

HOUSE No. 4232

The Commonwealth of Massachusetts

PRESENTED BY:

Mark D. Sylvia and Mark C. Montigny

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the charter of the town of Fairhaven.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Mark D. Sylvia</i>	<i>10th Bristol</i>	<i>6/13/2025</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>6/13/2025</i>

HOUSE No. 4232

By Representative Sylvia of Fairhaven and Senator Montigny, a joint petition (accompanied by bill, House, No. 4232) of Mark D. Sylvia and Mark C. Montigny (by vote of the town) relative to the charter of the town of Fairhaven. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to the charter of the town of Fairhaven.

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

1 The following shall be the charter for the town of Fairhaven:

2 **ARTICLE I – INCORPORATION & POWERS OF THE TOWN**

3 **Section 1-1 Authorities and Understandings**

4 The Town of Fairhaven Charter defines the government structure under which Fairhaven
5 operates, and that may create local offices; distribute powers, duties, and responsibilities among
6 local offices; and that may establish and define certain procedures to be followed by Fairhaven.

7 **Section 1-2 Incorporation**

8 The present Town of Fairhaven, Massachusetts, within its territorial limits as now or may
9 hereafter be established by law, shall continue to be a body politic and corporate, known as the
10 Town of Fairhaven.

11 Section 1-3 Short Title

12 This document shall be known and may be cited as the Town of Fairhaven Charter. For
13 the purposes of this document, it is referred to as “the Charter.”

14 Section 1-4 Division of Powers

15 The administration of the fiscal, prudential, and municipal affairs of the Town of
16 Fairhaven, with the government thereof, shall be vested in a representative Town Meeting-Select
17 Board-Town Administrator form of government.

18 Section 1-5 Powers of the Town

19 Subject only to express limitations on the exercise of any power or function by a
20 municipal government under the constitution or general laws of the Commonwealth of
21 Massachusetts, it is the intent and purpose of the voters of the Town of Fairhaven, through the
22 adoption of this charter and its amendments to secure for the town all the powers possible to
23 secure under the constitution and statutes of the Commonwealth of Massachusetts, as fully as
24 completely as though each such power were specifically and individually enumerated herein.

25 Section 1-6 Interpretation of Powers

26 The powers of the Town under the Charter shall be construed and interpreted liberally in
27 favor of the Town, and the specific mention of any particular power is not intended to limit in
28 any way the general powers of the Town as stated in section 1-5. To the extent that any provision
29 of this charter shall conflict with any local option law adopted by the municipality or special law
30 to the contrary, the provision of this charter shall prevail.

31 Section 1-7 Intergovernmental Relations

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

37 ARTICLE II – EXECUTIVE BRANCH

38 Section 2-1 The Select Board

39 (a) Composition and Term of Office

40 The Select Board, consisting of five (5) members, shall be elected at large for three (3)
41 years with overlapping terms. The general election for the office of Select Board members shall
42 be held in accordance with the provisions of the general laws. Vacancies in the office of Select
43 Board members shall be filled by special election in accordance with provisions of general law.
44 At the first meeting following the annual town election, the Select Board shall elect a Chair,
45 Vice-Chair, and Clerk from among its members.

46 (b) General Powers

47 The executive powers of the Town shall be vested in the Select Board, who shall have all
48 the powers given to Select Boards by the General Laws, except for those executive powers
49 granted to the Town Administrator. The Select Board shall serve as the chief goal-setting and
50 policy-making agency of the Town. The duties and responsibilities for day-to-day management
51 of the Town shall be delegated to the Town Administrator. The Select Board shall act through
52 the adoption of policy directives and guidelines which shall be implemented by the Town

53 Administrator and the officers and employees appointed by, or under the authority of, the board.
54 Individual Select Board members shall not purport to represent the board or exercise the
55 authority of the board except when specifically authorized by the board.

56 The Select Board shall:

57 i. enact rules and regulations to implement policies and to issue interpretations;

58 ii. exercise directly or through the Town Administrator, general supervision over all
59 matters affecting the interests or welfare of the town;

60 iii. appoint the town counsel and any special counsels, and all members of
61 committees, boards and commissions except the finance committee and except those appointed
62 by the moderator, elected by the voters or under the jurisdiction of the School Committee or of
63 the Board of Public Works and may make appointments to temporary posts and committees the
64 board creates for special purposes.

65 iv. have administrative oversight of such boards, committees and commissions
66 appointed by the Select Board;

67 v. have the responsibility and authority for licenses and other quasi-judicial
68 functions as provided by the General Laws and by the by-laws of the Town of Fairhaven;

69 vi. issue all town meeting warrants;

70 vii. review the annual proposed budget submitted by the Town Administrator and
71 make recommendations or changes with respect to the annual proposed budget as the board
72 deems advisable; provided, however, that the Town Administrator shall present the budget to the
73 town meeting, incorporating the decisions of the Select Board;

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

79 Appointments and re-appointments of the Town Administrator shall require affirmation by four
80 (4) members voting in the affirmative; except in the event of a member's recusal three (3) out of
81 four (4) votes shall be required;

82 ix. discipline the Town Administrator at any time, for just cause, including a written
83 notice and opportunity to appeal. Disciplinary action of the Town Administrator shall require
84 affirmation by four (4) members voting in the affirmative; except in the event of a member's
85 recusal which shall require three (3) out of four (4) votes;

86 x. remove the Town Administrator at any time, for just cause, following a formal
87 procedure including a written intent to dismiss, a written response, and a public hearing. The
88 written response and public hearing shall be completed within thirty (30) days after the issuance
89 of a written intent to dismiss, in accordance with the terms of the Town Administrator's contract.
90 Removal of the Town Administrator shall require affirmation by four (4) members voting in the
91 affirmative; except in the event of a member's recusal which shall require three (3) out of four
92 votes (4);

93 xi. set the compensation for the Town Administrator, not to exceed an amount
94 appropriated by the town meeting; and

95 xii. designate a qualified person as acting Town Administrator to perform the duties
96 of the office during any vacancy caused by the Town Administrator's suspension, removal, or
97 resignation; provided, that the appointment of an acting Town Administrator shall be for a period
98 not to exceed 180 days. An additional 180 days may be allotted by vote of the Select Board if no
99 qualified replacement is hired within the initial 180-day time period.

100 Section 2-2 Town Administrator

101 The Town Administrator shall be the chief administrative officer of the town and shall act
102 as the agent for the Select Board. The Town Administrator shall be responsible to the Select
103 Board for coordinating and administering all town affairs under the jurisdiction of the Select
104 Board.

105 The Town Administrator shall have the following powers and duties:

106 (a) Consult and advise the Select Board regarding its policies and implement those
107 policies.

108 (b) Attend all meetings of the Select Board, except when excused, and consult with
109 and advise the Select Board on all matters that come before the board.

110 (c) Attend all town meetings and advise the town meeting on all warrant articles
111 within the jurisdiction of the Select Board.

112 (d) Attend all Finance Committee meetings, except when excused by the Select
113 Board or when the Town Administrator's qualified designee attends; and keep the Finance
114 Committee informed on all matters under the jurisdiction of the Town Administrator that comes
115 before the committee.

116 (e) Manage and direct the daily reporting and supervision of all town departments,
117 boards, committees, and commissions under the jurisdiction of the Select Board, including the
118 Fire Department but subject to section 42 of chapter 48 of the General Laws, and not including
119 the School Department or the Public Works Department.

120 (f) Review and advise the Select Board on all warrants for the payment of town funds
121 as prepared by the Town Accountant in accordance with section 56 of chapter 41 of the General
122 Laws.

123 (g) Except with respect to the School Department, and except with respect to the
124 hiring and firing of employees within the Public Works Department, the Town Administrator
125 shall have day-to-day management and authority over the administration of personnel policies
126 for all town employees. With respect to the Fire Department, such authority shall be subject to
127 section 42 of chapter 48 of the General Laws. The Town Administrator shall act as the Personnel
128 Board under all applicable laws and by-laws, except as otherwise set forth in this act. The Select
129 Board, in cooperation with the Town Administrator, shall recommend by-laws to the Town
130 Meeting, establishing the wages, salaries and other benefits of employees.

131 (h) Administer the town's insurance policies, including the ability to settle claims;
132 provided, however, that all insurance contracts and claims settlements shall receive the prior
133 approval of the Select Board.

134 (i) Subject to the approval of the Select Board, appoint, suspend, and remove
135 department heads under the direct control of the Town Administrator. The Town Administrator
136 shall file a notice of intent for such action with the Select Board. The Select Board shall have
137 fifteen (15) days to affirm or deny the intended action. Within the fifteen (15) day period, the

138 Select Board may, by a majority vote of the full board: (1) affirm such action, in which case the
139 decision becomes effective immediately; or (2) deny such action; provided that if the Select
140 Board does not make a decision to affirm or deny the action, the Town Administrator's decision
141 shall become effective on the fifteenth (15) day. If the Select Board is unable to meet within the
142 fifteen (15) day window, the Chair of the Select Board shall notify the Town Administrator in
143 writing, at which time the appointment, suspension, or removal action shall be delayed and
144 subject to vote by the Select Board at the next scheduled meeting. If the Select Board does not
145 wish to take any action, it shall also notify the Town Administrator of such a decision.

146 (j) Each department head, with the prior approval of the Town Administrator, shall
147 appoint and remove all department staff within their respective departments. All appointments
148 shall be based entirely on merit and fitness. All appointments and terminations shall be
149 conducted in accordance with the General Laws, personnel policies, by-laws of the Town of
150 Fairhaven and any applicable employment contracts; provided, that fire department appointments
151 shall also be subject to section 42 of chapter 48 of the General Laws.

152 (k) With the prior approval of the Select Board, reorganize any departmental
153 structures under the jurisdiction of the Town Administrator. The Town Administrator shall
154 submit to the Select Board the financial details and impacts, alterations to staffing structures and
155 hierarchy, changes to town infrastructure or asset modifications, and any other information the
156 Town Administrator or Select Board sees fit to include.

157 (l) With the prior approval of the Select Board, negotiate all collective bargaining
158 agreements on behalf of the town, except that collective bargaining agreements for the School
159 Department shall be negotiated by the School Committee with the Town Administrator

160 participating and voting as a member. In collective bargaining negotiations with unions
161 representing employees in the Public Works Department, the town will be represented by the
162 Town Administrator, the Superintendent of Public Works and a member of the Board of Public
163 Works. The Town Administrator may seek the assistance of labor counsel if the Town
164 Administrator deems it necessary to effect successful negotiations. All final agreements must be
165 approved and executed by the Select Board, and funded by vote of Town Meeting.

166 (m) With the prior approval of the Select Board, establish compensation packages for
167 all town employees under the jurisdiction of the Town Administrator, not subject to a collective
168 bargaining agreement. Such compensation shall not exceed the amount appropriated therefor by
169 Town Meeting and shall be subject to all applicable laws and by-laws.

170 (n) Submit to the Select Board and Finance Committee, a written proposed budget for
171 town government for the ensuing fiscal year, due annually, no later than December 31st. The
172 proposed budget shall detail all estimated revenue from all sources, and all proposed
173 expenditures, including debt service for the previous, current, and ensuing five (5) years. The
174 proposed budget shall include proposed expenditures for both current operations and capital
175 projects during the ensuing year, detailed by department, committee, agency, financial
176 justification, purpose and position and proposed financing methods. The proposed budget shall
177 include estimated revenues and free cash available at the close of the fiscal year, including
178 estimated balances in special accounts. The town may, by by-law, establish additional financial
179 information and reports to be provided by the Town Administrator. To assist the Town
180 Administrator in preparing the proposed annual budget of revenue and expenditures, the finance
181 director, all boards, officers and committees of the town, including the School Committee and
182 the Board of Public Works, shall furnish to the Town Administrator, in a writing in such a form

183 as the Town Administrator shall establish, all relevant information in their possession, including
184 a detailed estimate of the appropriations required and any available funds.

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

187 (p) In consultation with the Select Board, establish calendar dates by which the
188 proposed budget, revenue statement and tax rate estimate are to be submitted to the Select Board
189 and the Finance Committee.

190 (q) Submit annually to the Select Board and Finance Committee, a 5-year Capital
191 Improvements Program, or the same as approved by a formal Capital Planning Committee, to
192 include: (i) a list of all capital improvements and supporting data proposed to be undertaken
193 during the next five (5) years; (ii) cost estimates, methods of financing, and recommended time
194 schedule; (iii) the estimated annual cost of operating and maintaining any facility to be
195 constructed or acquired, and (iv) identified return on investment for capital expenditures as
196 applicable.

197 (r) Advise the Select Board at least monthly, of all departmental year-to-date
198 revenues and expenditures.

199 (s) Direct action as deemed necessary to ensure that all operating and capital budgets
200 under the direct control of the Town Administrator are maintained in accordance with the town
201 meeting vote that approved those budgets and coordinate efforts with the governing bodies of
202 those departments not under the direct supervision of the Town Administrator to ensure that
203 those operating and capital budgets are maintained in accordance with the town meeting vote that
204 approved those budgets.

205 (t) Keep and complete records of the office of the Town Administrator and annually
206 submit to the Select Board, unless requested to do so more frequently, a full report of the
207 operations of the office.

208 (u) With direction and guidance from the Select Board, coordinate the operational
209 and strategic planning of the town.

210 (v) Serve as the Procurement Officer for the town, establish and enforce procurement
211 policies and guidelines in accordance with applicable state laws.

212 (w) Manage and oversee the use, maintenance, security and, with the prior approval of
213 the Select Board, regulate the rental for all the town buildings, properties and facilities, including
214 information technology, except those under the jurisdiction of the School Department or the
215 Public Works Department, unless so requested by either of those departments.

216 (x) Prepare the application of all town warrants for approval by the Select Board.

217 (y) With the prior approval of the Select Board, prosecute, defend and settle all
218 litigation for or against the town or its officers and employees, subject to such appropriation as
219 may be necessary to effect settlement, except for litigation involving only the School Department
220 or the Public Works Department, unless so requested by either of those departments.

221 (z) Delegate and direct any qualified town official or employee to carry out any duty
222 that is within the authority of the Town Administrator.

223 (aa) During a temporary absence, with the prior approval of the Select Board, the
224 Town Administrator may designate a qualified administrative employee or officer to exercise the
225 powers and perform the duties of the Town Administrator.

226 (bb) Perform any other duties or tasks assigned by the Select Board, assigned by the
227 town meeting or mandated by applicable state law.

228 (cc) The Town Administrator of the Town of Fairhaven shall have access to all
229 municipal books, papers and documents or information necessary for the proper performance of
230 the duties of the Town Administrator. The Town Administrator may, without notice, cause the
231 affairs of any division or department under the Town Administrator's supervision, or the conduct
232 of any officer or employee thereof, to be examined.

233 (dd) With the prior approval of the Select Board, sell or dispose of town property or
234 assets. The Town Administrator shall work collaboratively with departments, committees, and
235 boards by notifying in writing any town items declared surplus that can be first utilized by
236 another department, committee, or board, and wait a minimum of thirty (30) days before said
237 surplus is released for sale or disposal.

238 (ee) Except as otherwise authorized by general law or special law, the town
239 administrator may not enter, sign, nor bind the town to any agreement or contract regardless of
240 the length of contract, and with or without an auto-renew clause, if the total value of the contract
241 exceeds \$50,000.00 USD, without the prior approval of the Select Board.

242 ARTICLE III – ELECTED OFFICERS

243 Section 3-1 Elected Offices

244 The following offices shall be filled by vote at the annual town election, or by special
245 election as required:

246

	Number of Members	Length of Term (Years)
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247	Select Board	5	3
248	Board of Public Works	5	3
249	Planning Board	9	3
250	School Committee	5	3
251	Housing Authority	5	5
252	Town Moderator	1	3
253	Board of Health	3	3
254	Commissioners of Trust Funds 3		3
255	Town Clerk	1	3

256 Members of elected offices shall perform the duties and have the authority set forth in the
257 constitution and general laws, this charter, town by-laws, statutes and applicable regulations of
258 other government jurisdictions.

259 The number of signatures of voters required to place the name of a candidate for any
260 town office on the official ballot for use at any town election shall be as specified in the general
261 laws. When a vacancy occurs in any elected office, the office shall be filled in accordance with
262 the general laws.

263 Section 3-2 Planning Board

264 There shall be a Planning Board consisting of nine (9) members elected to overlapping
265 three (3)-year terms of office with all the powers and duties provided to planning boards under
266 the General Laws.

267 Section 3-3 Housing Authority

268 There shall be a Housing Authority consisting of five (5) members, one of whom shall be
269 appointed under authority of the Commonwealth and four of whom shall be elected. All
270 members shall serve five (5) year overlapping terms.

271 The purpose of the Housing Authority is to provide quality, affordable housing for low to
272 moderate income, elderly, disabled individuals and families.

273 Section 3-4 Board of Health

274 The Board of Health shall consist of three (3) members elected for three (3) year
275 overlapping terms. The Board of Health shall appoint and supervise a Health Agent in
276 accordance with the Personnel Bylaw and regulations and policies adopted thereunder. The
277 Health Agent shall be subject to the Personnel Bylaw unless exempted as provided therein. The
278 Board of Health shall comply with all state and federal regulations in their duties and
279 responsibilities. These include, but are not limited to, control of communicable diseases, control
280 over dairy products, standards and regulations for food service establishments, sewage systems,
281 dumping, littering and related inspections and fees.

282 Section 3-5 Town Clerk

283 The Town Clerk is a primary provider of information and quality services to the
284 community and works cooperatively and in coordination with the varied departments and groups

285 in compliance with state and local laws. The Town Clerk is the official record keeper of the
286 municipality.

287 The Town Clerk shall be elected for a three (3) year term and receive a salary.

288 Section 3-6 Board of Public Works

289 (a) The Board of Public Works shall consist of five (5) members elected at large.
290 Upon the expiration of the term of any member, a successor shall be elected at an annual Town
291 election to serve for a term of three (3) years. In all cases the members of the Board of Public
292 Works shall serve until their successors are qualified. The members of the Board of Public
293 Works shall, after each annual Town election, elect from among its members a Chairperson and
294 a Clerk for the ensuing year. In the case of a vacancy, the Select Board shall, within thirty (30)
295 days, fill such vacancy until the next annual Town election, when a member shall be elected to
296 fill an unexpired term resulting from such vacancy. No person shall serve on the Board of Public
297 Works who holds an elected or appointed office in said Town other than Town meeting member
298 and no employee of the Town shall serve on the board.

299 (b) The Board of Public Works shall have all the powers and duties now and from
300 time to time vested by general or special laws, Town charter or Town by-laws in the following
301 boards, departments and offices having corresponding powers and duties in the Town of
302 Fairhaven, to wit: Highway Department, Water and Sewer Commissioners, Park Commissioners,
303 Cemetery Commissioners, refuse and garbage collection, and with respect to construction and
304 maintenance only, the Town dump.

305 The Board of Public Works shall have such additional powers with respect to the
306 furnishing of engineering services for public works projects and the performance of such duties

307 of any other boards, departments and offices of the Town as may be reasonably related to the
308 duties and responsibilities of a Board of Public Works, as the Town may, from time to time, by
309 by-law provide, and other provisions of law to the contrary notwithstanding.

310 (c) The Board of Public Works shall appoint and fix the compensation of a
311 Superintendent of Public Works who shall exercise and perform, under the supervision and
312 direction of the Board of Public Works, such powers, rights and duties assigned to it under
313 sections (b) and (c) as it may, from time to time, designate. The superintendent shall be
314 responsible for the efficient exercise and performance of such powers, rights and duties and shall
315 hold office subject to the will of the Board of Public Works and shall not be subject to any
316 provisions of chapter thirty-one of the general laws. The superintendent shall be specially fitted
317 by education, training, and experience to perform the duties of said office and need not be a
318 resident of the town.

319 During tenure the Superintendent shall hold no elective office nor shall be engaged in any
320 other business or occupation. The superintendent shall give to the Town a bond with a surety
321 company authorized to transact business in the commonwealth as surety, for the faithful
322 performance of their duties, in such sum and upon such conditions as the board may require, and
323 shall, subject to the approval of the Board of Public Works, appoint such assistants, agents and
324 employees as the exercise and performance of the superintendent's powers, rights and duties may
325 require. The Superintendent shall keep full and complete records of the doings of the office and
326 render to the Board of Public Works as often as it may require a full report of all operations
327 under the Superintendent's control during the period reported upon; and annually, and from time
328 to time as required by the Board of Public Works, the Superintendent shall make a synopsis of
329 such reports for publication. The Superintendent shall keep the Board of Public Works fully

330 advised as to the needs of the Town within the scope of the superintendent's duties and shall
331 furnish to the Board of Public Works each year upon its request a carefully prepared and detailed
332 estimate in writing of the appropriations required during the next succeeding fiscal year for the
333 proper exercise and performance of all said powers, rights and duties.

334 (d) The Board of Public Works shall appoint and fix the compensation of the
335 Superintendent of Highways who shall exercise and perform, under the supervision and direction
336 of the board, such powers, rights and duties, assigned to it under sections (b) and (d) as it may,
337 from time to time, designate. The Superintendent of Highways shall be responsible for the
338 efficient exercise and performance of such powers, rights and duties and shall hold office subject
339 to the will of the Board of Public Works and shall not be subject to any provisions of chapter
340 thirty-one of the General Laws. The superintendent of highways shall be specially fitted by
341 education, training, and experience to perform the duties of said office and need not be a resident
342 of the town. During tenure the Superintendent of Highways shall hold no elective or other
343 appointive office, nor shall engage in any other business or occupation.

344 Section 3-7 Commission of Trust Funds

345 There shall be a Commission of Trust Funds consisting of three (3) members elected for
346 overlapping three (3) year terms. The Commission of Trust Funds shall have the management of
347 all trust funds given or bequeathed for the benefit of the town or the inhabitants thereof, unless
348 the donor in making the gift or bequest shall provide otherwise and shall have such other duties
349 as assigned to commissions of trust funds by the general laws.

350 Section 3-8 Recall of Elected Officials

351 (a) Any person who holds an elected office in the Town of Fairhaven, with more than
352 six months remaining in the term of such office on the date of filing of the affidavit, referred to
353 in section (b), may be recalled from office by the registered voters in said town, in the manner
354 herein provided.

355 (b) Fifty (50) or more voters of the Town of Fairhaven may file with the Town Clerk
356 of said Town an affidavit containing the name of the officer whose recall is sought and a
357 statement of the grounds upon which the petition is based. The Town Clerk shall deliver to the
358 said voters petition blanks demanding said recall, printed forms of which he shall keep available.
359 Said blanks may be completed by writing or typewriting; they shall be addressed to the Select
360 Board; they shall contain the names of the persons who filed the affidavit and the grounds for
361 recall as stated in the affidavit; they shall demand the election of a successor to the office; and
362 they shall be dated and signed by the Town Clerk. A copy of the petition shall be kept on file in
363 the office of the Town Clerk in a record book maintained for that purpose. The recall petitions
364 shall be returned and filed in the office of the Town Clerk within fourteen (14) days following
365 the date the petitions were issued, signed by at least twenty percent (20%) of the total number of
366 registered voters duly recorded on the registration list of the Town Clerk as of the preceding
367 Town election. The Town Clerk shall, within twenty-five (25) hours following such filing,
368 submit said petitions to the registrars of voters who shall, within seven (7) days certify thereon
369 the number of signatures which are names of registered voters of the town.

370 (c) If the petition shall be certified by the Registrars of Voters to be sufficient, the
371 Town Clerk shall forthwith submit the same to the Select Board. Upon its receipt of the certified
372 petition, the Select Board shall within forty-eight (48) hours give written notice of said petition
373 and certificate to the person whose recall is sought. If said officer does not resign the office

374 within five (5) days following delivery of the said notice, the Select Board shall order an election
375 to be held not less than sixty (60) nor more than ninety (90) days after the date of the Registrars'
376 certificate of the sufficiency of the petition. If, however, another Town election is to occur within
377 one hundred (100) days after the date of the certificate, the Select Board shall hold the recall
378 election on the date of said other Town election. If a vacancy occurs in the office after a recall
379 election has been ordered, the election shall nevertheless proceed as provided in this section, but
380 only the ballots for candidates need be counted.

381 (d) An officer whose recall is sought may be a candidate at the recall election. The
382 nomination of candidates, the publication of the warrant for the recall election, and the conduct
383 of the same shall all be in accordance with the provisions of laws relating to elections, unless
384 otherwise provided in this act.

385 (e) The incumbent shall continue to perform the duties of the office until the recall
386 election. If the incumbent is not recalled in the election the incumbent shall continue in office for
387 the remainder of the unexpired term, subject to recall as before, except as provided herein. If the
388 officer is recalled in the election, the incumbent shall be deemed removed upon the qualification
389 of the successor who shall hold office during the unexpired term. If the successor fails to qualify
390 within five (5) days after receiving notification of election, the incumbent shall thereupon be
391 deemed removed and the office vacant.

392 (f) Ballots used at a recall election shall contain the following propositions in the
393 order indicated:

- 394 i. For the recall of (name of officer)
- 395 ii. Against the recall of (name of officer)

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

402 (g) No recall petition shall be filed against an officer within six (6) months after
403 taking office, or in the case of an officer subjected to a recall election and not recalled thereby
404 until at least six months after the election at which the recall was submitted to the voters.

405 ARTICLE IV – LEGISLATIVE BRANCH

406 Section 4-1 Representative Town Meeting

407 (a) The territory of the Town is divided into not less than four (4) nor more than eight
408 (8) voting precincts, each of which shall be plainly designated and shall contain not less than five
409 hundred registered voters. The precincts shall be so established as to consist of compact and
410 contiguous territory, to be bounded as far as possible by the center line of known streets and
411 ways or by other well-defined limits. Their boundaries shall be reviewed and, if need be, wholly
412 or partially revised by the districting board in November, once in five (5) years, or in November
413 of any year when so directed by a vote of a representative Town meeting not later than October
414 thirtieth of that year.

415 The Town Clerk shall notify every registered voter affected by a change in precinct
416 boundaries or a change in polling place. The Districting Board shall, within twenty (20) days
417 after any establishment or revision of the precincts, but not later than December twentieth of that

418 year, file a report of their doings with the Town Clerk, the Registrars of Voters and the
419 Assessors, with a map or maps or descriptions of the precincts and the names and residences of
420 the registered voters therein. The Districting Board shall also cause to be posted in the Town
421 Hall a map or maps or description of the precincts as established or revised from time to time,
422 with the names and residences of the registered voters therein; and it shall also cause to be posted
423 in at least one public place in each precinct a map or description of that precinct with the names
424 and residences of the registered voters therein.

425 The division of the Town into voting precincts and any revision of such precincts shall
426 take effect upon the date of the filing of the report thereof by the Districting Board with the
427 Town Clerk. Whenever the precincts are established or revised, the Town Clerk shall forthwith
428 give written notice thereof to the state secretary, stating the number and designation of the
429 precincts. Meetings of the registered voters of the several precincts for elections, for primaries,
430 and for voting upon any question to be submitted to all the voters of the town, shall be held on
431 the same day and at the same hour and at such place or places within the Town as the Select
432 Board shall in the warrant for such meeting direct. The provisions of the general laws relating to
433 precinct voting at elections, so far as the same are not inconsistent with this act, shall apply to all
434 elections and primaries in the Town upon the establishment of voting precincts as hereinbefore
435 provided.

436 (b) Other than the officers designated in section (c) as Town Meeting Members-at-
437 Large, the representative Town meeting membership shall in each precinct consist of the largest
438 number divisible by three (3) which will not exceed two and seven tenths' percent (2.7%) of the
439 persons residing in the precinct. The registered voters in every precinct shall, at a special election
440 called for that purpose, to be held not sooner than thirty (30) days after the establishment of

441 precincts under this act, or at the first annual Town election held after the establishment thereof,
442 and at the first annual Town election following any precinct revision where the number of
443 precincts is changed, conformably to the laws relative to elections not inconsistent with this act,
444 elect by ballot the number of registered voters in the precinct, other than the officers designated
445 in section (c) as Town Meeting Members-at-Large, provided for in the first sentence of this
446 section, to be Town meeting members of the town. The first third in order of votes received of
447 members so elected shall serve three (3) years, the second third in such order shall serve two (2)
448 years, and the remaining third in such order shall serve one (1) year, from the day of the annual
449 Town meeting, or, in case such election is at a special meeting, from the next annual Town
450 meeting; in case of a tie vote affecting the division into thirds, as aforesaid, the members elected
451 from the precinct shall by ballot determine the same; and thereafter, except as is otherwise
452 provided herein, at each annual Town election the registered voters of each precinct shall, in like
453 manner, elect one third of the number of Town meeting members to which that precinct is
454 entitled for the term of three (3) years, and shall at such election fill for the unexpired term or
455 terms any vacancy or vacancies then existing in the number of Town Meeting Members in their
456 respective precincts.

457 The ballot shall include a separate line for each available term length, either three (3)
458 years, two (2) years, or one (1) year. Voters may write in a candidate's name under the
459 appropriate term length to which they wish to elect the candidate. Write-in votes will be counted
460 only for the term specified on the corresponding ballot line. If a voter writes-in a candidate's
461 name on multiple lines for separate term lengths, the vote shall only be counted for the lesser of
462 the term lengths. Upon every revision of the precincts where the number of precincts is changed,
463 the terms of office of all Town meeting members from every precinct shall cease upon the

464 election of their successors. The Town Clerk shall, after every election of Town Meeting
465 Members, forthwith notify each member by mail of their election.

466 (c) Any representative Town Meeting held under the provisions of this act, except as
467 otherwise provided herein, shall be limited to the voters elected under section (b), together with
468 the following, designated Town Meeting Members-at-Large; namely, any member of the general
469 court of the commonwealth who is a resident of the town, the moderator, the Town Clerk, the
470 members of the Select Board, the members of the Board of Health, the members of the School
471 Committee, the members of the Planning Board, the members of the Board of Public Works, the
472 Commissioners of Trust Funds, the elected members of the Housing Authority, and the chair of
473 the Finance Committee. All the foregoing shall be included within the general designation of
474 Town Meeting Members. The Town Clerk shall notify the Town Meeting Members of the time
475 and place at which representative Town Meetings are to be held, the notices to be sent by mail at
476 least seven (7) days before the meeting.

477 The Town Meeting Members, as aforesaid, shall be the judges of the election and
478 qualifications of their members. One hundred (100) Town Meeting Members shall constitute a
479 quorum for doing business; but a less number may organize temporarily and may adjourn from
480 time to time, and at an adjourned meeting seventy-five (75) Town meeting members shall
481 constitute a quorum. Notice of every adjourned representative Town meeting shall be posted by
482 the Town Clerk in at least one (1) public place in each precinct. The notices shall state briefly the
483 business to be acted upon at any meeting and shall include notice of any proposed
484 reconsideration. All Town Meetings shall be public. The Town Meeting Members as such shall
485 receive no compensation. Subject to such conditions as may be determined from time to time by
486 the representative Town Meeting, any voter of the Town who is not a Town Meeting Member

487 may speak at any representative Town Meeting, but shall not vote. A Town Meeting Member
488 may resign by filing a written resignation with the Town Clerk, and such resignation shall take
489 effect upon the date of such filing. No elected member whose official position entitles them to be
490 a member at large shall act as a member at large during such time as he remains an elected
491 member. A Town Meeting Member who removes from the Town shall cease to be a Town
492 Meeting Member and an elected Town Meeting Member who removes from one precinct to
493 another or is so removed by a revision of precincts shall not retain membership after the next
494 annual election.

495 (d) Nomination of candidates for Town Meeting Members to be elected under this act
496 shall be made by nomination papers signed by not less than ten (10) voters of the precinct in
497 which the candidate resides, and filed with the Town Clerk at least twenty-eight (28) days before
498 the election; provided, that any Town Meeting Member may become a candidate for reelection
499 by giving written notice thereof to the Town Clerk at least forty-nine (49) days before election.
500 No nomination papers shall be valid in respect to any candidate whose written acceptance is not
501 thereon or attached thereto when filed.

502 (e) The articles in the warrant for every Town Meeting, so far as they relate to the
503 election of the Town officers, Town meeting members, and, as herein provided, to referenda and
504 all matters to be acted upon and determined by ballot of the town, shall be acted upon and
505 determined by the voters in their respective meetings by precinct. All other articles in the warrant
506 for any Town Meeting, beginning with the elected, shall be acted upon and determined
507 exclusively by Town Meeting Members at a meeting to be held at such time and place as shall be
508 set forth by the Select Board in the warrant for the meeting, subject to the referendum provided
509 for by section (h).

510 (f) Any vacancy in the full number of Town Meeting Members from any precinct,
511 whether arising from a failure of the registered voters thereof to elect, or from any other cause,
512 may be filled until the next annual election by the remaining elected Town Meeting Members of
513 the precinct from among the registered voters thereof. Notice of any vacancy shall be given by
514 the Town Clerk to the remaining members from the precinct in which the vacancy or vacancies
515 exist and the Town Clerk shall call a special meeting of such members prior to any annual or
516 special Town Meeting for the purpose of filling any vacancy. The Town Clerk shall cause to be
517 mailed to every such member, not less than seven (7) days before the time set for the meeting, a
518 notice specifying the object, time and place of the meeting. At the said meeting one third of the
519 elected members from such precinct shall constitute a quorum, and they shall elect from their
520 own number a Chair and a Clerk. The choice to fill any vacancy shall be by written ballot, unless
521 waived by a two-thirds vote of those present, and a majority of the votes cast shall be required
522 for a choice. The Chair and Clerk shall count the ballots and shall make a certificate of the
523 choice and forthwith file the same with the Town Clerk, together with a written acceptance by
524 the member or members so chosen who shall thereupon be deemed elected and qualified a Town
525 Meeting Member or Members, subject to the right of all the Town Meeting Members to judge of
526 the election and qualifications of the members as set forth in section (c).

527 (g) A vote passed at any representative Town Meeting authorizing the expenditure of
528 twenty thousand dollars (\$20,000) or more, as an appropriation other than Town charges, shall
529 not be operative until after the expiration of five (5) days, exclusive of Sundays and holidays,
530 from the dissolution of the meeting. If, within said five (5) days a petition, signed by not less
531 than five (5%) percent of the registered voters of each precinct, containing their names and
532 addresses as they appear on the list of registered voters, is filed with the Select Board requesting

533 that the question or questions involved in such vote be submitted to the voters of the Town at
534 large, then the Select Board, within fourteen (14) days after the filing of the petition, shall call a
535 special meeting, which shall be held within ten (10) days after the issuing of the call, for the
536 purpose of presenting to the voters at large the question or questions so involved. The polls shall
537 be opened at two o'clock in the afternoon and shall be closed not earlier than eight o'clock in the
538 evening, and all votes upon any questions so submitted shall be taken by ballot, and the check
539 list shall be used in the several precinct meetings in the same manner as in the election of Town
540 officers. The questions so submitted shall be determined by a majority vote of the registered
541 voters of the Town voting thereon, but no action of the representative Town Meeting shall be
542 reversed unless at least twenty percent (20%) of the registered voters shall vote to disapprove
543 such action. The questions so submitted shall be stated upon the ballot in substantially the same
544 language and form in which they were stated when presented to said representative Town
545 meeting by the moderator as appears from the records of the said meeting. If such petition is not
546 filed within the said period of five (5) days, the vote of the representative Town meeting shall
547 become operative upon the expiration of the said period.

548 (h) The Town of Fairhaven, after the acceptance of this act, shall have the capacity to
549 act through and be bound by its said Town meeting Members who shall, when convened from
550 time to time as herein provided, constitute representative Town Meetings; and the representative
551 Town Meetings shall exercise exclusively, so far as will conform to the provisions of this act, all
552 powers vested in the municipal corporation. Action in conformity with all provisions of law now
553 or hereafter applicable to the transaction of Town affairs in Town Meetings shall, when taken by
554 any representative Town Meeting in accordance with the provisions of this act, have the same

555 force and effect as if such action had been taken in a Town Meeting open to all the voters of the
556 Town is heretofore organized and conducted.

557 (i) The representative Town Meeting may make such rules consistent with general
558 law as may be considered necessary for conducting its meetings.

559 (j) The representative Town Meeting may appoint such committees for investigation
560 and report as it may consider necessary.

561 (k) The provisions of Chapter forty-four of the General Laws shall continue to apply
562 in the Town of Fairhaven notwithstanding the provisions of this Charter.

563 (l) This Charter shall not abridge the right of the inhabitants of Fairhaven to hold
564 general meetings, as that right is secured to them by the constitution of this commonwealth; nor
565 shall this act confer upon any representative Town Meeting in Fairhaven the power finally to
566 commit the Town to any measure affecting its municipal existence or changing its government,
567 without action thereon by the voters of the Town at large, using the ballot and the check list
568 therefor.

569 Section 4-2 Town Moderator

570 (a) A Town Moderator shall be elected by ballot for a three (3) year term, and shall
571 serve as moderator of all Town meetings, except as otherwise provided by law, until a successor
572 is elected and qualified. Nominations for and election of a moderator shall be as in the case of
573 other elective Town officers, and any vacancy in the office may be filled by the Town Meeting
574 Members at a meeting held for that purpose.

575 (b) At any time during or within thirty (30) days prior to a Town Meeting, the
576 moderator may appoint an Assistant Town Moderator who may preside at all or a portion of the
577 meeting and otherwise act in the stead of the Moderator. When so designated, the Assistant
578 Town Moderator shall have all the powers vested by law in the Moderator to preside at and
579 regulate the proceedings in the meeting.

580 (c) If a Moderator is absent, a moderator pro tempore may be elected by the Town
581 Meeting Members.

582 Section 4-3 Town Meeting Warrants

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

587 (b) Initiation of Warrant Articles – Registered voters of the town may secure
588 inclusion of an article on the warrant by written petition submitted in accordance with the
589 general laws.

590 (c) Warrants – After voting to open any Annual Town Meeting or Special Town
591 Meeting Warrant, the Select Board, within the ensuing twenty-four (24) hours, shall post notice
592 of such vote on the Town’s website. The warrant for any Town Meeting shall be served by
593 posting a printed copy thereof at or near the front entrance of the Town Hall and at or near the
594 public entrances of all the polling places in the Town at least seven (7) days before the date of
595 said meeting. The notice shall identify the opening and closing dates of the Warrant and shall
596 identify the place or places where citizen petitioned articles may be submitted. No Annual or

597 Special Town Meeting Warrant may close until such notice has been posted for at least ten (10)
598 calendar days. Subsequent to the posted Warrant opening and closing dates, the Select Board
599 may vote to reopen and close the Warrant in order to receive additional Warrant Articles.

600 (d) Circulation of Warrant – Annual and Special Town Meeting Warrants shall be
601 posted: on the Town Clerk bulletin board; on the Town website; and in the local media. No later
602 than twenty-one (21) days before the Annual Town Meeting and any Special Town meeting, the
603 Select Board shall deliver the Warrant to the Finance Committee and Moderator.

604 ARTICLE V – FINANCE

605 Section 5-1 Finance Committee

606 (a) Appointment of members; terms. There shall be a Finance Committee consisting
607 of thirteen (13) members, two (2) members to be appointed from each voting precinct in the
608 manner and at the time hereinafter prescribed, and one (1) member to be appointed at large.
609 There shall be appointed each year by the Chair of each precinct one (1) member from such
610 precinct to serve for a period of two (2) years. The Moderator, Chair of the Select Board, and
611 Chair of the Finance Committee for the preceding year shall, annually at a meeting called for the
612 purpose, appoint one (1) member at large, who shall serve for a period of one (1) year.

613 (b) Organizational meeting. The Finance Committee shall as soon as convenient after
614 notification of appointment, and at least within two months after the Annual Town Meeting,
615 meet and perfect an organization by the election of a Chair and a Clerk who shall serve until their
616 successors are elected.

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

621 (d) Compensation. The Finance Committee shall serve without pay but may be
622 reimbursed for all necessary expenses incurred in performance of its duties upon approval of
623 such expenditures by the Select Board. Such expense when incurred and approved for payment
624 by the Select Board shall be charged to the Town Meeting Expense Account.

625 (e) Filling of vacancies. Vacancies among the members of the Finance Committee
626 which may occur by death, resignation or removal from the town shall be filled in the manner
627 heretofore specified by appointment for the unexpired term only.

628 (f) Hearings. The Finance Committee shall, upon written request from any petitioner
629 on any article on the warrant, grant such petitioner a hearing upon said article before final action
630 on same is determined.

631 (g) Annual report. The Finance Committee shall, annually, not later than one week
632 prior to the time fixed for the Annual Town Meeting, prepare and publish for the benefit of Town
633 Meeting Members and voters and distribute to the same its recommendations as to the several
634 articles on the warrant coming under its jurisdiction, and the amounts required to be appropriated
635 to cover the expenditures of the various departments of the town for the next fiscal year. It shall
636 also report, in detail, the amounts of maturing bonds or notes and the amount required for interest
637 or other outstanding indebtedness of the town. It shall also at the same time prepare and publish a
638 comparative statement, in parallel columns, of each department of funds and the expenditures

639 thereof for the previous two (2) years. It shall at the same time report and publish estimates of
640 revenues from all sources, as far as possible, with the probable amount to be levied and raised by
641 taxation to defray the expenses and liabilities of the town for the next ensuing fiscal year.

642 (h) Eligibility of members. No person shall be eligible to serve on the Finance
643 Committee who is an employee of the town or who holds an elective or appointive position in
644 the town government, whether or not the employment or position carries any salary or
645 compensation, except Town Meeting Members elected under section 4-1 of this Charter and
646 except appointed members of any advisory or ad hoc committees.

647 Section 5-2 Director of Finance

648 (a) Director of Finance; Divisions. There shall be a Department of Finance which
649 will be under the direction of the Director of Finance. The Department of Finance shall provide
650 personnel and equipment to the offices of the Treasurer, Board of Assessors, Town Accountant,
651 Town Collector, which shall be the Divisions of the Department of Finance. The Director of
652 Finance will coordinate the activities of the various Divisions of the Department of Finance and,
653 subject to applicable law, shall supervise the operation of those Divisions.

654 (b) Appointment of Director; duties and qualifications. The Director of Finance shall
655 be appointed by the Select Board and may be removed at its discretion. The Director of Finance
656 shall be sworn to the faithful performance of the duties of the office. During the time that
657 Director of Finance holds office, the Director of Finance shall hold no elective Town office, but
658 the Director of Finance may be appointed by the Select Board or, with its approval, by any other
659 Town officer, board, committee or commission to any other Town office or position consistent
660 with the office. The Director of Finance shall receive such aggregate compensation, not

661 exceeding the amount appropriated therefore, as the Select Board may determine. The Director
662 of Finance shall act by and for the Select Board in any matter which it may assign to the office
663 relating to the administration of the financial affairs of the Town or of any Town office or
664 department under its supervision and control or, with the prior approval of the Select Board, may
665 perform such other duties as may be requested of the Director of Finance by any other Town
666 officer, board, committee or commission.

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

669 The Director of Finance shall be responsible for assisting the Town Administrator in the
670 preparation of the budget and the long-range strategic financial plan.

671 Section 5-3 Fiscal Year

672 The Town of Fairhaven shall operate on a fiscal year, commencing on July 1 and
673 terminating on June 30 of each year, unless another period is required by general law.

674 Section 5-4 Capital Planning

675 (a) A Capital Improvement Program is established for land purchases, construction
676 and renovation of buildings, major equipment and machinery purchases, road and drainage
677 reconstruction, and the construction and reconstruction of special facilities such as local school
678 projects, sewer and water mains, and water treatment and sewage disposal facilities.

679 (b) There shall be a Capital Planning Committee ("Committee") appointed by the
680 Select Board and consisting of seven (7) voting members, and three or more nonvoting ex officio
681 members, to assist and advise the Town Administrator in preparing a five (5) year Capital

682 Improvement Plan. The voting members shall serve terms of three (3) years. Initially two (2)
683 voting members shall serve for one (1) year, two (2) for two (2) years, and three (3) for three (3)
684 years, and they may be reappointed. The Committee shall be comprised as follows:

685 i. Voting members:

686 i. One (1) member of the Board of Public Works or an appointee thereof;

687 ii. A person who is a member of the Fairhaven local School Committee or an
688 appointee thereof;

689 iii. A resident of Fairhaven who represents the business, financial, or banking
690 community;

691 iv. A resident of Fairhaven with experience in the management of construction
692 activities;

693 v. A resident of Fairhaven knowledgeable about the Town's needs in the areas of
694 open space and recreation facilities or activities;

695 vi. The Finance Director;

696 vii. The Town Administrator; and

697 ii. Such other nonvoting ex officio members as the Select Board deems appropriate
698 from time to time.

699 Section 5-5 Board of Assessors

700 (a) The Board of Assessors shall consist of three (3) members, appointed by the
701 Select Board to serve on a part-time basis for a term of three (3) years.

702 (b) The members of the Board of Assessors shall be responsible for hearing appeals
703 and deciding abatements and shall have such other duties as prescribed by the general laws and
704 bylaws.

705 ARTICLE VI – SCHOOL COMMITTEE

706 (a) Term of Office There shall be a duly elected School Committee consisting of five
707 (5) members who shall be elected for three (3) year overlapping terms.

708 (b) Reports To – Voters. The School Committee is responsible to the voters and
709 residents of the town. The School Committee shall report on the state of the schools directly to
710 Town Meeting and shall also meet jointly with the Select Board, at least once each calendar year
711 for the purpose of sharing information.

712 (c) Powers & Authority. The School Committee shall have all powers and duties
713 which are conferred on school committees by general law, this Charter, or town bylaws, that are
714 not inconsistent with the granting of powers conferred by the General Laws. The powers and
715 duties of the School Committee shall include the following:

716 i. To appoint a superintendent of the schools who shall manage the school system in
717 a fashion consistent with law and the policy determinations of the School Committee and, upon
718 the recommendation of the Superintendent, the School Committee may also establish and
719 appoint positions of assistant or associate superintendents as provided by law.

720 ii. To appoint the school business administrator, administrator of special education,
721 school physicians and/or registered nurses, supervisors of attendance, and legal counsel.

722 iii. To establish educational goals and policies for the schools in the Town consistent
723 with the requirements of law and statewide goals and standards established by the State Board of
724 Education.

725 iv. To propose and to oversee the administration of an annual operating budget for
726 the School Department, subject to appropriation by the Town Meeting.

727 v. To have general charge and superintendence of all school buildings and grounds
728 and furnish all school buildings with proper fixtures, furniture and equipment.

729 ARTICLE VII - GENERAL PROVISIONS

730 Section 7-1 Charter Changes

731 (a) In General - This Charter may be replaced, revised or amended in accordance
732 with the procedures made available by Article LXXXIX (eighty-nine) of the amendments to the
733 State Constitution and any legislation enacted to implement said amendment.

734 (b) Periodic Review. Within three (3) years of adoption of this Charter (or earlier if a
735 serious problem has arisen) the Select Board shall direct the Town Moderator to appoint a
736 committee to review and suggest any changes needed to the charter, referred to as the Initial
737 review. The committee shall consist of seven (7) residents of the Town of Fairhaven, excluding
738 Town employees or members of the Select Board. The committee shall report and recommend
739 any changes at the next subsequent town meeting. After the Initial review, this Charter shall be
740 reviewed every nine (9) years in the same manner described above.

741 Section 7-2 Severability

742 The provisions of the Charter are severable. If any provision of the Charter is held
743 invalid, the other provisions of the Charter shall not be affected thereby. If the application of the
744 Charter or any of its provisions to any person or circumstance is held invalid, the application of
745 the Charter and its provisions to other persons and circumstances shall not be affected thereby.

746 Section 7-3 Specific Provisions to Prevail

747 To the extent that any specific provision of the Charter shall conflict with any provision
748 expressed in general terms, the specific provision shall prevail.

749 Section 7-4 Rules and Regulations

750 A copy of all rules and regulations adopted by Town agencies shall be placed on file in
751 the office of the Town Clerk and made available for review by any person who requests such
752 information. No rule or regulation adopted by any Town agency shall be effective until ten (10)
753 days following the date it has been published, in full, in local media and on the town website,
754 and placed on file in the office of the Town Clerk, or the later of the three.

755 Section 7-5 Uniform Procedures Governing Multiple-Member Bodies

756 (a) All multiple-member bodies of the Town, whether elected, appointed, or
757 otherwise constituted, shall meet regularly at such times and places within the Town as they may
758 prescribe. Special meetings of any multiple-member body shall be held on the call of the
759 respective Chair or by one-third of the members thereof. Such call shall be by written notice
760 delivered in hand or to the place of business or residence of each member at least forty-eight (48)
761 hours before the time set. Such call shall contain notice of the subjects which are to be acted

762 upon, and no other business shall be in order. A copy of the said notice shall be posted on the
763 Town bulletin board. Except as may otherwise be authorized by law, all meetings of all multiple-
764 member bodies shall at all times be open to the public and to the press.

765 (b) A multi-member body may act only as a body at a legally called, posted meeting
766 with a quorum present. Documents and other information provided to any individual member of
767 a multi-member body shall be provided to all eligible members whenever relevant to a matter
768 with the purview of the body. No individual member of a multi-member body may act on behalf
769 of the body unless duly authorized by the body.

770 (c) Each multiple-member body shall determine its own rules and order of business,
771 unless otherwise provided by law or by the Charter, and shall provide for keeping a record of its
772 proceedings. These rules and records shall be public, certified by the Town Clerk, and kept
773 available in the office of the Town Clerk, and on the Town website.

774 (d) Documents provided to multi-member bodies relating to meeting agenda items
775 shall be provided no later than forty-eight (48) hours in advance of the meeting. If documents are
776 provided less than forty-eight (48) hours in advance, unanimous consent from those present at
777 the multi-member body meeting shall be required to accept those documents as part of the
778 meeting materials.

779 Section 7-6 Definitions

780 (a) Charter – The word "Charter" shall mean this Charter and any amendments to it
781 made through any of the methods provided under Article LXXXIX (eighty-nine) of the
782 amendments to the State Constitution.

783 (b) Days – The word "days" shall refer to business days, not including Saturdays,
784 Sundays and legal holidays, when the time set is less than seven days. When the time set is seven
785 (7) days or more every day shall be counted.

786 (c) Department Head – The head of a department or section, the supervisor.

787 (d) Emergency – The word "emergency" shall mean a sudden, unexpected,
788 unforeseen happening, occurrence or condition which necessitates immediate action.

789 (e) Facilities – Any piece of Town property that has been improved with a fixture.

790 (f) Fixture – An improvement that is attached to the ground.

791 (g) general laws - The words "general laws" (all lower-case letters) shall mean laws
792 which apply alike to all cities and towns, to all towns, or to a class of municipalities of which
793 Fairhaven is a member.

794 (h) General Laws – The words "General Laws" (used with initial capital letters) shall
795 refer to the General Laws of the Commonwealth of Massachusetts as they exist at the time this
796 Charter is adopted and are intended to include all applicable amendments and revisions or to the
797 corresponding chapters and sections of any recodification or rearrangement of statutes adopted
798 subsequent to the adoption of this Charter.

799 (i) Majority vote – The words "majority vote" shall mean a majority of those present
800 and voting, providing a quorum of the body is present.

801 (j) Media – A means of communicating information to as wide a variety of people as
802 possible which may include newspapers, bulletin boards, radio and television, and 26 the
803 Internet.

804 (k) Multiple-Member Body – The words "multiple-member body" shall mean
805 anybody consisting of two (2) or more persons, whether elected, appointed or otherwise
806 constituted.

807 (l) Town – The word "Town" shall mean the Town of Fairhaven.

808 (m) Policy – The general principles by which a government is guided in its
809 management of public affairs. This term, as applied to law, ordinance, by-law, Town Charter, or
810 rule of law, denotes a general purpose or tendency considered as directed to the welfare or
811 prosperity of the state or community.

812 (n) Qualify – To take oath of office.

813 (o) Voters – The word "voters" shall mean persons registered to vote in the Town of
814 Fairhaven.

815 Section 7-7 Number and Gender

816 Words importing the singular number may extend and be applied to several persons or
817 things; words importing the plural number may include the singular. All language in the Charter
818 aspires to be gender neutral and will extend to and be applied to all people.

819 Section 7-8 Removals and Suspensions

820 Any appointed full-time, part-time, or seasonal employee of the Town, not subject to the
821 provisions of the civil service law or collective bargaining agreement, whether appointed for a
822 fixed or for an indefinite term, may be removed or suspended from their duties by the
823 Appointing Authority.

824 ARTICLE VIII – TRANSITIONAL PROVISIONS

825 Section 8-1 Continuation of Existing Laws

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

830 Section 8-2 Continuation of Government

831 (a) Continuation of agencies. All Town agencies shall continue to perform their
832 duties until reappointed, or reelected, or until successors to their respective positions are duly
833 appointed or elected or their duties have been transferred and assumed by another Town agency.

834 (b) Planning Board. Notwithstanding any provision to the contrary, the members of
835 the Planning Board shall be elected in accordance with this section. The members in office at the
836 time this Charter takes effect shall remain in their elected positions until the expiration of their
837 current terms. Thereafter, the members of the Planning Board shall be elected according to the
838 following schedule:

839 i. The Planning Board shall become a nine-member board beginning in 2027. In
840 2027, three members shall be elected, each for a term of three years.

841 ii. In 2028, three members shall be elected, each for a term of three years, and one
842 member shall be elected for a term of one year. The three candidates who receive the highest
843 number of votes in the 2028 election shall be elected for a term of three years each, and the

844 candidate receiving the next highest number of votes in the 2028 election shall be elected for a
845 term of one year.

846 iii. Beginning in 2029 and each year thereafter, three members shall be elected for a
847 term of three years each.

848 Section 8-3 Continuation of Personnel

849 Any person holding a Town office or employment under the Town shall retain such
850 office or employment and shall continue to perform the duties of the office or employment until
851 provision shall have been made, in accordance with the Charter, for the performance of the said
852 duties by another person or agency. No person in the permanent, full -time service of the Town
853 shall, as a result of the adoption of the Charter, forfeit pay grade or time in service. All such
854 persons shall be retained in a capacity as similar to their former capacity as it is practical to do.

855 Section 8-4 Time of Taking Effect

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

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

863 (b) Not more than forty-five (45) days following the election at which the Charter is
864 adopted or amended, the Select Board shall appoint a special committee of at least three (3)

865 members to review the existing by-laws of the Town, in order to bring them into conformity with
866 the provisions of the Charter. Said committee shall file a report, with recommendations, at the
867 following Town Meeting.