

# **AGREEMENT**

BY AND BETWEEN

**TOWN OF FAIRHAVEN, MASSACHUSETTS**

AND



THE

**NEW ENGLAND POLICE BENEVOLENT ASSOCIATION**

**LOCAL 64**

*JULY 1, 2016 THROUGH JUNE 30, 2019*

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## **AGREEMENT**

AGREEMENT executed this \_\_\_\_ day of \_\_\_\_\_, 2013 by and between the TOWN OF FAIRHAVEN, Massachusetts, hereinafter sometimes referred to as TOWN, and the LOCAL 64, NEW ENGLAND POLICE BENEVOLENT ASSOCIATION, sometimes hereinafter referred to as ASSOCIATION.

### **ARTICLE I**

#### **A. BARGAINING UNIT**

In accordance with the certification of the Massachusetts Labor Relations Commission, the TOWN recognizes the ASSOCIATION as the exclusive representative with respect to wages, hours and other conditions of employment for all full-time officers of the Fairhaven Police Department, excluding permanent intermittent officers, the Chief, Deputy Chief, Captains, Lieutenants, civilian dispatchers and clerical workers and employees of the TOWN. The term "employees" as used hereinafter in this Agreement refers only to such persons as at the time in question fall within the bargaining unit as above defined and future employees within said unit, and excluding regular part-time employees.

### **ARTICLE II**

#### **EMPLOYEES RIGHTS AND OBLIGATIONS**

#### **A. ORGANIZATIONAL ACTIVITIES**

Except to the extent that there is contained in this Agreement an express and specific provision to the contrary, employees shall have and be protected in the exercise of their rights, freely and without fear of penalty or reprisal, to form, join or assist employee organizations; to hold office and participate in the management of the ASSOCIATION; to act in the capacity of ASSOCIATION representative; to engage in other lawful ASSOCIATION and concerted activities for the purpose of collective bargaining or other mutual aid or protection. In

the exercise of such rights, the employees shall be free from any and all interference, restraint or coercion, and from any discrimination in regard to tenure, promotion or other conditions of employment. The ASSOCIATION agrees that it shall represent the interests of all employees within the bargaining unit without discrimination and without regard to whether an employee is a member of the ASSOCIATION.

B. ASSOCIATION MEMBERSHIP

The TOWN will advise the ASSOCIATION in writing of the name, address, classification and department of each new employee. The TOWN recognizes the right of any employee, as hereinbefore defined, to become a member of the ASSOCIATION and will not discourage, discriminate or in any other way interfere with the rights of such employee to become and remain a member of the ASSOCIATION.

C. NO DISCRIMINATION

Neither the TOWN nor the ASSOCIATION will discriminate against any employee, as hereinbefore defined, or applicant for employment because of race, color, creed, sex or national origin.

**ARTICLE III**

**ASSOCIATION ACTIVITIES**

A. ASSOCIATION OFFICERS

Insofar as the work requirements of the department permit, one (1) ASSOCIATION officer per shift will be excused from duty, without pay, when required to conduct ASSOCIATION business other than joint meetings with management with the approval of the Chief, which approval cannot be unreasonably withheld. Such excused absences will be in periods of half days or whole days, unless management determines in a particular case that the employee can be productively

employed for a portion of such periods. ASSOCIATION officers shall give management forty-eight (48) hours notice of their desire to be absent to conduct such ASSOCIATION business so that work schedules may be arranged accordingly, except under unusual circumstances.

B. JOINT MEETINGS

No more than two (2) ASSOCIATION representatives may be compensated for time in attendance at joint meetings between representatives of management and of the ASSOCIATION.

C. ASSOCIATION ACTIVITIES DURING WORKING HOURS

1. Fairhaven ASSOCIATION meetings may be held at the Police Department Assembly Room monthly on a Sunday morning between 9:00 a.m. and 12:00 noon. Additional meetings or meetings at other times may be held only after forty-eight (48) hours notice with the approval by the Chief, which approval shall not be unreasonably withheld.

2. With respect to officers who are on duty during the meeting, they may be called, provided that no more than two (2) on-duty officers attend for a period of no more than fifteen (15) minutes and provided further that the Chief of Police or officer in charge has determined that the presence of the officer at such meetings will not interfere with the normal operation of the department.

D. LIST OF ASSOCIATION OFFICERS

The ASSOCIATION shall furnish the Board of Selectmen with a written list of its local officers and shall promptly notify the Board of Selectmen in writing of any changes thereto. Only such listed officers shall be recognized by the TOWN for the purposes of joint meetings, except that the ASSOCIATION may, at its discretion, be represented by a ASSOCIATION officer and/or counsel.

E. USE OF BULLETIN BOARD

The TOWN shall permit the use of a bulletin board located in the police station by the

ASSOCIATION for the posting of notices concerning ASSOCIATION business and activities.

F. GENERAL MEETINGS

General meetings between management and all personnel of the Department shall be held without any cost to the TOWN. The TOWN may have up to two meetings per year; each meeting shall last no longer than 1 ½ hours. If the meetings go beyond 1 1/2 hours, all personnel shall be compensated at time and one half. Such time shall be received and documented as compensatory time. The ASSOCIATION shall have the same rights to call the same meetings with the TOWN at no cost to the TOWN regardless of the length of the meetings.

**ARTICLE IV**

**HOURS - SENIORITY**

SECTION 1. HOURS

The regular work rotation shall consist of four (4) days on and two (2) days off. A shift consists of an eight (8) hour tour of duty on a continuing rotating basis, except in cases of emergencies declared by the Chief or his duly authorized representative. Tours of duty shall be assigned by the Chief or his authorized representative. The work week is from Sunday at 0000 hours to Saturday at 2400 hours except that the Chief may establish a starting time for one position per shift an hour later or earlier. A change of an employee's starting time by one hour shall not be considered a transfer, shall not be considered to create a vacancy, and shall not be subject to bidding. No employee will be denied any right to work overtime otherwise available to him solely because his regular shift overlaps with the overtime assignment. Any employee who suffers the loss of regular work time because of a change in starting time will be compensated for such work time actually lost.

When daylight savings time adjustment occurs during a shift, any officer working his



regularly assigned shift will be paid for eight hours work regardless of whether the time change results in a seven or nine hour work period.

The work hours or shifts concerning detectives, safety officer, motorcycle officer, rescue assignments, and administrative assistant, or other special assignments shall be determined by the Chief,

## SECTION 2. SENIORITY

The employees of the Police Department covered by this Agreement shall have seniority rights in rank, and said seniority shall prevail with regard to the following: compensatory days off, holidays, vacations. Subject to the provisions of Section 5 of this Article IV, seniority shall prevail with regard to shift assignments. However, a senior officer may forego his preference at his discretion and such action shall not be construed as a waiver of his seniority rights in subsequent situations where seniority would prevail.

## SECTION 3. SENIORITY DEFINED

Police Officers of the Town of Fairhaven shall have seniority rights and said seniority rights shall be computed as follows:

- By date of employment as a probationary officer
- By time in rank

In the event two or more officers have the same employment, then the officer who received the higher grade on the Civil Service Entrance Exam shall be the Senior Officer. If two or more officers received the same grade on the Civil Service Entrance Exam then the officer who graduated with a higher mark from the Municipal Police Academy shall be the senior officer. Officers graduating from said academy shall file with the Chief of Police and the Union their class standings upon graduation. Said standings shall become part of the permanent records of said officers. In the event two or more officers

are being appointed as Sergeants on the same date, then departmental senior will be the senior sergeant.

#### SECTION 4. SENIORITY LIST POSTED

A permanent and up-to-date seniority list shall be posted and maintained by the ASSOCIATION and approved by the Chief on a bulletin board at Police Headquarters for the benefit of all police officers.

#### SECTION 5. HOURS AND SHIFTS

Twice each year all employees with more than eighteen (18) months seniority, shall become eligible to submit a bid for the next shift assignments, expressing their first, second, third, fourth and fifth preferences. Officers with fifteen months or more, but less than eighteen months, of service may bid and be assigned effective within ninety days of the bid period. Bidding shall take place from January 1<sup>st</sup> to February 1<sup>st</sup> (assigned by February 8<sup>th</sup>) for the period April 1 through September 30, and from July 1<sup>st</sup> to August 1<sup>st</sup> (assigned by August 8<sup>th</sup>) for the period October 1 through March 31. Such shifts for patrolmen shall consist of the 8:00 a.m. to 4:00 p.m. shift, 4:00 p.m. to 12 midnight shift, a 6:00 p.m. to 2:00 a.m. shift, and the 12 midnight to 8:00 a.m. shift, a split shift of two (2) 4:00 p.m. to 12 midnight and two (2) 12 midnight to 8:00 a.m. shifts, or other combinations of two (2) 8:00 a.m. to 4:00 p.m./two (2) 4:00 p.m. or 12:00 midnight or two (2) 8:00 a.m. to 4:00 p.m./two (2) 12:00 midnight to 8:00 a.m. shifts, and such shifts that the Chief may determine to be necessary to meet a specific need at the time such bids are posted. Such shifts for sergeants may consist of the 4:00 p.m. to 12 midnight shift, 12 midnight to 8:00 a.m. shift, and two (2), split shifts consisting of two (2) 8:00 a.m. to 4:00 p.m. shifts and two (2) 4:00 p.m. to 12 midnight shifts, and two (2) 8:00 a.m. to 4:00 p.m. shifts, and two (2) 12 midnight to 8:00 a.m. shifts, or other combinations determined by the Chief. In case of future vacancies on regular shifts pertaining to uniform police duty (not detective, safety officer, motorcycle officer rescue assignments or administrative assistant or other special assignment) when the Chief decides to fill the vacancy, a notice stating and describing the vacancy shall be posted on the department bulletin board for seven (7) consecutive days. All

eligible officers may bid upon said position. Within thirty (30) days, the Chief shall assign shifts or fill the vacancy according to seniority, unless in his judgment it would not be in the best interests of the Town or the department to do so, The judgment of the Chief of Police shall be final, unless his decision is not reasonably supported by the facts and he shall clearly state his reasons in writing at the request of the employee. The decision of the Chief shall be subject to the grievance procedure. In cases of removal from a detective, safety officer, or motorcycle officer assignment or other special assignment that officer shall be assigned to his original bid shift, according to seniority. If the Chief determines that this causes an excess of personnel on a shift or if a replacement is assigned to special assignment and a vacancy is created, it shall be bid upon. If no officer bids the vacancy, the least senior man on that affected shift may be reassigned, utilizing the bump system by seniority. If the Chief determines it to be necessary, EMT and Non-EMT shifts and vacancies shall be bid separately by EMT's and Non-EMT's.

Notwithstanding the assignment of shifts based upon bidding, in the event of a temporary vacancy of one month or more due to illness, injury, vacation, suspension or other reason the Chief may assign a floating shift officer to that vacancy. In assigning that floating shift position, the Chief shall determine which shift can spare an officer, and he shall offer the floating shift position to the most senior officer from that shift who requests the assignment. If no officers from that shift requests the assignment the Chief may assign the most junior officer.

## **ARTICLE V**

### **INTERMITTENT APPOINTMENTS**

As of the date of the execution and during the term of this Agreement, the TOWN will have the right to appoint active intermittent officers. However, the present active work force shall have first priority and they shall be used to fill all work assignments and details before newly hired

intermittent are used, All employees appointed to full-time status on or prior to February 11, 2004 may, at any time, revert to intermittent status. Employees appointed after February 11, 2004 may revert to intermittent status only at the discretion of the Board of Selectmen. Any full-time officer reverting to intermittent shall have two (2) years from date of appointment to intermittent status to request return to full-time status. Return to full-time status will be dependent on existence of open positions.

## ARTICLE VI

### ADDITIONAL BENEFITS

#### SECTION I. CALL BACK PAY

Employees called back shall be compensated for at least three (3) hours. The pay for this time shall be at the rate of time and one-half. This does not pertain to ARTICLE III, F or an employee who is called in less than three (3) hours before his regular shift and continues working his regular shift.

#### SECTION 2. OVERTIME PAY

All employees covered by this Agreement who work over eight (8) hours per day, shall be compensated for all hours worked in excess of eight (8) hours per day or thirty-two (32) hours per rotation schedule with overtime pay, at the rate of one and one-half times the employee's normal hourly rate; provided, however, that no such pay shall be computed for the first twenty (20) minute period, in which event overtime pay shall be computed for all time worked in excess of said employee's normal work week. For the overtime hours, any time worked over twenty (20) minutes in any hour shall be compensated at one-half (1/2) hour intervals.

When daylight savings time adjustment occurs during a shift, any officer working overtime shall be paid for the actual time worked. If he works the full shift (that is midnight to 8:00 a.m.) he will be paid for seven hours in the spring and nine hours in the fall.

In the event that any employee works in excess of eight (8) hours per day on special details, or in

excess of forty (40) hours per week on special details for the same employer, the overtime pay provisions of this section shall apply.

Any Employee who had used more than three (3) sick days in a fiscal year shall be subject to the following provisions. Notwithstanding any provision of this contract which might be interpreted to the contrary, any employee who has taken a sick day during the work week shall, if he works an extra shift in that week, either prior or subsequent to the sick day, work the extra shift at his straight rate of pay and not at the overtime rate of pay, even though working the extra shift entails the employee working over eight (8) hours per day.

Under no circumstances shall hours used for sick leave (more than 3 days), personal days, union business, and time not worked due to disciplinary action, be considered as time worked when computing overtime pay.

### SECTION 3. SPECIAL DETAILS - ASSIGNMENT

- a. The Chief or his designee will assign officers to special details. The Chief or his designee may exercise his/her discretion as to which details shall be assigned first and shall have the discretion to re-assign an officer from one detail to another if, in his/her discretion, public safety requires such reassignment. The Town shall not be liable for any difference in detail compensation received by the officer as a result of the reassignment.
- b. Such assignments shall be made fairly and equitable so that special details shall as nearly as possible be rotated among the men in an equal fashion.
- c. The Chief or his designee will make the special detail assignments from a sign-up list that will be posted on the department bulletin board for officers to sign up to work details in which they are interested.
- d. A separate list, in order of seniority and showing the amount of hours each officer has worked on special details, shall be maintained and the Chief or his designee shall assign the officer with the

fewest hours who signed the sign-up list to the detail. If two or more officers have worked an equal number of detail hours, the most senior officer will be assigned. Full-time regular officers shall have priority for all details and overtime, and the seniority list showing detail hours worked shall be readjusted every two (2) months. This assignment system may be changed or modified in any manner by mutual agreement in writing, and is a shared responsibility of the ASSOCIATION and the Chief. Discrepancies which may occur shall result in no loss to the TOWN.

e. At 4:00 p.m., or a reasonable time thereafter on Sunday, details through Wednesday shall be assigned and at 4:00 p.m., or a reasonable time thereafter on Wednesday, details through Sunday shall be assigned.

f. An employee who fails to appear to work a special detail for which he signed up and to which he was assigned shall be subject to disciplinary action by management.

g. Notwithstanding the foregoing, the Chief, or his designee, in assigning officers to their respective duties may exercise his own discretion and judgment as to the number, qualifications, and identity of officers needed for a particular situation at any given time; provided, however, all full-time regular officers shall have priority on all outside special details, except in emergency situations or instances where it would be impossible or impractical to do so.

#### SECTION 4. SPECIAL DETAILS - COMPENSATION

Special detail rates for Town and private details shall be \$45.00 per hour, commencing on the date of execution of this Agreement until June 30, 2017, and shall be \$46.00 per hour commencing on July 1, 2017 until June 30, 2018, and shall be \$47.00 per hour commencing on July 1, 2018 until June 30, 2019, with a minimum four (4) hours for all details, except that for private details which exceed five (5) hours, there shall be a minimum of eight (8) hours. Effective July 1, 2011 any private details which exceed four (4) hours, there shall be a minimum of eight (8) hours. Election details shall be paid at the straight time rate regardless of the number of consecutive hours worked. There shall be no time lost for

lunch breaks on any private detail. At any time when the Fairhaven police are sharing a detail or function with the Massachusetts state police, or other law enforcement agency, the Fairhaven police officers shall be paid whichever is the higher rate of pay. For the purpose of this provision the term "Town details" shall mean those details which are paid for by the Town, regardless of the Town's source of funding, which may include, but shall not be limited to, tax assessments, fee payments and other revenues, grant funds, and state and federal reimbursements. The term "Town non-profit details" shall mean those details which are paid for by a Massachusetts not for profit organization which maintains its principal or ordinary place of business in the Town of Fairhaven.

If any work is performed during the period of 12 midnight through 7:00 a.m., all special details compensated during this period shall also include additional compensation of \$1.00 per hour, and shall be \$10.00 per hour commencing on July 1, 2011.

In all cases where there are two (2) or more officers on a detail, the officer in charge will be paid an additional fifty (50) cents per hour. This officer will be responsible for all supervision of subordinates working the detail.

No one other than a Fairhaven police officer shall direct traffic or otherwise work a detail in Fairhaven unless no Fairhaven police officer is available and willing to accept such work.

#### SECTION 5. OVERTIME ASSIGNMENTS

Overtime assignments shall be made by the Chief or his duly authorized representative at his sole discretion giving primary consideration to the efficient operation of the Police Department. These assignments shall be made by the Chief or his designee off one constantly rotating list; said list to be prepared on a seniority basis. This assignment system may be changed or modified in any manner by mutual agreement in writing, and is a shared responsibility of the ASSOCIATION and the Chief. Discrepancies which may occur shall result in no loss to the TOWN.

When regular officers are assigned to overtime by the Chief or his designee, such

assignments shall be made fairly and equitably and a record will be kept of such assignments and available for inspection by employees.

When the Chief or his designee has exhausted all available means otherwise provided in this agreement to fill a shift which he has determined must be filled to maintain sufficient staffing, and all officers have refused that assignment, he may assign an officer from a seniority list established for each rank, maintained and posted for this purpose. The list shall consist of all full-time officers in order of seniority. Each new employee shall be added to the list in the position of least seniority upon his commencement of duty to that rank.. The Chief or his designee shall assign the extra shift to the officer with the least seniority who has not previously been assigned a shift under this provision. The Chief or his designee may consider any hardship imposed upon the officer by this assignment and may, in his sole discretion, determine to by-pass that officer. If the officer is not by-passed he will be ordered to report for the assigned shift and his failure to so report will be a violation of a direct order. Once an officer has been assigned to a shift under this provision a notation to that effect shall be made on the list. When the assignment of all officers has been so noted on the list, a new list in order of seniority shall be established. When a situation arises that the need to cover a shift under this provision is immediate the shift supervisor or acting shift supervisor shall be the Chiefs designee. This paragraph may be modified as needed by mutual agreement.

#### SECTION 6. OVERTIME AND SPECIAL DETAIL LIST

The overtime rotating list and the private detail rotating list should be made available to the desk man in the absence of the ranking man and shall be posted in the outer room on the duty roster bulletin board.

#### SECTION 7. COURT TIME

a. Any police officer on duty at night or on vacation, furlough or on day off who attends court in a criminal case as a witness for the Commonwealth may, in lieu of the witness fee to which he would otherwise be entitled under M.G.L. c.262, §53, be granted such compensatory time off as shall be



equal to the time during which he was in attendance at such court, which in no event shall be less than three hours at the rate of time and a half his basic hourly wage to be paid or an equal amount compensatory time off, or if such additional time off cannot be given because of a personnel shortage or other cause, he shall, hi lieu of said witness fee, be entitled to additional pay for the time which he attended such court, but in no event shall he receive less than three hours pay. Overtime will be calculated as provided in Article VI, Section 2.

b. In keeping with the provisions of M.G.L. c.262, §53C and subject to the approval of the Chief or his authorized representative, a police officer may take time off in lieu of pay for court time. He may accumulate up to 15 days court time; all time accumulated in excess of 120 hours must be paid in the following week's pay check. Court time may be carried over from year to year but must never exceed 15 days (120 hours), and in no event may an officer take more than three consecutive days off under this provision within a thirty day period, except with the approval of the Chief. He must inform the Chief, or his designee, 72 hours in advance for such day off, and in the event the officer wishes to take more than one day off, he must give the Chief, or his designee, 7 days notice. In no event will more than two (2) officers be absent from work under this provision at any one time, except at the discretion of the Chief.

Employees may not, during a fiscal year, "cash in" more than twenty (20) hours court time accrued prior to that fiscal year except (a) upon retirement or (b) by agreement with the Chief, in his sole discretion, on June 30 of each year, in which event all employees seeking to "cash in" accrued court time shall be given equal opportunity based on funds which the Chief determines to make available for that purpose.

c. Any time a police officer appears before the Board of Selectmen, at the board's discretion (other than for disciplinary matters concerning said officer), on his day off or off-duty time, he shall be compensated at straight time for a minimum of three (3) hours, unless the time he is so appearing is in excess of forty (40) hours for the week worked. He will then receive time and one-half for the time in excess of forty (40) hours.

SECTION 8. ACTING SUPERVISOR

When an officer substitutes in an existing supervisory capacity, he/she shall be compensated at his/her regular rate of pay plus twelve (12%) percent.

SECTION 9. ASSIGNMENT TO DISPATCHING DUTIES

The Chief, in his sole discretion, may, from time to time, assign dispatching duties to civilian dispatchers or to police officers or to both as he deems fit, provided that Article VI (5) shall not apply under this provision.

ARTICLE VII

A. CLOTHING AND EQUIPMENT ALLOWANCE

Each employee covered by this Agreement shall receive an annual duty uniform, duty clothing and duty equipment allowance for approved duty uniform clothing, clothing used for duty, and equipment. Each employee covered by this Agreement shall receive an annual duty uniform clothing allowance of seven hundred and twenty-five dollars (\$725.00), payable in cash at the beginning of each calendar year. Clothing damaged in the line of duty shall be replaced by the department. If requested by the Chief, before said payment is made for clothing or equipment so purchased, it shall be presented to the Chief or his designee for stenciling for identification purposes. Officers are required to have a Class A blouse. All items purchased under the clothing and equipment allowance shall remain the property of the police department.

B. CLEANING ALLOWANCE

Each employee covered by this Agreement shall receive an annual duty uniform cleaning and maintenance allowance of **Three Hundred Dollars (\$300.00)**, payable in cash at the beginning of each fiscal year.

C. NEWLY HIRED OFFICERS

All newly hired officers will receive a complete initial issue uniform upon satisfactory

completion of their police training school requirement. The price for said uniform will be deducted from the uniform allowance heretofore given over the two year period of this Agreement. Newly hired officers will also be provided with one rechargeable flashlight in addition to protective gear described in the next section.

The initial issue uniform shall consist of those items described on the list attached to this Agreement.

D. PROTECTIVE GEAR

a. The TOWN agrees to supply and maintain for each member covered by this Agreement the following protective equipment: firearms as determined by the department, handcuffs and cases, whistles, Sam Brown belts, holsters, bullets, protective helmets, night sticks, shoulder patches, flag patches, collar brass, cartridge holders, illuminating reflectors for night duty, leather polishing agents and pistol shotgun cleaning equipment.

b. Said equipment shall be issued to employees in serviceable condition and good working order, and employees shall maintain equipment in good repair and working order, normal wear and tear expected. Lost or damaged equipment shall be replaced by the employees, except if damage or loss occurs in the line of duty.

E. CRIMINAL STATUTES

The TOWN will make available to police officers current, pertinent chapters of General Laws, Criminal Statutes.

**ARTICLE VIII**

A. GRIEVANCE PROCEDURE: DEFINED ARBITRATION

A grievance is a dispute between the parties over the interpretation or application of the terms of this written Agreement and shall be handled in accordance with the following grievance

procedures:

STEP 1. The ASSOCIATION submits in writing its grievance to the Chief within fifteen (15) days after the grievance arises. The written grievance shall contain a statement of the contract provision allegedly violated, the facts that lead to the filing of the grievance, and the remedy sought. The Chief has fifteen (15) days (including Saturday, Sunday and Holidays) to act upon the same. In the event that the aggrieved party is unable by reason of physical or mental incapacity to file the grievance within said time, then he is entitled to file it within fifteen (15) days after the removal of the disability.

STEP 2. Within fifteen (15) days (including Saturdays, Sundays and Holidays), of transmittal of an answer by the Chief, either party may request that the grievance be presented to the **Town Administrator Board of Selectmen**, which has twenty (20) days to act upon same.

STEP 3. No later than twenty (20) days following receipt by the Union of notice of the action taken by the **Town Administrator Board of Selectmen**; or no later than thirty-five (35) days following receipt of the grievance by the **Town Administrator Board of Selectmen**, if it has failed to act thereon, the Union may notify the **Town Administrator Board of Selectmen** of its demand for arbitration of the grievance. The matter shall go to arbitration in the following manner:

- a. The ASSOCIATION shall designate one person.
- b. The TOWN shall designate one person.
- c. The third disinterested party will be agreed upon by representatives of the TOWN and the ASSOCIATION.
- d. In the event that the representatives from the ASSOCIATION and TOWN cannot agree on a third arbitrator within ten (10) days, then the parties agree to request the American Arbitration Association to select a third arbitrator and the decision of these arbitrators shall be final and binding.

e. Cost of arbitration, including fees or arbitrators, cost of record and incidental expenses shall be borne equally by the parties. Each party shall be responsible for all costs of preparation, presentation and appeal, if any, of his own case.

STEP 4. If the TOWN has a grievance either the ~~Board of Selectmen~~ **Town Administrator** or the Chief of Police shall notify the President of the ASSOCIATION within ten (10) days who shall meet with the person or **Town Administrator** requesting it within ten (10) days of said meeting, it may, in the discretion of the TOWN, be processed through the appropriate steps as set forth above. If said matter is not resolved within ten (10) days of said meeting, it may, in the discretion of the TOWN, be processed through the appropriate steps as set forth above.

STEP 5. Any grievance not processed by the ASSOCIATION through Steps 1 - 3 above, shall be waived.

**B. GRIEVANCE PROCEDURE: NOTIFICATION**

The above steps that require written notification will be by U.S. Certified mail or service in- hand. Notice to the Chief of Police and President or Vice-President of the ASSOCIATION will constitute notice to the parties respectively.

**C. GRIEVANCE PROCEDURE: DISCIPLINARY ACTION**

Notwithstanding any of the provisions of this Agreement, dismissal or disciplinary action shall not be the subject of arbitration or negotiation or grievance, but shall be governed by the provisions of G.L. c.31, §43, et al, and binding on both parties.

**ARTICLE IX**

**SALARIES AND BENEFITS**

**SECTION 1. SALARIES**

Salaries shall be as per the following schedule and shall reflect the follow increases:

Increases:

Effective July 1, 2016            A three (3%) percent increase across the board

Effective July 1, 2017            A three and one half (3.5%) percent increase across the board

Effective July 1, 2018            A two and one half (2.5%) percent increase across the board

Salary Schedule:

The bargaining unit salary schedule will be as follows:

<u>EFFECTIVE</u>		<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>	<u>STEP 7</u>	<u>STEP 8</u>
7/1/2015	WEEKLY	\$842.26	\$884.48	\$928.88	\$975.02	\$999.40	\$1,024.64		
	HOURLY	\$21.06	\$22.11	\$23.22	\$24.38	\$24.98	\$25.62		
7/1/2016	WEEKLY	\$867.53	\$911.01	\$956.75	\$1,004.27	\$1,029.38	\$1,055.38		
3.00%	HOURLY	\$21.69	\$22.77	\$23.92	\$25.11	\$25.73	\$26.39		
7/1/2017	WEEKLY	\$897.89	\$942.90	\$990.23	\$1,039.42	\$1,065.41	\$1,092.32	\$1,114.16	
3.50%	HOURLY	\$22.45	\$23.57	\$24.75	\$25.99	\$26.63	\$27.31	\$27.86	
7/1/2018	WEEKLY	\$920.34	\$966.47	\$1,014.99	\$1,065.41	\$1,092.05	\$1,119.63	\$1,142.02	\$1,159.15
2.50%	HOURLY	\$23.01	\$24.16	\$25.37	\$26.64	\$27.30	\$28.00	\$28.55	\$114.70

**SERGEANT'S  
DIFFERENTIAL (18%)**

7/1/2015	WEEKLY	\$1,197.13
	HOURLY	\$30.23
7/1/2016	WEEKLY	\$1,245.35
3.00%	HOURLY	\$31.14
7/1/2017	WEEKLY	\$1,314.71
3.50%	HOURLY	\$32.87
7/1/2018	WEEKLY	\$1,367.79
2.50%	HOURLY	\$135.34

Any new officer must remain in the employment in each step for a period of twelve (12) months before moving into the next step. Eight years of patrol officer service are necessary to receive step 6 compensation. Nine years of patrol officer service are necessary to receive step 7 compensation. 11 years of patrol officer service are necessary to receive step 8 compensation.

## SECTION 2. SHIFT DIFFERENTIAL

Employees shall be paid an additional shift differential for hours worked on the following shifts:

4 p.m. to 12 p.m. - three percent (3%)

12 p.m. to 8 a.m. - four percent (4%)

The shift differential shall be paid weekly.

## SECTION 3. FIRST RESPONDER BONUS / EMT

The Town has eliminated participation in the EMT Service by department Employees on a regular basis, provided that employees may be assigned such duty on an emergency basis only. Department employees are not required to maintain EMT status.

Employees subject to this agreement shall be paid a first responder bonus in the amount of \$750. The first responder bonus will be paid each year on December 1st, and shall constitute payment for that fiscal year. Department employees shall not be required and shall not be paid to undergo training or recertification training, but may, with permission from the Chief of Police, undergo and be paid for such training.

The first responder bonus will not be paid to any bargaining unit employee whose employment has been terminated for just cause.

## SECTION 4. RETIREMENT BONUS

Any officer with ten or more years of service who is contemplating separation from the department through regular retirement will be paid a bonus for timely notification in amount of \$1,000 per year up to two years. This bonus will be paid as follows:

a. An officer who provides one year or more notification of the exact month and year that his/her retirement will become effective will be paid a bonus of 1,000 at time of separation. b. An officer who provides two years or more notification of the exact month and year that his/her retirement will become effective will be paid a bonus of \$2,000.

This clause will apply only when the Police Chief, Board of Selectmen and Retirement Board are all individually notified in writing and the effective date of retirement falls within the exact month and year specified.

This clause will not apply to any situation other than a normal retirement resulting from sufficient years of service. It will not be prorated, compromised or applied in any manner or under any circumstances other than as outlined above.

#### SECTION 5. EDUCATIONAL INCENTIVE

- A. Employees hired before July 1, 2009, and participating in the educational incentive program known as the “Quinn Bill” pursuant to M.G.L. c. 41, s. 108L as of that date, shall continue to receive education incentive pay pursuant to that statute, notwithstanding underfunding of the reimbursement towards the incentive program by the Commonwealth of Massachusetts. However, the Town will continue to seek financial support from the Commonwealth for such program to the extent it remains available, and may take such administrative steps as may be required to accomplish this purpose. In the event M.G.L. c. 41, s. 108L is repealed, reduced or amended the educational incentive program as described below shall remain in effect for employees hired before July 1, 2009 and who are presently or were previously participating in the educational incentive program known as the “Quinn Bill”.
- Employees who possess an Associate’s degree or sixty credits earned towards a Baccalaureate Degree from a four-year accredited college or university shall receive an education incentive of:  
Effective July 1, 2013: six and a half (6.5%) percent greater than his/her base salary per year,  
Effective July 1, 2014: eight (8%) percent greater than his/her base salary per year,



Effective July 1, 2015: ten (10%) percent greater than his/her base salary per year, payable in a pro rata amount in the employee's regular paycheck. The Associate's degree or sixty credits earned towards a Baccalaureate Degree must be in Criminal Justice or a law enforcement field.

- Employees who possess a Bachelor's Degree from a four-year accredited college or university shall receive an education incentive of:

Effective July 1, 2013: thirteen and a half (13.5%) percent greater than his/her base salary per year, Effective July 1, 2014: seventeen (17%) percent greater than his/her base salary per year, Effective July 1, 2015: twenty (20%) percent greater than his/her base salary per year, payable in a pro rata amount in the employee's regular paycheck. The Bachelor's degree must be in Criminal Justice or a law enforcement field.

- Employees who possess a Master's Degree or Juris Doctorates from an accredited college or university shall receive an education incentive of:

Effective July 1, 2013: sixteen and a half (16.5%) percent greater than his/her base salary per year, Effective July 1, 2014: twenty and a half (20.5%) percent greater than his/her base salary per year, Effective July 1, 2015: twenty-five (25%) percent greater than his/her base salary per year, payable in a pro rata amount in the employee's regular paycheck. The Master's degree must be in Criminal Justice or a law enforcement field.

Such pay shall be included in base/annual salary in computing sick pay, holiday pay, vacation pay, injured leave pay, overtime, and other compensable leave, and shall be deemed and is regular compensation for pension/retirement purposes and shall be part of their weekly compensation.

The Town may, acting at its own discretion, accept or participate in any educational reimburse plan. If the Town does elect to participate in such a plan, the educational benefits paid to any employee by the Town, under the terms of this agreement shall be the amount paid by the plan, with the result that the combined benefit to the employee shall always equal 100% of the net benefits paid out under this agreement. In no case shall the combined benefits paid to the employee by the Town and any other plan exceed 100% of the benefits paid out under this agreement

B. Employees who are not eligible for education incentives as described in section A (“Quinn Bill” incentives), shall receive an education incentive based upon their educational attainments, as set forth below.

- Employees who possess an Associate’s degree or sixty credits earned towards a Baccalaureate Degree from a four-year accredited college or university shall receive an education incentive of:  
Effective July 1, 2013: six and a half (6.5%) percent greater than his/her base salary per year,  
Effective July 1, 2014: eight (8%) percent greater than his/her base salary per year,  
Effective July 1, 2015: ten (10%) percent greater than his/her base salary per year, payable in a pro rata amount in the employee's regular paycheck. The Associate's degree or sixty credits earned towards a Baccalaureate Degree must be in Criminal Justice, in a Law Enforcement related field, a field recognized by the Town as relevant to Law Enforcement.
- Employees who possess a Bachelor's Degree from a four-year accredited college or university shall receive an education incentive of:  
Effective July 1, 2013: thirteen and a half (13.5%) percent greater than his/her base salary per year, Effective July 1, 2014: seventeen (17%) percent greater than his/her base salary per year,  
Effective July 1, 2015: twenty (20%) percent greater than his/her base salary per year, payable in a pro rata amount in the employee's regular paycheck. The Bachelor's degree must be in Criminal Justice, in a Law Enforcement related field, a field recognized by the Town as relevant to Law Enforcement
- Employees who possess a Master's Degree or Juris Doctorates from an accredited college or university shall receive an education incentive of:  
Effective July 1, 2013: sixteen and a half (16.5%) percent greater than his/her base salary per year, Effective July 1, 2014: twenty and a half (20.5%) percent greater than his/her base salary per year, Effective July 1, 2015: twenty-five (25%) percent greater than his/her base salary per year, payable in a pro rata amount in the employee's regular paycheck. The Master's degree must

be in Criminal Justice, in a Law Enforcement in a Law Enforcement related field, a field recognized by the Town as relevant to Law Enforcement

- 1) The intent of the education incentive is to attract and reward employees who have attained a degree that emphasizes critical thinking skills, as well as oral and written communication. Accreditation for the purposes of the colleges and universities granting the degrees for which compensation will be paid shall mean accreditation by the New England Association of Schools and Colleges (NEASC) or an equivalent regional accrediting agency in another region. Programs granting degrees recognized for the purposes of this Article must be reasonably rigorous, and programs delivering content primarily through on-line methods may be scrutinized to a greater extent, as will programs granting credits for "life experience."
- 2) The parties intend that any educational incentive paid hereunder will satisfy or be applied towards the requirements of any future statutory educational incentive program, should such a program be enacted and be applicable to employees of the Town. If available under such future enactment, the Town may seek financial support from the Commonwealth for such program, and may take such administrative steps as may be required to accomplish this purpose.

The Town may, acting at its own discretion, accept or participate in any educational reimburse plan. If the Town does elect to participate in such a plan, the educational benefits paid to any employee by the Town, under the terms of this agreement shall be the amount paid by the plan, with the result that the combined benefit to the employee shall always equal 100% of the net benefits paid out under this agreement. In no case shall the combined benefits paid to the employee by the Town and any other plan exceed 100% of the benefits paid out under this agreement

- 3) The Town shall develop policy as necessary to implement this Article of the agreement in consultation with a committee of department members representing a cross section of the department in terms of rank and assignment, and including one or more members designated by the Union. The policy will guide the interpretation of this provision of the agreement as it relates

to the type of degrees that are deemed to be related to law enforcement for the purpose of the Bachelor's Degree, the types of degrees that can qualify for the Master's Degree or Juris Doctorates stipend, the colleges and programs that will be acceptable, and the procedure for notifying the Town of a degree and the proof required. In the event of a disagreement regarding the policy, the matter will be submitted to the Selectmen for final determination

- 4) Such pay shall be included in base/annual salary in computing sick pay, holiday pay, vacation pay, injured leave pay, overtime, and other compensable leave, and shall be deemed and is regular compensation for pension/retirement purposes and shall be part of their weekly compensation.

#### SECTION 6. ACCRUAL OF BENEFITS DURING LEAVE OR SUSPENSION

An employee who has been suspended without pay for more than five (5) consecutive work days, or who has been on sick leave for more than ten (10) consecutive work days will not accrue holiday pay, vacation pay, longevity pay, or first responder bonus during such suspension or illness. His vacation period, and longevity and first responder bonuses will be reduced to reflect the period or periods of non-accrual. He will not be paid for any holiday which occurs during such suspension or illness.

### **ARTICLE X**

#### **MANAGEMENT RIGHTS**

Except to the extent there is contained in this Agreement express and specific provisions to the contrary and subject to all applicable state and federal law and regulation, nothing shall limit the Town in the exercise of its function of management and in the direction and supervision of the Town's business. This includes, but is not limited to the right to: add or eliminate departments; require and assign overtime; increase or decrease the number of jobs; change process; assign work and work to be performed; schedule shifts and hours to work and lunch or break periods; hire; suspend;

demote, discipline, or discharge; transfer or promote; layoff because of lack of work or other legitimate reasons; establish reasonable rules and regulations, job descriptions, policies and procedures; conduct orderly operations; establish new jobs abolish and change existing jobs; determine where, when, how and by whom work will be done; determine standards of proficiency in police skills and physical fitness standards; except where any such rights are specifically modified or abridge by terms of this Agreement and subject to the provisions of M.G. L. Ch, 150E.

Unless an express, specific provision of this Agreement clearly provides otherwise, the Town, acting through its Police Chief or other appropriate officials strictly adhering to the chain of command as may be authorized to act on their behalf, retains all the rights and prerogatives it had prior to the signing of this Agreement either by law, custom, practice, usage or precedent to manage and control the Police Department subject, however, to the provisions of M.G.L. ch. 31 and amendments thereto as they may specifically apply to the Town.

By way of example but not limitation, management retains the following rights:

- \* to determine the mission, budget and policy of the Department;
- \* to determine the organization of the Department, the number of employees, the work functions, and the technology for performing them;
- \* to determine the numbers, types, and grades of position or employees assigned to an organizational unit, work project, or to any location, task, vehicle, building, station or facility;
- \* to determine the methods, means and personnel by which the Department's operations are to be carried out;
- \* to manage and direct employees of the Department;
- \* to maintain and improve orderly procedures and the efficiency of operations;
- \* to hire, promote and assign employees;
- \* for legitimate safety purposes to transfer, temporarily reassign, or detail employees to other shift or other duties;
- \* to determine the equipment to be used and the uniforms to be worn in the performance of duty;
- \* to determine the policies affecting the hiring, promotion, and retention of employees;

- \*to establish qualifications for ability to perform work in classes and/or ratings, including physical, intellectual, and mental health qualifications;
- \* to lay off employees in the event of lack of work or funds or under conditions where management believes that continuation of such work would be less efficient, less productive, or less economical
- \* to establish or modify work schedules and shift schedules and the number and selection of employees to be assigned not inconsistent with the provisions of this agreement;
- \* to take whatever actions may be necessary to carry out its responsibilities in situations of emergency;
- \* to enforce existing rules and regulations for the governance of the Department and to add to or modify such regulations as it deems appropriate subject to fulfilling its bargaining obligations;
- \* to suspend, demote, discharge, or take other disciplinary action against employees, to require the cooperation of all employees in the performance of this function, and to determine its internal security practices.

Management also reserves the right to decide whether, when, and how to exercise its prerogatives, whether or not enumerated in this Agreement. Accordingly, the failure to exercise any right shall not be deemed a waiver.

Nothing in this article will prevent the Union from filing a grievance concerning a violation of a specific provision of this contract.

The parties agree that each side has had a full opportunity during the course of negotiations to bargain over any and all mandatory bargaining subjects, whether or not included in this Agreement.

It is understood and agreed by the parties hereto that the Town does not have to rely on any collective bargaining contract with its employees as the source of its rights and management prerogatives. This contract does not purport to spell out the job responsibilities and obligations of the employees covered by this contract. Job descriptions are not meant to be all-inclusive. Management reserves the right to assign duties consistent with an officer's training and ability,

regardless of whether the exact duty is listed in a written job description.

Without intending to limit the generality of the foregoing, the Town has the right to hire and utilize civilians (being non-sworn personnel) as needed for dispatching, clerical work or any other non-bargaining unit position not requiring law enforcement powers.

## **ARTICLE XI**

### **NO STRIKE CLAUSE**

It shall be a violation of this Agreement for any employee to engage in, induce, or encourage any strike, work stoppage, slowing or withholding of services.

## **ARTICLE XII**

### **A. PROBATIONARY OFFICERS: PROBATIONARY PERIOD**

It is understood and agreed that for a period of twelve (12) months immediately following the appointment of regular police officers, such officers are in a probationary status.

Probationary officers shall not acquire seniority until satisfactory completion of the probationary period and their appointment becomes permanent. When reaching permanent status, the officer's seniority shall be determined from his original date of hire as a regular, full-time police officer.

### **B. PROBATIONARY OFFICERS: BENEFITS**

Matters pertaining to discipline or the consideration of the employment of probationary officers are not within the scope of this Agreement. Matters, however, pertaining to grievances of probationary officers shall follow Step 1 and Step 2 of Article VIII of the Grievance Procedure and the decision of the Selectmen under Step 2 shall be final and binding.

**ARTICLE XIII**

**DUES DEDUCTIONS**

A. **UNION DUES**

The Town of Fairhaven shall deduct union fees and/or lawful assessments upon receipt of authorization of members of the ASSOCIATION who shall sign deduction form cards to be supplied by the ASSOCIATION. The TOWN shall forward to the Secretary-Treasurer of the ASSOCIATION such deduction each month, following the month of deduction, subject to the bonding requirements and all other provisions set forth in G.L. c.18, §17A, and in compliance therewith.

B. **AGENCY SERVICE FEE**

Each year, employees covered by this Agreement shall pay to the Fairhaven Police ASSOCIATION an agency service fee which pursuant to the G.L. c. 150E §12, shall be a condition of employment that on or after the thirtieth (30th) day of employment in the bargaining unit or the effective date of this Agreement, whichever is later, each and every member of the bargaining unit shall pay to the ASSOCIATION an agency service fee which shall be proportionately commensurate with the cost of collective bargaining and contract administration. The agency service fee for the duration of this Agreement shall be deducted monthly and shall be equal in amount to the sum set from time to time by the ASSOCIATION as their monthly dues.

The ASSOCIATION agrees to indemnify and hold the TOWN harmless in the administration of this Article.



**ARTICLE XIV**

**BEREAVEMENT LEAVE**

Emergency leave up to three (3) days may be allowed for death in an employee's immediate family (spouse, mother, father, grandparents, sister, brother, child, legal guardian, mother-in-law or father-in-law). However, the Chief of Police may, in his discretion, allow time off for deaths of other relatives in the immediate family of the officer, in addition to those presently covered by the contract.

**ARTICLE XV**

**HOLIDAYS, BIRTHDAY**

**SECTION I. HOLIDAYS**

The following shall be paid holidays for all employees of the department:

New Year's Day	Independence Day	
Martin Luther King Day	Labor Day	
Washington's Birthday	Columbus Day	
Patriot's Day	Veterans' Day	
Memorial Day	Thanksgiving Day	Christmas Day

**Effective July 1, 2018:** **Police Memorial Day (May 15<sup>th</sup>)**

Holiday pay shall be one-fifth of the employee's weekly salary and shall be paid to each employee over and above his weekly salary whether he worked the holiday, was on vacation, injury or sick leave. An employee may request to receive eight (8) hours compensatory time off in lieu of payment for a holiday. Accumulated holiday compensatory time shall not be carried over from one calendar year to another. This section shall not be construed to infringe on the right of officers to be paid for holidays.

**SECTION 2. BIRTHDAYS**

Any officer shall be given leave from duty with pay on his birthday provided he has so requested in writing at least two weeks in advance, and that leave shall be deducted from other leave available to him at the time, which may include vacation, holiday, court or other accumulated time.

### SECTION 3. PERSONAL DAYS

Each employee shall be entitled to three (3) paid personal days per year which may be taken on short notice. Except on those Holidays covered by this agreement in Article XV, section 1.

### SECTION 4: OVERTIME HOLIDAYS

Effective July 1, 2018 any bargaining unit member who works on the following holidays shall be their overtime rate for all hours worked: Thanksgiving and Christmas

## ARTICLE XVI

### A. VACATION: TERM AND ENTITLEMENT

Vacation without loss of pay shall be:

After one (1) year of service, but less than five (5) years' of service – 10 days.

After five (5) years' of service, but less than ten (10) years' of service – 15 days.

After ten (10) years' of service, but less than fifteen (15) years' of service – 20 days.

After fifteen (15) years' of service – 25 days' vacation

### B. VACATION: ADDITIONAL PROVISIONS

1. Calculations effecting service and seniority for vacation purposes shall be determined in the same manner as provided for in Article IV, Section 2.
2. Vacations shall be assigned twice annually at least thirty (30) days prior to April 1st for the period April 1 through September 30, and at least thirty (30) days prior to October 1st for the period October 1 through March 31. Assignments shall be made on the basis of seniority, each officer having the right to bid for up to ten days of his available vacation time, to include up to

two separate vacation periods, not to exceed 14 consecutive calendar days at one time. Available unbid vacation time may be assigned by the Chief pursuant to paragraph 5, below, at any time during the following six (6) month period. Up to 10 vacation days per period may be assigned by the Chief of Police at his/her discretion after the initial assignment date, subject to paragraph 7 below.

3. Any recognized holidays falling within the individual's vacation period shall be paid additional, or an extra day allowed.
4. If requested, the vacation pay for the succeeding weeks may be paid prior to vacation.
5. Vacations shall be scheduled and granted by the Chief at such times as, in his opinion, will cause the least interference with the regular work and performance of the department and must be used during the calendar year. Vacation leave may not be accumulated from year to year provided that vacation time not used in the prior year may be used in the following January subject to paragraph 7 below.
6. An employee shall not be allowed to work during his vacation and receive compensation therefore, excluding paid details except for the convenience of and at the request of the TOWN. Unused vacation time will not be reimbursed except at the sole discretion of the Town.
7. No two (2) officers on the same shift will be allowed to be on vacation at the same time, except at the Chiefs discretion. An employee who retires during the course of the year shall be entitled to payment for all unused vacation time which he would have been entitled to take in the remainder of the calendar year, and he shall be paid a pro-rated share of his vacation time for the following year based on the length of time worked in the calendar year of his retirement. An employee who is terminated for just cause will not be entitled to payment for any unused vacation time.

## ARTICLE XVII

### SICK LEAVE

A. SICK LEAVE: DURATION: ENTITLEMENT: RATE: SICK LEAVE BANK  
Sick leave for non-duty connected injury or illness shall be computed at the rate of 1 1/4 days per month, 15 days per year, with accumulation as follows. The rate of sick pay for sick leave shall be an individual's basic daily rate. Except as described in the following sentence, effective on July 1, 1995 the maximum number of sick days which an officer is allowed to accumulate will be one hundred thirty-five (135) days. If an officer has already accumulated more than one hundred thirty-five (135) sick days as of midnight on June 30, 1995 that number shall be his allowed maximum accumulation, except that if he uses any of that accumulated sick leave, his allowed maximum accumulation shall be reduced by the amount so used, but in no event shall the maximum which he is allowed to accumulate be less than one hundred thirty-five (135) days. At the end of each fiscal year each officer shall be paid one-half day's pay at his normal rate of pay for each accumulated sick day above his maximum, and thirty percent (30%) of the remaining accumulated sick days above his maximum will be deposited in a "sick bank" and available to any officer who has used all of his available time and paid leave and is still unable to return to work because of illness. (For example, if an officer has ten unused days above his maximum he will be paid for five days, and one and one half days will be deposited in the sick bank.) In addition, any officer may donate up to three (3) days of available sick leave in a fiscal year to the sick bank. The sick bank will be governed by the Union for the first forty days used by an individual officer and will be controlled jointly by the Chief and Union for an additional forty days. Eighty days will be the maximum amount of time made available to an individual officer through the life of this contract. Grievances over the joint control of the sick bank by the Union and the Chief will not be subject to arbitration, and the decision of the Selectmen will be final.

B. SICK LEAVE: APPLICATION: EXAMINATION

Sick leave shall be granted upon application to the Chief before, or within a reasonable time after absence, depending upon the circumstances of each case.

If required by the Chief, a physician's certificate of illness shall be submitted by the employee after three (3) consecutive days absence to the Chief before leave is granted under the provisions of this Section. Failure to furnish such certificate shall be considered an abuse of sick leave and subject to disciplinary action. Further, in the event sick leave is claimed, it is agreed that the Chief, or his designee, is authorized to visit the home of the claimant to verify the confining nature and extent of the illness.

C. UNUSED SICK LEAVE REIMBURSEMENT

At separation from the TOWN, except for just cause, the employee shall be paid at the rate of one day's pay for each two (2) days of sick leave accumulated up to a maximum payment of Ten Thousand Dollars (\$10,000.00).

D. SICK LEAVE BONUS

At the start of each fiscal year each officer will have a bank of Three Hundred Dollars (\$300.00) for a sick leave bonus. Each time an officer uses a sick day or donates a sick day to the sick bank Fifty Dollars (\$50.00) will be deducted from his account. No deduction will be made for leave under §11 IF. In the event an officer works less than the full year this account will be prorated to the amount of time in service in that year.

**ARTICLE XVIII**

**ANNUAL PHYSICAL**

Employees covered by this Agreement shall, upon request by the Chief, have an annual physical examination. Said examination shall be paid for by the TOWN.

**ARTICLE XIX**

**MANNING OF SHIFTS**

For the protection of the officers and citizens of the TOWN reasonable efforts will be used to fill all vacancies on shifts of sergeants with those of equal ranks of sergeants.

**ARTICLE XX**

**SAVING**

Should any statute or the final determination of any court of competent jurisdiction be in conflict with any provision of this Agreement, the remainder of the Agreement shall continue to be in full force and effect.

**ARTICLE XXI**

**LONGEVITY PAY**

Longevity payments shall be made annually to regular full-time police officers after ten years of service at the rate of \$50 for each full year of service completed. Payment of longevity pay shall be made within thirty (30) days of date of employee's entitlement thereto.

**ARTICLE XXII**

**EXCHANGE OF DAY (OR NIGHT) OFF**

- A. An employee shall be allowed to exchange a day off or a night off with another employee-officer, only with the express prior consent and approval of the Chief, or his designee.
- B. In no event shall such exchange involve any added expense to the TOWN, either directly or indirectly.

**ARTICLE XXIII**

**AMMUNITION SUPPLIED**

All officers shall qualify twice a year under a weapons training program. Ammunition will be provided by the TOWN at no expense to the officers. Rotation of service ammunition shall be made

every six months and all officers shall be issued 45 rounds of ammunition for service use. Compensation for attending weapons training programs shall be paid in accordance with Article VI section 2; call back clause does not apply. The TOWN agrees to provide one hundred (100) practice rounds of ammunition for each officer per year.

#### **ARTICLE XXIV**

#### **LIABILITY INSURANCE**

On April 5, 1992, the voters of the TOWN voted to accept the provisions of section thirteen of chapter two hundred and fifty-eight of the General Laws which provides that the TOWN shall indemnify and save harmless municipal officers, elected or appointed, from personal financial loss and expense including reasonable legal fees, costs, if any, in an amount not to exceed one million dollars, arising out of any claim, demand, suit or judgment by reason of any act or omission except an intentional violation of civil rights of any person under any law, if the official at the time of such act or omission was acting within the scope of his official duties or employment.

#### **ARTICLE XXV**

#### **COMPLAINTS**

Complaints against police officers shall be handled and disposed of by the Chief in such a manner as he shall prescribe.

No disciplinary action shall be given to a member of the police department unless such complaint is put in writing either by a complainant or a superior officer. The identity of any citizen complainant shall be made known to the officer for the purpose of any disciplinary hearing once a hearing is scheduled, if that identity is known.

**ARTICLE XXVI**

**DRUG SCREENING**

**Section 1:**

- a. The Chief of Police upon reasonable suspicion based upon an officer's conduct may require a police officer to submit a test sample for drug screening by means of blood or breath analysis to detect the presence of non-prescribed drugs, controlled substances and alcohol. A test sample must thereafter be provided upon the Chief's request.
  
- b. The affected officer may initiate a review of the Chiefs directive. If requested the Chiefs directive shall be reviewed by a special panel. The panel shall consist of the town administrator, the Captain, and one officer appointed by the union with no individual to serve on consecutive panels for review of drug testing directives. The purpose of review is to decide only whether the Chief has information which establishes reasonable suspicion to request a screening. The panel will meet and have the right to request corroborating information, if any, from the Chief in order to assist their review. Such special review shall be conducted and concluded within twenty-four (24) hours of the time the chief required the test sample, or as soon thereafter as is practicable.
  
- c. If the special review panel concludes that the drug screening is warranted, such testing shall be conducted. If the panel finds that the test is not warranted, the sample shall not be tested and shall be destroyed.

**Section 2:** At the time the test sample is provided by the officer, an original non-tested sample will be given to the officer upon request whether or not testing is conducted by the TOWN.



**Section 3:**

a. The results of the drug screening test shall be given to the Chief of Police and the officer. In order for any test results to be accepted, the TOWN must demonstrate that the chain of custody of any samples has been preserved.

b. In the event the test is positive for any non-prescribed drug of an addictive and incapacitating nature or any controlled substance or alcohol the Chief shall require the officer to take a leave of absence subject to the following terms. The officer must apply within five days of the imposition of such leave to one of those drug treatment facilities agreed upon in advance by the TOWN and the ASSOCIATION, unless the Chief in his sole discretion agrees to application to another facility chosen by the officer. The officer shall enter the facility immediately upon availability of a placement. During the period of such leave the officer may use any accumulated leave, and if none is available or if it becomes exhausted, he may continue on unpaid leave. Such leave shall be for a period of ninety days or until the officer produces a physician's certification that the officer is able to return to work and is rehabilitated from any substance abuse, whichever is sooner. Such leave may be extended up to an additional ninety days if prior to the end of the first ninety day period the officer produces a physician's certification that such leave should be extended to enable the officer to return to work and to be rehabilitated from any substance abuse. If any officer is unable, at the end of the extended leave, to return to work or has not been rehabilitated from any substance abuse the TOWN may consider the officer unable to work and may take such action as it deems necessary.

c. During the period of any leave under this section, an officer shall not accumulate vacation or sick leave.

d. The TOWN reserves the right to impose disciplinary action for a first instance of positive drug screening subject to the following. Such discipline shall be subject to all civil service rights of the officer and shall be based on principles of progressive discipline taking into account the officer's record, any

prior offenses, and the seriousness of the instant offense. Prior to the officer's admission to treatment, or as soon as possible thereafter, the Chief shall notify the officer of his intent, if any, to impose discipline, or to recommend such discipline to the Town Administrator. Any such disciplinary action shall be stayed during the period of leave, and for a period of up to six months following the return of the officer following leave. If the officer successfully completes such six month period without any offense of any kind, the Chief shall not impose or recommend discipline. If the officer commits any offense of any kind during such six month period the Chief may proceed to impose or recommend such discipline, in addition to any discipline applicable to the subsequent offense. The appeal period for purposes of Civil Service shall commence on the date of imposition of such discipline, and not at the time of notice of the intent to impose discipline.

e. On the date one year following an officer's return to work from leave pursuant to (b), above, the officer shall submit a test sample for drug screening by means of blood analysis.

**Section 4:** It is agreed that the parties will make every effort to protect privacy and confidentiality, and that there is no intention to waive any employee's constitutional rights in the establishment of these procedures.

## **ARTICLE XXVII**

### **MATERNITY LEAVE**

Maternity leave shall be granted in accordance with the provisions of MGL Chapter 149, Section 105D. Female employees shall be granted up to 8 weeks of maternity leave without loss of seniority or benefits. Upon expiration of maternity leave, employees will be restored to their same position. Employees must return when their 8 week leave expires if they are physically able. This Section also applies to female employees who adopt children under age eighteen (under age twenty-three if the child is mentally or physically disabled).

Paternity leave shall be granted in accordance with the provisions of MGL Chapter 149, Section 105D. Male employees shall be granted up to eight (8) weeks of paternity leave without loss of seniority or benefits. Upon expiration of paternity leave, employees will be restored to their same position. Employees must return when their eight (8) week leave expires if they are physically able. This Section also applies to male employees who adopt children under age eighteen (under age twenty-three if the child is mentally or physically disabled).

Employees may use accrued paid leave, including sick leave, for part or all of their parental leave in accordance with Town policies. If the Employees have no paid leave available to them, then the employees can take unpaid leave under this section.

## **ARTICLE XXVIII**

### **MISCELLANEOUS**

- a. **Signing of Contract**: This Agreement and any future Agreement(s) shall be printed and supplied each member of the Union by the Town to the President of NEPBA Local #64 within thirty (30) business days after ratification of both parties, at no costs to the Union.
  
- b. **Assessment Center**: The parties agree to change all promotions to a civil service Assessment Center. The process is attached to this agreement as an appendix.

## **ARTICLE XXIX**

### **CONTRIBUTORY GROUP INSURANCE**

The TOWN agrees to continue in effect for police officers the same group life insurance, accidental, death, and dismemberment insurance and group hospital, surgical and medical insurance as it provided other employees of the TOWN under General Laws Chapter 32B. In the event that the TOWN liberalizes such benefits during the terms of this Agreement, police officers will receive such liberalized benefits as are thereby required by said Chapter 32B.

## **ARTICLE XXX**

### **LIMITED DUTY**

An officer who is incapacitated for regular duty because of injuries, illness, or disability sustained while on or off duty may, in the sole discretion of the Chief, based upon a physician's recommendation and notwithstanding any provisions of the law to the contrary, be required to perform limited duties on either a full-time or part-time basis, provided the chief, in his or her discretion, determines there are limited duty tasks available to be performed by such officer and that the officer is capable of performing those tasks. Limited duty tasks shall include any duty to which such employee might otherwise be assigned, consistent with the employee's physical limitations, including, but not limited to, the following:

- a. Dispatching duties to the extent trained for such duties;
- b. General clerical work;
- c. Reception;
- d. Training (non-physical);

- e. Accreditation-related duties;
- f. Court liaison work;
- g.. Community Policing Initiatives;
- h. Prisoner watch consistent with the officer's physical limitations;
- L Equipment inventory and conditions reports;
- j. Assist in property and evidence room;
- k. Computer operation and maintenance;
- l. Information collection;
- m. Schooling (non-physical);
- n. Any other such tasks as may be assigned by the Chief.

Notwithstanding any provision of the bargaining agreement to the contrary, such tasks may be assigned on the officer's regular shift where possible and if not possible, on such other shift as determined necessary by the Chief based on departmental needs provided that said officer be notified a minimum of four (4) days prior to any contemplated shift change. Assignments to limited duty tasks may be changed or terminated at the discretion of the Chief, subject only to the provisions in this Article. It is understood that assignment to limited duty tasks pursuant to this section shall be temporary in nature, lasting no more than one (1) year in total, renewable for additional ninety (90) day periods at the discretion of the Chief, and shall not extend beyond the period of incapacity for full duty. Nothing herein shall require the Chief to assign to limited duty tasks any employee who in his opinion is unable or not qualified to perform those tasks or to assign an employee to limited duty in the event there is no limited duty work available. If the Chief determines that a reassignment from an officer's regular shift would cause the officer undue hardship unrelated to his work (e.g. child care, spouse's work schedule, etc.), the Chief shall assign the officer to perform such limited duty as is available and which

the officer can perform on his regular shift, or on another work schedule which the Chief and officer agree upon to avoid the hardship.

Medical Examination: (a) If the employee's own physician or a physician designated by the Town determines that a police officer who has a work related injury or illness is eligible for temporary modified work, the Chief may assign that officer to limited duty. Failure of the officer to comply with the assignment may result in disciplinary action. A physician designated by the Town shall be Board Certified, or be a specialist, in the relevant area of injury or illness. Any determination that an officer can do limited duty shall be made only after review of the specific duties the officer will be asked to perform.

(b) If a physician designated by the Town determines that an officer is eligible for limited duty, and the officer's physician (who shall be Board certified, or be a specialist, in the relevant area of injury or illness) disagrees, the officer shall notify the Chief within 48 hours of that physician's determination.

(c) Within seven (7) business days thereafter, the Chief and Union shall jointly select a third physician, who shall be Board certified, or be a specialist, in the relevant area of injury or illness, and who shall determine the eligibility of the officer for limited duty. Failure or refusal on the part of the officer or Union to cooperate in this selection shall void any obligation by the Town to appoint a third physician and the decision of the Town's physician shall be final and binding.

(d) The Chief shall make an appointment for the officer with the third physician and shall advise the employee of the time, date and place of the appointment. Except for a bond fide emergency, the officer shall report to and fully cooperate with the third physician including a release of medical records. The decision of the third physician as to the eligibility of the officer for limited duty shall be final and binding and shall not be subject to action or challenge pursuant to MGL, chapter 41, section 111F or pursuant to the grievance/arbitration process under this Agreement. The

decision of the third physician shall be final and binding without right of appeal by either party.

(e) The cost of the third physician shall be borne by the Town and the employee or the union equally.

Expedited Medical Information: In order to expedite receipt of pertinent medical information (and therefore payment of medical expenses, etc.), employees who are treated at a hospital or by a physician of their choice shall sign a form releasing to the Department any and all medical and hospital records and documents pertaining solely to the nature, extent, and cause of the particular sickness, injury, or disability incurred in the performance of duty, or any reoccurrence thereof.

Attire: An employee on limited duty shall not be required to wear the standard Fairhaven Police Duty Uniform, An employee performing limited duty tasks shall while at work wear attire appropriate to the task and approved by the Chief of Police, or plain clothes as determined by the Chief.

Paid Details & Overtime: No employee on limited duty will be allowed to work any paid details or to work any overtime.

Pro-rated Status: The Town agrees that an employee who works less than a full week of limited duty shall be considered to be on injured on duty status for that portion of the regular work week during which the employee does not perform limited duty, and the employee shall be paid for such time in accordance with M.G.L. chapter 41, section 111F.

Shifts: Limited duty assignments shall not affect the shift assignments of other employees. Employees assigned to limited duty shall be assigned as stated above; however, employees assigned to a night shift prior to their injury shall continue to receive their shift differential regardless of the shift on which they perform their limited duty assignment. Day shift employees assigned to perform limited duty on a night shift shall receive the shift

differential.

Medical Appointment: Limited duty assignments shall not conflict with an employee's ability to attend routine medical appointments, including therapy, related to the injury or illness resulting in said limited duty assignment.

Outside Employment: An officer who has been deemed unfit for light duty by either the Town's or Officer's physician shall not engage in any non-department employment or business.

Retirement: The Parties recognize that assignment to light duty is temporary and shall not bar the officer and/or Town from filing for a Disability Retirement.

## **ARTICLE XXXI**

### **DURATION OF AGREEMENT**

This contract shall extend from July 1, 2016 to June 30, 2019 and shall continue in force and effect thereafter while the parties are negotiating toward a new Agreement. Either party wishing to modify, amend or terminate the contract must notify the other party in writing not more than one hundred eighty (180) days or less than ninety (90) days prior to the expiration date as set forth above. After receipt of notice by either party, a conference will be held within thirty (30) days between the Town and the Police Association Negotiation Committee for the purpose of negotiating such amendments, modifications or termination.



**ARTICLE XXXII**

**APPROPRIATION OF FUNDS**

In the event the Town Meeting fails to appropriate funds to implement this Agreement, the enforceability of this Agreement shall be determined by the provisions of G.L. c.150E.

IN WITNESS THEREOF the parties hereto set their hands and seals by their duly authorized representatives this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

FAIRHAVEN POLICE ASSOCIATION

TOWN OF FAIRHAVEN

By: \_\_\_\_\_  
President, Local 64

By: \_\_\_\_\_  
Selectmen - Chairman

By: \_\_\_\_\_  
Vice-President, Local 64

By: \_\_\_\_\_  
Selectmen – Vice Chairman

By: \_\_\_\_\_  
Secretary / Treasurer, Local 64

By: \_\_\_\_\_  
Selectmen – Clerk

By: \_\_\_\_\_  
New England Police Benevolent Assoc.