend At Town Meeting

**ARTICLE 12 FY25 COMMUNITY PRESERVATION
COMMITTEE APPROPRIATIONS**

To see if the Town will vote to appropriate or to reserve for later appropriation, and to authorize the Community Preservation Committee (CPC) to expend or reserve, from the Community Preservation Fund available funds and FY25 Estimated Receipts as set forth herein, the following amounts for community preservation purposes, with such expenditures to be subject to conditions to be specified in applications and award letters from the Community Preservation Committee, with each item considered a separate appropriation:

See Appendix B, page 31 for Article Summary and Descriptions

**PROPOSED FISCAL YEAR 2025 COMMUNITY PRESERVATION
BUDGET APPROPRIATIONS**

	Reserve for Appropriation	Recommended Amounts
A.	Acquisition, creation, and preservation of Open Space, and its rehabilitation and restoration.	\$70,000
B.	Acquisition, creation, and preservation of Historic Resources	\$70,000
C.	Acquisition, creation, and preservation of Community Housing	\$70,000
D.	Emergency Reserve Account	\$20,000
	Total Reserves for Appropriation	\$230,000
	Spending Appropriations	
E.	FHS – Boiler Room Roof Replacement (\$92.7k Und. Bal.)	\$92,700
F.	Lib. – Electrical Upgrades (\$76k FB Reserve Historic & \$309.7k Est. Receipts)	\$385,700
G.	Town Hall Repairs – Stairs and Exterior Caulking (\$30k Und. Bal.)	\$30,000
H.	BBC – Carvalho Woods Conservation Project (\$110k Und. Bal.)	\$110,000
I.	BPW – Phoenix Rail Trail Handicapped Accessible Tables (\$5k Est. Receipts)	\$5,000
J.	BPW – Macomber Park BMX Track (\$201k Und. Bal. & \$76k FB Res. OS)	\$277,000
K.	Cushman Park Pathways (19k Und. Bal.)	\$19,000

L.	FHA – Anthony Haven Window Replacement (\$100k FB Res. Comm. Housing)	\$100,000
M.	Town Hall Repairs - East Retaining Wall (\$150k Emergency Reserve)	\$150,000
	Administrative Spending Appropriation	
N.	To fund the Community Preservation Committee’s annual expenses for: Personal Service; Purchase of Services; Supplies; Other charges/expenditures (Estimated Receipts)	\$13,400
	Total Recommended Spending Appropriations	\$1,182,800

Petitioned by: Community Preservation Committee

Motion: To adopt as written in the warrant, including appropriations and allocations in the amounts specified and from the sources specified in the Article.

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

ARTICLE 13: REVOLVING FUNDS

To see if the Town will authorize or re-authorize the following Revolving Accounts under the provisions of Massachusetts General Law Chapter 44, Section 53 E ½ and to amend General Bylaws Section 2-6 to add new revolving funds under the following terms or take any other action relative thereto:

Revolving Fund	Authorized to Spend	Revenue Source	FY25 Limit
Hazardous Materials	Fire Chief	Disposal fees/charges	\$100,000
Sustainability	Sustainability Committee	Fees/charges	\$10,000
Hoppy’s Landing	Select Board and/or Town Administrator	Fees/charges from users of Hoppy’s Landing	\$25,000
Town Hall Auditorium	Town Administrator	Town Hall Auditorium rental fees	\$3,000
Park Utilities	Board of Public Works	User fees	\$2,000
Shellfish Mitigation	Marine Resources	Mitigation fees	\$25,000
Mooring Fees	Marine Resources	Mooring fees	\$4,000
Mattress Recycling	Board of Health	Fees from mattress disposal	\$3,000
Hoarding Remediation	Board of Health	Revenue from textile recovery boxes	\$2,000

Supportive Social Day Program	Council on Aging Director	Receipts reserved for appropriation for supportive social day	\$175,000
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Petitioned by: Town Administrator

Motion: To adopt as written in the warrant

Select Board: Recommend Adoption
 Finance Committee: Recommend Adoption

ARTICLE 14 TRANSFER OPIOID SETTLEMENT FUNDS INTO THE OPIOID SPECIAL REVENUE FUND

To see if the Town will vote to transfer the Opioid Settlement Funds of \$72,780.15 from Surplus Revenue (Free Cash) from FY23 into the Opioid Settlement Special Revenue Fund pursuant to Chapter 44, Section 53, clause 4; or to take any other action relative thereto.

Petitioned by: Town Accountant

Motion: To adopt as written in the warrant

Select Board: Recommend Adoption
 Finance Committee: Recommend Adoption

ARTICLE 15 AMEND ARTICLE 11A MAY 6, 2023, LINE 4 DESCRIPTION

To see if the Town will vote to amend Line 4 of Article 11A of the May 6, 2023 Town Meeting “Funding of Articles” for the description as follows: change “Personal Property Audits - Assessing Dept.” to “Assessment Audits” to allow the remaining funds totaling \$5300 to be used on Real Estate audits if needed, or take any action relative thereto.

Petitioned by: Assessors

Motion: To adopt as written in the warrant

Select Board: Recommend Adoption
 Finance Committee: Recommend Adoption

ARTICLE 16 ASSESSMENT OF NEW CONSTRUCTION

To see if the Town will vote to adopt Section (a) of Chapter 59, Section 2A of the General Laws, to allow the assessment of new buildings and other things erected on or affixed to land during the period beginning on January 2nd and ending on June 30th of the fiscal year preceding that to which the tax relates to be deemed part of the assessed real property as of January 1st.

Petitioned by: Assessors

Motion: To adopt as written in the warrant

Select Board: Recommend Adoption
 Finance Committee: Recommend Adoption

ARTICLE 17 AMEND BYLAWS CHAPTER 119

To see if the Town will vote to amend Bylaws, Chapter 119, Section 3 Acceptance

of Fee Schedule as outlined below by replacing existing language with language in bold.

§ 119-3. Acceptance of fee schedule.

The following is the fee schedule pertaining to Fire Department permits:

Type of Permit or Item Fee
Ammunition storage license \$30.00 \$50.00
Annual radio box fee \$200.00 \$250.00
ANSUL system \$30.00 \$50.00
Blasting permits \$30.00 \$50.00
Bonfire permits \$30.00
Copy of fire report \$20.00
Copy of records (2IE) (depends on amount copied) \$5.00/\$10.00 \$20.00
Copy of SARF report \$20.00
Flammable liquids, solids and gases permit \$30.00 \$50.00
Fuel oil storage/waste oil storage \$30.00 \$50.00
Initial master box/radio box connection \$150.00 \$250.00
Inn/hotel inspections (quarterly) \$50.00
Install/alter oil burner equipment \$30.00 \$50.00
Install/removal of underground tanks \$50.00
LP gas storage permit \$30.00 \$50.00
Vent-free fireplace \$30.00 \$50.00
Research fee \$20.00 \$25.00
Smoke detector permits/inspections \$30.00 1-2 Family \$50.00 / 3-5 Family \$100.00
Smokeless/black powder permits \$30.00 \$50.00
Sprinkler permit \$30.00 \$100.00
Supervised fireworks permit \$30.00 \$100.00
Tank truck inspection \$30.00 \$50.00
Welding/cutting storage permit \$30.00 \$50.00

Petitioned by: Fire Department

Motion: To adopt as written in the warrant

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

ARTICLE 18 AMEND BYLAWS 87, 206 AND 405

To see if the Town will vote to amend Bylaws, Chapter 87, Chapter 205 and Chapter 405 as outlined below by striking some of the existing language and adding underlined language.

See Appendix C, page 33 for Full Bylaw with amendments

Article Summary and Description

The current animal bylaws in the Town of Fairhaven were adopted at the annual town meeting March 22, 1969. The current animal bylaws do not properly outline animal law and what should be enforced by the animal control officers. The newly proposed bylaws, if adopted, would align the town with Massachusetts General Laws (MGLs) and better cover the town’s liability when enforcing the updated MGLs. This proposal would benefit the police and animal control officers when dealing with animal complaints and hopefully better outline animal laws for the residents of Fairhaven. These updated and expanded bylaws give clearer understanding of what an animal control officer shall enforce within the town, put the town in compliance with Massachusetts General Law, and explain the laws pet owners need to follow. The proposed bylaws would authorize the animal control officers to enforce both the code and MGL chapter 140 sections 136A to 174F, inclusive.

Petitioned by: Police Department, Animal Control

Motion: To adopt as written in the warrant

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

ARTICLE 19 AMEND BYLAWS STORMWATER MANAGEMENT

To see if the Town will vote to amend Bylaws, Chapter 194 Stormwater Management and 198.31.1 and 322-26 as outlined below by striking some of the existing language and adding underlined language.

See Appendix D, page 49 for Full Bylaw with amendments

Petitioned by: Planning Board

Motion: To adopt as written in the warrant

Select Board: Recommend Adoption

Finance Committee Recommend Adoption

Planning Board: Recommend Adoption

ARTICLE 20 AMEND BYLAWS ZONING AND PLANNING

To see if the Town will vote to amend Bylaws, Chapters 198, 65, 306, 316, and 322 as outlined below by striking some of the existing language and adding underlined language.

See Appendix E, page 82 for Full Bylaw with amendments

Article Summary and Description

Massachusetts General Law 40A(5) provides that a zoning bylaw can be enacted by a simple majority vote rather than a 2/3 supermajority if the bylaw:

- a. Allows accessory dwelling units either within the principal dwelling or within a detached structure on the same lot as of right*
- b. Changes dimensional standards such as lot coverage, setbacks and parking to allow for the construction of additional residential units on a particular parcel or parcels of land.*

Petitioned by: Planning Board

Motion: To adopt as written in the warrant

Vote Required: Two-thirds (2/3) Vote

Select Board: Recommend Adoption

Finance Committee Recommend Adoption

Planning Board: Recommend Adoption

ARTICLE 21 BYLAW FLOW NEUTRAL

To see if the Town will vote to establish Bylaw Chapter 158, Section 3 Flow Neutral or take any action relative thereto:

See Appendix F, page 90 for Full Bylaw with amendments

Petitioned by: Board of Public Works

Motion: To adopt as written in the warrant

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

ARTICLE 22 TREE BYLAWS

22A: AMEND BYLAWS, CHAPTER 76 TREE WARDEN

To see if the Town will vote to amend Bylaws, Chapter 76, § 1 as outlined below by striking some of the existing language and adding underlined language.

Chapter 76: Tree Warden

Section 76-1. Appointment; duties; qualifications; term

The Tree Warden shall be appointed by the Town Administrator with the approval of the Select Board, and shall exercise the duties of Tree Warden and of insect pest control. Such Tree Warden shall be a Massachusetts Tree Wardens and Foresters Association Tree Warden qualified by training and experience in the field of arboriculture and licensed with the Department of Food and Agriculture in accordance with the provisions of MGL c. 132B, § 10 Urban Forestry Management. The term of such appointment shall be for three years.

Petitioned by: Public Works, Conservation and Sustainability, Planning and Tree Warden

Motion: To adopt as written in the warrant

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

22B: NEW BYLAW, CHAPTER 88 PUBLIC SHADE TREE

To see if the Town will vote to establish Bylaw Chapter 88 Public Shade Tree

See Appendix G, page 93 for Full Bylaw with amendments

Petitioned by: Public Works, Conservation and Sustainability, Planning and Tree Warden

Motion: To adopt as written in the warrant

Select Board: Recommend Adoption

Finance Committee: Recommend Adoption

ARTICLE 23 CITIZENS PETITION – STREET LIGHT

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money for the installation and maintenance of the following street light on pole 30412, across from Bass Creek Road, or take any action relative thereto:

Petitioned by: Connie Hilton

Motion: To be provided by petitioner

Select Board: Recommend Yield To Petitioner

Finance Committee: Recommend Yield To Petitioner

ARTICLE 24 CITIZENS PETITION – LEGISLATION FOR A RESTAURANT/ALL ALCOHOL LICENSE

To see if the Town will vote to authorize the Select Board of the Town of Fairhaven to petition the General Court for the passage of legislation authorizing the issuance of a Restaurant/All Alcohol License to Southcoast Pickleball LLC of 4 David Drawn Blvd. in the Town of Fairhaven, notwithstanding any limitations on the number of licenses issued under the provisions of Chapter 138 of the Massachusetts General Laws as amended. This license is non-transferable to another location, but the licensing authority may grant the license to a new applicant at the same location.

Petitioned by: Russel Kaeterle

Motion: To be provided by petitioner

Select Board: Recommend Yield To Petitioner

Finance Committee: Recommend Yield To Petitioner

ARTICLE 25 CITIZENS PETITION – REVOKE ARTICLE 22 § 5

To see if the Town will vote to revoke Article 22 of the May 6, 2023 Town Meeting “Amend bylaws, Chapter 83 Alcoholic Beverages and Drugs”

We, the undersigned voters and I come as a whole to address the recent ban on the sale of alcohol containers less than less than 100ml. We are unhappy with the bylaw change that was put into place at the annual town meeting on May 6, 2023. I petition for the Town of Fairhaven to revoke Article 22: Section 5, Prohibit Sale of Plastic Alcohol “Nip” Bottles. In addition, I petition the members of Town to put the issue on the ballot and let the voters decide on it.

Petitioned by: Stevie Pimental and Robert C. Santos

Motion: To be provided by petitioner

Select Board: Recommend Yield To Petitioner

Finance Committee: Recommend Yield To Petitioner

ARTICLE 26 OTHER BUSINESS

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

And you are hereby directed to serve this warrant by posting an attested copy thereof on or near the front or main entrance of the polling place for all Precincts at the Fairhaven Recreation Center, 227 Huttleston Avenue, seven days at least prior to the date of the meeting.

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**NOTE: Calendar Year (CY) 2023 Salaries can be found
in the 2023 Annual Report**

APPENDIX A - Article 5A General Fund Operating Budget

Function/ Dept. #	Department Name/Function Totals	FY 2024 Budgeted	FY 2025 Budget
GENERAL GOVERNMENT (MISC.)			
114	Moderator Salary	\$1,000.00	\$1,000.00
122/195/405	Select Board/Town Adm./Town Report/Engineering		
	Salaries & Wages	\$322,412.00	\$364,716.00
	Operating Expenses	\$27,910.00	\$40,590.00
153	Human Resources		
	Salaries & Wages	\$193,943.00	\$178,123.00
	Operating Expenses	\$20,975.00	\$64,465.00
113/131	Town Meeting/Finance Committee		
	Salaries & Wages	\$1,000.00	\$1,500.00
	Operating Expenses	\$7,945.00	\$7,830.00
	Reserve Fund	\$100,000.00	\$75,000.00
151	Legal	\$180,000.00	\$285,277.00
192	Town Hall		
	Salaries & Wages	\$56,916.00	\$174,516.00
	Operating Expenses	\$76,150.00	\$81,890.00
155	Consolidated Information Technology		
	Salaries & Wages	\$339,994.00	\$345,271.00
	Operating Expenses	\$202,415.00	\$226,205.00
General Government Salaries & Wages		\$915,265.00	\$1,065,126.00
General Government Operating Expenses		\$615,395.00	\$781,257.00
Subtotal General Government		\$1,530,660.00	\$1,846,383.00
GENERAL GOVERNMENT (MUNICIPAL FINANCE)			
135	Accounting		
	Salaries & Wages	\$162,616.00	\$204,997.00
	Operating Expenses	\$60,713.00	\$66,357.00
145	Treasurer/Collector		
	Salaries & Wages	\$336,072.00	\$292,995.00
	Operating Expenses	\$120,900.00	\$66,175.00
141	Assessors		
	Salaries & Wages	\$200,876.00	\$140,022.00
	Operating Expenses	\$45,060.00	\$51,125.00
Municipal Finance Salaries & Wages		\$699,564.00	\$638,014.00
Municipal Finance Operating Expenses		\$226,673.00	\$183,657.00
Subtotal Municipal Finance		\$926,237.00	\$821,671.00
GENERAL GOVERNMENT (TOWN CLERK/ELECTIONS)			
161/163	Subtotal Salaries & Wages	\$143,328.00	\$189,606.00
161/163	Subtotal Operating Expenses	\$29,258.00	\$35,245.00
PLANNING & DEVELOPMENT			
175-00	Planning Board		
	Salaries & Wages	\$3,000.00	\$0.00
	Operating Expenses	\$2,930.00	\$0.00
175-01	Planning and Economic Development		
	Salaries & Wages	\$132,942.00	\$128,528.00
	Operating Expenses	\$15,525.00	\$12,530.00

175-02	Economic Development Committee		
	Salaries & Wages	\$1,500.00	\$0.00
	Operating Expenses	\$6,500.00	\$0.00
176	Board of Appeals		
	Salaries & Wages	\$3,500.00	\$3,060.00
	Operating Expenses	\$3,700.00	\$3,500.00
171	Conservation Commission		
	Salaries & Wages	\$98,758.00	\$108,845.00
	Operating Expenses	\$11,980.00	\$9,350.00
122	Buzzards Bay Action Committee	\$1,800.00	\$1,800.00
Planning & Development Salaries & Wages		\$239,700.00	\$240,433.00
Planning & Development Operating Expenses		\$42,435.00	\$27,180.00
Subtotal Planning & Development		\$282,135.00	\$267,613.00

TOTAL GENERAL GOVERNMENT			
General Government Salaries & Wages		\$1,997,857.00	\$2,133,179.00
General Government Operating Expenses		\$913,761.00	\$1,027,339.00
Subtotal General Government		\$2,911,618.00	\$3,160,518.00

PUBLIC SAFETY			
210/292	Police Department/Animal Control		
	Salaries & Wages	\$4,826,338.00	\$5,094,121.00
	Operating Expenses	\$488,520.00	\$462,530.00
220/225/291	Fire Department/EMS		
	Salaries & Wages	\$3,321,527.00	\$3,574,110.00
	Operating Expenses	\$451,657.00	\$377,697.00
241	Building Department		
	Salaries & Wages	\$183,696.00	\$195,655.00
	Operating Expenses	\$5,350.00	\$4,030.00
298	Marine Resources		
	Salaries & Wages	\$178,440.00	\$178,195.00
	Operating Expenses	\$43,110.00	\$36,140.00
244	Weights & Measures		
	Salaries & Wages	\$7,140.00	\$7,140.00
	Operating Expenses	\$500.00	\$375.00
Public Safety Salaries & Wages		\$8,517,141.00	\$9,049,221.00
Public Safety Operating Expenses		\$989,137.00	\$880,772.00
Subtotal Public Safety		\$9,506,278.00	\$9,929,993.00

EDUCATION			
300	Fairhaven Public Schools	\$23,753,641.00	\$24,702,183.00
301	NB Regional Technical HS	\$2,397,000.00	\$2,626,000.00
302	NB Regional Technical HS	\$235,000.00	\$310,100.00
Subtotal Education		\$26,385,641.00	\$27,638,283.00

PUBLIC WORKS			
421	Administration Division		
	Salaries & Wages	\$223,502.00	\$86,615.00
	Operating Expenses	\$13,525.00	\$19,375.00

403/420	Highways Division		
	Salaries & Wages	\$1,279,388.00	\$1,329,321.00
	Operating Expenses	\$723,912.00	\$742,137.00
	Snow & Ice	\$60,000.00	\$60,000.00
650	Parks Department		
	Salaries & Wages	\$139,896.00	\$162,261.00
	Operating Expenses	\$53,500.00	\$53,000.00
294/295	Tree Department		
	Salaries & Wages	\$27,321.00	\$34,382.00
	Operating Expenses	\$40,345.00	\$38,145.00
431	Sanitation - Operating Expenses	\$1,682,679.00	\$1,792,775.00
424	Street Lighting	\$61,000.00	\$61,000.00
Public Works Salaries & Wages		\$1,670,107.00	\$1,612,579.00
Public Works Operating Expenses		\$2,634,961.00	\$2,766,432.00
Subtotal Public Works		\$4,305,068.00	\$4,379,011.00

HEALTH & ENVIRONMENT

510	Board of Health		
	Salaries & Wages	\$164,353.00	\$172,797.00
	Operating Expenses	\$24,570.00	\$22,710.00
Subtotal Board of Health		\$188,923.00	\$195,507.00

COMMUNITY SERVICES

541	Council on Aging		
	Salaries & Wages	\$189,296.00	\$153,873.00
	Operating Expenses	\$40,064.00	\$35,497.00
543	Veterans Services		
	Salaries & Wages	\$98,592.00	\$91,433.00
	Operating Expenses	\$695,800.00	\$564,350.00
611	Millicent Library	\$752,336.00	\$797,302.00
640	Recreation Department		
	Salaries & Wages	\$218,183.00	\$215,138.00
	Operating Expenses	\$143,800.00	\$146,975.00
189	Tourism Department		
	Salaries & Wages	\$78,697.00	\$81,851.00
	Operating Expenses	\$21,075.00	\$18,570.00
691	Fine Arts - expenses	\$1,200.00	\$1,000.00
670	Historical Commission - expenses	\$18,500.00	\$15,800.00
692	Memorial/Veterans Day - expenses	\$1,500.00	\$2,000.00
690	Cultural Council - expenses	\$2,750.00	\$1,500.00
190	Commission on Disability - expenses	\$1,000.00	\$1,000.00
191	Belonging Committee	\$1,000.00	\$1,000.00
122	Rape Crisis Project - expenses	\$2,000.00	\$2,000.00
Community Services Salaries & Wages		\$584,768.00	\$542,295.00
Community Services Operating Expenses		\$1,681,025.00	\$1,586,994.00
Subtotal Community Services		\$2,265,793.00	\$2,129,289.00

NON-DEPARTMENTAL

911	Contributory Retirement	\$3,906,560.00	\$4,134,792.00
924	Group Insurance	\$4,800,000.00	\$5,250,000.00
913	MA Employment Security	\$63,000.00	\$66,000.00
925	Town General Insurance	\$955,000.00	\$1,112,000.00
918	Medicare Taxes (Employer Share)	\$462,000.00	\$482,000.00
122	Wind Turbine Electric Expense	\$725,000.00	\$625,000.00
	Salary Reserve	\$750,000.00	\$0.00

	Non-Departmental Salary & Wages	\$750,000.00	\$0.00
	Non-Departmental Operating Expenses	\$10,911,560.00	\$11,669,792.00
	Subtotal Non-Departmental	\$11,661,560.00	\$11,669,792.00

DEBT SERVICE

710	Debt Service		
	Subtotal Debt Service	\$1,131,020.00	\$1,094,605.00

GRAND TOTAL		\$58,355,901.00	\$60,196,998.00
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GRAND TOTAL BREAKDOWN

Salaries & Wages - Town	\$13,684,226.00	\$13,510,071.00
Operating Expenses - Town	\$6,243,454.00	\$6,284,247.00
Educational Services	\$26,385,641.00	\$27,638,283.00
Non-Departmental Costs	\$10,911,560.00	\$11,669,792.00
Debt Service	<u>\$1,131,020.00</u>	<u>\$1,094,605.00</u>
Grand Totals	\$58,355,901.00	\$60,196,998.00

APPENDIX B - Article 12, FY25 Community Preservation Committee Project Summary and Descriptions

DESCRIPTIONS

2024 ANNUAL TOWN MEETING WARRANT

CPC FY25 COMMUNITY PRESERVATION PROGRAM

- A. Open Space Reserve: This is to reserve at least the minimum 10% of anticipated revenues to remain in compliance with the Community Preservation Act.
- B. Historic Preservation Reserve: This is to reserve at least the minimum 10% of anticipated revenues to remain in compliance with the Community Preservation Act.
- C. Community Housing Reserve: This is to reserve at the least the minimum 10% of anticipated revenues to remain in compliance with the Community Preservation Act.
- D. Emergency Reserve Account: A reserve account for emergencies that need funds but fall outside of the normal CPC Application and Review process. Projects would still need to be approved by Town Meeting.
- E. Fairhaven High School Boiler Room Roof Replacement project: Replacement of the boiler room’s existing ballasted EPDM roof with a new PVC roof.
- F. Millicent Library Electrical Upgrade project: An upgrade to an 800 amp electrical system, the creation of a new main electrical room, and the replacement and relocation of the electrical panels as necessary.
- G. Town Hall Stairs and Exterior Caulking Repairs project: Repairs to the Town Hall front stairs and the exterior caulking of the building.
- H. BBC Carvalho Woods Conservation Project: For the Town, by and through the Conservation Commission, to purchase a conservation restriction (\$80,000) and pay for project costs and public access enhancements (\$30,000) on a 5.92 acre vacant lot at 144 Shaw Road. The CR would permanently protect the lot and allow for the creation of a walking trail from the Phoenix Bike Path near the north of the property to Shaw Road and the existing Carvalho Farm trail to the south.
- I. BPW Phoenix Rail Trail Handicapped Accessible Tables project: Add two handicapped accessible tables at rest areas along the Phoenix Rail Trail / Bike Path.
- J. BPW Macomber Park BMX Track project: Create a new BMX bike track along the north side of Macomber Park.
- K. Cushman Park Pathways project: Extend the paved path that goes around Cushman Park to the north and east sides, alongside the running track.
- L. Fairhaven Housing Authority – Anthony Haven Window Replacement project: Replace 75 windows to preserve the integrity of the public housing complex with 24 one-bedroom apartments for seniors over 60 and handicapped/disabled tenants.

- M. Town Hall Repairs – East Retaining Wall project: Repair the Town Hall East Retaining Wall along the Walnut Street Side of the building. The repair would require disassembling the wall and accompanying wrought iron fence and sidewalk, rebuilding the stonework, fence, and sidewalk, and installing a new drainage system to mitigate future issues.
- N. Administrative services and operating expenses: Administrative.

APPENDIX C - Article 18 Amend Bylaws Chapter 87, Chapter 206 and Chapter 405

Chapter 87. Animals

[HISTORY: Adopted by the Town of Fairhaven as follows: Part 1 by the Annual Town Meeting 3-22-1969 by Art. 69 (Ch. XVIII of the 1934 Bylaws). Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 405.

Rodent infestation — See Ch. 461.

Part 1. ~~Dogs~~ Animals

[Adopted 3-22-1969 ATM by Art. 69 (Ch. XVIII of the 1934 Bylaws)]

§ 87-1. Definitions.

As used in this Article I, the following terms mean:

ADOPTION - The delivery of a cat, dog or other domestic animal to a person 18 years of age or older for the purpose of taking care of the cat, dog or other domestic animal as a pet.

~~DOG OFFICER~~ ANIMAL CONTROL OFFICER - The person or persons employed by the Town as its enforcement officer and shall include any police officer or constable of said town authorized to enforce sections 136A to 174F, inclusive, of Massachusetts General Laws, Chapter 140, as amended, and also this Chapter 87 of the Code.

AT LARGE

Off the premises of the owner and not under the control of the owner or a member of his/her immediate family, either by leash, cord, chain or otherwise. Any animal found to be outside of its natural habitat and not under the owner's control shall be deemed to be at large.

ATTACK

Aggressive physical contact initiated by an animal.

COMMERCIAL BOARDING OR TRAINING KENNEL

An establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that "commercial boarding or

training kennel" shall not include an animal shelter or animal control facility, a pet shop licensed under Section 39A of Chapter 129, of the Massachusetts General Laws, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.

COMMERCIAL BREEDER KENNEL

An establishment, other than a personal kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers or pet shops in return for consideration.

DANGEROUS DOG

A dog that either: (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

DOMESTIC ANIMAL

An animal designated as domestic by regulations promulgated by the department of fish and game.

DOMESTIC CHARITABLE CORPORATION KENNEL

A facility operated, owned or maintained by a domestic charitable corporation registered with the Department or an animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals, including a veterinary hospital or clinic operated by a licensed veterinarian, which operates consistent with such purposes while providing veterinary treatment and care.

EUTHANIZE

To take the life of an animal by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia.

HEARING AUTHORITY

The town Select Board member, the officer in charge of the animal commission, the chief or commissioner of a police department, the chief or commissioner's designee or the person charged with the responsibility of handling dog complaints in a town or city.

KENNEL

A pack or collection of dogs on a single premises, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel, and also any premises wherein any person, partnership or corporation engages in the business of boarding, breeding, buying, selling for hire, training for a fee, or selling dogs, or engages in training dogs for guard or sentry purposes, or every pack or collection of more than four dogs three months old or over owned or kept on a single premises irrespective of the purpose for which they are maintained.

LICENSED PERIOD

From January 1 to December 31 each year.

LICENSING AUTHORITY

The Town Clerk of the Town of Fairhaven.

LIVESTOCK or FOWL

A fowl or other animal kept or propagated by the owner for food or as a means of livelihood, deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the Department of Fisheries, Wildlife and Environmental Law Enforcement to be wild and kept by, or under a permit from, the Department in proper houses or suitable enclosed yards; provided, however, that livestock or fowl shall not include dogs, cats or other pets.

NUISANCE DOG

a dog that: (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

DOG POUND

Any premises designated by action of the Town for the purpose of impounding dogs and caring for all dogs found running at large in violation of this Part 1.

OWNER/KEEPER

Any person, group of persons or corporation owning or keeping or harboring a dog or dogs ~~an animal or animals.~~

PERSONAL KENNEL

A pack or collection of more than three dogs, three months old or older, owned or kept under single ownership for private, personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided, further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided, further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally owned dog; and provided, further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the Department, may be sold, traded, bartered or distributed if the transfer is not for profit.

RESTRAINT

[Amended 5-4-1996 ATM by Art. 34]

A dog shall be considered under restraint within the meaning of this Part 1 if: A.

The animal is within the property limits of its owner or keeper; or

B.

The animal is under the immediate control of its owner or custodian on a leash or chain affixed to the collar or harness of the animal.

[Amended 10-16-2002 STM by Art. 9]

SHELTER

Any premises designated by action of the Town for the purpose of impounding animals and caring for all animals found running at large in violation of this Part 1. A public animal control facility or other facility which is operated by an organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

VETERINARY KENNEL

A veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment or care; provided, however, that "veterinary kennel" shall not include a hospital or clinic used solely to house dogs that have undergone veterinary

treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care.

§ 87-2. Enforcement Animal Control Officer.

The provisions of this Part 1 shall be enforced by the Dog Officer or Dog Officers and any police officer or constable of said town:

A. The board of selectmen shall appoint an Animal Control Officer and as many Assistant Animal Control Officers as they determine necessary to enforce this article, and said individual(s) shall enforce this article and perform such other duties as the board of selectmen may determine. Compensation, hours and conditions of employment for the Animal Control Officer(s) under this article shall be governed by the Code or applicable collective bargaining agreement.

B. The provisions of MGL c. 140, § 151, regarding the training and duties of the Animal Control Officer shall apply and are expressly incorporated into this article. C. The provisions of MGL c. 140, §§ 151 and 151A, regarding the warrant to the Animal Control Officer pertaining to enforcement, recordkeeping and to the killing and/or transfer of any dogs shall apply and are expressly incorporated in this article. No Animal Control Officer shall be a licensed animal dealer registered with the United States Department of Agriculture, and no Animal Control Officer, either privately or in the course of carrying out his official assignments as an agent for this town, shall give, sell, or turn over any animal which may come into his custody to any business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agricul-

ture. Whoever violates the provisions of this subsection shall be punished by a fine of not more than \$1,000.

D. The provisions of MGL c. 140, §§ 151B, 151C, 152, 153 and 156, as amended, regarding the confinement, execution and recordkeeping thereof regarding dogs and animals, shall apply and are expressly incorporated in this article.

§ 87-3. Restraint.

The owner shall keep his/her dog under restraint at all times:

A. As provided in MGL c. 140, § 167, the board of selectmen shall have the power to order that all dogs shall be restrained from running at large during such times as shall be prescribed by the order. Once passed, a certified copy of the order shall be posted in at least two public places in the town or, if a daily newspaper is published in the town, by publishing a copy once in that newspaper. Following publication board of selectmen may issue a warrant to a police officer or constable in a town, who shall, not sooner than 24 hours after the publication of the notice, euthanize all dogs in a humane manner that are found running at large contrary to the order. Notwithstanding the foregoing, a police officer or constable may, in the officer's or constable's discretion, hold any such dog for not more than seven days. If the owner of the dog claims it and pays to the officer or constable a penalty of \$40 for each day that the dog has been held, the dog shall be returned to its owner. The amount shall be paid over to the town.

B. The passage by the board of selectmen of the bylaw containing this section of the code shall constitute an order that no owner or keeper of any dog shall permit such dog to run at large at any time. The provisions of this section shall not be intended to apply to dogs participating in any dog show, nor to seeing-eye dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place, nor to any dogs properly trained and under control of and aiding the deaf, nor to any dogs being trained or actually being used for hunting purposes, nor in any area officially designated for off-leash activities, also known as a "dog park."

§ 87-4. Impoundment fees.

[Amended 5-5-1987 ATM by Art. 16]

Any dog impounded hereunder may be reclaimed as herein provided upon payment by the owner to the ~~Dog Officer~~ Animal Control Officer of the sum of ~~\$4~~ \$40 for each day _{such dog is kept.} [1]

[1]

Editor's Note: See Ch. 206, Part 1, Animal Control Fees, for the current animal control fee structure.

§ 87-5. Confinement of certain dogs.

A. The owner shall confine within a building or secure enclosure every fierce, dangerous or vicious dog and not take such dog out of such building or secure enclosure unless such dog is securely muzzled and upon a leash. The ~~Dog Officer~~ Animal Control Officer may ~~destroy~~ apprehend any such dog which is found not to be so confined and without such a muzzle.

B. ~~The owner shall confine within a building or secure enclosure any dog that has been impounded more than twice by the Dog Officer and not take such dog out of such building or secure enclosure unless such a dog is well secured by a leash. Failure to do so may result in such dog being taken permanently. The Animal Control Officer shall seek out, catch and confine all dogs within the town which are not licensed, collared or harnessed, or tagged, as required under MGL c. 140, § 151A, and to enter and prosecute a complaint for failure to comply with this code against the owners or keepers of such dogs, if known, and to euthanize or cause to be euthanized only by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia, or by gunshot in case of emergency, each such dog not licensed, collared or harnessed, or tagged after being detained by or for the officer for a period of 10 days; provided, however, that after 10 days, the animal control officer may make available for adoption any dog found free of disease. Before delivery of a dog so adopted, the animal control officer shall require the purchaser to show identification and to procure a license and tag for the dog from the clerk of the city or town wherein the dog is to be kept. Dogs detained under this section shall be confined in a place suitable for the detention and care of dogs and kept in a sanitary~~

condition, or they may be placed in the care of the holder of a kennel license or of a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse. The commissioner from time to time shall cause such places wherein animals are detained under this section to be inspected and shall make necessary orders in relation thereto. An animal control officer having custody of a detained dog or cat shall be allowed a sum determined by the town per day for the care of the dog or cat, payable by the owner or keeper, if known, otherwise by the town.

§ 87-6. Violations and penalties.

[Amended 5-10-1978 ATM by Art. 28; 1-11-1979 STM by Art. 2; 5-4-1996 ATM by Art. 34]

A. Penalties for the violation of any provision of this Part 1 shall be assessed and collected in accordance with the procedure established under MGL c. 140, § 173A (Noncriminal Disposition of Complaints for Violation of Dog Control Laws); provided, however, that notwithstanding the schedule of fines provided under said law, the fine for the first violation shall be \$25, and the fine for the second and each subsequent violation shall be \$50, ~~except as provided in § 87-9, offense committed by a person shall be \$50. The fine for a second offense shall be \$100. The fine for a third offense shall be \$300. For a fourth or subsequent offense, the fine shall be \$500 and the municipality may order the animal spayed or neutered. Payment shall be~~

made only by money order or check.

B. Proceedings under this section shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

C. If a person notified to appear, as hereinbefore provided, fails to appear or pay the fine within twenty-one days of the sending of the notice, or having appeared, does not desire to avail himself of the procedure established by this section, the clerk shall issue the complaint and the procedure established for criminal cases shall be followed. If any person fails to appear in accordance with the summons issued upon such complaint, the clerk of the court shall send such person, by registered mail, return receipt requested, a notice that the complaint is pending and that, if the person fails to appear within twenty-one days from the sending of such notice, a warrant for his arrest will be issued.

§ 87-7. License fee.

[Added 5-1-1982 ATM by Art. 10]

~~In addition to the dog license fee described in MGL c. 140, § 139, a fee of \$1 shall be paid to the Town for each license issued therefor. The foregoing shall take effect with the license period commencing April 1, 1983.~~

A. The fee for every dog license and kennel license shall be provided in Chapter 119, Fees.

B. No fee shall be charged for a license issued for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder. No fee

shall be charged for a license for a dog owned by a person aged 70 years or over. No license fee or portion thereof shall be refunded because of the subsequent death, loss, spaying or removal from the commonwealth or other disposal of the dog, nor shall a license fee or portion thereof paid by mistake be paid or recovered after it has been paid over.

§ 87-8. Licensing of dogs.

[Added 5-4-1985 ATM by Art. 41]

~~A person who at the commencement of a license period (the time between April 1 and the following March 31 of any year, both dates inclusive) becomes the owner or keeper within the Town of Fairhaven of a dog six months old or over which is not duly licensed and the owner or keeper of a dog when it becomes six months old during a license period shall cause it to be registered, numbered, described and licensed on or before June 10 of the current license period and until the end of such license period, and the owner of a dog so registered, numbered, described and licensed during any license period, in order to own or keep such dog after the beginning of the succeeding license period, shall, before the beginning thereof, cause it to be registered, numbered, described and licensed for such peri-~~

od. as provided by MGL c. 140, § 137. The registering, numbering, describing and licensing of a dog shall be done in the office of the Town Clerk on a form prescribed and supplied by the Town Clerk, and shall be subject to the condition expressed therein that the dog which is subject of the license shall be controlled and restrained from killing, chasing or harassing livestock or fowl. as provided by MGL c. 140, § 137.

A. The Town Clerk shall not grant a license for a dog unless the owner of the dog provides the licensing authority with a veterinarian's certification that the dog has been vaccinated in accordance MGL c. 140, § 145B, certification that such dog is exempt from the vaccination requirement under MGL c. 140, § 145B or a notarized letter from a veterinarian that either of these certifications was issued relative to such dog.

B. The owner or keeper of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material to which shall be securely attached a tag in a form prescribed by and issued by the Town Clerk when a license is issued. Such tag shall state the following: Town of Fairhaven, year of issue and tag number. If any such tag shall be lost, the owner or keeper of such dog shall forthwith secure a substitute tag from the Town Clerk at a cost as provided in Chapter 119, Fees. This section shall not apply where it is otherwise provided by law, nor shall it apply to a person having a kennel license.

§ 87-9. Statutory authority; assessment of penalties Sanitary disposal of dog excrement.

[Added 5-4-1985 ATM by Art. 41]

This section and preceding § 87-8 are enacted pursuant to authority of MGL c. 140, §§ 173 and 173A. Penalties for the violation of § 87-8 hereof shall be assessed and collected in accordance with the procedure established under said § 173A (Non-criminal Disposition of Complaints for Violation of Municipal Dog Control Laws); provided, however, that the fine for any violation of § 87-8 hereof, including the first offense, will

be the sum of \$25. No person owning or having custody or control of a dog shall permit such dog to defecate on any public street or sidewalk of the Town, including the Town wharves, or on any public park, beach or grounds of a public building, including school grounds, unless such person picks up the dog waste and disposes of it in a sanitary manner, including lawful disposal as solid waste or sewage. This section shall not apply to the visually impaired in custody or control of a Seeing Eye dog, or to any person unable to comply with the requirements of this section due to a physical disability. This section may be enforced by the Animal Control Officer, the Board of Health Agent, and any other person so designated by the Board of Health or the Select Board.

[1]

Editor's Note: A regulation adopted by the Board of Health on 7-8-2015 provided that each violation of this section shall be punishable

by a fine of \$100 per offense.

§ 87-10. Sanitary disposal of dog excrement Nuisance or Dangerous Dogs. [Added 11-23-1998 STM by Art. 17; amended 6-14-2021 ATM by Art. 46] No person owning or having custody or control of a dog shall permit such dog to defecate on any public street or sidewalk of the Town, including the Town wharves, or on any public park, beach or grounds of a public building, including school grounds, unless such person picks up the dog waste and disposes of it in a sanitary manner, including lawful disposal as solid waste or sewage. This section shall not apply to the visually impaired in custody or control of a Seeing Eye dog, or to any person unable to comply with the requirements of this section due to a physical disability. This section may be enforced by the Dog Officer, the Board of Health Agent, and any other person so designated by the Board of Health or the Select Board.

{1}

Editor's Note: A regulation adopted by the Board of Health on 7-8-2015 provided that each violation of this section shall be punishable by a fine of \$100 per offense.

A. Under MGL c. 140, § 157 any person may file a complaint in writing to the hearing authority that a dog owned or kept in the town is a nuisance dog or a dangerous dog; provided, however, that no dog shall be deemed dangerous: (i) solely based upon growling or barking or solely growling and barking; (ii) based upon the breed of the dog; or (iii) if the dog was reacting to another animal or to a person and the dog's reaction was not grossly disproportionate to any of the following circumstances:

(1) the dog was protecting or defending itself, its offspring, another domestic animal or a person from attack or assault;

(2) the person who was attacked or threatened by the dog was committing a crime upon the person or property of the owner or keeper of the dog;

(3) the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog; or

(4) at the time of the attack or threat, the person or animal that was attacked or threatened by the dog had breached an enclosure or structure in which the dog was kept apart from the public and such person or animal was not authorized by the owner of the premises to be within such enclosure including, but not limited to, a gated,

fenced-in area if the gate was closed, whether locked or unlocked; provided, however, that if a person is under the age of 7, it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing.

B. The hearing authority shall investigate or cause the investigation of the complaint, including an examination under oath of the complainant at a public hearing in the municipality to determine whether the dog is a nuisance dog or a dangerous dog. Based on credible evidence and testimony presented at the public hearing, the hearing authority shall: (i) if the dog is com-

plained of as a nuisance dog, either dismiss the complaint or deem the dog a nuisance dog; or (ii) if the dog is complained of as a dangerous dog: (A) dismiss the complaint; (B) deem the dog a nuisance dog; or (C) deem the dog a dangerous dog.

C. If the hearing authority deems a dog a nuisance dog, the hearing authority may further order that the owner or keeper of the dog take remedial action to ameliorate the cause of the nuisance behavior.

D. If the hearing authority deems a dog a dangerous dog, the hearing authority shall order 1 or more of the following:

(i) that the dog be humanely restrained; provided, however, that no order shall provide that a dog deemed dangerous be chained, tethered or otherwise tied to an inanimate object including, but not limited to, a tree, post or building;

(ii) that the dog be confined to the premises of the keeper of the dog; provided, however, that "confined" shall mean securely confined indoors or confined outdoors in a securely enclosed and locked pen or dog run area upon the premises of the owner or keeper; provided further, that such pen or dog run shall have a secure roof and, if such enclosure has no floor secured to the sides thereof, the sides shall be embedded into the ground for not less than 2 feet; and provided further, that within the confines of such pen or dog run, a dog house or proper shelter from the elements shall be provided to protect the dog;

(iii) that when removed from the premises of the owner or the premises of the person keeping the dog, the dog shall be securely and humanely muzzled and restrained with a chain or other tethering device having a minimum tensile strength of 300 pounds and not exceeding 3 feet in length;

(iv) that the owner or keeper of the dog provide proof of insurance in an amount not less than \$100,000 insuring the owner or keeper against any claim, loss, damage or injury to persons, domestic animals or property resulting from the acts, whether intentional or unintentional, of the dog or proof that reasonable efforts were made to obtain such insurance if a policy has not been issued; provided, however, that if a policy of insurance has been issued, the owner or keeper shall produce such policy upon request of the hearing authority or a justice of the district court; and provided further, that if a policy has not been issued the owner or keeper shall produce proof of efforts to obtain such insurance;

(v) that the owner or keeper of the dog provide to the licensing authority or animal control officer or other entity identified in the order, information by which a dog may be identified, throughout its lifetime including, but not limited to, photographs, videos,

veterinary examination, tattooing or microchip implantations or a combination of any such methods of identification;

(vi) that unless an owner or keeper of the dog provides evidence that a veterinarian is of the opinion the dog is unfit for alterations because of a medical condition, the owner or keeper of the dog shall cause the dog to be altered so that the dog shall not be reproductively intact; or

(vii) that the dog be humanely euthanized.

No order shall be issued directing that a dog deemed dangerous shall be removed from the town in which the owner of the dog resides. The town shall not regulate dogs in a manner that is specific to breed.

E. Within 10 days after an order issued under subsections (A) to (D), inclusive, the owner or keeper of a dog may bring a petition in the district court within the judicial district in which the order relative to the dog was issued or where the dog is owned or kept, addressed to the justice of the court, praying that the order be reviewed by the court or a magistrate of the court. After notice to all parties, the magistrate shall, under MGL c. 221, § 62C, review the order of the hearing authority, hear the witnesses and affirm the order unless it shall appear that it was made without proper cause or in bad faith, in which case the order shall be reversed. A party shall have the right to request a de novo hearing on the complaint before a justice of the court.

F. (1) Pending an appeal by an owner or keeper under subsection (E), a hearing authority may file a petition in the district court to request an order of impoundment at a facility the municipality uses to shelter animals for a dog complained of as being a dangerous dog. A municipality shall not incur liability for failure to request impoundment of a dog under this subsection. (2) A justice of a district court, upon probable cause to believe that a dog is a dangerous dog or that a dog is being kept in violation of this section or in violation of an order issued under this section by a hearing authority or a court, may issue an order: (i) of restraint; (ii) of confinement of the dog as considered necessary for the safety of other animals and the public; provided, however, that if an order of confinement is issued, the person to whom the order is issued shall confine the dog in accordance with clause (ii) of subsection (E); or (iii) of impoundment in a humane place of detention that the municipality uses to shelter animals; or (iv) any other action as the court deems necessary to protect other animals and the public from the dog.

G. A justice of the district court shall hear, de novo, an appeal filed under subsection (E). Based upon credible evidence and testimony presented at trial, the court shall, whether the dog was initially complained of as a nuisance dog or as a dangerous dog: (i) dismiss the complaint; (ii) deem the dog a nuisance dog; or (iii) deem the dog a dangerous dog. The decision of the court shall be final and conclusive upon the parties.

H. If a court affirms an order of euthanasia, the owner or keeper of the dog shall reimburse the town for all reasonable costs incurred for the housing and care of such dog during its impoundment and throughout the appeals process, if any.

Unpaid costs shall be recovered by the municipality in which the owner or keeper of the dog resides on behalf of the hearing authority by any of the following methods: (i) a lien on any property owned by the owner or keeper of the dog; (ii) an additional, earmarked charge to appear on the vehicle excise of the owner or keeper of the dog; or (iii) a direct bill sent to

the owner or keeper of the dog.

All funds recovered by a municipality under this subsection shall be transferred to the organization or entity charged with the responsibility of handling dog complaints and impoundment. If the organization or entity falls under the management or direction of the municipality, costs recovered shall be distributed at the discretion of the municipality.

If the court overturns an order of euthanasia, the town shall pay all reasonable costs incurred for the housing and care of the dog during any period of impoundment.

I. If an owner or keeper of a dog is found in violation of an order issued under this section, the dog shall be subject to seizure and impoundment by a law enforcement or animal control officer. If the keeper of the dog is in violation, all reasonable effort shall be made by the seizing authority to notify the owner of the dog of such seizure. Upon receipt of such notice, the owner may file a petition with the hearing authority, within 7 days, for the return of the dog to the owner. The owner or keeper shall be ordered to immediately surrender to the licensing authority the license and tags in the person's possession, if any, and the owner or keeper shall be prohibited from licensing a dog within the commonwealth for 5 years. A hearing authority that determines that a dog is dangerous or a nuisance or that a dog owner or keeper has violated an order issued under this section shall report such violations to the issuing licensing authority within 30 days.

J. Orders issued by a hearing authority shall be valid throughout the commonwealth unless overturned under subsection (E) or (G).

§ 87-11. Excessive barking or other disturbance. Incorporation of statutory provisions.

[Added 5-5-2001 by Art. 6]

A. Upon written complaint, the Police Department or Animal Control Officer may take cognizance that a dog owned or harbored in the Town is a nuisance by reason of excessive barking or other disturbance or that by such barking or other disturbance is a source of annoyance to any person. The Police Department or Animal Control Officer shall investigate said complaint and inform the person owning or harboring such dog in writing to abate the nuisance.

B. If the Police Department or the Animal Control Officer shall issue two such warnings to a person in one calendar year, the Police Department or Animal Control Officer shall fine the person \$50 for each successive offense. It shall be in the discretion of the Police Officer or Animal Control Officer issuing the fine to pursue a violation of this section under criminal or noncriminal disposition.

Except as specifically modified in this article, the provisions of the applicable sections of MGL c. 140 shall be incorporated into and apply to this article, as well as any other section of Massachusetts General Laws referenced herein.

§ 87-12

Chaining or tethering.

A. No person owning or keeping a dog shall chain or tether a dog for longer than 5 hours in a 24-hour period and outside from 10:00 p.m. to 6:00 a.m., unless the tethering is for not more than 15 minutes and the dog is not left unattended by the owner, guardian or keeper. A tethering employed shall not allow the dog to leave the owner's, guardian's or keeper's property. The tether shall be designed for dogs and no logging chains or other lines or devices not designed for tethering dogs shall be used. No chain or tether shall weigh more than 1/8 of the dog's body weight. Nothing in this section shall be construed to prohibit a person from walking a dog on a hand-held leash. No dog under the age of 6 months shall be tethered outside for any length of time.

B. A person owning or keeping a dog may confine such dog outside, subject to the restrictions in this section, through the use of any of the following methods:

1. inside a pen or secure enclosure, if the following conditions are met:

a. the pen or secure enclosure shall have adequate space for exercise with a dimension of at least 100 square feet; provided, however, that commercial dog kennels with pens intended for the temporary boarding of dogs shall be exempt from this requirement;

b. the pen or secure enclosure is constructed with chain link or other similar material as determined by the Building Inspector, with all 4 sides enclosed; and

c. the minimum height of the fence shall be adequate to successfully confine the dog;

2. a fully fenced, electronically fenced or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard; or

3. a trolley system or a tether attached to a pulley in a cable run, if the following conditions are met:

a. only 1 dog shall be tethered to each cable run;

b. the tether shall be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which 2 adult fingers may fit; provided, however, that a choke collar and a pinch collar shall not be used to tether a dog to a cable run;

c. there shall be a swivel on at least 1 end of the tether to minimize tangling of the tether;

d. the tether and cable run must each be at least 10 feet in length. The cable must be mounted at least 4 feet but not more than 7 feet above ground level; and

e. the length of the tether from the cable run to the dog's collar or harness shall allow continuous access to clean water and appropriate shelter at all times as described in subsection C.; provided, however, that a trolley system or tether shall be of appropriate configuration to confine the dog to the owner's, guardian's or keeper's property, to prevent the trolley system or tether from extending over an object to an edge that could result in injury to or strangulation of the dog and to prevent the trolley system or tether from becoming tangled with other object or animals.

C. A person owning or keeping a dog confined outside in accordance with subsection B. shall provide the dog with access to clean water and appropriate dog shelter. The dog shelter shall allow the dog to remain dry and protected from the elements and shall be fully enclosed on at least 3 sides, roofed and have a solid floor. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of weather elements. The shelter shall contain clean bedding and shall be small enough to retain the dog's body heat and large enough to allow the dog to stand, lie down and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage shall be provided so that water, ice or waste is not standing in or around the shelter.

D. A person shall not leave a dog outside when a weather advisory, warning or watch is issued by a local, state or federal authority or when outside environmental conditions including, but not limited to, extreme heat, cold, wind, rain, snow or hail pose an adverse risk to the health or safety of the dog based on the dog's breed, age or physical condition, unless the tethering is for not more than 15 minutes.

E. An exception to a restriction on outdoor confinement under this section that is reasonably necessary for the safety of a dog shall be made for a dog that is: (i) present in a camping or recreational area pursuant to the policy of the camping or recreational area; or (ii) actively engaged in conduct that is directly related to the business of shepherding or herding cattle or other livestock or engaged in conduct that is directly related to the business of cultivating agricultural products.

F. No person owning or keeping a dog shall subject the dog to cruel conditions or inhumane chaining or the tethering at any time. For the purposes of this subsection, "cruel conditions and inhumane chaining or tethering" shall include, but not be limited to, the following conditions:

1. filthy and dirty confinement conditions including, but not limited to, exposure to excessive animal waste, garbage, dirty water, noxious odors, dangerous objects that could injure or kill a dog upon contact or other circumstances that could cause harm to a dog's physical or emotional health;

2. taunting, prodding, hitting, harassing, threatening or otherwise harming a tethered or confined dog; and

3. subjecting a dog to dangerous conditions, including attacks by other animals.

G. A person who violates this section shall, for a first offense, be issued a written warning or punished by a fine of not more than \$50, for a second offense, be punished by a fine of not more than \$200 and for a third or subsequent offense, be punished by a fine of not more than \$500, and be subject to impoundment of the dog in a local shelter at the owner's, keeper's or guardian's expense pending compliance with this section, or loss of ownership of the dog.

H. A special police officer appointed by the colonel of the state police at the request of the Massachusetts Society for the Prevention of Cruelty to Animals and the Animal Rescue League of Boston under MGL c. 22C, § 57 may enforce this section following the same procedures relating to notice and court procedure in MGL c. 40, § 21D for the non-criminal disposition of a violation, if an animal control officer contacted by either of these agencies in response to a violation of this section is unresponsive or unavailable.

The town shall enforce this section through its animal control officers or police officers in a manner consistent with the disposition provisions in MGL c. 40, § 21D.

§ 87-13 Confinement of an animal in a motor vehicle.

A. A person shall not confine an animal in a motor vehicle in a manner that could reasonably be expected to threaten the health of the animal due to exposure to extreme heat or cold.

B. After making reasonable efforts to locate a motor vehicle's owner, an animal control officer, as defined in MGL c. 140, § 136A, law enforcement officer or firefighter may enter a motor vehicle by any reasonable means to protect the health and safety of an animal. An animal control officer, law enforcement officer or firefighter may enter the motor vehicle for the sole purpose of assisting the animal and may not search the vehicle or seize items found in the vehicle unless otherwise permitted by law.

C. An animal control officer, law enforcement officer or firefighter who removes or otherwise retrieves an animal under this section shall leave written notice in a secure and conspicuous location on or in the motor vehicle bearing the officer's or firefighter's name and title and the address of the location where the animal may be retrieved. The owner may retrieve the animal only after payment of all charges that have accrued for the maintenance, care, medical treatment and impoundment of the animal.

D. An animal control officer, law enforcement officer or firefighter who removes or otherwise retrieves an animal from a motor vehicle under subsection B., and the agency or municipality that employs the officer or firefighter shall

be immune from criminal or civil liability that might otherwise result from the removal.

E. After making reasonable efforts to locate a motor vehicle's owner, a person other than an animal control officer, law enforcement officer or firefighter shall not enter a motor vehicle to remove an animal to protect the health and safety of that animal in immediate danger unless the person: (i) notifies law enforcement or calls 911 before entering the vehicle; (ii) determines that the motor vehicle is locked or there is no other reasonable means for exit and uses not more force than reasonably necessary to enter the motor vehicle and remove the animal; (iii) has a good faith and reasonable belief, based upon known circumstances, that entry into the vehicle is reasonably necessary to prevent imminent danger or harm to the animal; and (iv) remains with the animal in a safe location in reasonable proximity to the vehicle until law enforcement or another first responder arrives.

F. A person who removes an animal from a motor vehicle pursuant to subsection E. shall be immune from criminal or civil liability that might otherwise result from the removal.

G. A violation of subsection A. shall be a civil infraction punishable by a fine of not more than \$150 for a first offense, by a fine of not more than \$300 for a second offense and by a fine of not more than \$500 for a third or subsequent offense. H. Nothing in this section shall preclude prosecution under MGL c. 272, § 77.

The town shall enforce this section through its animal control officers or police officers in a manner consistent with the disposition provisions in MGL c. 40, § 21D.

Chapter 194

Stormwater Management

[HISTORY: Adopted by the Special Town Meeting of the Town of Fairhaven 5-4-2019 by Art. 12. Amendments noted where applicable.]

GENERAL REFERENCES

Wetlands — See Ch. 192.

Zoning — See Ch. 198.

Subdivision of land — See Ch. 322.

§ 194-1 GENERAL PROVISIONS

§ 194-1.1 Authority.

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

§ 194-21.2 Purpose.

- A. The purpose of this ~~chapter bylaw~~ is to ~~provide protect~~ for the public health, safety, and general welfare, and environment by regulating illicit connections and discharges of the residents of the Town of Fairhaven, the protection of Fairhaven's water bodies and groundwater, and the protection of Fairhaven's natural resources through the regulation of nonstormwater discharges to the storm drainage system and controlling the adverse effects of construction site stormwater runoff and post-construction runoff to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. Stormwater runoff is potentially a major cause of:
- B. ~~Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater. The harmful impacts of illicit discharge, soil erosion, and sedimentation are:~~
- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, groundwater, and drinking water supplies;
 - (2) Contamination of drinking water supplies;
 - (3) ~~Erosion Contamination~~ of ~~stream channels~~ and downstream coastal areas;
 - (4) Alteration or destruction of aquatic and wildlife habitat;
 - (5) Flooding; and
 - (6) Overloading or clogging of municipal stormwater management systems.
- ~~EB.~~ The objectives of this ~~chapter bylaw~~ are to:
- (1) ~~Regulate the contribution of pollutants to the municipal separate storm sewer~~

system (MS4) by stormwater discharges by any user;

- (21) ~~To Prohibit~~ illicit connections and unauthorized discharges to the municipal separate storm sewer system (MS4) and require their removal;
- (32) ~~To P~~rotect water resources;
- (4) ~~Require practices that eliminate soil erosion and sedimentation~~
- (5) ~~Control the volume and rate of stormwater runoff resulting from land-disturbance activities in order to minimize potential impacts of flooding;~~
- (6) ~~Require practices to manage and treat stormwater runoff generated from new development and redevelopment~~
- (73) ~~To E~~stablish minimum construction and post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality
- (8) ~~Protect groundwater and surface water from degradation;~~
- (9) ~~Promote infiltration and the recharge of groundwater;~~
- (10) ~~Maximize recharge of groundwater in the Fairhaven Aquifer Protection District.~~
- (144) ~~To P~~revent pollutants from entering the Town's municipal separate storm sewer system (MS4) and reduce or eliminate pollutants entering the Town's MS4 from existing users;
- (12) ~~Ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;~~
- (135) To establish provisions for the ~~Ensure adequate~~ long-term operation responsibility for, and maintenance of structural stormwater control facilities and nonstructural stormwater best management practices to ensure that they continue to function as designed, are maintained, and pose not threat to public safety;
- (14) ~~Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;~~
- (156) ~~To C~~omply with state and federal statutes and regulations relating to stormwater discharges, including total maximum daily load requirements;
- (167) ~~Establish the Town of Fairhaven's legal authority t~~To ensure compliance with the provisions of this chapter bylaw through inspection, monitoring and enforcement; and,
- (17) Support Chapter 198, § 198-31 (Earth removal regulations), Chapter 198, § 198-31.1 and Chapter 322, § 322-26 (Stormwater management).

§ 194-1.3 Definitions.

For the purposes of this chapter, the following shall mean:

ABUTTER

The owner(s) of land abutting the lot or lots on which activity regulated by this chapter is occurring or proposed.

AGRICULTURE

~~The normal maintenance or improvement of land in agricultural or aquaculture use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.~~

ALTERATION OF DRAINAGE CHARACTERISTICS

Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT

~~Any “person,” as defined below requesting a soil erosion and sediment control permit for proposed land-disturbance activity or a permit relating to or involving stormwater management individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a Land Disturbance Permit for proposed land-disturbance activity.~~

BEST MANAGEMENT PRACTICES (BMPs)

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

BOARD OF PUBLIC WORKS

~~The Board of Public Works for the Town of Fairhaven and its employees, agents or others designated by that Board to enforce this chapter.~~

CLEAN WATER ACT

~~The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto as hereafter amended.~~

CLEARING

Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

CONSTRUCTION ACTIVITY

The erection or placement of a building or other structure, or the placement of any impervious surface, in or on the ground, or site preparation for such activities, including, but not limited to, activities subject to NPDES construction permits as laid out in the eligibility conditions of the permit.

CONSTRUCTION AND WASTE MATERIALS

Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

DEVELOPMENT

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

DISCHARGE OF POLLUTANTS

The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or commonwealth from any source.

~~DISTURBANCE OF LAND~~

~~Any action, including clearing and grubbing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material to alter the existing vegetation and/or underlying soil of a site, such as clearing, grading, site preparation (e.g., excavation, cutting, and filling), soil compaction, and movement and stockpiling of top soils.~~

ENVIRONMENTAL SITE MONITOR

~~A registered professional engineer or other trained professional selected by the Conservation Commission and retained by the holder of a minor land-disturbance permit or a full land disturbance permit to periodically inspect the work and report to the Conservation Commission and/or Planning Board.~~

EROSION

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

EROSION AND SEDIMENTATION CONTROL PLAN

A document containing narrative, drawings and details developed by a registered professional engineer (PE), registered professional land surveyor (PLS), or a certified professional in erosion and sedimentation control (CPESC) which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction- and construction-related land-disturbance activities.

~~EROSION CONTROL~~

~~The prevention or reduction of the movement of soil particles or rock~~

fragments due to stormwater runoff.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS

Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act regulations (310 CMR 10.00) and the Forest Cutting Practices Act regulations (302 CMR 16.00).

FLOODING

A local and temporary inundation or rise in the surface of a body of water, such that it covers land not usually under water.

GRADING

Changing the level or shape of the ground surface.

GROUNDWATER

Water beneath the surface of the ground.

GRUBBING

The act of clearing land surface by digging or grinding up roots and stumps.

HAZARDOUS OR TOXIC MATERIAL OR WASTE

Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, corrosive, flammable, reactive, toxic, radioactive, or infectious characteristics, either separately or in combination with any substance or substances, may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, welfare, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as "toxic" or "hazardous" under MGL c. 21C and MGL c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

ILLEGAL DISCHARGE

Any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in this chapter.

ILLICIT CONNECTION

A surface or subsurface ~~An illicit connection is defined as either of the following: any drain or conveyance, whether on the surface or subsurface, which allows an illegal or illicit discharge into the municipal storm drain system, including but not limited to any conveyances which allow any nonstormwater discharge, including without limitation sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains, sinks or toilets, regardless of whether said drain or connection had been was previously allowed, permitted, or approved by an authorized enforcement agency before~~

the effective date of this chapter, or any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency before the effective date of the Stormwater Management Bylaw.

ILLCIT DISCHARGE

Direct or indirect discharge to the municipal storm drain system or a watercourse or the waters of the commonwealth that is not composed entirely of stormwater, except for projects exempted by this chapter or by regulations issued thereunder. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from firefighting activities exempted pursuant to §194-9.B.D.(1) of the Stormwater Management Bylaw.

IMPERVIOUS SURFACE

Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, ~~and~~ rooftops, structures, artificial turf and compacted gravel or soil.

IMPOUNDMENT

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

INDUSTRIAL ACTIVITY

Activities subject to NPDES industrial permits as defined in 40 CFR 122.26(b) (14).

INFEASIBLE

Not technologically possible, or not economically practicable and achievable in light of best industry practices.

INFILTRATION

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

~~LAND-DISTURBING ACTIVITY~~ ~~or~~ ~~LAND-DISTURBANCE~~

~~Any activity, including without limitation: clearing, grubbing, grading, digging, cutting, excavation of soil, placement of fill, and construction that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.~~

LAND USE OF HIGHER POTENTIAL POLLUTANT LOAD (LUHPPL)

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

LOAD ALLOCATION or WASTE LOAD ALLOCATION

The maximum concentration or mass of a pollutant which can be discharged to a waterway from nonpoint sources without causing a violation of surface water quality standards as established in an applicable total maximum daily load (TMDL).

LOT

A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed or on a recorded plan.

MASSACHUSETTS ENDANGERED SPECIES ACT

MGL c. 131A and its implementing regulations at 321 CMR 10.00 which prohibit the “taking” of any rare plant or animal species listed as endangered, threatened, or of special concern.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY

The policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c. 131 § 40 and the Massachusetts Clean Waters Act, MGL c. 21, §§ 23 through 56. The policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS

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

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM

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

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT

A permit issued by the United States Environmental Protection Agency or

jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.

NEW DEVELOPMENT

Any construction activities or land alteration resulting in disturbance on an area that has not previously been developed to include impervious cover.

NONSTORMWATER DISCHARGE

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

OFF-SITE COMPLIANCE

An approach whereby pollutant removal practices are implemented at redevelopment or retrofit sites at another location in the same HUC12 watershed, as the original project, as approved by the Stormwater Authority.

OPERATION AND MAINTENANCE PLAN

A plan ~~describing~~ setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL

The point at which stormwater flows out from a discernible, confined point source or discrete conveyance into waters of the commonwealth.

OUTSTANDING RESOURCE WATERS (ORWs)

~~Waters designated by the Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Surface Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.~~

OWNER

A person with a legal or equitable interest in property.

PERMITTEE

~~The person who holds a land disturbance permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.~~

PERSON

An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the commonwealth

or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE

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

POLLUTANT

Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is ~~considered toxic or detrimental to humans or the environment and is~~ or may be introduced into any the municipal storm sewer, water works drain system or any sewage treatment works, or into any water, watercourse or waters of the commonwealth. Pollutants shall include without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, accumulations, and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform and pathogens
- G. ~~Sewage, fecal coliform, and pathogens;~~
- HG. Dissolved and particulate metals;
- HH. Animal wastes;
- IJ. Rock; sand; salt; soils;
- ~~KJ.~~ Construction wastes and residues; and
- ~~LK.~~ Noxious or offensive matter of any kind.

PRE-CONSTRUCTION

All activity in preparation for construction.

PREMISES

~~Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.~~

PRIORITY HABITAT OF RARE SPECIES

~~Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.~~

PROCESS WASTEWATER

~~Water which, during manufacturing or processing, comes into direct contact~~

with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE

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

REDEVELOPMENT

Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface, including impervious surfaces, on previously developed sites. The creation of new areas of impervious surface or new areas of land disturbance on a site constitutes development, not redevelopment, even where such activities are part of a common plan which also involves redevelopment. Redevelopment includes maintenance and improvement of existing roadways, including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems and repaving; and remedial projects specifically designed to provide improved stormwater management, such as projects to separate storm drains and sanitary sewers and stormwater retrofit projects. Any construction, land alteration or improvement of impervious surfaces resulting in earth disturbance that does not meet the definition of new development.

RESPONSIBLE PARTIES

~~Owners, persons with financial responsibility, persons with operational responsibility, and persons with administrative responsibility.~~

RUNOFF

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

SEDIMENT

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

SEDIMENTATION

The process or act of deposition of sediment.

SITE

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

SLOPE

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

SOIL

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

STABILIZATION

The use, singly or in combination, of mechanical, structural, or vegetative

methods, to prevent or retard erosion.

STORMWATER

Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation. Runoff from precipitation or snow melt and surface water runoff and drainage.

STORMWATER AUTHORITY

A panel consisting of the Town of Fairhaven Board of Public Works Superintendent, Conservation Agent, and Director of Planning and Economic Development, or their designee.

STORMWATER MANAGEMENT PLAN

~~A document containing narrative, drawings and details prepared by a registered professional engineer (PE), a registered professional land surveyor (PLS), or a certified professional in erosion and sedimentation control (CPESC) which includes structural and nonstructural best management practices and activities to identify sources of pollution or contamination and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems and/or receiving waters to the maximum extent practicable, and to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an operation and maintenance plan describing the maintenance requirements for structural best management practices. A plan required as part of the application for a Land Disturbance Permit.~~

STRIP

Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

~~TOTAL MAXIMUM DAILY LOAD or TMDL~~

~~A plan required under the Clean Water Act for a pollutant which causes or contributes to a violation of state surface water quality standards in a specific geographic area, and which establishes the maximum amount of that pollutant (referred to as the load allocation and waste load allocation) which may be discharged to the affected waters of the commonwealth by one or more categories of users without violating state surface water quality standards.~~

~~TOTAL SUSPENDED SOLIDS or TSS~~

~~Material, including but not limited to trash, debris, and sand, suspended in stormwater runoff.~~

TOXIC OR HAZARDOUS MATERIAL OR WASTE

Any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical,

petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as “toxic” or “hazardous” under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

VERNAL POOLS

~~Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.~~

WASTEWATER

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

WATERCOURSE

A natural or human-made channel through which water flows, including a river, brook, stream, underground stream, pond or lake.

WATERS OF THE COMMONWEALTH

All waters within the jurisdiction of the commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WETLAND RESOURCE AREA

~~Area specified in the Massachusetts Wetlands Protection Act MGL c. 131, § 40, and in the Town of Fairhaven Wetlands Protection Bylaw.~~

WETLANDS

~~Tidal and nontidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include marshes, swamps and bogs. Freshwater wetland, marsh, bog, wet meadow and swamp are defined in MGL c. 131, § 40, and are collectively known as vegetated wetlands. Credible evidence as to wetland affinities of other vegetation in an area shall be considered in making wetland determinations. As specifically defined in the Massachusetts Wetlands Protection Act but generally include tidal and non-tidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include marshes, swamps & bogs.~~

§ 194-51.4 Responsibility for Administration.

~~The Board of Public Works~~ Stormwater Authority shall administer, implement and enforce this ~~chapter bylaw~~. Any powers granted to or duties imposed upon the ~~Board of Public Works Stormwater Authority~~ through this chapter may be delegated in writing by the ~~Board of Public Works Stormwater Authority~~ to its employees or agents of the Town. The process for approval will be determined based on statutory authority.

§ 194-~~7~~**J5. Waivers.**

- (1) Following a public hearing in accordance with the Stormwater Regulations on a waiver request, the ~~Board of Public Works~~ Stormwater Authority may waive strict compliance with any requirement of this ~~chapter~~ bylaw or the rules and regulations promulgated hereunder, where:
 - (a) Such action is allowed by federal, state, and local statutes and/or regulations; and
 - (b) Is in the public interest; and
 - (c) Is not inconsistent with the purpose and intent of this ~~chapter~~ bylaw.
- (2) Any applicant must submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the chapter does not further the purposes or objectives of this ~~chapter~~ bylaw.
- (3) ~~All waiver requests shall be discussed and voted on at the public hearing for the project.~~
- (43) If, in the ~~Board of Public Works~~Stormwater Authority's opinion, additional time or information is required for review of a waiver request, the ~~Board of Public Works~~ Stormwater Authority may continue a hearing to a certain date announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

§ 194-~~20~~ 1.6. Compliance with provisions of EPA's general permit for MS4s in Massachusetts:

~~This chapter shall be implemented by the Board of Public Works in accordance with the requirements of the EPA's most recent general permit for MS4s in Massachusetts relating to illicit connections and discharges, construction site runoff, and post construction stormwater management. The Board of Public Works shall include these requirements in any regulations that it issues. The Board of Public Works may establish additional requirements by regulation to further the purposes and objectives of this chapter, so long as they are not less stringent than those in the MS4 general permit for Massachusetts.~~

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

§ 194-~~6~~1.7 Regulations.

The ~~Board of Public Works~~ Stormwater Authority may adopt, and periodically amend, rules, regulations, and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of the Stormwater Bylaw by majority vote after conducting a public hearing to receive comments. Such

hearing shall be advertised in a newspaper of general local circulation, once in each of two successive weeks, the first publication being at least fourteen (14) days prior to the hearing date, to effectuate the purposes of this chapter. Failure by the ~~Board of Public Works Stormwater Authority~~ to promulgate issue such rules, or ~~and~~ regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this chapter. Such regulations, rules or guidance may include, without limitation, provisions for the establishment of one or more categories of administrative review approvals for specific types or sizes of projects. Administrative review applications that meet all the standard requirements may be issued by one or more agents designated in writing by the ~~Board of Public Works Stormwater Authority~~, without the requirement for a public hearing as detailed in this ~~chapter~~ bylaw. Administrative review approval shall comply with all other provisions of this ~~chapter~~ bylaw.

§ 194-~~211.8~~ Severability.

~~If any provision, paragraph, sentence, or clause of this chapter or the application thereof to any person, establishment or circumstance shall be held invalid for any reason, all other provisions shall continue in full force and effect to the extent permitted by law.~~

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

§194-2 – DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

§194-2.1.A. Applicability

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

§ 194-4 Applicability.

~~B.—Discharge prohibitions.—~~

- (1) ~~Prohibition of illegal discharges: No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4, or allows such a~~

connection to continue. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:-

- (a) — Water line flushing;
 - (b) — Flow from other potable water sources;
 - (c) Landscape irrigation or lawn watering; (d) Diverted stream flows;
 - (e) — Rising groundwater;
 - (f) — Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(b)(20);
 - (g) Uncontaminated pumped groundwater (e.g., sump pump), provided that where a pump intake exists inside a structure, the operator seeks a permit from the Board of Public Works prior to discharge and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations;
 - (h) — Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation;
 - (i) — Noncommercial washing of vehicles;
 - (j) — Springs, natural riparian habitat or wetland flows;
 - (k) — Discharge from swimming pool water (if dechlorinated typically less than one ppm chlorine), provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
 - (l) — Discharge from streetsweeping;
 - (m) Firefighting activities;
 - (n) — Dye testing is an allowable discharge, but requires a verbal notification to the Board of Public Works prior to the time of the test;
 - (o) — Discharges specified in writing by the Board of Public Works as being necessary to protect public health, safety, welfare, or the environment; and
 - (p) — The prohibition shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharge is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.
- (2) — Suspension of MS4 access.
- (a) — Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Board of

Public Works will notify a violator of the proposed termination of its MS4 access.

- (b) ~~Suspension due to illicit discharges in emergency situations. The violator may petition the Board of Public Works for a reconsideration and hearing. Any person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the Board of Public Works.~~
- (c) ~~The Board of Public Works may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Board of Public Works may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.~~
- (3) ~~Industrial or construction activity discharges: Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Board of Public Works prior to the allowing of discharges to the MS4.~~
- C. ~~Exempt activities. The following activities are exempt from the requirements of this chapter:~~
 - (1) ~~Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act (MGL c. 131, § 40) and its associated regulations (310 CMR 10.00).~~
 - (2) ~~Repair of septic systems when required by the Board of Health for the protection of public health and compliance with Subsection B.~~
 - (3) ~~Normal maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling, provided such maintenance does not include the addition of more than 50 cubic yards of soil material, construction of any walls, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns.~~
 - (4) ~~The construction of fencing that will not alter existing terrain or drainage patterns.~~
 - (5) ~~Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain or drainage patterns.~~

194-4.2.1.B. ~~Discharge prohibitions~~ Prohibited Activities; Exemptions.

- (1) ~~Prohibition of illegal discharges: No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality~~

standards, other than stormwater. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:-

- A. Illicit discharges. No person shall dump, discharge, spill, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), onto an impervious surface directly connected to the MS4, or, directly or indirectly, into a watercourse, or into the waters of the Commonwealth.
- B. Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of municipal storm drain system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written consent from the Stormwater Authority.
- D. Exemptions.
 - (1) Discharge of flow resulting from fire-fighting activities.
 - (2) The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system or, directly or indirectly, into a watercourse, or into the waters of the Commonwealth:
 - (a) Water line flushing;
 - (b) Flow from other potable water sources, with the exception of landscape irrigation and lawn watering;
 - (c) ~~Landscape irrigation or lawn watering;~~
 - (d) Diverted stream flows;
 - (e) Rising groundwater;
 - (f) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(b) (20), or uncontaminated pumped groundwater (e.g. sump pump), provided that where a pump intake exists inside a structure, the operator seeks a permit from the Stormwater Authority prior to discharge and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations to be issued by the Stormwater Authority;
 - (g) ~~Uncontaminated pumped groundwater (e.g., sump pump), provided that where a pump intake exists inside a structure, the operator seeks a permit~~

from the Board of Public Works prior to discharge and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations;

- (hf) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation;
- (ig) ~~Noncommercial washing of vehicles;~~
- (jh) Springs, natural flow from riparian habitat ~~or~~ and wetlands flows;
- (ki) Discharge from dechlorinated swimming pool water (~~if dechlorinated typically less than one ppm chlorine~~), provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (lj) Discharge from street sweeping;
- (m) ~~Firefighting activities;~~
- (nk) Dye testing is an allowable discharge, but requires a provided verbal notification to the Board of Public Works Stormwater Authority prior to the time of the test;
- (el) Discharges specified in writing for which advanced written approval has been received from the Stormwater Authority ~~by the Board of Public Works~~ as being necessary to protect public health, safety, welfare, or the environment; and
- (pm) ~~The prohibition shall not apply to any Nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharge is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.~~

§194-2.2. Additional Prohibited Pollutants

Pet Waste: Dog feces is a major component of stormwater pollution; it shall be the duty of each person who owns, possesses, or controls a dog to remove and properly dispose of any feces left by the dog on any public or private property neither owned nor occupied by said person. It is prohibited to dispose of dog feces in any public or private storm drain, catch basin, wetland, or water body or on any paved or impervious surface. Persons walking dogs must carry with them a device designed to dispose of dog feces including, but not limited to, a plastic bag or “pooper scooper.” For specific requirements and penalties for violations see General Bylaw Article 87 Animals and Chapter 405 Animals.

§194-4(2)(e)2.3 Emergency Suspension of Storm Drainage System Access

The Board of Public Works Stormwater Authority may, without prior notice, suspend MS4 discharge storm drain access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants which presents or may that present imminent and substantial danger risk

~~of hard to the public health, safety, welfare or to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator~~ In the event any person fails to comply with an emergency suspension order issued in an emergency, the Board of Public Works Stormwater Authority may take all reasonable such steps as deemed necessary to prevent or minimize damage harm to the MS4 or waters of the United States, or to minimize danger to persons public health, safety, welfare or the environment.

§ 194-182.4 Notification of spills.

Notwithstanding other requirements of local, state or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials at that facility or operation ~~which are~~ resulting in or may result in illegal discharges or pollutants discharging into stormwater, the storm to the municipal drainage system; or water of the United States Commonwealth, said person shall take all necessary steps to ensure the ~~discovery~~, containment; and cleanup of ~~such~~ release. In the event of such a release of oil or hazardous materials, said person shall immediately notify ~~emergency response agencies~~ the Municipal Fire and Police Departments ~~of the occurrence via emergency dispatch services~~. In the event of a release of nonhazardous materials, said person shall notify the ~~Board of Public Works~~ authorized enforcement agency in person or by phone or facsimile no later than the next business day. The reporting person shall provide to the Stormwater Authority written confirmation of all telephone, facsimile or in-person notifications ~~Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Board of Public Works within three business days of the phone notice thereafter~~. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the facility owner or operator of such establishment ~~the facility~~ shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 194-192.5 Enforcement.

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

A. Civil relief. If a person violates the provisions of this bylaw, or any associated regulations, permit, notice, or order issued thereunder, the Stormwater Authority may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

B. Orders.

(1) ~~The Board of Public Works~~ Stormwater Authority or anits ~~authorized agent of the Board of Public Works~~ may issue a written order to enforce the provisions of this ~~chapter~~ bylaw or theany regulations thereunder, which may include:

- (a) ~~That unlawful discharges, practices or operations shall~~ A requirement to cease and desist from the violating activity until there is compliance with the chapter and any existing permits.
 - (b) ~~Maintenance, installation or performance of additional erosion and sedimentation control measures~~ That measures shall be taken to minimize the discharge of pollutants until such time as the illicit connection shall be eliminated.
 - (c) Performance of M ~~Monitoring, analyses, and reporting.~~
 - (d) ~~Remediation of erosion and sedimentation resulting directly or indirectly from the land disturbing activity.~~
 - (ed) The elimination of illicit connections or discharges to the MS4.
 - (fe) ~~The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property in connection therewith.~~
 - (2) ~~If the enforcing person determines that abatement or remediation of erosion and sedimentation, stormwater pollution or contamination hazards is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Fairhaven may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses. Said orders shall specify a deadline by which the required action shall be completed and the Stormwater Authority or its designee may further advise that, should the violator or property owner fail to perform the required action or remediation within the specified deadline, the Town may, at its option, undertake such work, at the owner and/or violator's sole costs and expense, that it deems necessary to protect public health, safety and welfare.~~
 - (3) ~~Within 360 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Fairhaven, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board of Public Works~~ Stormwater Authority ~~within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Board of Public Works~~ Stormwater Authority ~~affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57 after the 31st day at which the costs first become due.~~
 - (4) ~~Such special assessment shall constitute a lien for the purpose of MGL c. 40, § 58. [Amended 11-12-2019 STM by Art. 12]~~
- C. Criminal penalty. Any person who violates any provision of this ~~chapter~~ by law,

~~or regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300 for each offense. may be penalized by indictment or on complaint brought in a court of competent jurisdiction. Except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each violation or offense shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.~~

- D. ~~Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Fairhaven may elect to utilize the noncriminal disposition procedure, in which case the Board of Public Works or authorized agent shall be the enforcing person. The penalty for each violation shall be \$300. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder may be penalized by non-criminal disposition as set forth in MGL c. 40, § 21D. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.~~
- E. ~~Appeals. All decisions or orders of the Board of Public Works Stormwater Authority shall be final. Further relief shall be to a court of competent jurisdiction.~~
- F. ~~Remedies not exclusive. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law. Entry to perform duties under this bylaw. To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Stormwater Authority, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Stormwater Authority deems reasonably necessary.~~

§194-2.6. Transitional Provisions

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

§194-73– STORMWATER MANAGEMENT AND LAND DISTURBANCE PERMITS

~~Permit issuance is required prior to any activity disturbing 40,000 or more square feet of land. The site owner or his agent shall apply for the permit with the Board of Public Works. While application may be made by a representative, the permitted must be the owner of the site.~~

§194-3.1. Applicability

- A. ~~Applications. An application shall be made to the Board of Public Works~~

in a form and containing information as specified in this chapter and in the regulations adopted by the Board of Public Works and shall be accompanied by payment of the appropriate application and review fees. Article III of this Bylaw shall apply to all activities that result in disturbance of 5,000 square feet of land or more that drains to the municipal separate storm sewer system (MS4) or waters of the Commonwealth. Except as authorized by the Stormwater Authority or as otherwise provided in this Bylaw, no person shall perform any activity that results in disturbance of 5,000 square feet of land or more. There are two levels of reviews based on the amount of proposed land to be disturbed as part of a single project and they are as follows:

- 1) Administrative Land Disturbance Review is required for projects disturbing between 5,000 square feet and 20,000 square feet of land.
- 2) A Land Disturbance Permit is required for disturbance of greater than (20,000 square feet of land or for a proposed use that is listed as a land use of higher potential pollutant loads as defined in the Massachusetts Stormwater Management Standards

B. ~~Fees. Fees shall be established by Board of Public Works to cover expenses connected with public notice, application review, and monitoring permit compliance. The fee shall be sufficient to also cover professional review. The Board of Public Works is authorized to retain a registered professional engineer or other professional consultant to advise the Board of Public Works on any or all aspects of these plans. Applicants must pay review fees before the review process may begin.~~ Exemptions:

- 1) Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling conducted in such a way as not to cause a nuisance;
- 2) Construction of fencing that will not substantially alter existing terrain or drainage patterns;
- 3) Construction of utilities other than drainage (gas, water, sewer, electric, telephone, etc.) which will not alter terrain or drainage patterns or result in discharge of sediment to the MS4;
- 4) Normal maintenance and improvement of land in agricultural or aquacultural use; and
- 5) Disturbance or redevelopment of land that is subject to jurisdiction under the Wetlands Protection Act that demonstrate compliance with the Massachusetts Stormwater Management Standards and the Town of Fairhaven Stormwater Management Regulations as reflected in a valid Order of Conditions issued by the Conservation Commission.
- 6) Disturbance of land or redevelopment that are subject to jurisdiction under a special permit or approval of a subdivision plan through the Town Zoning Bylaw and demonstrate compliance with the Massachusetts Stormwater Management Standards and Stormwater Handbook and the Town of Fairhaven Stormwater Management Regulations as

reflected in a valid decision issued by the Planning Board.

The Stormwater Authority is authorized to enact regulations to effectuate the purposes of this bylaw, including but not limited to regulations outlining the application requirements for the different levels of review specified in Section A hereof. Any person that fails to follow the requirements of a Land Disturbance Permit and the related Erosion and Sedimentation Control Plan, and Operations and Maintenance Plan issued under the Stormwater Management Regulations shall be in violation of the Town of Fairhaven Bylaws.

§194 4 Applicability:

~~This chapter shall apply to land disturbing activities on any developed and undeveloped land within the jurisdiction of the Town of Fairhaven and water and other materials entering the Town of Fairhaven municipal storm drain system. Land disturbance of 40,000 square feet or more in area is hereby prohibited except in compliance with this chapter. The discharge of any substance other than stormwater into the municipal stormwater system is hereby prohibited except in compliance with this chapter.~~

~~A. — Regulated land disturbance activities.—~~

- ~~(1) — Regulated activities shall include, but not be limited to:~~
 - ~~(a) — Land disturbance of greater than 40,000 square feet, associated with construction or reconstruction of structures;~~
 - ~~(b) — Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs 40,000 square feet or more of land;~~
 - ~~(c) — Paving, repaving or other change in surface material over an area of 40,000 square feet or more causing a significant reduction of permeability or increase in runoff;~~
 - ~~(d) — Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than 40,000 square feet;~~
 - ~~(e) — Any other activity altering the surface of an area exceeding 40,000 square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drain system; or~~
 - ~~(f) — Construction or reconstruction of a structure or structures with more than 40,000 square feet of roof drainage, or combined roof and surface drainage.~~
- ~~(2) — Erosion and sedimentation control requirement. A project which includes land disturbance of less than 40,000 square feet shall be considered to be in conformance with this chapter if soils or other eroded matter have been or will be prevented from being deposited onto adjacent properties, rights of way, public storm drainage systems, or wetlands or watercourses. The design, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the standards specified in the regulations to this~~

chapter.

- (3) ~~Exempted projects. Notwithstanding the provisions of above, the procedural requirements of this chapter shall not apply to activities which have been approved by the Planning Board or the Conservation Commission, provided that the applicant has submitted to the Board of Public Works a written determination from the Planning Board or the Conservation Commission that the project complies with the performance standards otherwise required by this chapter.~~

§194-7. H. — Action 3.2. Approval and/or Permit

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

The Board of Public Works may:

- (1) ~~Approve the application and issue a permit if it finds that the proposed plan will protect water resources and complies with the requirements of this chapter;~~
- (2) ~~Approve the application and issue a permit with conditions, modifications or restrictions that the Board of Public Works determines are required to ensure that the project will protect water resources and complies with the requirements of this chapter; or~~
- (3) ~~Disapprove the application and deny a permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives of and to comply with the requirements of this chapter. If the Board of Public Works finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Board of Public Works may disapprove the application, denying a permit.~~

I. ~~Project changes. The permittee, or his or her agent, must notify the agent of the Board of Public Works in writing of any change or alteration of a land-disturbing activity before the change or alteration occurs. If the agent of the Board of Public Works determines that the change or alteration is significant, the agent of the Board of Public Works may require that an amended application or a full application be filed in accordance with this section. If any change or alteration from the land-disturbance permit occurs during land-disturbing activities, the agent of the Board of Public Works may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.~~

§194-3.3F. Entry. Filing an application for a land disturbance permit grants the Board of Public Works or its agent permission to enter the site to verify the information in the application and to inspect for compliance with permit

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

§ 194-113.4 Inspection and site supervision.

- A. ~~Pre construction meeting. Prior to clearing, excavation, construction, or any land-disturbing activity requiring a permit, the applicant, the applicant's technical representative, the general contractor, pertinent subcontractors, and any person with authority to make changes to the project, shall meet with the Board of Public Works or its designated agent to review the permitted plans and proposed implementation.~~
- B. ~~Commission inspection. The Board of Public Works or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the approved plans and any conditions of approval. One copy of the approved plans and conditions of approval, signed by the Board of Public Works shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the agent of the Board of Public Works at least three working days before each of the following events:~~
- ~~(1) Erosion and sediment control measures are in place and stabilized;~~
 - ~~(2) Rough grading has been substantially completed;~~
 - ~~(3) Final grading has been substantially completed;~~
 - ~~(4) Bury inspection: prior to backfilling of any underground drainage or stormwater conveyance structures;~~
 - ~~(5) Close of the construction season; and~~
 - ~~(6) Final landscaping (permanent stabilization) and project final completion.~~
- C. ~~Permittee inspections. The permittee or his/her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the Board of Public Works or designated agent in a format approved by the Board of Public Works. The Board of Public Works may require, as a condition of approval, that an environmental site monitor, approved by the Board of Public Works, be retained by the applicant to conduct such inspections and prepare and submit such reports to the Board of Public Works or its designated agent.~~
- D. ~~Access permission. To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Board of Public Works, its agents, officers, and employees may enter upon privately owned property~~

for the purpose of performing their duties under this chapter and may make or cause to be made such examinations, surveys or sampling as the Board of Public Works deems reasonably necessary to determine compliance with the permit-

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

§ 194-123.5 Surety.

~~The Board of Public Works~~ Stormwater Authority may require the ~~permittee applicant~~ to post; before the start of land or construction-disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by ~~Town Counsel~~ the Stormwater Authority; and be in an amount deemed sufficient by the ~~Board of Public Works~~ Stormwater Authority to insure that the work will be completed in accordance with the permit. If the project is phased, the ~~Board of Public Works~~ Stormwater Authority may release part of the bond as each phase is completed in compliance with the permit, but the bond may not be fully released until the ~~Board of Public Works~~ Stormwater Authority has received the final report as required by § ~~194-13.6~~ 194-13.6 and issued a certificate of completion.

§194-3.6. Final Reports

§ 194-133.6 Final reports.

~~Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a registered professional engineer (PE), registered professional land surveyor (PLS), or a certified professional in erosion and sedimentation control (CPESC) certifying that all erosion and sedimentation control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved land disturbance permit. Any discrepancies should be noted in the cover letter.~~

- A. Administrative Land Disturbance Review: Upon completion of work, the applicant shall submit a written notice to the Stormwater Authority with photographic evidence that the work has been completed in accordance with the approved plan.
- B. Land Disturbance Permit: No later than two (2) years upon completion of work, the applicant shall submit a Final Report, including a topographical as-built plan stamped by a MA Professional Land Surveyor (PLS) and a MA Registered Professional Engineer (P.E.) as applicable, certifying that the site has been developed in substantial compliance with the approved plan including all permanent erosion control devices, stormwater management facilities and, and any approved changes and modifications. Any discrepancies from the approved plan should be noted in the cover letter. The as-built drawings must depict all on site controls, both structural and non-structural, designed to manage the stormwater associated with the completed site (post construction stormwater management). The final report shall also include documentation to verify the stormwater management system has been properly operated and maintained in accordance with the

approved O&M Plan.

§194-3.197. Enforcement

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

A. Civil relief. If a person violates the provisions of this bylaw, or any associ- ated regulations, permit, notice, or order issued thereunder, the Stormwater Authority may seek injunctive relief in a court of competent jurisdiction re- straining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

B. Orders.

(1) ~~The Board of Public Works~~ Stormwater Authority or ~~an its~~ authorized agent of ~~the Board of Public Works~~ may issue a written order to enforce the provisions of this ~~chapter~~ bylaw or any regulations thereunder, which may include:

(a) ~~A requirement to cease and desist from the violating land-~~ disturbing activity until there is compliance with the- ~~chapter and any existing-~~ permits ~~bylaw and provisions of the Land Disturbance Permit.~~

(b) Maintenance, installation or performance of additional erosion and sedimentation control measures.

(c) Monitoring, analyses, and reporting.

(d) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.

(e) ~~The elimination of illicit connections or discharges to the MS4.~~ ———

(f) ~~The abatement or remediation of stormwater pollution or ——— contamination hazards and the restoration of any affected property.~~

(2) ~~If the enforcing person determines that abatement or remediation of erosion and sedimentation, stormwater pollution or contamination hazards is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Fairhaven may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses. Said orders shall specify a deadline by which the required action shall be completed and the Stormwater Authority or its designee may further advise that, should the violator or property owner fail to perform the required action or remediation within the specified deadline, the Town may, at its option, undertake such work, at the owner and/or violator's sole costs and expense, that it deems necessary to protect public health, safety and welfare.~~

- (3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Fairhaven, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the ~~Board of Public Works~~Stormwater Authority within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the ~~Board of Public Works~~Stormwater Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57 after the thirtieth (30) day at which the costs first become due.
- C. Criminal penalty. Any person who violates any provision of this ~~chapter by law, or~~ regulation, order or permit issued thereunder, ~~shall be punished by a fine of not more than \$300 for each offense.~~ may be penalized by indictment or on complaint brought in a court of competent jurisdiction. Except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each violation or offense shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- D. Noncriminal disposition. ~~As an alternative to criminal prosecution or civil action, the Town of Fairhaven may elect to utilize the noncriminal disposition procedure, in which case the Board of Public Works or authorized agent shall be the enforcing person. The penalty for each violation shall be \$300.~~ Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder may be penalized by non-criminal disposition as set forth in MGL c. 40, § 21D. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- E. Appeals. All decisions or orders of the ~~Board of Public Works~~Stormwater Authority shall be final. Further relief shall be to a court of competent jurisdiction.
- F. ~~Remedies not exclusive. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law.~~
- ~~197 7 C. Information requests. The Board of Public Works may request such additional information as is necessary to enable the Board of Public Works to determine whether the proposed land disturbance activity will protect water resources and comply with the requirements of this chapter.~~
- ~~D. Determination of completeness. The Board of Public Works shall make a determination as to the completeness of the application and adequacy of the~~

materials submitted. No review shall take place until the application has been found to be complete.

- ~~E.—Coordination with other boards. On receipt of a complete application for a land-disturbance permit, the Board of Public Works shall distribute one copy each to the Planning Board, Department of Public Works, Board of Health, and the Building Inspector for review and comment. Said agencies shall, in their discretion, investigate the ease and report their recommendations to the Board of Public Works. The Board of Public Works shall not hold a hearing on the land-disturbance permit until it has received reports from said agencies or until said agencies have allowed 45 days to elapse after receipt of the application materials without submission of a report thereon.~~
- ~~G.—Hearing. Once in receipt of a complete application for a land disturbance permit, the Board of Public Works shall hold a public hearing and shall take final action within 90 days from the close of the hearing unless such time is extended by agreement between the applicant and the Board of Public Works. Notice of the public hearing shall, at least seven business days prior to said hearing, be given by publication in a local paper of general circulation, and by posting. The Board of Public Works shall be responsible for publishing the notice in a newspaper of general circulation in the city or Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of said hearing, and posting the notice at the Town Hall. The Board of Public Works shall make the application available for inspection by the public during business hours at their Town of Fairhaven Office.~~

§ 194-8 Erosion and sedimentation control plan.

- ~~A.—The erosion and sediment control plan should include a written description of the plan as well as an emergency response outline (including response phone numbers) and a maintenance schedule. The plan shall meet the following objectives and criteria:~~
- ~~(1)—Keep disturbed areas small: no more than 60 feet in width and 100 feet in length of a single lot, or five acres of the overall tract at one time. Said plan shall identify design issues and methods employed to address such items as topography, soils, vegetation, steep slopes, wetlands and water bodies.~~
 - ~~(2)—Stabilize and protect disturbed areas quickly: Exposed areas and stockpiles shall be revegetated within 40 days of being exposed. The Board of Public Works, depending on weather conditions, may require slope and stockpile stabilization sooner. Methods for stabilizing disturbed areas include mechanical, structural, and vegetative. In some cases, some or all of these methods should be combined in order to retard erosion. These methods shall be identified in the erosion and sedimentation control plan.~~
 - ~~(3)—Keep stormwater runoff velocities low: Velocities of runoff should be in the range of two to 10 feet per second. The removal of the existing vegetative cover during the development and the resulting increase in impermeable surface area after development will increase both the volume and velocity of~~

runoff. These increases must be taken into account when providing for erosion control.

- (4) — Protect disturbed areas from stormwater runoff: Conservation measures can be utilized to prevent water from entering and running over the disturbed area. Diversions and other control practices to intercept runoff from higher elevations, store or divert it away from vulnerable areas, and direct it towards stabilized outlets should be utilized. Selected measures should be identified on the plan and in text.
- (5) — Retain sediment within site area: The best way to control sediment is to prevent erosion; however, sediment can be retained by two methods:
 - (a) — Filtering runoff as it flows and detaining sediment; or
 - (b) — Detain runoff for a period of time so that the soil particles settle out.

§ 194-9 Stormwater management plan.

The stormwater management plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed best management practices for the permanent management and treatment of stormwater. The stormwater management plan shall contain sufficient information for the Board of Public Works to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The plan shall be designed to meet the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy and DEP Stormwater Management Handbook Volumes I and II. The stormwater management plan shall fully describe the project in drawings, and narrative. The applicant shall submit such material as is required for the administration of this chapter.

A. — The plan shall meet the standards defined in ~~§ 198-31.1A.~~ **[Added 6-14-2021ATM by Art. 59]**

B. — The plan shall utilize the twenty four hour rainfall data taken from the NOAA Atlas 14, https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html (or most current data from NOAA), and Type III storm. **[Added 6-14-2021ATM by Art. 59]**

§ 194-10 Operation and maintenance plans.

A. — An operation and maintenance plan (O&M plan) for the permanent stormwater management system is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with this chapter and that the Massachusetts Surface Water Quality Standards contained in 314CMR-4.00 are met in all seasons and throughout the life of the system. The operation and maintenance plan shall include any requirements deemed necessary by the Board of Public Works to insure compliance with said plan, including without limitation a covenant. The Board of Public Works shall make the final decision of what maintenance option is appropriate in a given situation. The Board of Public Works will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing-

maintenance activities when making this decision. Once approved by the Board of Public Works, the operation and maintenance plan shall be recorded at the Bristol County Registry of Deeds by the permittee, shall run with the land, shall remain on file with the Board of Public Works and shall be an ongoing requirement. The operation and maintenance plan shall conform to the requirements listed in the regulations adopted by the Board of Public Works for the administration of this chapter. Stormwater management easements shall be provided by the property owner(s) in areas and as necessary to carry out the required maintenance.

~~B.— Changes to operation and maintenance plans.~~

- ~~(1)— The owner(s) of the stormwater management system must notify the Board of Public Works or its agent of changes in ownership or assignment of financial responsibility.~~
- ~~(2)— The maintenance schedule in the maintenance agreement may be amended to achieve the purposes of this chapter by mutual agreement of the Board of Public Works and the responsible parties. Amendments must be in writing and signed by all responsible parties.~~

§ 194-14 Certificate of completion.

The Board of Public Works will issue a certificate of completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the land disturbance permit has been satisfactorily completed in conformance with this chapter. The certificate of completion shall be recorded at the Registry of Deeds by the owner(s).

§ 194-15 Monitoring of discharges.

~~A.— Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.~~

~~B.— Access to facilities.~~

- ~~(1)— The Board of Public Works shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Board of Public Works.~~
- ~~(2)— Facility operators shall allow the Board of Public Works ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.~~
- ~~(3)— The Board of Public Works shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Board of Public Works to conduct monitoring and/or sampling of the facility's stormwater discharge.~~
- ~~(4)— The Board of Public Works has the right to require the discharger to install~~

monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Board of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Board of Public Works access to a permitted facility is a violation of a stormwater discharge permit and of this chapter. A person who is the operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Board of Public Works reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.
- (7) If the Board of Public Works has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Board of Public Works may seek issuance of a search warrant from any court of competent jurisdiction.

§ 194-16 Requirement to prevent, control, and reduce stormwater pollutants by use of best management practices.

The Board of Public Works will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

§ 194-17 Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute,

contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

APPENDIX E - Article 20 Amend Zoning Bylaw Chapter 198
§198-16 Use Regulation Schedule

Use Regulation Schedule									
	District								
Activity or Use	RR & RA	RB	RC	P	B	I	AG	MU ¹⁴	WRP ¹⁶
Accessory apartment/ inlaw apartment	<u>AY</u>	<u>AY</u>	<u>AY</u>	N	N	N	<u>AY</u>	Y	Y
Accessory apartment to a business	N	N	N	N	<u>AY</u>	<u>AY</u>	N	Y	Y

§198-32.1 Accessory dwelling units

Purpose. For the purpose of promoting the development of affordable rental housing, dwelling conversions may be allowed by special permit of the Planning Board pursuant to §198-16, subject to the standards and conditions listed below:

198-32.1.A: Dwelling conversions shall not be allowed unless the lot meets the minimum lot size in § 198-18 or 22,500 square feet, whichever is greater.

198-32.1.B: Units created through dwelling conversions shall not be less than 1,000 be no larger in floor area than one half the floor area of the principal dwelling or 900 square feet, whichever is smaller, not including areas of the basement, attic or garage

198-32.1.C: ~~The applicant shall illustrate to the Planning Board that the requirements of the State Building Code are met.~~

198-32.1.D: Site requirements:

- ~~(1) No expansion to the existing structure~~
- ~~(2) No portion of the basement, attic or garage may be used for dwelling purposes.~~

§198-27 Parking Area Designation and Location

198-27.C(1): No off-street parking area for five or more cars shall be located within the required front, side or rear yard setback areas, except for properties within the Business, Mixed Use, Industrial, or Apartment/Multi-Family zoning districts. If no side or rear yard setback is required the minimum parking setback shall be six feet from the property line, except in the case(s) where there is a joint access or a shared parking area.

I. Proposed Changes Requiring 2/3 Supermajority Vote

§198-15.C.(2) (Use Regulations): Where any proposed use, or expansion of a use otherwise permitted [Y] or authorized [A] in an Apartment/Multifamily [RC], Park [P], Wetland Resource Protection District [WRP], Business [B], Mixed Use [MU] or Industrial [I] District results in a requirement of a total of five or more parking spaces for the previously existing and new demand combined pursuant to the provisions of § 198-27 of this chapter, such use shall be deemed authorized by special permit granted by the Planning Board pursuant to the provisions of § 198-29 of this chapter

upon review by the Planning Board of the site development plan.

§198-16 Use Regulation Schedule

Use Regulation Schedule									
		District							
Activity or Use	RR & RA	RB	RC	P	B	I	AG	MU ¹⁴	WRP ¹⁶
Health care including medical, dental offices and clinics	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>	<u>A</u>	<u>N</u>	<u>Y</u>	<u>N</u>
Shipping Containers	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>	<u>N</u>	<u>N</u>	<u>N</u>
Storage Units	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>	<u>N</u>
Body art establishment	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>YA</u> ¹⁹	<u>YA</u> ¹⁹	<u>N</u>	<u>NY</u>	<u>N</u>
Artist studio/gallery	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>	<u>Y</u>	<u>N</u>	<u>AY</u>	<u>A</u>
Private dock or pier ¹¹	<u>AY</u>	<u>AY</u>	<u>AY</u>	<u>AY</u>	<u>AY</u>	<u>AY</u>	<u>AY</u>	<u>AY</u>	<u>AY</u>
Semidetached dwelling	<u>N</u>	<u>Y</u>	<u>Y</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>NY</u>	<u>N</u>

¹⁹A body art establishment shall not be located within 1,000 feet of an exterior property line of a school or church as determined by the Building Inspector. (Reserved)

§198-19 Fences

§198-19.B No boundary fence, or wall or hedge shall exceed six feet in height, and no boundary fence, wall, hedge, or other landscape feature which obstructs vision shall exceed 42 inches in height within any required front yard area or within 20 feet of the street, whichever is the lesser requirement.

§198-29 Special Permit for certain intensive nonresidential and multifamily site developments:

198-29.A(5) ~~And in the Mixed Use (MU) District a~~ Any addition of gross floor area, or any reduction in the number of available parking spaces on the site within the Mixed Use (MU) District shall be subject to a special permit under this section if the proposed parking does not meet the numerical minimum required by § 198-27B

198-29.B. Submittal. Application for a special permit shall require the filling of one copy of a special permit application and ~~10~~ 2 prints of the site plan drawn to an adequate scale. A digital copy of the application materials is also required.

§198-29.6 Solar photovoltaic energy facilities (SPEF)

198-29.6.F: Application for special permit review. Submittal application for special permit review shall require the filling of one copy of a site plan review application and ~~10~~ 2 prints of the site plan drawn to an adequate scale to convey all required

information as well as a digital copy of application materials. Such plan(s) shall contain the following for an application to be considered complete.

198-29.G(8) Clear cutting of trees and natural vegetation, ~~within five years~~, shall be prohibited for the construction, operation and maintenance of the solar photovoltaic facility.

§198-32.2 Docks and Piers

B. Applicability. Any application to construct a dock and/or pier shall comply with this section. ~~The Zoning Board of Appeals shall be the special permit granting authority (SPGA) in the Rural Residence Districts (RR), Single Residence Districts (RA), General Residence (RB) and Agricultural (AG) Districts. The Planning Board shall be the SPGA in the Apartment/Multi Family (RC), Park (P), Wetland Resource Protection District (WRP), Business (B), Mixed Use (MU) and Industrial Districts (I). [Amended 5-6-2006 ATM by Art. 9]~~

~~D. Waiver of compliance. The SPGA having jurisdiction may, in special and appropriate cases, grant a waiver to the above requirements when in their judgment such action is in the public interest and not inconsistent with the purpose and intent of the zoning bylaw.~~

§198-33 Definitions and word use

Artisan Food and Beverage

Small scale production or preparation of food and beverages made on site with limited to no automation, and may include direct sales to or consumption by consumers. Examples include uses such as small-batch bakeries, microbreweries (15,000 barrels per year or less), brewpubs, artisan distilleries (10,000 barrels per year or less) as regulated by the Commonwealth, small batch candy shops and local cheese makers. Uses should allow outdoor seating or patio as an accessory use depending on the zoning district.

Artisan Manufacturing

Application, teaching, making, or fabrication of crafts or products by an artist, artisan, or craftsperson either by hand or with minimal automation and may include direct sales to consumers. Includes uses that employ activities and processes such as small-scale fabrication, welding, and coating that are typically not permitted in non-industrial zoning districts.

Coworking Space

A shared workspace where members can rent desks or other workspaces and facilities, and interact and collaborate with each other as part of a community. Rules for membership and participation in the coworking space are explicit, transparent and are available to the public. Coworking spaces may host classes or networking events for current and prospective members. Fabrication tools are limited to those which do not generate noise or pollutants in excess of what is customary within a typical office environment.

Maker Space

A coworking space that gives members access to fabrication tools similar to those found in machine shops or other industrial sites

Small Scale Indoor Recreation

Establishment that provides amusement, entertainment or physical fitness that occur

indoors for a fee or admission charge. May require membership and/or cater to walk in customers. May also include food or beverage service. Such uses are not limited to: arcades, art/dance/exercise studio; bowling alleys; drama/voice/instrument instructional studio; health club/fitness center; ice and roller skating; rock climbing; indoor hockey, lacrosse or soccer; laser tag; martial arts studio; indoor swimming pool; tennis, handball, badminton, pickleball, racquetball; golf simulation.

Shipping Container

“Shipping container” means a unit originally used for the transport, shipping, or hauling of materials or goods by land, sea, or air; capable of being moved or mounted by rail, truck, or boat. This definition includes steel sea or oceangoing containers marked with the American Bureau of Shipping’s emblem or meeting the International Standard Organization’s standards which can be detached from a trailer, chassis or frame, and which were formerly used for transporting sea or oceangoing cargo. This definition includes the terms “portable moving/storage unit/container/pod” and “cargo/oceangoing/transport container. In addition, this definition applies to any structure designed to imitate the look of a shipping container.”

§Chapter 65: Planning Board

§65-1 Board established.

There shall be a Planning Board of eight members under the provisions of MGL c. 41, § 81A, with all of the powers and duties provided therein. Two members shall be elected at each annual town election for a term of ~~four~~ 3 years.

§65-3 Powers and duties.

The duties of such Board shall be such as are stated in MGL c. 41, §§ 81A to 81J, and further to consider and advise upon municipal improvements, either at the request of other officials of the town or upon its own initiative. The Board shall meet at regular intervals. It may also hold public meetings. It shall at all times have access to all public documents or information in the possession of any town official or department. It shall examine the plans for the exterior of any public building, monument or similar feature and for the development and treatment of the grounds about the same before the adoption thereof, and may make such recommendations thereon as it may deem needful. It may make investigations and studies relative to new street and park developments. It may provide for public lectures and other educational work in connection with its recommendations. Said Board may incur expenses necessary to the carrying on of its work within the amount of its annual appropriation. The Planning Board is a special permit granting authority pursuant to MGL c. 40A§9

§306-1 Fee schedule of Planning Board Charges.

~~All fees due at time of application unless so noted. All expenses for advertising and notice to abutters by certified mail, return receipt, shall be borne by the applicant.~~

~~A. Form A, Approval of a plan not requiring approval.~~

- ~~(1) One hundred dollars for adjusting existing lot lines without creating new lots.~~
- ~~(2) One hundred fifty dollars plus \$50 per lot, for the creation of new lots, plus a \$40 per lot geographic information system (GIS) mapping fee.~~

~~B. Form B, Preliminary Subdivision Plan.~~

- ~~(1) Five hundred dollars.~~

~~C. Form C, Definitive Subdivision Plan.~~

(1) Five hundred dollars plus \$100 per lot (if a preliminary plan was filed), an engineering fee of \$2,500 and a GIS mapping fee of \$40 per lot.

(2) One thousand dollars plus \$100 per lot (if no preliminary plan was filed), an engineering fee of \$2,500 and a GIS mapping fee of \$40 per lot.

(3) Plan revision: one revision allowed with original application fee; 50% of original fee paid due for second and additional revisions at the time revision is submitted.

D. Special permit fees.

(1) Two hundred fifty dollars for plans of less than 2,500 square feet new or renovated floor space, plus an engineering fee of \$2,500.

(2) For plans of more than 2,500 square feet \$250, plus:

(a) For new floor space: \$0.10 per square foot for the first 30,000 square feet of new floor space and \$0.01 per square foot for new floor space above 30,000 square feet, plus an engineering fee of \$2,500.

(b) For renovated floor space: \$0.025 per square foot for the first 30,000 square feet and \$0.01 per square foot for floor space above 30,000 square feet, plus an engineering fee of \$2,500.

(c) For plans creating new floor space and renovating: apply the new floor space calculation first, followed by the renovation calculation up to a combined 30,000 square feet, then \$0.01 per square foot for all space above 30,000 square feet, plus an engineering fee of \$2,500.

(3) Plan revision: one revision allowed with original application fee; revision fee of \$0.01 per square foot due for second and additional revisions at the time revision is submitted.

E. Rezoning application fee: \$250.

F. Repetitive petition fee: \$250.

G. Street discontinuance fee: \$250.

H. Zoning regulation books: \$10.

I. Subdivision regulation books: \$10.

J. Zoning maps: \$5.

§316 Procedural Rules

316-2.C Rezoning applications: Requests for Zoning Map amendments shall be accompanied by ~~40~~ 2 prints and a digital copy of a plan to scale, clearly showing the proposed amendment referenced for location on the Town Zoning Map and relevant district and property bounds, structures and natural features. The request shall also be accompanied by a written description of the proposed change, suitable for legal advertisement, plus a check made out to the Town of Fairhaven to cover the appropriate fees found in the fee schedule.

316-3.B Plans not requiring subdivision approval: The mylar, ~~six~~ two prints, two copies of application Form A, a digital copy of the plan and application and required fee (See Chapter 306, Fees.) shall be filed with the Planning Board's agent. The date of the next regular Planning Board meeting thereafter shall be the date of submission.

316-4.A.(2) Subdivision plans: This preliminary plan should be submitted to the Planning Board for approval. This means filing a digital copy of the plan and ap-

plication Form B, ~~40~~ 2 sets of plans, the application Form B and required fee (See Chapter **306** Fees.) with the Planning Board's agent, a digital copy print of the plan with the Board of Health and a notice stating the date of submission and a copy of Form B with the Town Clerk (MGL c. 41, § 81S). The filing with the Town Clerk may be by delivery or by registered mail. The day of the next regular Planning Board meeting after filing with the Planning Board's agent will be the date of submission.

316-4.A.(5): When it is ready, the plan is submitted to the Planning Board for approval. This means filing with the Planning Board's agent the original Mylar, a digital copy of the plan and Form C, ~~40~~ 2 prints of each, a copy of application Form C, and required fee (See Chapter **306**, Fees.) to pay for the hearing notices and a list of all abutters taken from the latest tax lists. A copy of Form C must be filed by delivery or by registered mail with the Town Clerk. (See MGL c. 41, 81T.) One print of the plan is also to be filed with the Board of Health

316-4.A.(7): Following the hearing, the Planning Board will act on the plan. (Section **322-14I** of Chapter **322**, Subdivision of Land, covers this.) The security is either a covenant agreement (See Form D.) prohibiting building permits or the sale of any lots until the improvements serving that lot are complete or a bond covering the cost of improvements not yet made allowing the Town to use the bond to complete improvements if the developer should fail to do so or fail to do so quickly as agreed upon (MGL c. 41, § 81U.) After it has security and after a twenty-day appeal period following approval, the Planning Board will sign the plan. You must then give them 2 ~~40~~ prints and a digital copy of it

316-4.B(3): Upon receipt of a definitive plan, the Planning Board must set up a public hearing (§ **322-14** of Chapter **322**, Subdivision of Land). The Planning Board shall determine the date and advertise the notice of hearing in each of two weeks, the first at least 14 days prior to the hearing. The Planning Board will mail a copy of the advertisement, ~~certified mail~~, to the applicant and to each abutter within 300 feet (See § **322-4** of Chapter **322**, Part **2**, Definitions.), as taken from the most recent tax list.

316-4.B(5): Following the hearing, the Board must act on the plan then notify the applicant of your action by registered mail and file a copy of your action with the Town Clerk (§ **322-14I(1)** of Chapter **322**, Subdivision of Land) as well as mail a notice of the decision to parties in interest. The definitive plan is approved by default if not acted on by the Planning Board within 135 days of submission where no preliminary plan was submitted or within 90 days of submission where a preliminary plan was acted on by the Planning Board (MGL c. 41, § 81U).

316-5.B.(6)(b)[1] Street acceptances: One set of originals, ~~and~~ 2 sets of prints, and a digital copy of the plans and documents.

316-5.B [11] [g]: All plans must be accompanied by a ~~CD-ROM or DVD~~ digital copy containing geographic data in accordance with the Standard for Digital Plan Submittals to Municipalities (Version 1.0) issued by the Office of Geographic and Environmental Information (MassGIS).

316-7.B.(2) Special Permit Required: ~~Ten~~ Two copies of the plans and specifications as well as a digital copy of the plan and application needed for the decision by the special permit granting authority (SPGA), if any.

316-7.E.(3): Mailed, ~~certified return receipt~~ to parties in interest which shall include the applicant, abutters, owners of land directly opposite on any public or private street or way, the owners of the land within 300 feet of the property line, Planning

Board of every abutting city or town. (The Assessors shall certify the names and addresses of parties in interest.)

316-8 Unaccepted street discontinuance

316-8.B.(1)(b): ~~Ten~~ Two prints of the survey of the street to be discontinued and legal description. A marked-up copy of the Assessors Map is acceptable. Please note that if a survey is not submitted and the discontinuance is approved, then a survey will be required as a condition of approval. A digital copy of all application material is also required.

316-8.D(3): ~~Mailed, certified return receipt,~~ to parties in interest which shall include the applicant, abutters, owners of land directly opposite on any public or private street or way and the owners of the land within 300 feet from the exterior bounds of the proposed street discontinuance. (The Assessors shall certify the names and addresses of parties in interest.)

316-9: Accepted street discontinuance

316-9.B.(1)(b): ~~Ten~~ Two prints and a digital copy of the survey of the street to be discontinued and legal description.

316-9.D(3): ~~Mailed, certified return receipt,~~ to parties in interest which shall include the applicant, abutters, owners of land directly opposite on any public or private street or way and the owners of the land within 300 feet radius from the exterior bounds of the proposed street discontinuance. (The Assessors shall certify the names and addresses of parties in interest.)

316-10 Repetitive Petition

316-10.B(2): The request for a repetitive petition shall include a plan of the site, a copy of the Board of Appeals decision and documentation illustrating how the request is materially different from the request denied by the Board of Appeals. A digital copy of all application materials is required.

316-10.D(3): ~~Mailed, certified return receipt,~~ to parties in interest which shall include the applicant, abutters, owners of land directly opposite on any public or private street or way and the owners of the land within 300 feet of the property line. (The Assessors shall certify the names and addresses of parties in interest.)

§322-12 ANR Submission; contents/ action

322-12.B: The applicant shall submit to the Planning Board's agent a Mylar and/ or the original reproducible plan and ~~six~~ two prints of the plans accompanied by two copies of a completed application Form A and the appropriate fee, together with any necessary evidence to show that the plan does not require approval. A digital copy of the plan and Form A application are also required.

~~322-12.E: The applicant shall submit a CD-ROM or DVD~~ digital copy containing geographic data in accordance with the Standard for Digital Plan Submittals to Municipalities (Version 1.0) issued by the Office of Geographic and Environmental Information (MassGIS).

322-13 Preliminary Plan Submission; contents; approval

322-13B(1): ~~40~~ 2 prints of the plans, accompanied by two copies of a completed application Form B and the appropriate fee. A digital copy of the plan and Form B is also required.

322-13 B(1): The applicant must also file a print or digital copy of the plan with the

Board of Health, and must file with the Town Clerk a notice of the date of submission and a copy of the completed application Form B

322-14 Definitive Plan Submission; contents; approval procedures; guarantees

322-14.B(1)(a): The applicant shall submit ~~40~~ 2 prints of the plans, accompanied by two copies of a completed application Form C and the appropriate fee. A digital copy of the plan and Form C is also required

322-14.B.(2): The applicant must also file a print of the plan or digital copy with the Board of Health, and must file with the Town Clerk a notice of the date of submission and a copy of the completed application Form C.

322-14.K: After endorsement, the applicant shall submit a ~~CD-ROM or DVD~~ digital copy containing geographic data in accordance with the Standard for Digital Plan Submittals to Municipalities (Version 1.0) issued by the Office of Geographic and Environmental Information (MassGIS)

APPENDIX F - Article 21 Create Bylaw, Flow Neutral

To see if the Town will vote to adopt as a General By-law the following, or take any action relative thereto:

Town: The Town of Fairhaven, Massachusetts.

1.01 - Sewershed Area - Purpose

The primary purpose of this bylaw is to regulate the connection to and extension of the Town's sewerage system in order to preserve and manage the limited treatment capacity available for the Town.

Secondary benefits of this bylaw are to protect the health, safety and welfare of the residents of the Town of Fairhaven by:

- (a) Preserving the quality of the Town's groundwater and surface water by addressing existing sewage disposal problems.
- (b) Protecting groundwater and surface water from nitrogen contamination and pollution from subsurface disposal of wastewater.
- (c) Protecting other sensitive water resource areas, including those lands that contribute recharge to private drinking water supplies.

1.02 - Identification of Lots to be Served

Only those lots existing as of record and recorded in the Bristol County Registry of Deeds or the Registered Land Section of said Registry of Deeds shall be permitted to connect to the Town's sewer collection system. Any vacant lot within the above-referenced sewershed area is entitled to a design flow of either: one (1) sewer unit as defined in Section 1.09; or the number of sewer betterments, whichever is greater.

1.03 - New Lots

Sewer extensions to new streets, subdivisions or lots created and recorded in the Bristol County Registry of Deeds or the Registered Land Section of said Registry of Deeds after May 4, 2024 shall not be permitted except by approval of a Binding Commitment signed by a majority vote of the Board of Public Works following a public hearing by the Board of Public Works.

1.04 - Reserve for Future Municipal Purposes

The Board of Public Works shall maintain a reserve capacity of 5,000 gallons per day for the sole purpose of serving future municipal buildings used for municipal purposes. Lots created for future municipal buildings, including municipal buildings for the purpose of education, shall be deemed to have been created prior to September 30, 2007 regardless of the date of creation.

1.05 - Allocation of Reserve Capacity for Failed Septic Systems

By majority vote of the Board of Public Works and subject to available capacity, developed lots in existence prior to May 4, 2024 having failed septic systems as determined in writing by the Board of Health may be incorporated into the sewershed area. The sewer service design flows calculated for failed septic systems shall be determined by the wastewater unit calculation set forth in Section 1.09 of this bylaw. The reserve capac-

ity shall be reduced by a like amount. The owners of failed septic systems shall reimburse the Town for the expense of maintaining their portion of the reserve capacity through payment of a sewer connection fee as outlined in the Sewer Use Ordinance and/or Regulations Promulgated by the Board of Public Works.

1.07 - Allocation of Reserve Capacity for Change in Use of Existing Facilities

The Board of Public Works may by majority vote, subject to available capacity, allow a Change in Use of Existing Facilities within the Sewershed Area. The design flow for the Change in Use of the Existing Facilities shall be calculated as follows:

Additional design flow: New Design Flow – Existing Design Flow

The existing design flow is the average daily water consumption for the existing facilities as recorded by the applicable Water District for the prior full calendar year. In the event that there is no such calculation, the Board of Public Works shall calculate the Existing Design Flow. The New Design Flow is the Sewage Flow calculated in accordance with Section 1.09 of this By-law. The reserve capacity shall be reduced by the Additional design flow so determined. The owner of the facilities shall reimburse the Town for their expense of maintaining the portion of the reserve capacity that has been allocated to them as set forth in Section 1.08 of this By-law. No rebates shall be granted for change of use which reduces water consumption.

1.08 - Cost Reimbursement for Reserve Capacity

The Town, through the Board of Public Works, owns any and all sewer system capacity not otherwise allocated specifically to an individual, corporation or other entity. Upon allocation of reserve capacity from the Town, through the Board of Public Works, to an individual, corporation or other entity, the Town shall be reimbursed for that portion of the reserve capacity in accordance with the Town's cost allocation procedures determined by the Board of Public Works.

1.09 - Wastewater Unit Calculation

The required number of wastewater units for a failed system, new connection, expansion of an existing facilities, or change in use of existing facilities shall be determined by the following formula:

- Number of Wastewater Units = Water Use (or Title 5 design flow if there is no existing water use data) divided by 185 gallons per day.

The Title 5 Design Flow is equal to the sewage volume calculated per 310 CMR 15.203, Title 5. The wastewater capacity that must be reserved for the connection shall be determined by the following formula:

- WW Flow = Number of WW Units multiplied by 185 gallons per day.

1.10 - Allocation of Sewer Flow

Unless or until the current 1.3 MGD Average Daily Flow that Fairhaven is

allowed to discharge to the City of Taunton is formally increased, the Board of Public Works shall only allocate flow as follows:

a) The total flow that may be allocated during each fiscal year beginning in FY 2008 equals 1,300,000 gpd less the Average Daily Flow for the previous 12 month period (to be determined in January using the previous January – December average) and less any amount held in reserve on the Database of Binding Commitments, divided by the number of years remaining to the beginning of FY 2018

b) The amount of allocable flow determined by the formula in 1.10 a) above shall be further allocated as follows:

- 20% shall be allocated for residential connections or system extensions to service residential developments.
- 80% shall be allocated for non-residential connections or system extensions to service non-residential developments.

c) Any flow determined in 1.10 a) which is not allocated in 1.10 b) shall be set aside and be available for allocation for that category in subsequent years.

Chapter 88: Fairhaven Public Shade Trees

Purpose:

The Town finds that the preservation of existing trees, the promotion of new tree planting and the maintenance of the community's urban forest is a public purpose that protects the public health, welfare, environment, aesthetics and quality of life of the Town and its citizens. The purpose of this bylaw is to promote a diverse, healthy and sustainable urban canopy in order to maintain the historic character of Fairhaven, to provide for the general welfare and enhance the appearance and land values of the Town. The Town has invested substantial resources for many years to plant and maintain trees and these trees belong to the citizens of the Town. The Town also recognizes the need for a highly reliable network of public utilities to supply businesses, homes, hospitals and other services in an area subject to storms and high winds and therefore includes rules for emergency work and tree removal when necessary.

§88-1 Definitions:

Accepted Street: A street or road that has been accepted by and is now owned by the Town.

Alter – To change the condition of any aspect of a Public shade tree or its immediate environment.

Critical Root Zone – The critical root zone of a tree is also referred to as a tree protection zone. Essentially, it is an invisible or imaginary circle that runs along or just outside the drip line of a tree. This area is important to a tree because it is where the most critical tree roots are located beneath the ground. Tree Warden– The appointed agent of the Town having primary enforcement responsibilities under this chapter and MGL c. 87 and charged with the responsibility for review, notification and record keeping required pursuant to this chapter.

Diameter at Breast Height (DBH) – The standard measure of tree having at least four (4) inches in diameter at a height of four and one-half (4.5) feet above the existing grade at the base of the tree. If the tree splits into multiple trunks below four and one-half (4.5) feet above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split.

Imminent or High-Risk Tree - A tree that has structural defects in the roots, stem, or branches that may cause the tree or parts of the tree to imminently or have a high likelihood of failing, where such failure may cause property damage or personal injury per International Society of Arborists latest edition Risk Assessment Handbook.

Pruning– The selective removal of plant parts, such as branches, buds, or roots to improve the tree’s healthy growth.

Public Shade Tree – Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the Town other than a State Highway, and all trees, shrubs, bushes, and as further defined in Massachusetts General Laws Chapter 87, §1. Public shade trees are commonly called Street trees. When it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway or a park or on land surrounding a public building, it shall be taken to be public property until the contrary is shown.

Public Way –Any street or highway that is open to the public and is controlled and maintained by state or municipal government.

Remove (including full and partial tree removal) – The cutting down of any Public Shade Tree or Town Tree and all other acts which cause the actual removal or the effective removal through direct or indirect actions resulting in the death or damage of a public tree, including, but not limited to, excessive or improper pruning.

Town Trees – All trees, other than public shade trees, located on Town lands, including parks, schoolyards, conservation lands, and any other land owned by the Town.

Trimming – Cutting back of plant material for reason other than health concerns, e.g. for shape or appearance.

§88-2 Protection of Public Shade Trees and Town Trees:

1) **Tree Warden:**

- A. The Tree Warden shall have the primary care and control of all public shade trees, shrubs and growths in the town. This includes public shade trees in the Right of Way of streets, except those within a state highway. The Tree Warden shall also have the primary care and control of town trees if so requested in writing by the town board or department with authority

over that Town land.

- B. The Tree Warden shall be a Massachusetts Tree Wardens and Foresters Association qualified Tree Warden.
- C. The Tree Warden shall enforce all the provisions of MGL Chapter 87 and this bylaw and any other town policies regarding public shade trees and town-owned trees other than those residing on Conservation Commission land.
- D. The Tree Warden shall adhere to the regulations for the care, preservation, maintenance and removal of public shade trees, or other trees under their control, as established in this bylaw.
- E. The Tree Warden may designate a qualified Deputy Tree Warden with the approval of the Town Administrator.

2) Permitting:

- A. The town will have an approved permitting policy in regard to working on or around public shade trees. The policy will be approved by the Select Board.

3) Intended or Negligent Damage to Public Shade Trees

- A. The town will have a fine schedule for damage, whether intended or due to negligence to public shade trees. The fine schedule will be approved by the Select Board.

4) Planting:

- A. The Tree Warden will be responsible for planting public shade trees. The species planted will be selected from the University of Massachusetts Forestry Department recommendations as well as the Massachusetts Department of Conservation and Recreations guidelines.
- B. Every public shade tree removed by the town or any other entity will be replaced on a one-for-one basis at least. Under special circumstances where there are very few trees in a given area if a tree is removed a two-for-one may be required by the Tree warden. If the tree removed is in such a location that does not support the replanting of a tree then another local site can be utilized.
- C. Public shade trees and all town-owned trees will be planted utilizing best management practices per the latest edition of ANSI A300 standards.

5) Maintenance:

- A. Pruning and Trimming Standards: All pruning and trimming of public shade trees will be done to the latest edition of the International Society of Arborists 300 standards.

APPENDIX H – Budget Summary: Free Cash Stabilization, Reserves Revenue and Expenditures

Estimated FY25 General Fund Budget 60,196,988

Free Cash - General Fund:

Certified Free Cash 7/1/23	4,754,631.00		
Less: STM 11/14/23 Articles for FY2024:	<u>(165,735.98)</u>		
Balance in Free Cash after STM 11/14/23	4,588,895.02		<u>Recommended</u>
			<u>Level</u>
3% Reserve of FY25 General Fund Budget (see above)	(1,805,909.94)	3.0%	3-5%
Less: ATM 5/4/24 for FY 2025 Articles:			
Bills of prior year	(2,386.90)		
Capital projects recommended	(1,328,206.00)		
Various articles (see attached)	(937,981.00)		
Increase COLA base for Retirees	(89,000.00)		
FY23 Opioid settlement r/c to Spec Rev Fd	(72,780.15)		
	<u>(2,430,354.05)</u>		
Balance in Free Cash after STM & ATM 5/4/24	352,631.03		

Stabilization Funds:

Stabilization balance as of 12/31/23	3,341,546.00	5.6%	5%
Capital Stabilization balance as of 12/31/23	5,411,050.00	<u>9.0%</u>	<u>2-3%</u>
Total Free Cash & Stabilization Reserves		17.5%	10-12%

Note: Recommended Level column is the Financial Policy % levels adopted by the Town

GENERAL FUND BUDGET SUMMARY

PROPOSED FY 2025				
	Operating Budget	Capital Budget	Other Budget Items	Total Budget
APPROPRIATIONS				
General Govt. Services	3,160,518			3,160,518
Public Safety	9,929,993			9,929,993
Education	27,638,283			27,638,283
Public Works	4,379,011			4,379,011
Health & Environment	195,507			195,507
Community Services	2,129,289			2,129,289
Debt Service	1,094,605			1,094,605
Non-Departmental	11,669,792			11,669,792
Salary Reserve				-
General Articles			452,148	452,148
Reserve Funds			700,000	700,000
Capital Plan		1,328,206		1,328,206
Subtotal Local Appropriations	60,196,998	1,328,206	1,152,148	62,677,352
State & County Assessments	787,532			787,532
Total Appropriations	60,984,530	1,328,206	1,152,148	63,464,884
FUNDING				
Property Taxes	35,117,531			35,117,531
Less: Provision for Abatements	(400,000)			(400,000)
Local Receipts	9,869,098			9,869,098
State Aid	13,262,920			13,262,920
Other Available Funds	1,761,000		50,000	1,811,000
EF Indirect Cost Sharing	1,373,981			1,373,981
Free Cash		1,328,206	1,102,148	2,430,354
Total Funding	60,984,530	1,328,206	1,152,148	63,464,884
Budget Variance	-	-	-	-
Bond Authorization Articles Proposed _____ -				

WATER ENTERPRISE FUND BUDGET SUMMARY

PROPOSED FY 2025				
	Operating Budget	Capital Budget	Other Budget Items	Total Budget
APPROPRIATIONS				
Salaries & Wages	807,523			807,523
Purchase of Services	431,450			431,450
Utilities	54,200			54,200
Supplies	42,500			42,500
Gasoline & Diesel	26,200			26,200
Other Charges and Exp.	3,000			3,000
Minor Equipment	27,000			27,000
Raw Water Cost	100,000			100,000
Water District Assessment	1,410,988			1,410,988
<i>Subtotal Operating Exp.</i>	<u>2,902,861</u>	-	-	<u>2,902,861</u>
Indirect Cost Allocation	516,795			516,795
Reserve Fund	50,000			50,000
Debt Service	295,725			295,725
Capital Plan		50,000		50,000
<i>Subtotal Other Exp.</i>	<u>862,520</u>	<u>50,000</u>	-	<u>912,520</u>
Total Amounts to Raise	<u>3,765,381</u>	<u>50,000</u>	-	<u>3,815,381</u>
FUNDING				
User Charges	3,270,000			3,270,000
Connection Fees	70,000			70,000
Other Dept. Revenue	210,000			210,000
Retained Earnings	215,381	50,000		265,381
Total Funding	<u>3,765,381</u>	<u>50,000</u>	-	<u>3,815,381</u>
Budget Variance	-	-	-	-
Bond Authorization Articles Proposed <u>1,000,000</u>				

SEWER ENTERPRISE FUND BUDGET SUMMARY

	PROPOSED FY 2025			
	Operating Budget	Capital Budget	Other Budget Items	Total Budget
APPROPRIATIONS				
Salaries & Wages	1,397,067			1,397,067
Purchase of Services	335,500			335,500
Utilities	468,000			468,000
Supplies	203,326			203,326
Gasoline & Diesel	28,000			28,000
Other Charges and Exp.				-
Minor Equipment	7,000			7,000
Sludge Disposal	400,000			400,000
<i>Subtotal Operating Exp.</i>	<i>2,838,893</i>	-	-	<i>2,838,893</i>
Indirect Cost Allocation	838,700			838,700
Reserve Fund	50,000			50,000
Debt Service	956,904			956,904
Capital Plan		825,000		825,000
<i>Subtotal Other Exp.</i>	<i>1,845,604</i>	<i>825,000</i>	-	<i>2,670,604</i>
Total Amounts to Raise	4,684,497	825,000	-	5,509,497
FUNDING				
User Charges	4,364,497			4,364,497
Connection Fees	35,000			35,000
Other Dept. Revenue	205,000			205,000
Sewer Betterment Fd.				
Retained Earnings	80,000	825,000		905,000
Total Funding	4,684,497	825,000	-	5,509,497
Budget Variance	-	-	-	-
Bond Authorization Articles Proposed <u> - </u>				

TOWN AND SCHOOL ENTERPRISE FUNDS BUDGET SUMMARY

PROPOSED FY 2025				
	Town Cable	School Cable	Other Budget	Total Budgets
APPROPRIATIONS	Fund Operating	Fund Operating	Items	
Salaries & Wages	184,773	115,214		299,987
Purchase of Services	16,100	16,000		32,100
Utilities				-
Supplies	900			900
Gasoline & Diesel				-
Other Charges and Exp.	2,700	1,610		4,310
Minor Equipment	11,000	11,230		22,230
<i>Subtotal Operating Exp.</i>	<i>215,473</i>	<i>144,054</i>	-	<i>359,527</i>
Indirect Cost Allocation	24,671	12,849		37,520
Reserve Fund				-
Debt Service				-
Capital Plan				-
<i>Subtotal Other Exp.</i>	<i>24,671</i>	<i>12,849</i>	-	<i>37,520</i>
Total Amounts to Raise	240,144	156,903	-	397,047
FUNDING				
Comcast Estimated Fees	202,665	156,903		359,568
Other Dept. Revenue				-
Retained Earnings	37,479	-		37,479
Total Funding	240,144	156,903	-	397,047
Budget Variance	-	-	-	-

Bond Authorization Articles Proposed



Town Clerk
Fairhaven, MA 02719

Presorted Standard
U.S. Postage Paid New
Bedford, MA 02740
Permit No. 601