

# City of Fall River Massachusetts

## Office of the City Clerk

**ALISON M. BOUCHARD**  
CITY CLERK

**INÊS LEITE**  
ASSISTANT CITY CLERK

### **REGULAR MEETING OF THE CITY COUNCIL**

**MEETING:** Tuesday, May 25, 2021 at 7:00 p.m.  
Council Chamber, One Government Center

**PRESENT:** President Cliff Ponte, presiding;  
Councilors Shawn E. Cadime, Michelle M. Dionne,  
Bradford L. Kilby, Pam Laliberte-Lebeau, Trott Lee,  
Christopher M. Peckham, Leo O. Pelletier and Linda M. Pereira

**ABSENT:** None

**IN ATTENDANCE:** Jeffrey Cardoza, Chief of Police

President Cliff Ponte called the meeting to order at 9:49 p.m. with a moment of silence followed by a salute to the flag and announced that the meeting may be recorded with audio or video and transmitted through any medium.

*On a motion made by Councilor Michelle M. Dionne and seconded by Councilor Christopher M. Peckham, it was unanimously voted to take item #6 out of order.*

6. Director of Code Enforcement and proposed ordinance changes to Flood Plains  
*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Michelle M. Dionne, it was unanimously voted to refer the matter to the Committee on Ordinances and Legislation.*

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was unanimously voted to take item #11c out of order.*

11c. City Council convene with the Chief of Police, Administration and Director of Financial Services to discuss strategy pertaining to policing our neighborhoods

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was unanimously voted to adopt the resolution.*

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was unanimously voted to take item #11d out of order.*

11d. Administration transfer \$250,000 to the Fall River Police Department budget to support an immediate strategic use of manpower where needed

*On a motion made by Councilor Pam Laliberte-Lebeau and seconded by Councilor Michelle M. Dionne, it was unanimously voted to waive the rules to allow the Chief of Police to answer questions. Councilor Pam Laliberte-Lebeau stated that in 2018 the task forces were funded with overtime funds. She then stated that currently there is only approximately \$5,000.00 remaining in the overtime account for the Police Department. The Chief of Police stated that there have been numerous unexpected retirements recently. Councilor Pam Laliberte-Lebeau then stated that less people are signing up to take the test to become a police officer. She then*

*asked the Chief of Police how many individuals had signed up for the upcoming examination. The Chief of Police stated there are currently 110 individuals who have registered. Councilor Christopher M. Peckham asked the Chief of Police how many shooting have occurred this year. The Chief of Police stated that there have been 20 shooting incidents since January 1, 2021. He also stated that there were 25 shooting incidents in 2020, which is not uncommon for cities in the Commonwealth of Massachusetts. On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was voted 9 yeas to adopt the resolution.*

*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Pam Laliberte-Lebeau, it was unanimously voted to take item #11a out of order.*

11a. Committee on Human Services, Housing, Youth, and Elder Affairs convene to discuss high risk youth

*Councilor Michelle M. Dionne stated that conversations need to begin when children are young, not when they are teenagers. Councilor Pam Laliberte-Lebeau stated that students have spoken to members of the School Committee regarding having a former gang member speak to students. On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Pam Laliberte-Lebeau, it was voted 9 yeas to adopt the resolution.*

#### **PRIORITY MATTERS**

1. Mayor and Memorandum of Agreement between the Labor Advantage for Workers Local 124 – Building Custodians, and the City of Fall River

*On a motion made by Councilor Bradford L. Kilby and seconded by Christopher M. Peckham, it was unanimously voted to adopt the Memorandum of Agreement.*

*Approved, May 26, 2021, Paul E. Coogan, Mayor*

2. Mayor and Fall River Police Department Audit Report from The Edward Davis Co.

*On a motion made by Councilor Shawn E. Cadime and seconded by Councilor Christopher M. Peckham, it was unanimously voted to refer the matter to the Committee on Finance.*

3. Mayor requesting confirmation of the appointment of Christopher Boyle to the Conservation Commission

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was unanimously voted to confirm the appointment.*

4. Mayor requesting confirmation of the appointment of Melanie C. Cordeiro to the Licensing Board

*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Leo O. Pelletier, it was unanimously voted to confirm the appointment.*

#### **PRIORITY COMMUNICATIONS**

5. City Council President re: collection of solid waste ordinances

*On a motion made by Councilor Shawn E. Cadime and seconded by Councilor Christopher M. Peckham, it was unanimously voted that the communication be accepted and placed on file.*

7. Traffic Commission recommending amendments to traffic ordinances

*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Shawn E. Cadime, it was unanimously voted to refer the matter to the Committee on Ordinances and Legislation.*

## **COMMITTEE REPORTS**

### **Committee on Real Estate recommending:**

#### **Grant leave to withdraw:**

8. Resolution – Administration provide update on Duro Textiles  
*On a motion made by Councilor Shawn E. Cadime and seconded by Councilor Christopher M. Peckham, it was unanimously voted that the matter be granted leave to withdraw.*
9. Resolution – Discuss flooding and building issues on Whitefield Street  
*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Trott Lee, it was unanimously voted that the matter be granted leave to withdraw.*
10. Resolution – Discuss the possibility of selling parcels of land used for drainage improvements  
*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Leo O. Pelletier, it was voted 7 yeas, 1 nay to grant the matter leave to withdraw, with Councilor Linda M. Pereira voting in the negative and Councilor Christopher M. Peckham absent and not voting.*

## **ORDINANCES**

11. Proposed Ordinance – Compost Recycling Program  
*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Trott Lee, it was unanimously voted to refer the matter to the Committee on Ordinances and Legislation.*

## **RESOLUTIONS** – None

## **CITATIONS**

12. Assistance with the Vietnam Veterans' Memorial Wall  
William Sutton      William Ronca      Darren Medeiros      Levi Souza-Young  
Brandon Rebello      Michael Nunes      Michael Burks      John Perry  
David Lavoie      Jeffrey Lavoie      Green Jar Catering      Promedia Audio Visual  
*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Christopher M. Peckham, it was unanimously voted to adopt the citations.*

13. 2021 SkillsUSA Massachusetts State Competition Winners  
Oliver Ferguson      Jayden Massey      Nicholas Raposo      Corbin Merkt  
Zachary Costa      Cody Ferreira      Saneywongse LeMar      Sarah Moniz  
Lindsey Moniz      Evan Hetzler      Trenton Melendez      Alexis St. Pierre  
Mia Ubiera      Aidan Tagger      Ariel Pimental      Julia Louro  
Lorelei Hetzler

*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Shawn E. Cadime, it was unanimously voted to adopt the citations.*

## **ORDERS – HEARING**

### **Joint Pole Location**

14. Stafford Road      One (1) joint pole location  
*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Leo O. Pelletier, it was unanimously voted to adopt the order.*  
*Approved, May 26, 2021, Paul E. Coogan, Mayor*

## **ORDERS – MISCELLANEOUS**

### **15. Police Chief's Report on Licenses:**

#### **Taxicab Drivers:**

Simone Desnoyers

*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Michelle M. Dionne, it was unanimously voted to adopt the order.*

### **16. Auto Repair Shop License Renewals:**

Frank Correia, Mello Services Station, Inc. – 801 Bay Street

John Glass d/b/a JG Auto – 84 14<sup>th</sup> Street

*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Trott Lee, it was unanimously voted to adopt the order.*

*Approved, May 26, 2021, Paul E. Coogan, Mayor*

### **17. Transfer of auto repair shop license no. 54 located at 345 Durfee Street from**

Paul J. Amarello d/b/a Durfee Street Auto Sales, Inc. to Peter DiLorenzo,

Neighborhood Auto Sales & Service, LLC

*On a motion made by Councilor Michelle M. Dionne and seconded by Councilor Christopher M. Peckham, it was unanimously voted to adopt the order.*

*Approved, May 26, 2021, Paul E. Coogan, Mayor*

## **COMMUNICATIONS – INVITATIONS – PETITIONS**

### **18. Claims**

*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Michelle M. Dionne, it was unanimously voted to refer the claims to Corporation Counsel.*

### **19. Drainlayer License - JH Landscaping and Construction, Inc.**

*On a motion made by Councilor Trott Lee and seconded by Councilor Christopher M. Peckham, it was unanimously voted to approve the drainlayer bond.*

*Approved, May 26, 2021, Paul E. Coogan, Mayor*

### **20. City Engineer – Street opening less than 5 years at 14 John Street**

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Trott Lee, it was unanimously voted to approve the street opening request.*

*Approved, May 26, 2021, Paul E. Coogan, Mayor*

### **21. Communication from Jim McKeag, MassDevelopment and applications for structures on/over a public way to provide for outdoor seating along South Main Street at Harry's Restaurant, TA Restaurant and New England Homemade Donuts**

*On a motion made by Councilor Trott Lee and seconded by Councilor Christopher M. Peckham, it was unanimously voted to approve the applications for structures on/over a public way.*

#### **Planning Board Minutes**

### **22. April 14, 2021**

*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Linda M. Pereira, it was unanimously voted that the minutes be accepted and placed on file.*

City Council Meeting Minutes:

23. Public Hearings – May 11, 2021

*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Bradford L. Kilby, it was unanimously voted to approve the minutes.*

**BULLETINS – NEWSLETTERS – NOTICES**

24. Thank you card from the family of Roger R. St. Pierre

*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Michelle M. Dionne, it was unanimously voted that the thank you card be accepted and placed on file.*

**ITEMS FILED AFTER THE AGENDA DEADLINE:**  
**CITY COUNCIL MEETING DATE: MAY 25, 2021**

**PRIORITY MATTERS**

4a. Mayor regarding trash removal from commercial establishments

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Linda M. Pereira, it was unanimously voted that the communication be accepted and placed on file.*

**RESOLUTIONS**

11b. Administration include a plan for the distribution of the American Rescue Plan funds in the FY 22 Municipal Budget presentation

*Councilor Michelle M. Dionne stated that the City needs to have a plan for spending these funds that will benefit all residents. Councilor Pam Laliberte-Lebeau stated that a resolution was filed in March requesting that a plan be submitted to the City Council and nothing has been received from the Administration. On a motion made by Councilor Michelle M. Dionne and seconded by Councilor Christopher M. Peckham, it was unanimously voted to adopt the resolution.*

**COMMUNICATIONS – INVITATIONS – PETITIONS**

Zoning Board of Appeals Minutes

23a. March 18, 2021

*On a motion made by Councilor Trott Lee and seconded by Councilor Leo O. Pelletier, it was unanimously voted that the minutes be accepted and placed on file.*

**OTHER POTENTIAL MATTERS (to be acted upon if recommendations are received)**

**COMMITTEE REPORTS**

Committee on Ordinances and Legislation recommendation (if received):

10a. Proposed Ordinance – Traffic, handicapped parking

*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Shawn E. Cadime, it was voted 9 yeas to adopt the emergency preamble. On a further motion made by Councilor Shawn E. Cadime and seconded by Councilor Christopher M. Peckham, it was unanimously voted to pass the proposed ordinance through first reading, second reading, passed to be enrolled and passed to be ordained.*

*Approved, May 26, 2021, Paul E. Coogan, Mayor*

10b. Proposed Ordinance – Traffic, miscellaneous

*On a motion made by Councilor Shawn E. Cadime and seconded by Councilor Christopher M. Peckham, it was unanimously voted to pass the proposed ordinance through first reading.*

Proposed Ordinance – Thin-Film Plastic Bags (*tabled in Committee*)

10c. Proposed Ordinance – Solid Waste

*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Michelle M. Dionne, it was unanimously voted to pass the proposed ordinance through first reading.*

Proposed Ordinance – Ban Balloon Releases (*tabled in Committee*)

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Michelle M. Dionne, it was unanimously voted to adjourn at 11:04 p.m.*

List of documents and other exhibits used during the meeting:

Agenda packet (attached)

DVD of meeting

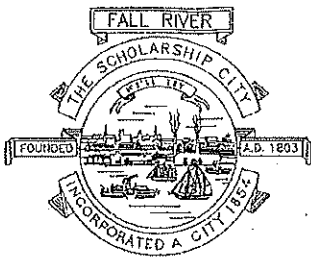
A true copy. Attest:

A handwritten signature in black ink, reading "Alison M. Bouchard". The signature is written in a cursive style with a large, stylized 'A' and 'B'.

City Clerk

In City Council, July 13, 2021

Approved



# City of Fall River Massachusetts

Office of the City Clerk

RECEIVED

2021 MAY 25 P 2:40

ORIGINAL POSTING: MAY 21, 2021 AT 11:35 A.M.

CITY CLERK  
FALL RIVER, MA

## MEETINGS SCHEDULED

TUESDAY, MAY 25, 2021

ALISON M. BOUCHARD  
CITY CLERK

CITY COUNCIL CHAMBER, ONE GOVERNMENT CENTER

INÊS LEITE  
ASSISTANT CITY CLERK

## REVISED AGENDA

5:00 P.M. CITY COUNCIL COMMITTEE ON ORDINANCES AND LEGISLATION MEETING

5:55 P.M. CITY COUNCIL PUBLIC HEARING (OR IMMEDIATELY FOLLOWING THE CITY COUNCIL COMMITTEE ON ORDINANCES AND LEGISLATION MEETING IF IT RUNS PAST 5:55 P.M.)

### Joint Pole Location

Massachusetts Electric Company and Verizon New England, Inc. for one jointly owned pole location as follows:

Stafford Road

One (1) joint pole location

To install a new Pole 34-50 on Stafford Road approximately 59 feet south of Pole 34 and 59 feet north of Pole 35. In accordance with Plan No. 30330364 dated March 1, 2021.

6:00 P.M. CITY COUNCIL COMMITTEE ON FINANCE MEETING (OR IMMEDIATELY FOLLOWING THE CITY COUNCIL PUBLIC HEARINGS IF THEY RUN PAST 6:00 P.M.)

1. Citizen Input  
Due to the COVID-19 Essential Services Advisory, citizen input can be submitted by email to [city\\_council@fallriverma.org](mailto:city_council@fallriverma.org) by Tuesday, May 25, 2021 at 3:00 p.m. to be read at the meeting.
2. Discussion of proposed FY22 budgets for Water and Sewer Divisions (referred 4-6-21)
3. Committee on Finance meet with Administration to discuss trash collection and proposal for Cart Program (tabled 5-11-21)

7:00 P.M. REGULAR MEETING OF THE CITY COUNCIL (OR IMMEDIATELY FOLLOWING THE COMMITTEE ON FINANCE MEETING IF IT RUNS PAST 7:00 P.M.)

### PRIORITY MATTERS

1. \*Mayor and Memorandum of Agreement between the Labor Advantage for Workers Local 124 – Building Custodians, and the City of Fall River
2. \*Mayor and Fall River Police Department Audit Report from The Edward Davis Co.
3. \*Mayor requesting confirmation of the appointment of Christopher Boyle to the Conservation Commission
4. \*Mayor requesting confirmation of the appointment of Melanie C. Cordeiro to the Licensing Board

### PRIORITY COMMUNICATIONS

5. \*City Council President re: collection of solid waste ordinances
6. \*Director of Code Enforcement and proposed ordinance changes to Flood Plains
7. \*Traffic Commission recommending amendments to traffic ordinances

### COMMITTEE REPORTS

Committee on Real Estate recommending:

Grant leave to withdraw:

8. \*Resolution – Administration provide update on Duro Textiles

**ADA Coordinator: Gary P. Howayeck, Esq. 508-324-2650**

One Government Center • Fall River, MA 02722

TEL 508-324-2220 • FAX 508-324-2211 • EMAIL [city\\_clerks@fallriverma.org](mailto:city_clerks@fallriverma.org)

9. \*Resolution – Discuss flooding and building issues on Whitefield Street
10. \*Resolution – Discuss the possibility of selling parcels of land used for drainage improvements

#### **ORDINANCES**

11. \*Proposed Ordinance – Compost Recycling Program

#### **RESOLUTIONS** – None

#### **CITATIONS**

12. Assistance with the Vietnam Veterans' Memorial Wall  

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Brandon Rebello	Michael Nunes	Michael Burks	John Perry
David Lavoie	Jeffrey Lavoie	Green Jar Catering	Promedia Audio Visual
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18. \*Claims
19. Drainlayer License - JH Landscaping and Construction, Inc.
20. \*City Engineer – Street opening less than 5 years at 14 John Street
21. \*Communication from Jim McKeag, MassDevelopment and applications for structures on/over a public way to provide for outdoor seating along South Main Street at Harry's Restaurant, TA Restaurant and New England Homemade Donuts
22. Planning Board Minutes  
 April 14, 2021
23. City Council Meeting Minutes:  
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**BULLETINS – NEWSLETTERS – NOTICES**

24. Thank you card from the family of Roger R. St. Pierre

*Alison M. Bouchard*  
City Clerk

**ITEMS FILED AFTER THE AGENDA DEADLINE:**  
**CITY COUNCIL MEETING DATE: MAY 25, 2021**

**PRIORITY MATTERS**

4a. \*Mayor regarding trash removal from commercial establishments

**RESOLUTIONS**

- 11a. \*Committee on Human Services, Housing, Youth, and Elder Affairs convene to discuss high risk youth
- 11b. \*Administration include a plan for the distribution of the American Rescue Plan funds in the FY 22 Municipal Budget presentation
- 11c. \*City Council convene with the Chief of Police, Administration and Director of Financial Services to discuss strategy pertaining to policing our neighborhoods
- 11d. \*Administration transfer \$250,000 to the Fall River Police Department budget to support an immediate strategic use of manpower where needed

**COMMUNICATIONS – INVITATIONS – PETITIONS**

Zoning Board of Appeals Minutes

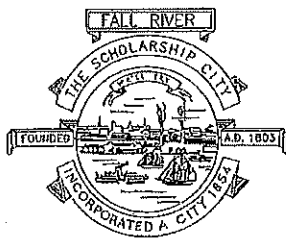
23a. March 18, 2021

**OTHER POTENTIAL MATTERS (to be acted upon if recommendations are received)**

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- Proposed Ordinance – Solid Waste
- Proposed Ordinance – Ban Balloon Releases



**City of Fall River  
Massachusetts  
Office of the Mayor**

4a

**PAUL E. COOGAN**  
*Mayor*

RECEIVED

2021 MAY 24 P 12: 54

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

May 21, 2021

Honorable Members of the City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Dear Council President and Members of the Honorable Council:

In your letter of May 13, 2021 you provided me with the results of your review of City Ordinances relative to trash removal from commercial establishments.

Your review concluded that given the absence of "commercial establishments" in Section 62-2 C. it could be inferred that "collection for commercial establishments does not occur". I assume that you mean that the collection of trash from commercial establishments is, therefore, not authorized by the Ordinance.

I note that my team's review of the ordinance reveals that it is ambiguous and in need of clarification by the Council.

For example, you may infer that the trash removal from commercial establishments is implied given the fact that Section 62-42 sets forth regulations relative to the pick-up of "refuse and rubbish" on "the day of collection". More specifically these establishments are required to place refuse in "proper containers and bundles" and within a limited space on the sidewalk.

Additionally, Section 62-43A & B requires commercial establishments to place garbage and rubbish "in separate containers" and that garbage must be placed "in watertight containers made of material and equipment with suitable handles and tightfitting covers".

It should be noted, as well, that the current trash removal contract between the City and EZ Disposal and Recycling, LLC, entered into in 2016 lists specific commercial establishments and specifies "payment" by these entities.

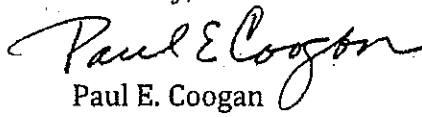
This Administration has simply followed a past practice (over three decades) relative to the pick-up of commercial trash.

4a

Given this information, there is an obvious need to clarify the language of Section 62. That task is within the sole purview of the City Council. If the position of the Council is that commercial trash removal should be discontinued, the Ordinance should indicate clearly that such commercial pick-up is NOT authorized and/or that trash removal by the City shall be limited to "single family dwellings and multiple family residential buildings containing up to six units".

I would suggest that should the Council vote to abolish the current and long-standing practice of commercial trash removal that the Council consider the inclusion of a provision providing those establishments with a reasonable amount of time to make other arrangements for their trash removal. Perhaps this could be accomplished by delaying the effective date of the modified Ordinance.

Sincerely,

A handwritten signature in cursive script that reads "Paul E. Coogan".

Paul E. Coogan  
Mayor, City of Fall River

PC/amos

11a

*City of Fall River, In City Council*

(Councilor Michelle M. Dionne)

WHEREAS, a significant percentage of our youth are considered to be at risk or high risk of falling prey to gangs, violence, and drug activity, and

WHEREAS, many of our youth feel isolated and feel there is nowhere to turn for help, guidance, and/or support, and

WHEREAS, we have youth at the middle school level who realize and recognize the gravity of the situation, and have publicly identified problems, potential solutions, and a plan to deal with this devastating issue, and

WHEREAS, education and programs that target at risk youths are key to breaking the cycle, and there are adults and children alike who are reaching out for help for development and implementation, now therefore

BE IT RESOLVED, that the Committee on Human Services, Housing, Youth, and Elder Affairs convene to discuss, and be a catalyst, for this endeavor in our community, and

BE IT FURTHER RESOLVED, that the Committee Chair reach out to community and school partners to provide information on available resources, discussion on implementation of an educational component, and development of a plan to combat this issue.

# City of Fall River, *In City Council*

116

(Councilor Michelle M. Dionne)  
(Councilor Pam Laliberte-Lebeau)

WHEREAS, the City of Fall River received 7.9 million dollars from the CARES Act, and will receive over 70 million dollars from the American Rescue Plan, and

WHEREAS, the first disbursement of the American Rescue Plan funds have already been received by the City, and

WHEREAS, each and every dollar received is federal taxpayer money completely unrelated to the City budget or City revenues, and

WHEREAS, Council President Ponte in a resolution filed March 16, 2021 requested that the "Administration present to the City Council Committee on Finance a presentation that outlines a suggested plan", and the "Administration's plan include a list of priorities from the highest to the lowest", and

WHEREAS, the City Council never received a plan and has not been apprised of how a significant amount of the 36 million dollars in funding have been or will be utilized, with the exception of potential monies being infused into the 2022 budget, and

WHEREAS, federal guidance has now been received by local municipalities on how to spend such funds, now therefore

BE IT RESOLVED, that the administration include such a plan in their presentation for the Fiscal Year 2022 Municipal Budget, and

BE IT FURTHER RESOLVED, that the City Council Committee on Ordinance and Legislation establish policies and procedures for spending such funds received from the federal government.

# City of Fall River, *In City Council*

11 C

(President Cliff Ponte)

WHEREAS, there has been a deadly shooting in the Corky Row neighborhood, and

WHEREAS, ensuring safe neighborhoods is a priority of all in City Government, now therefore

BE IT RESOLVED, that the Fall River City Council convene with the Chief of Police, a representative from the Administration and Director of Financial Services to discuss strategy pertaining policing our neighborhoods especially those in high crime locations, and

BE IT FURTHER RESOLVED, that this meeting be held in executive session.

Filed: 5-25-21

City of Fall River, *In City Council*

11d

(Councilor Pam Laliberte-Lebeau)  
(Councilor Christopher M. Peckham)

WHEREAS, the City has seen an increase in shootings and gang activity, and

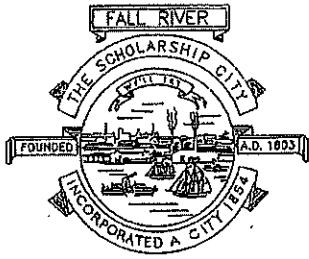
WHEREAS, an added increase in patrols, and the formation of a Crime & Gang Impact Task Force, working in targeted areas, have shown to have great success in removing illegal guns, drugs, and criminals off of our streets, and

WHEREAS, the City Council and the past Administration had allocated funding specifically for these purposes in prior years, now therefore

BE IT RESOLVED, that the Administration transfer \$250,000 to the Fall River Police Department budget to support an immediate strategic use of manpower where needed.







**City of Fall River Massachusetts** **RECEIVED**  
Office of the City Clerk

2021 MAY 21 A 11:35

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

**MEETINGS SCHEDULED**  
**TUESDAY, MAY 25, 2021**

**CITY COUNCIL CHAMBER, ONE GOVERNMENT CENTER**

**ALISON M. BOUCHARD**  
CITY CLERK

**INÊS LEITE**  
ASSISTANT CITY CLERK

**AGENDA**

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6. \*Director of Code Enforcement and proposed ordinance changes to Flood Plains
7. \*Traffic Commission recommending amendments to traffic ordinances

**COMMITTEE REPORTS**

Committee on Real Estate recommending:

Grant leave to withdraw:

8. \*Resolution – Administration provide update on Duro Textiles

**ADA Coordinator: Gary P. Howayeck, Esq. 508-324-2650**

One Government Center • Fall River, MA 02722  
TEL 508-324-2220 • FAX 508-324-2211 • EMAIL [city\\_clerks@fallriverma.org](mailto:city_clerks@fallriverma.org)

9. \*Resolution – Discuss flooding and building issues on Whitefield Street
10. \*Resolution – Discuss the possibility of selling parcels of land used for drainage improvements

#### **ORDINANCES**

11. \*Proposed Ordinance – Compost Recycling Program

#### **RESOLUTIONS – None**

#### **CITATIONS**

12. Assistance with the Vietnam Veterans' Memorial Wall  

William Sutton	William Ronca	Darren Medeiros	Levi Souza-Young
Brandon Rebello	Michael Nunes	Michael Burks	John Perry
David Lavoie	Jeffrey Lavoie	Green Jar Catering	Prómedia Audio Visual
13. 2021 SkillsUSA Massachusetts State Competition Winners  

Oliver Ferguson	Jayden Massey	Nicholas Raposo	Corbin Merkt
Zachary Costa	Cody Ferreira	Saneywongse LeMar	Sarah Moniz
Lindsey Moniz	Evan Hetzler	Trenton Melendez	Alexis St. Pierre
Mia Ubiera	Aidan Tagger	Ariel Pimental	Julia Louro
Lorelei Hetzler			

#### **ORDERS – HEARING**

##### **Joint Pole Location**

14. Stafford Road One (1) joint pole location

#### **ORDERS – MISCELLANEOUS**

15. Police Chief's Report on Licenses:  
Taxicab Drivers:  
 Simone Desnoyers
16. Auto Repair Shop License Renewals:  
 Frank Correia, Mello Services Station, Inc. – 801 Bay Street  
 John Glass d/b/a JG Auto – 84 14<sup>th</sup> Street
17. Transfer of auto repair shop license no. 54 located at 345 Durfee Street from Paul J. Amarello d/b/a Durfee Street Auto Sales, Inc. to Peter DiLorenzo, Neighborhood Auto Sales & Service, LLC

#### **COMMUNICATIONS – INVITATIONS – PETITIONS**

18. \*Claims
19. Drainlayer License - JH Landscaping and Construction, Inc.
20. \*City Engineer – Street opening less than 5 years at 14 John Street
21. \*Communication from Jim McKeag, MassDevelopment and applications for structures on/over a public way to provide for outdoor seating along South Main Street at Harry's Restaurant, TA Restaurant and New England Homemade Donuts
22. Planning Board Minutes  
 April 14, 2021
23. City Council Meeting Minutes:  
 \*Public Hearings – May 11, 2021

**BULLETINS – NEWSLETTERS – NOTICES**

24. Thank you card from the family of Roger R. St. Pierre

*Alison M Bouchard*

City Clerk

**ITEMS FILED AFTER THE AGENDA DEADLINE:**  
**CITY COUNCIL MEETING DATE: MAY 25, 2021**

**OTHER POTENTIAL MATTERS (to be acted upon if recommendations are received)**

**COMMITTEE REPORTS**

**Committee on Ordinances and Legislation recommendation (if received):**

Proposed Ordinance – Traffic, handicapped parking

Proposed Ordinance – Traffic, miscellaneous

Proposed Ordinance – Thin-Film Plastic Bags

Proposed Ordinance – Solid Waste

Proposed Ordinance – Ban Balloon Releases



**PAUL E. COOGAN**  
Mayor

**City of Fall River**  
**Massachusetts**  
Office of the Mayor

**FINANCE 2**

RECEIVED

2021 MAR 31 P 12:29

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

March 26, 2021

The Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

RE: FY22 Budget Submission  
Water and Sewer Divisions

Dear Honorable Councilors:

Please find enclosed the proposed FY22 budgets for the Water and Sewer Divisions. This submittal meets the requirements of Ordinance Section 2-183 that requires that Enterprise Fund proposed budgets be submitted to the City Council by April 1<sup>st</sup>.

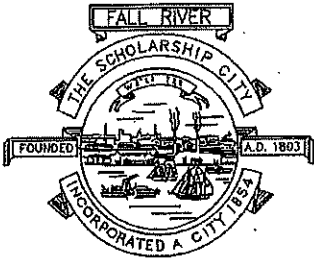
Sincerely,

Paul E. Coogan  
Mayor

CITY OF FALL RIVER  
IN CITY COUNCIL

**APR 06 2021**

*Referred to the  
Committee on Finance*



**PAUL E. COOGAN**  
*Mayor*

**City of Fall River  
Massachusetts**  
Department of Community Utilities  
WATER • SEWER



**PAUL J. FERLAND**  
Administrator

March 26, 2021

The Honorable Paul E. Coogan  
One Government Center  
Fall River, MA 02722

RE: FY22 Budget and Rates Submission  
Sewer and Water Divisions

Dear Mayor Coogan:

Please find enclosed the documents for the above referenced submittal. This submittal meets the requirements of M.G.L. Chapter 44, Section 53F ½ for submittal of Enterprise fund budgets 120 days prior to the beginning of the fiscal year. Further, Ordinance Sections 2-183 and 2-184 require that Enterprise Fund Budgets be submitted to the City Council by April 1, and rate proposals by May 1. Both the budget and rates proposals are included.

The proposed modification to the rate ordinance is attached.

Sincerely,

Paul J. Ferland, EIT  
Adm. of Community Utilities

Attachment

RECEIVED  
2021 MAR 29 P 2:20  
CITY CLERK  
FALL RIVER, MA

The City of FALL RIVER - COMMUNITY UTILITIES FY 2022 Proposed Budget SEWER DIVISION: 2-4-21	FY2020 Actuals	FY2021 Budget	FY2022 Proposed Budget
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64400000 SEWER FUND REVENUE	FY20 Actuals	FY21 Budget	FY22 Proposed
64400000 414200 TAX LIENS REDEEMED	\$139,127.83	\$200,000	\$200,000
64400000 417150 SEPTAGE INTEREST REVENUE	\$50.40	\$600	\$600
64400000 417300 INTEREST & PENALTY TAX LIEN	\$42,452.08	\$70,000	\$70,000
64400000 417420 INT & PENALTY SEWER	\$115,949.13	\$120,000	\$120,000
64400000 417600 INT. & PEN ON UTILITY LIENS	\$10,421.80	\$20,000	\$20,000
64400000 417760 SEWER DEMANDS	\$54,586.13	\$55,000	\$55,000
64400000 417765 SEWER FINAL DEMAND	\$10.00	\$30	\$30
64400000 421000 SEWER USAGE CHARGES	\$14,120,440.53	\$14,751,809	\$15,041,176
64400000 421500 STORMWATER FEE/CHARGE	\$6,202,081.79	\$6,376,342	\$6,615,222
64400000 422100 SEPTAGE REVENUE	\$302,659.11	\$250,000	\$350,000
64400000 428080 UTILITY LIENS REDEEMED			
64400000 428013 UTILITY LIENS REDEEMED 13			
64400000 428014 UTILITY LIENS REDEEMED 14			
64400000 428015 UTILITY LIENS REDEEMED 15			
64400000 428016 UTILITY LIENS REDEEMED 2016			
64400000 428017 UTILITY LIENS REDEEMED 2017			
64400000 428018 UTILITY LIENS REDEEMED 2018	\$13,257.78		
64400000 428019 UTILITY LIENS REDEEMED 2019	\$70,099.70		
64400000 428020 UTILITY LIENS REDEEMED 2020	\$1,123,520.25	\$1,200,000	\$1,200,000
64400000 428021 UTILITY LIENS REDEEMED 2020			
64400000 439900 OTHER REVENUE	\$674,435.99	\$600,000	\$700,000
64400000 442900 PERMIT FEE-SEWER	\$33,669.00	\$89,000	\$89,000
64400000 499300 OFS FREE CASH SURPLUS REVENUE	\$0.00	\$643,220	\$1,939,297
64400000 499900 OTHER FINANCING SOURCES	\$0.00	\$0	\$0
<b>TOTAL SEWER FUND REVENUE</b>	<b>\$22,902,761.52</b>	<b>\$24,376,001</b>	<b>\$26,300,325</b>

## 6000 SEWER FUND EXPENSES

64400005 SEWER TREATMENT PLANT OTHER	FY20 Actuals	FY21 Budget	FY22 Proposed
64400005 596100 TRANSFERS TO GENERAL FUND	\$1,487,406	\$1,485,000	\$1,485,000
64400005 596500 TRANSFERS TO STABILIZATION	\$100,000	\$100,000	\$100,000
64400005 596600 TRANSFERS TO TRUST & AGENCY	\$82,580	\$0	\$0
64400005 596800 TRANSFER GF - HEALTH	\$93,214	\$95,000	\$95,000
64400005 596900 TRANSFER GF PENSIONS	\$89,380	\$90,000	\$90,000
<b>TOTAL SEWER TREATMENT PLANT OTHER</b>	<b>\$1,852,580</b>	<b>\$1,770,000</b>	<b>\$1,770,000</b>

64407191 SEWER PLANT & PROG SALARIES	FY20 Actuals	FY21 Budget	FY22 Proposed
64407191 511000 SALARIES & WAGES - PERMANENT	\$366,972.54	\$381,645	\$480,991
64407191 511115 LONGEVITY	\$3,000.00	\$3,200	\$3,200
64407191 513000 OVERTIME	\$0.00	\$0	\$0
64407191 516900 RETIREMENT BUYOUTS	\$0.00	\$0	\$0
64407191 517900 MEDICARE MATCH	\$5,799.41	\$7,200	\$7,200
64407191 519300 UNIFORM ALLOWANCE	\$1,800.00	\$1,200	\$2,400
64407191 519400 OTHER STIPENDS	\$4,000.00	\$4,000	\$4,000
64407191 519700 AUTOMOBILE ALLOWANCE	\$0.00	\$0	\$0
64407191 519900 OTHER PERSONNEL COSTS	\$98,040.47	\$128,274	\$36,584
<b>TOTAL SEWER PLANT &amp; PROG SALARIES</b>	<b>\$479,612.42</b>	<b>\$525,519</b>	<b>\$534,375</b>

64407192 SEWER TREATMENT PLANT EXPENSES	FY20 Actuals	FY21 Budget	FY22 Proposed
64407192 525000 OFF EQUIP/FURN MAINTENANCE	\$1,033.85	\$1,000	\$1,000
64407192 530100 MEDICAL AND DENTAL	\$0.00	\$130	\$130
64407192 530600 ADVERTISING	\$2,007.88	\$2,000	\$2,000

# FINANCE 2

64407192	531000	ENGINEERING/ARCHITECTURE SERVI	\$20,785.00	\$40,000	\$20,000
64407192	531200	OTHER PROFESSIONAL	\$0.00	\$0	\$0
64407192	534100	TELEPHONE	\$12,026.48	\$19,000	\$19,000
64407192	538400	COMPUTER SERVICES	\$527.00	\$500	\$500
64407192	551100	EDUCATIONAL SUPPLIES	\$2,610.98	\$3,000	\$3,000
64407192	553800	METER PARTS/P.W. & UTILITIES S	\$17,096.78	\$80,000	\$65,000
64407192	558600	OTHER SUPPLIES	\$703.50	\$400	\$400
64407192	570100	WATER/SEWER CSO CHARGE	\$119,181.21	\$104,000	\$140,000
64407192	571000	IN STATE TRAVEL	\$331.42	\$500	\$500
64407192	573100	DUES & MEMBERSHIPS	\$645.00	\$500	\$500
64407192	573200	SUBSCRIPTIONS	\$0.00	\$0	\$0
64407192	578100	CLAIMS & DAMAGES	\$0.00	\$500	\$500
<b>TOTAL SEWER TREATMENT PLANT EXPENSES</b>			<b>\$176,949.10</b>	<b>\$251,530</b>	<b>\$252,530</b>

64407202 SEWER TREATMENT PLANT EXPENSES			FY20 Actuals	FY21 Budget	FY22 Proposed
64407202	521100	ELECTRICITY	\$1,493,238.32	\$1,600,000	\$1,550,000
64407202	521101	ELECTRIC NMC UXBRIDGE SOLAR	\$71,426.63	\$0	\$0
64407202	521500	NATURAL GAS FOR HEAT	\$78,105.83	\$70,000	\$70,000
64407202	528100	OTHER RENTALS & LEASES	\$5,858.14	\$14,400	\$14,400
64407202	531200	OTHER PROFESSIONAL SERVICES	\$6,509,029.12	\$6,885,782	\$7,164,912
64407202	534300	POSTAGE	\$43,664.38	\$28,000	\$34,000
64407202	538600	OTHER PURCHASED SERVICES	\$2,313,390.14	\$2,463,000	\$2,470,857
64407202	554200	CHEMICALS	\$357,718.36	\$496,542	\$488,685
64407202	573400	CONFERENCES	\$948.11	\$1,000	\$1,000
64407202	574400	MOTOR VEHICLE INSURANCE	\$25,387.00	\$26,000	\$26,000
<b>TOTAL SEWER TREATMENT PLANT EXPENSES</b>			<b>\$10,898,766.03</b>	<b>\$11,584,724</b>	<b>\$11,819,854</b>

64407204 SEWER TREATMENT PLANT CAPITAL			FY20 Actuals	FY21 Budget	FY22 Proposed
64407204	584900	OTHER IMPROVEMENTS	\$8,160.74	\$80,000	\$80,000
<b>TOTAL SEWER TREATMENT PLANT CAPITAL</b>			<b>\$8,160.74</b>	<b>\$80,000</b>	<b>\$80,000</b>

64409905 STORM WATER DEBT SERVICE			FY20 Actuals	FY21 Budget	FY22 Proposed
64409905	591000	MAT PRIN ON LONG TERM DEBT	\$5,916,612.17	\$6,516,733	\$7,905,732
64409905	591500	INTEREST ON LONG TERM DEBT	\$2,631,646.49	\$2,831,134	\$3,180,797
64409905	592500	INTEREST ON NOTES	\$302,332.22	\$452,000	\$358,645
64409905	594000	DEBT ADMINISTRATIVE COSTS	\$161,883.79	\$188,640	\$207,839
64409905	594100	DEBT ORIGATION FEES	\$0.00	\$174,308	\$190,553
64409905	599996	OFU-TFR-CAP PR	\$22,077.00	\$0	
<b>TOTAL STORM WATER DEBT SERVICE</b>			<b>\$9,034,551.67</b>	<b>\$10,162,815</b>	<b>\$11,843,566</b>

	FY20 Actuals	FY21 Budget	FY22 Proposed
<b>TOTAL REVENUES</b>	<b>\$22,902,761.52</b>	<b>\$24,376,001</b>	<b>\$26,300,325</b>
<b>TOTAL EXPENSES</b>	<b>\$22,450,619.92</b>	<b>\$24,374,588</b>	<b>\$26,300,325</b>

delta	\$452,141.60	\$1,413	\$0
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rates			
sewer per ccf	\$5.48	\$5.59	\$5.66
stormwater per ERU/quarter	\$44.00	\$46.00	\$47.00

Annual Impact on Average Family at 109 GPD.			
FY21 cost for sewer/stormwater at 109 GPD			\$480.27
FY22 cost for sewer/stormwater at 109 GPD			\$487.98
delta: Increase from fy21 to fy22 per family at 109 GPD			\$7.71

FY 22 PROPOSED COMMUNITY UTILITIES BUDGET					FY20 Actual	FY21 Budget	FY22 Proposed Budget
WATER DIVISION							
REVENUE							
64500000	414200	TAX LIENS REDEEMED			81,667.69	\$100,000.00	\$100,000.00
64500000	417300	INTEREST & PENALTY TAX LIEN			20,903.66	\$40,000.00	\$40,000.00
64500000	417310	INT & PEN ON UTILITY WATER			66,917.11	\$65,000.00	\$65,000.00
64500000	417600	INT & PEN ON UTILITY LIENS			4,716.90	\$6,000.00	\$6,000.00
64500000	417761	WATER DEMANDS			53,530.95	\$50,000.00	\$50,000.00
64500000	417765	WATER FINAL DEMAND			10.00	\$20.00	\$20.00
64500000	418000	WATER OVER/SHORT			0.17		
64500000	421000	WATER USAGE CHARGES			9,379,127.27	\$10,851,324	\$10,986,091
64500000	422000	OTHER WATER CHARGES			182,031.79	\$215,000.00	\$215,000.00
64500000	427000	BASE METER FEE			1,237,515.22	\$1,258,771.00	\$1,279,270.00
64500000	427100	LUMBER REVENUE			715.00	\$900.00	\$900.00
64500000	427200	TOWER RENTAL			141,628.50	\$185,000.00	\$185,000.00
64500000	427300	BULK SALES			37,386.34	\$70,000.00	\$70,000.00
64500000	427400	APPLICATIONS AND TESTING			2,400.00	\$6,500.00	\$6,500.00
64500000	428000	UTILITY LIENS REDEEMED				\$0.00	\$0.00
64500000	428014	UTILITY LIENS REDEEMED 2014				\$0.00	\$0.00
64500000	428015	UTILITY LIENS REDEEMED 2015				\$0.00	\$0.00
64500000	428016	UTILITY LIENS REDEEMED 2016				\$0.00	\$0.00
64500000	428017	UTILITY LIENS REDEEMED 2017				\$0.00	\$0.00
64500000	428018	UTILITY LIENS REDEEMED 2018			290.77	\$0.00	\$0.00
64500000	428019	UTILITY LIENS REDEEMED 2019			25,533.36	\$0.00	\$0.00
		UTILITY LIENS REDEEMED 2020			574,779.34	\$631,800.00	\$631,800.00
		UTILITY LIENS REDEEMED 2021					
64500000	439900	OTHER REVENUE			48,785.98	\$80,000.00	\$80,000.00
64500000	488000	INSURANCE RECOVERY				\$0.00	\$0.00
64500000	499900	OTHER FINANCING SOU (retained earnings)			0	\$54,949.00	\$329,524.00
TOTAL WATER REVENUE					\$11,857,940	\$13,615,264	\$14,045,105



Water Rate Per CCF	\$3.24	\$3.43	\$3.48
Base Meter fee for 5/8" per quarter	\$14	\$14	\$14
Base Meter fee for 3/4" per quarter	\$14	\$14	\$14
Base Meter fee for 1" per quarter	\$16	\$16	\$16
Base Meter fee for 1.5" per quarter	\$30	\$30	\$30
Base Meter fee for 2" per quarter	\$50	\$50	\$50
Base Meter fee for 3" per quarter	\$150	\$150	\$150
Base Meter fee for 4" per quarter	\$200	\$200	\$200
Base Meter fee for 6" per quarter	\$300	\$300	\$300
Base Meter fee for 8" per quarter	\$400	\$400	\$400
Base Meter fee for 10" per quarter	\$500	\$500	\$500

64507241 WATER ADMINISTRATION SALARIES		FY20	FY21	FY22
		Actual	Budget	Proposed Budget
64507241	511000	316,756.13	\$446,086	\$450,888
64507241	511115	8,900.00	\$9,200	\$7,600
64507241	511300	5,768.69	\$5,757	\$5,779
64507241	513000	0.00	\$500	\$500
64507241	514500	0.00	\$1,706	\$3,453
64507241	516900	\$0.00	\$8,575	\$0
64507241	517100	\$0.00		
64507241	517900	4,226.73	\$4,300	\$4,000
64507241	519300	1,800.00	\$1,800	\$1,800
64507241	519400	1,000.00	\$1,000	\$1,000
64507241	519700	3,120.00	\$3,120	\$1,560
64507241	519900	\$0.00		\$23,006
TOTAL WATER ADMINISTRATION SALARIES		\$341,572	\$482,044	\$499,586

64507242 WATER ADMINISTRATION EXPENSES			FY20 Actual	FY21 Budget	FY22 Proposed Budget
64507242	525000	OFF EQUIP/FURN MAINTENANCE	309.18	\$500.00	\$500.00
64507242	525600	R & M METERS	0.00	\$10,000.00	\$10,000.00
64507242	528100	OTHER RENTALS & LEASES	3,224.43	\$10,660.00	\$10,660.00
64507242	530100	MEDICAL AND DENTAL	0.00	\$200.00	\$200.00
64507242	530600	ADVERTISING	2,246.50	\$7,000.00	\$4,050.00
64507242	531200	OTHER PROFESSIONAL SERVICES	100.00	\$16,000.00	\$41,000.00
64507242	534100	TELEPHONE	13,219.17	\$18,000.00	\$18,000.00
64507242	534300	POSTAGE	11,079.03	\$30,000.00	\$30,000.00
64507242	534400	OTHER COMMUNICATIONS	0.00	\$100.00	\$100.00
64507242	538400	COMPUTER SERVICES	39.20	\$1,000.00	\$1,000.00
64507242	538600	OTHER PURCHASED SERVICES	0.00	\$1,000.00	\$1,000.00
64507242	542500	OTHER OFFICE SUPPLIES	190.73	\$200.00	\$200.00
64507242	547300	OTHER GROUNDS KEEPING SUPPLIES	10.00	\$100.00	\$100.00
64507242	551100	EDUCATION SUPPLIES	0.00	\$1,000.00	\$1,000.00
64507242	553800	METER PARTS	5,712.77	\$10,000.00	\$10,000.00
64507242	570100	WATER/SEWER CSO CHARGE	18,971.28	\$20,000.00	\$20,000.00
TOTAL WATER ADMINISTRATION EXPENSES			\$55,102.29	\$125,760.00	\$147,810.00

64507244 WATER ADMINISTRATION CAPITAL			FY20 Actual	FY21 Budget	FY22 Proposed Budget
64507244	584900	OTHER IMPROVEMENTS	189,793.85	\$150,000.00	\$200,000.00

64507245 WATER ADMINISTRATIVE AND INDIRECT COSTS			FY20 Actual	FY21 Budget	FY22 Proposed Budget
64507245	596100	TRANSFERS TO GENERAL FUND	\$1,288,158	\$1,236,971	\$1,300,000
64507245	596500	TRANSFERS TO STABILIZATION	\$0	\$100,000	\$100,000
64507245	596600	TRANSFERS TO TRUST & AGENCY	\$6,105	\$0	\$0
64507245	596800	TRANSFER GF - HEALTH	\$725,238	\$770,257	\$725,238
64507245	596900	TRANSFER GF PENSIONS	\$731,603	\$749,613	\$731,603
TOTAL WATER ADMINISTRATIVE AND INDIRECT COSTS			\$2,751,104	\$2,856,841	\$2,856,841

64507252 WATER MAINT & DISTRIB EXPENSES			FY20 Actual	FY21 Budget	FY22 Proposed Budget
64507252	521100	ELECTRICITY	10,199.29	\$10,000.00	\$10,000.00
64507252	521500	HEATING FUEL	15,637.51	\$20,000.00	\$20,000.00
64507252	524100	BUILDINGS & GROUNDS MAINTENANC	3,464.49	\$4,000.00	\$4,000.00
64507252	524600	R & M VEHICLES	12,167.94	\$25,000.00	\$25,000.00
64507252	525000	R & M OFFICE EQUIPMENT	4,356.50	\$4,000.00	\$4,000.00
64507252	525800	OTHER REPAIRS & MAINTENANCE	1,896.55	\$2,000.00	\$2,000.00
64507252	525900	WATER PIPE REPLACE, REPAIR, RE	0.00	\$10,000.00	\$10,000.00
64507252	527400	CONSTRUCTION EQUIPMENT RENTAL	2,442.73	\$2,500.00	\$3,500.00
64507252	527800	COMMUNICATION LINES & EQUIP RE	0.00	\$100.00	\$100.00
64507252	529400	OTHER PROPERTY RELATED SERVICE	158.52	\$1,500.00	\$1,500.00
64507252	530100	WORKERS COMP. MEDICAL BILLS	25,628.97	\$30,000.00	\$30,000.00
64507252	538500	OTHER PURCHASED SERVICES	8,970.13	\$20,000.00	\$15,000.00
64507252	541100	GASOLINE	42,277.09	\$50,000.00	\$50,000.00
64507252	542100	PAPER	745.60	\$1,000.00	\$1,000.00
64507252	542800	R & M CONSTRUCTION EQUIPMENT	9,309.87	\$15,000.00	\$15,000.00
64507252	543900	BUILDING & MAINTENANCE SUPPLIE	1,947.45	\$2,000.00	\$2,000.00
64507252	545100	CLEANING SUPPLIES	2,009.18	\$2,000.00	\$3,000.00
64507252	546100	TOOLS	5,183.91	\$8,000.00	\$8,000.00
64507252	548100	MOTOR OIL AND LUBRICANTS	5,126.97	\$2,500.00	\$4,000.00
64507252	548500	PARTS AND ACCESSORIES	32,430.59	\$30,000.00	\$30,000.00
64507252	550100	MEDICAL SUPPLIES	323.72	\$200.00	\$200.00
64507252	551100	EDUCATIONAL SUPPLIES	3,453.00	\$5,000.00	\$5,000.00
64507252	553100	CONCRETE/CEMENT	48,833.50	\$55,000.00	\$55,000.00
64507252	553200	CORPS/STOPS/TUBING	1,737.26	\$10,000.00	\$10,000.00
64507252	553400	LUMBER	261.11	\$500.00	\$500.00
64507252	553600	SAND AND GRAVEL	225.00	\$1,500.00	\$1,500.00
64507252	553900	PIPE AND FITTINGS	15,483.10	\$30,000.00	\$30,000.00
64507252	554000	HYDRANTS/HYDRANT PARTS	13,745.07	\$35,000.00	\$35,000.00
64507252	554100	STOP BOXES	230.00	\$10,000.00	\$10,000.00
64507252	554400	ELECTRICAL SUPPLIES	129.00	\$500.00	\$500.00
64507252	558600	OTHER SUPPLIES	3,407.29	\$5,500.00	\$5,500.00
64507252	574400	MOTOR VEHICLE INSURANCE	31,243.00	\$32,000.00	\$32,000.00
64507252	578100	CLAIMS & DAMAGES		\$500.00	\$500.00
TOTAL WATER MAINT & DISTRIB EXPENSES			\$303,024.34	\$425,300.00	\$423,800.00

64507262 WATER TREATMENT PLANT EXPENSES			FY20 Actual	FY21 Budget	FY22 Proposed Budget
64507262	521100	ELECTRICITY	620,637.86	\$700,000.00	\$700,000.00
64507262	521101	ELECTRICITY NMC UX	46,550.85		
64507262	521500	HEATING FUEL	24,047.57	\$35,000.00	\$35,000.00
64507262	524100	BUILDING & GROUNDS MAINT	23,629.39	\$20,000.00	\$20,000.00
64507262	524200	RESERVATION HQ O&M	19,298.55	\$35,000.00	\$35,000.00
64507262	524400	WATER PUMPING STATION MNT	4,336.97	\$17,200.00	\$6,700.00
64507262	524800	R & M CONSTRUCTION EQUIPMENT	0.00	\$100.00	\$100.00
64507262	525000	OFF EQUIP/FURN MAINTENANCE	62.75	\$100.00	\$100.00
64507262	525100	COMPUTER EQUIPMENT MAINTENANCE	5,295.50	\$13,000.00	\$13,000.00
64507262	527400	CONSTRUCTION EQUIPMENT RENTAL	0.00	\$100.00	\$100.00
64507262	529400	OTHER PROPERTY RELATED SERVICE	0.00	\$100.00	\$100.00
64507262	530100	WORKERS COMP. MEDICAL BILLS	0.00	\$500.00	\$500.00
64507262	531200	OTHER PROFESSIONAL SERVICES	12,645.68	\$25,000.00	\$39,000.00
64507262	531300	LAB TESTING SERVICES	23,338.25	\$26,000.00	\$27,029.00
64507262	538500	OTHER PURCHASED SERVICES	0.00	\$2,500.00	\$2,500.00
64507262	545100	CLEANING SUPPLIES	211.63	\$500.00	\$500.00
64507262	546100	TOOLS	337.55	\$500.00	\$500.00
64507262	551100	EDUCATIONAL SUPPLIES	3,102.01	\$5,000.00	\$5,000.00
64507262	553100	CONCRETE/CEMENT	0.00	\$100.00	\$100.00
64507262	553400	LUMBER	0.00	\$100.00	\$100.00
64507262	554200	CHEMICALS	434,666.65	\$526,000.00	\$526,000.00
64507262	558600	OTHER SUPPLIES	0.00	\$100.00	\$100.00
64507262	560000	INTERGOVERNMENTAL	61,830.81	\$72,000.00	\$72,000.00
TOTAL WATER TREATMENT PLANT EXPENSES			\$1,279,992.02	\$1,478,900.00	\$1,483,429.00

64509905 WATER DEBT SERVICE		FY20 Actual	FY21 Budget	FY22 Proposed Budget
64509905	591000	3,726,166.47	\$4,250,745	\$4,288,588
64509905	591500	1,213,819.23	\$1,338,659	\$1,316,392
64509905	592500	160,218.26	\$166,000	\$404,263
64509905	594000	49,708.26	\$59,817	\$53,533
64509905	594100	0.00	\$46,899	\$34,460
64509905	599996	50,007.00		
TOTAL WATER DEBT SERVICE		\$5,199,919.22	\$5,862,100	\$6,097,235

		FY20 Actual	FY21 Budget	FY22 Proposed Budget
GRAND TOTAL -EXPENSES		\$12,121,117.14	\$13,617,664	\$14,045,105
GRAND TOTAL -REVENUE		\$11,857,940.05	\$13,615,264	\$14,045,105
DELTA		-\$263,177.09	-\$2,400	\$0
RETAINED EARNINGS BUDGETED		\$488,626.00	\$54,949.00	\$329,524.00

Annual Impact on Average Family at 109 GPD, 59 CCF per Year		
FY21 cost for water/base fee at 109 GPD		\$237.79
FY22 cost for water/base fee at 109 GPD		\$240.44
delta: increase from FY20 to FY21 per family at 109 GPD		\$2.65

**City of Fall River, In City Council**

(Vice President Laliberte-Lebeau)

WHEREAS, in June, July, and August of 2020 the City Council encouraged the Administration to explore new avenues of revenue, and to reduce costs wherever possible, for the FY21 budget to be sustainable, and

WHEREAS, in July and August of 2020 Councilor Dionne put in an enormous amount of effort taking an inventory of trash and recycling bins at businesses, housing authority properties, and 6+ family properties throughout the city, and also researched the "pink bin business recycling program" that was in effect from 2012-2015, and

WHEREAS, the city is currently picking up trash and recycling at many of these locations, and pickup is in direct violation of our city ordinances, and costs the city money, and

WHEREAS, the former administration added an amendment to the EZ Disposal contract allowing the business owners of the pink bins to continue to have their recycling picked up, and further gave them the opportunity to have their trash picked up as well, and

WHEREAS, Councilor Dionne and Council Vice President Laliberte-Lebeau met with the Mayor, the CFO, and the Director of Community Maintenance in August 2020 in order to share all of Councilor Dionne's research, and to request that trash and recycling currently being picked up in opposition to city ordinance and at a cost to the city, cease immediately, and

WHEREAS, we also had a conversation about exploring a Cart Program, and

WHEREAS, the Administration was going to evaluate the most cost saving and equitable measures based on numbers of carts per household that conforms with city ordinance, and present a preliminary proposal as soon as possible, and

WHEREAS, the aforementioned trash and recycling pickup has yet to cease, and a cart proposal has yet to be presented, now therefore

BE IT RESOLVED, that the Administration attend the next meeting of the City Council Committee on Finance with an end date for trash and recycling pickup that is happening in direct opposition to our ordinances, and to present the Cart Program proposal.

In City Council, April 20, 2021  
Adopted

A true copy. Attest:



City Clerk

Tabled 5-11-21



**PAUL E. COOGAN**  
*Mayor*

**City of Fall River  
Massachusetts  
Office of the Mayor**

RECEIVED

2021 MAY 18 A 10:17

CITY CLERK  
FALL RIVER, MA

May 17, 2021

The Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Dear Honorable Council Members:

Enclosed is a copy of the executed Memorandum of Agreement (MOA) and a copy of the contract ending June 30, 2019 with the Custodians. This MOA will be for the two years ending June 30, 2021. This contract represents 2 members and as such the financial impact is insignificant.

At this time, we will not be presenting a transfer to the custodian appropriation, however, we may need to do so as we approach the year end.

Your approval of the MOA is respectfully requested.

Best Regards,

*Paul E. Coogan*  
Paul E. Coogan  
Mayor

*City of Fall River, In City Council*

ORDERED, that the funding of the cost items contained in the attached Memorandum of Agreement between the City of Fall River and Labor Advantage for Workers Local 124 – Building Custodians is hereby approved.



**MEMORANDUM OF AGREEMENT**

**BETWEEN**

**THE CITY OF FALL RIVER**

**and**

**LABOR ADVANTAGE FOR WORKERS, LOCAL 124, BUILDING CUSTODIANS**

This **MEMORANDUM OF AGREEMENT** is entered into by and between the City of Fall River (hereinafter "the City") and the Labor Advantage For Workers, Local 124, Building Custodians, (hereafter "Union");

**WHEREAS**, the City and the Union are parties to a collective bargaining agreement (hereafter "CBA") for the period through and including June 30, 2019; and,

**WHEREAS**, the City and the Union have, pursuant to Massachusetts General Laws, Chapter 150E negotiated a successor contract for the aforementioned agreement;

**NOW, THEREFORE**, in consideration of mutual covenants and promises, the Parties agree that the following changes will be made to the CBA:

**1. Term of Agreement**

The term of this agreement shall be for two (2) years and shall extend the CBA consistent with the terms herein from July 1, 2019 to June 30, 2021.

**2. ARTICLE XV, Section 6: SALARIES AND WAGES**

The CBA shall be amended to reflect the following COLA increases:


FY 20:	1.5%
FY 21:	1.5%

This Agreement is subject to ratification by the City and the Union. This Agreement shall not be implemented unless the parties have ratified and fully executed the Agreement.

This Agreement has been duly executed by authorized representatives of the City and the Union.

**IN WITNESS WHEREOF**, the Union and the City, by their authorized representatives, have set their hands to this Memorandum of Agreement on this 14th day of May, 2021.

For and behalf of the City

  
Paul E. Coogan, Mayor

For and behalf of the Union

  
David J. Lavoie

**COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN**

**CITY OF FALL RIVER**

**AND**

**LABOR ADVANTAGE FOR WORKERS,**

**LOCAL 124**

**BUILDING CUSTODIANS**

**TERM OF AGREEMENT JULY 1, 2017 TO JUNE 30, 2019**

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ARTICLE I  
RECOGNITION

The employer does hereby recognize the Union as the sole and exclusive bargaining agent for all Custodians employed by the Employer, excepting those Custodians employed by the Employer who is assigned to the School Department, for all collective bargaining concerning wages, hours and other conditions of employment.

Employer will not aid, promote or finance any labor group or organization which purports to engage in collective bargaining or make any agreement with any such group or individual for the purpose of undermining the Union or changing any condition contained in this Agreement.

ARTICLE II  
DISCRIMINATION AND COERCION

There shall be no discrimination by the Employer against any employee because of his activity or membership in the Union. The Employer further agrees that there will be no discrimination against any member for his adherence to any provision of this Agreement or his refusal to comply with any order which would violate this Agreement.

ARTICLE III  
GRIEVANCE AND ARBITRATION PROCEDURE

Any grievance or dispute which may arise between the parties, including the application, meaning or interpretation of this Agreement, shall be settled in the following manner:

- A. Step 1 – The Union steward with the aggrieved employee shall take up the grievance or dispute in writing with the employee's Department Head or designee within three (3) working days of occurrence of the grievance or dispute, or within three (3) working days of the date of the grievance or his knowledge of its occurrence. The Department Head or Designee shall attempt to adjust the matter and shall respond to the steward within three (3) working days. Upon receipt of the Department Head's reply to the grievance, the Union steward if not satisfied with the Department Head's decision will, within four (4) working days, proceed to STEP 2. Failure to do so will render the grievance moot.

- 1
- B. Step 2 – If the grievance has not been settled it shall be presented, in writing to the Director of Human Resources or his/her designee within four (4) working days after the Department Head's response is due. The Director of Human Resources shall respond to the representative in writing within four (4) working days after the Department Head's response is due. The Director of Human Resources shall respond to the steward in writing within five (5) working days.
- C. Step 3 – If the grievance is still unsettled, either party may within fifteen (15) days after the Director of Human Resources or his/her designee has responded or failed to respond pursuant to STEP 2 herein, by written notice to the other request arbitration. The City and Union agree to joint utilization of the serviced of the American Arbitration Association under its rules and relating to grievances arising out of the contract excluding matters regarding suspensions, demotions, discharges under Chapter 31. The decision shall be final and binding on the parties to the extent provided by the rules of the American Arbitration Association and the arbitrator shall be requested to issue his decision within thirty (30) days after the conclusion of the testimony and argument. The expense for the arbitrator's services and the proceedings shall be borne equally by the Employer and the Union. The implementations of any final decision shall be applied immediately after the decision is rendered. Grievances involving disciplinary action shall be processed beginning at the Second Step. If the case reaches arbitration, the arbitrator shall have the power to direct a resolution of the grievance up to and including restoration to the job with all compensation, and privileges that would have been due the employee.
- D. A grievance for the purpose of this article shall be defined as any controversy, complaint misunderstanding or dispute arising between an employee or employees and the City or between the Union and the City.

#### ARTICLE IV CIVIL SERVICE RULES

The Employer and the Union shall recognize and adhere to all Civil Service and State labor laws, rules, and regulations, relative to seniority, promotions, transfers, discharges, removals and suspensions.

/

ARTICLE V  
SENIORITY

The principle of seniority shall govern and control in all cases of transfer, choice of shift and vacations.

ARTICLE VI  
HOURS OF WORK

The workweek shall consist of five (5) days  
Government Center---Monday – Friday

Work schedules shall be established by the Director of Building and Grounds. The City shall retain the discretion to determine the number of day shifts and night shifts necessary for the operation.

ARTICLE VII  
OVERTIME

All overtime shall be equally and impartially distributed among all personnel on a strict seniority basis. Overtime work shall be voluntary and there shall be no discrimination against any employee who declines to work overtime.

An employee covered by this Agreement shall be paid overtime at the rate of one and one-half (1-1/2) times his regular rate of pay for work in excess of eight (8) hours in one day and forty (40) hours in one week.

All work performed on Sunday shall be paid at the rate of two (2) times the regular rate of pay, except when Sun is a regular work day by shift.

Any employee called back to work on the same day after having completed his assigned work and having left his place of employment and before his next regular scheduled starting time, shall be paid at the rate of time and one half (1-1/2) times his regular hourly rate for all hours worked on recall. The employee shall be paid for a minimum of four (4) hours wages.

The Director of Buildings and Grounds shall notify the custodian of any building which is to be occupied beyond the regular custodial workday; the custodian shall be present whenever a building is occupied. Employees called into work more than two (2) hours but less than four (4) hours prior to the start of their regularly scheduled shift shall receive four (4) hours of overtime in addition to their regular pay for that day. Employees called into work more than one-half (1/2)

hour but less than two (2) hours early shall receive two (2) hours of overtime pay, in addition to their regular pay for that day.

In a building that is manned by three or more employees, if one employee is absent on a weekday or Saturday by either vacation or sick leave, one of the employees shall be guaranteed the maximum of three (3) hours overtime to do the work normally done by the person out sick or on vacation, provided:

- A. The absent person is out for his or her entire shift.
- B. The work to be equally divided, starting with the senior man/woman.
- C. The extra work to be performed before or after the custodian's regular shift.
- D. The absent employee is not replaced during the shift.

If two (2) employees are on vacation at the same time, the City shall not be obligated to fill on overtime additional vacancies caused by sick, personal or any other paid leave.

#### ARTICLE VIII HOLIDAYS

The following are to be considered paid holidays:

New Year's Day  
Martin Luther King Day  
Presidents' Day  
Good Friday  
Patriots Day  
Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veterans Day  
Thanksgiving Day  
Day after Thanksgiving  
Christmas Eve  
Christmas Day  
New Year's Eve

In the event that a holiday falls on a Saturday, all employees scheduled to work from Monday through Friday shall be paid an additional day's salary. If an employee has a work schedule which is other than Monday to Friday, i.e. Saturday

through Wednesday, he/she shall have the first day off considered as Saturday for purpose of Holiday Pay.

Holiday pay shall be eight (8) hours pay at straight time rate.

Any employee required to work on a holiday shall receive in addition to the regular holiday pay an amount equal to (2) times his regular rate of pay for all hours of work, but in no case shall this be less than an amount equal to four (4) hours work at the advanced rate.

## ARTICLE IX LEAVE

### A. BEREAVEMENT:

In the event of a death in the immediate family, employees shall be entitled to a leave of absence for five (5) full days of leave without a loss of salary or loss of credit from annual or cumulative leave. The term immediate family shall include father, mother, brother, sister, wife, child, grandparents, or immediate in-laws, or member of immediate household. Amended to also to include step-family where step-family members reside or did reside in the same household as the employee. If the employee is scheduled to work he/she shall get one (1) day off to attend the funeral for an aunt and uncle by blood or marriage.

### B. PERSONAL DAYS:

Employees will be entitled to two (2) days leave of absence for personal, legal, household or family business which requires absence during working hours. Application for Personal Leave will be made at least twenty-four (24) hours before taking such leave, except in the case of emergencies, and the applicant for such leave will not be required to state the reason for taking such leave other than that he is taking it under this Section. Such absence shall not be deducted from the number of days to the credit of the employee for such leave. Employees shall be allowed to carry over two (2) personal days into the next calendar year for a total of five (5) days (i.e. two carry over days and two days accrued during the carry over year).

Upon the signing of this Agreement, employees with seven (7) or more years of service shall receive one (1) additional Personal Day per year.

(a) The Director may excuse any employee who requests absence for Jewish Holidays without loss of pay, but such absence shall be deducted from the number of days to the credit of the employee.



(b) Employees who serve or are serving in the Armed Forces of the United States as employees of the City of Fall River, and such periods of service in the Armed Forces shall not be deducted from their experience categories.

(c) In the case of employees receiving benefits from the City of Fall River under the Workmen's Compensation Act as a result of a claim for personal injury sustained during the performance of their duties, sick leave benefits are to be limited to such amounts as may legally be paid under the provisions of the Workmen's Compensation Act.

(d) The employer may, at its own expense, require that the employee submit to an independent examination by a doctor regarding the nature of the injury or illness which disables him/her from performing normal duties.

(e) New Management Rights: Except as expressly limited by other provisions of this Agreement, all of the authority, rights, and responsibilities possessed but the City are retained by it. Including, but not limited to, the right to determine the mission, purpose, objectives and policies of the City; to determine the facilities, methods, means and number of personnel required for conduct of City programs, to discipline to discharge employees for just cause in accordance with applicable law and the provisions of this Agreement. All of these rights shall be recognized if not in conflict with the provisions of the Agreement.

#### ARTICLE X VACATIONS

The vacation year shall be the period January 1 to December 31 inclusive. Each member shall be credited as of December 31<sup>st</sup> with vacation leave with pay as follows:

Employees hired on or before July 1, 2017

Two (2) weeks paid vacation after completing six (6) months of employment with the City of Fall River in the custodial occupational group.

Three (3) weeks paid vacation after completing five (5) years of employment with the City of Fall River in the custodial occupational group.

Four (4) weeks paid vacation after completing ten (10) years of employment with the City of Fall River in the custodial occupational group.

Five (5) weeks paid vacation after completing fifteen years (15) of employment with the City of Fall River in the custodial occupational group.

One (1) day paid vacation for each additional year of service after completing twenty (20) years of employment with the City of Fall River in the custodial occupational group.

The one (1) additional vacation day above shall be in addition to five (5) weeks of paid vacation

The maximum allowable under this Article shall be thirty (30) Days paid vacation.

#### Employees hired after July 1, 2017

Two (2) weeks paid vacation after completing six (6) months of employment with the City of Fall River in the custodial occupational group.

Three (3) weeks paid vacation after completing five (5) years of employment with the City of Fall River in the custodial occupational group.

Four (4) weeks paid vacation after completing ten (10) years of employment with the City of Fall River in the custodial occupational group.

#### Vacation Schedules:

An employee shall be required to notify his/her immediate supervisor of intent to take scheduled vacation at least five (5) working days prior to the effective vacation date. No more than two (2) employees on the same shift on vacation without the approval of the Director of Buildings and Grounds.

ARTICLE XI  
JURY PAY

The Employer agrees to make up the difference in the employee's wages between a normal week's wages and compensation received for jury duty. This sum will only be paid for actual days the employee serves on jury duty and only if the employee returns to work the first scheduled workday following his/her release from jury duty.

ARTICLE XII  
MATERIALS, EQUIPMENT, TOOLS

The Employer agrees to provide all materials, equipment and tools required to perform the duties assigned to the employees covered by this Agreement.

ARTICLE XIII  
ACCESS TO PREMISES

The Employer agrees to permit representatives of the Union to enter the premises at any time for individual discussion of working conditions with employees, provided care is exercised by such representative that they do not interfere with the performance of duties assigned to the employees of the department.

ARTICLE XIV  
MISCELLANEOUS PROVISIONS

Should any provision of this Agreement be found to be in violation of any Federal or State Law or Civil Service Rule or City Ordinance by a court of competent jurisdiction, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement, and any benefit, privilege or working condition existing prior to this Agreement not specifically covered by this Agreement shall remain in full force and effect and if proper notice is given by either party as to the desirability of amending, modifying or changing such benefit, privilege or working condition, it shall be subject to negotiation between the parties.

1. Effective Date: The effective date of this Agreement is July 1, 2017. The signing of this Agreement by the authorized representatives of the Union and the employer shall be authorized to implement all of the provisions of this Agreement.

2. TERMINATION:

This Agreement will remain in effect from July 1, 2015 through June 30, 2019. At the end of that three (3) year period, either party may terminate this Agreement provided such notice of termination is transmitted through the U.S. Mail by Certified Mail to the responsible signatories to the Agreement. In no case can a termination notice be sent less than thirty (30) days prior to the date herein agreed.

3. RENEWAL:

In the event that no termination statement is sent by either party, this Agreement will automatically be renewed for a further term of one (1) calendar year.

4. CHANGES:

Should either party to this Agreement wish to inaugurate collective bargaining discussions over changes they may wish to introduce into this Agreement, it is agreed that notice of the substance of the changes and the language with such desired changes are to be expressed, shall be mailed to the authorized parties signatory to the Agreement prior to the thirty (30) days before termination date of this Agreement. The parties receiving such notice of desired changes shall forthwith seek establishment of a meeting for purposes of discussion and amicable accommodation for the desired change. Nothing in this Article shall preclude the Union from modifying any previous proposals during the course of the negotiations.

5. JOB CHANGES:

Any employee temporarily assigned to a position with a higher rate of pay shall receive the higher rate of pay after having performed the duties of said position for a period of five (5) consecutive days, to be paid from day one.

6. SALARIES AND WAGES:

Shall be paid starting July 1, 2016, to June 30, 2017 schedule hereto annexed and marked Appendix "A".

Wages:

July 1, 2016 to June 30, 2017 -0- increase

7. UNIFORM ALLOWANCE: Effective July 1, 1987 the City agrees that it will pay each employee covered by this Agreement as of July 1, 1987 two hundred fifty (\$250.00) for each twelve (12) months. Changes made in (2005-2008) contract are as follows:

7-1-2006 said uniform allowance shall be increased to seven hundred (\$750.00) dollars annually.

Employees may purchase uniform, rain gear, special shoes and such other equipment as may be necessary in the course of their employment. The City may, at its option, furnish the above enumerated clothing and equipment to the employees in lieu of paying an allowance.

UNIFORM POLICY: Effective 5-14-03 the Uniform Policy is as follows:

All clothes on upper torso (tee shirts, sweatshirts, coats, etc.) shall be navy blue with white lettering stating "Fall River Buildings and Grounds" and on the left side of the chest as per departmental authorized specifications.

All clothes below the waist (pants, knee length shorts) shall be black or navy blue as per departmental authorized specifications. Denim jeans are allowed but must be in good condition.

Work boots, work gloves and hard hats shall be per departmental authorized specifications.

8. Any reference to the City of Fall River ordinances contained within this Agreement executed by and between the parties shall be deemed to mean the City of Fall River ordinances as presently constituted.

UNION STEWARDS:

9. A written list of Union stewards and other representatives shall be furnished to the Employer immediately after their designation and the Union shall immediately notify the Employer of any change.

The Union shall designate one (1) steward or representative from among themselves who shall be granted reasonable time off during working hours to investigate and settle grievances. The steward shall

handle grievances at STEP 1. The representative or designee shall handle grievances at STEP 2. Such time off shall be without loss of pay. The time off shall be determined and established by agreement between the Union, the appropriate representative of the City and shall continue for the term of this Agreement.

11. PERSONNEL FILES: The City shall keep a central personnel file for each employee. Supervisors may keep working files, but material not maintained in the central personnel file may not be used as documentation for action against/for an employee.

Inspection: Upon appropriate request, an employee may inspect this/her personnel file subject to the following:

- (a) Inspection shall occur during non-working hours, including lunch and break periods, at a time and in a manner mutually acceptable to the Employer and the City. Upon request, the employee who has a written grievance who is inspecting his/her personnel file with respect to such grievance may have a representative present during such inspection.
- (b) Copies of materials in an employee's personnel file shall be provided the employee upon request if such materials are to be used in conjunction with the processing of a grievance filed by the employee. The employee shall bear the cost of duplication.

Notification: Employees will be notified when a formal, written warning is placed in their personnel file.

12. WAGE RATES DEFINED:

Definition – Regular compensation rate: The regular compensation rate is that reflected in the salary schedule specified in Appendix C, Schedule "A". Said regular compensation rate does not include any additional or premium compensation.

Definition – Premium Compensation: Premium compensation is that compensation which is in addition to the employee's regular compensation rate as defined herein. Such compensation is included but not limited to, overtime premium compensation.

Premium Compensation Limitation: Each type of compensation described in this Agreement shall be considered and computed separately. At no time shall such premium compensation earned by an employee be compounded or pyramided.

13. SNOW REMOVAL:

The City will explore the feasibility of maintaining power equipment in good repair for the removal of snow. It is understood that the custodians shall none the less be required to use available equipment for the purpose of snow removal at public buildings.

Snow Removal Stipend:

During the period December 1 to April 1, if called for snow/ice removal overtime, a custodian will have thirty (30) minutes to respond to the call or said failure to respond will be considered a refusal of the overtime. If a custodian has a legitimate reason to refuse the overtime offer (e.g., the custodian is out of town on vacation) as determined by the Director of Buildings and Grounds or his designee, in his sole discretion, such refusal will not be counted in determining the custodian's entitlement to the following annual snow/ice removal overtime stipend. New duties to include Third St. to parking lot over highway and Gromada Plaza from the Chamber of Commerce to the fountain at the corner of Central St. and North Main St.

Amendment to Snow Removal:

Stipend: Employees who by choice will not shovel snow during an overtime basis shall sign a release and be removed from snow stipend totally.

(Other language remains the same.)

<u>No. of Refusals</u>	<u>Annual Stipend</u>
NONE	\$2,300.00
1 - 3	\$ 800.00
4 - 7	\$ 200.00
8 or more	- 0 -

Weather Close-down:

In the event that a building to which a custodian is assigned is closed down due to snowstorm or weather-related issues, custodians who work will receive one-half time (½) for all hours worked during the close-down period.

14. INCENTIVE PAY:

Effective July 1, 2006 and for the term of this Agreement the head building custodian shall receive an additional twenty-five (\$25.00) dollars per week, now forty-five (\$45.00) dollars per week, which shall become part of base pay for the purpose of overtime, pension, etc. Effective 7-1-06 the incentive pay SHALL become part of his/her weekly salary for purpose of wages, overtime, pension.

Effective July 1, 2006 and for the term of this Agreement, the senior custodial (one) shall receive an additional ten (\$10.00) dollars per week, now twenty (\$20.00) dollars per week, which shall be included as part of base pay for the purpose of overtime, pension, etc. Effective 7-1-06 the incentive SHALL become part of his / her weekly base salary for purpose of wages, overtime, pension.

15. BIDDING, JOB ASSIGNMENTS:

The present practice of bidding by seniority for job assignments (for permanent employees only) shall continue during the term of this Agreement unless such practice conflicts with the Civil Service Law or regulation in which the latter shall prevail. When vacancies occur, staffing levels, scheduling and number of available shifts shall be determined by the City, acting through the Director of Buildings and Grounds.

16. DIRECT DEPOSIT:

All bargaining unit members will enroll in bank direct deposited paychecks.

17. RESIDENCY:

Any and all members of the custodial staff currently employed by the City of Fall River, at the date of signing this Agreement, represented by LAW 124, shall be exempt from residency requirements. In event this section conflicts with City ordinance, City Ordinance shall prevail.

18. MOVING, PRIOR NOTICE:

Whenever possible, the head custodian shall be given one week advance notice regarding the moving (relocation) of any office. All cabinets will be emptied by office staff with bins provided by the custodians.



19. HEALTH INSURANCE:

The effective date of this memorandum shall be April 1, 2012. The terms of this plan shall remain in effect until a new memorandum is agreed upon.

Health Care Plan Benefits

After, a process deemed and agreed to have complied with the procedural process and requirements of Sections 21-23 of Chapter 32B of the General Laws, the City and the PEC have agreed that, effective April 1, 2012, the cost sharing features of the non-Medicare health plans (Blue Cross Blue Shield Blue Care Elect, Blue Cross Blue Shield Blue Choice, and Blue Cross Blue Shield Network Blue New England) offered by the City shall be changed.

1. The City agrees that between April 1, 2012 and June 30, 2014 it will make no further changes to the above described BCBSPD co-payments. The City further agrees that during that period it will make no changes to the contribution ratios (75% City contribution/25% Employee contribution) that apply to the BCBSPD that it offers to its subscribers. However, nothing in this Agreement shall prevent the City, at any time after February 1, 2013, from commencing the procedures, authorized by M.G.L. c. 32B, Secs. 21-23, to implement changes to the BCBSPD that would be effective on and after July 1, 2014.
2. It is agreed that the provisions of this agreement shall supersede any contrary provisions of any collective bargaining agreement and that all references to co-payments or other cost-sharing features in all collective bargaining agreements shall be null and void and shall be considered to be physically removed from such collective bargaining agreements, effective April 1, 2012.
3. The PEC signatories to this agreement attest to the fact that they are representative of their respective collective bargaining unit and deem all prerequisites to the execution of this agreement as deemed met.
4. The Parties agree to forego the up to the 25% mitigation, which is outline in M.G.L. c. 32B §21-23.

The Insurance Advisory Committee meetings will be held when necessary but not less than monthly at the request of the Chairperson of the Insurance

Advisory Committee, at which time the monthly financial records, Employee Trust Fund Bank Statements, and all reconciled reports of the Employee Trust Fund will be submitted.

#### Amendment of the Memorandum

This memorandum may be amended at any time by mutual agreement of all the parties. Such amendments shall not be binding upon any party unless it is in writing and signed by personnel authorized to bind each of the parties.

#### ENTIRE AGREEMENT

This contract, represents all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

#### CONFORMANCE

If any provision of this agreement violates any statute or rule of law of the Commonwealth of Massachusetts it is considered modified to conform to that statute or rule of law.

Addendum  
Memorandum of Understanding  
Between  
The City of Fall River and  
Public Employee Committee

The City of Fall River and the Public Employee Committee (PEC) agree to amend the Memorandum of Understanding (MOU) between the parties dated June 30, 2014 through this Addendum, as follows:

In exchange for the PEC agreement to transfer eligible members currently residing in Massachusetts and Rhode Island, from the Blue Care Elect (PPO) plan to the Network Blue (HMO), effective July 1, 2017, the parties agree as follows:

1. Only non-Medicare eligible retirees, subscribers with or without dependents who reside outside of the area of Massachusetts and Rhode Island shall be allowed to enroll in the Blue Care Elect Plan. It is understood that this plan shall only be available to subscribers with or without dependents who reside outside of this area.
2. The term of the current MOU, Section III, shall be extended until June 30, 2021.
3. Section V of the MOU shall be amended by adding the following conditions:

The parties agree that if there is any change that imposes a substantial financial burden, exclusively or disproportionately, on the Employer or Employee Trust funds, or if any of the plans offered by the City during the life of the 2014-2021 PEC agreement are reasonably expected to result in the triggering of the excise tax, the Parties shall meet as soon as practicable and shall mutually agree to make acceptable changes to the then current plan design in order to avoid triggering the excise tax. Plan design changes shall be duly considered and negotiated in accordance with the process outlined in Chapter 32B sections 21-23.

4. The parties acknowledge that the use of mitigation funds shall be recommended by the IAC or PEC for approval by the PEC.

20. REORGANIZATION:

The City and the Union agree to continue to discuss reorganization of the custodial titles.

21. All full-time employees that are employed as of the ratification date shall not be laid off as a result of transfer of bargaining unit work to a private contractor during the term of this Agreement. The foregoing provision shall not be subject to the automatic renewal provision of Article XV, section 3.

22. PERFECT ATTENDANCE INCENTIVE: (Sick leave)

Employees who demonstrate perfect attendance for a consecutive period of three (3) months (based on a calendar quarter, i.e. Jan-Mar, April-June July-Sept, Oct.- Dec.) shall earn one (1) additional vacation day not to exceed four (4) vacations days per year, with the exception to the last quarter one (1) day earned which will be taken in the next calendar year.

23. CAR ALLOWANCE:

Upon the signing of this Agreement the custodians will receive a car allowance in the following manner:

Upon signing of Agreement	\$100.00 per month
Effective 7-1-2006	\$110.00 per month
Effective 7-1-2007	\$130.00 per month

The foregoing payments shall be discontinued effective July 1, 2017, in lieu of a one-time payment of \$700.00 to each employee then an active member of this bargaining unit.

24. TELEPHONE ALLOWANCE:

Head custodian receives payment of (\$75.00 per week).

ARTICLE XV  
UNION DUES

Union dues shall be deducted under the provisions of Chapter 180, Section 17A of the General Laws.

ARTICLE XVI  
AGENCY SERVICE FEE

In accordance with Chapter 180, Section 17G, accepted on August 17, 1971, the following provisions are herewith incorporated:

All employees in the bargaining unit shall, as a condition of employment, pay the Union, the exclusive bargaining agent and representative, an amount of money equal to that paid by other employees of the Union, which shall be limited to an amount of money equal to the Union's regular and usual membership dues. For new employees, such payment shall commence thirty-one (31) days following the date of employment.

In consideration of the municipal employer's entering into this collective bargaining agreement, which agreement includes an agency service fee provision, the Union hereby agrees to indemnify the said Employer and hold it harmless from any and all claims, liabilities or costs of the employee which arise out of entering into or enforcement of said provision which arise out of the payroll deduction of agency fees.

ARTICLE XVII  
SHIFT DIFFERENTIAL

A shift differential of forty-five (\$.45) cents per hour will be granted to all employees scheduled to work the second or third shift who hold the title of Junior Building Custodian or Senior Building Custodian or Head Custodian. Effective 7-1-03 increase by five (.25) cents to \$1.00 per hour.

ARTICLE XVIII  
LONGEVITY

In addition to all other compensation paid in accordance with the terms of this Agreement, there shall be paid to the following employee's additional compensation for Longevity as follows:

Effective 7-1-13 Junior Building Custodians, Senior Building Custodians and Head Custodians shall receive:

5 years	\$400.00
10 years	\$600.00
15 years	\$700.00
20 years	\$800.00

25 years \$1,000.00  
30 years \$2,000.00

Payment shall be made in one sum on the first regular pay day immediately following an employee's anniversary date of employment.

#### ARTICLE XIX CIVIL SERVICE

The Employer and the Union shall recognize and adhere to all Civil Service and State Labor Laws, rules and regulations, relative to seniority, promotions, transfers, discharges, removals and suspensions. The Union further reserves the right to represent employees under any such established procedure. Any employee not covered by any statute relative to the above matters shall have recourse to the grievance procedure contained herein.

#### ARTICLE XX SICK LEAVE

Sick leave shall be in accordance with S.23-18 the newly revised ordinances of the City of Fall River covered by this Agreement as amended and in effect the date of this Agreement as follows. Sick leave credit for employees as set forth under this division shall be one and one-half (1-1/2) days for each calendar month of service including Probationary Period. Such credit, when not used, shall be cumulative to a maximum of 230 days. Upon attaining the maximum accumulation sick leave is no longer earned.

##### Sick Leave Documentation:

Employees who are out sick for four (4) or more days are required to present medical documentation upon request.

##### Sick Leave Monitoring Program:

Within six (6) months of signing this Agreement, the City will implement a sick leave monitoring program, which will identify and address sick leave abuse. Parameters will include but not be limited to the following:

- 1.) Short term undocumented sick leave.
- 2.) Sick leave utilization on first and last day of week, before and after a holiday or vacation and afternoon of payday.

## MONITORING SICK LEAVE UTILIZATION

- A. The City of Fall River will set eight (8) undocumented days per year as an acceptable standard of sick leave utilization. Normally the review of all employees' attendance records will take place every six (6) months. However a review can occur any time for an individual employee if sick leave abuse is suspected. An undocumented day is defined as an absence not supported by a physician's note.
- B. Sick leave shall be periodically monitored based on a twelve (12) month time period. Such twelve-month period will be a calendar year.
- C. Suspected abuse of sick time usage shall result in the implementation of progressive discipline as follows:
  - 1. Verbal warning.
  - 2. Written warning.
  - 3. 2<sup>nd</sup> written warning (carries weight of suspension, purpose is to have employee at work, not absent.
  - 4. Termination.
- D. The City reserves its right to take action against any employee who it believes is setting a pattern of abuse. The Union reserves its right to dispute such action under the grievance procedure.
- E. In all cases, the City reserves the right to have the employees evaluated by the City's Doctor at the City's cost.

## ARTICLE XXI SICK LEAVE SEVERANCE BENEFIT PAYMENT

There shall be a severance benefit pertaining to sick leave upon either retirement or termination for other than cause while in the employ of the City payable in accordance with the following schedule:

The lesser of sixty (60) days or the actual number of days sick leave buy back to be paid in one lump sum upon retirement or termination of employment, for other than cause.

*Pat H. Lewis*  
City Administrator

Date 1-26-17

*[Signature]*  
\_\_\_\_\_  
*[Signature]*  
\_\_\_\_\_  
Approved as to Form &  
Manner of Execution

*Augustine Carroll*  
L.A. No.

Date 1/26/2017

*[Signature]*  
\_\_\_\_\_  
LAW PAGES  
1/26/17



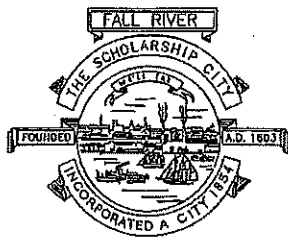
Section 50 - 311

Term of Collective Bargaining Agreement July 1, 2017 to June 30, 2019

**Custodians**

**Bi-weekly Salaries**

<b>Junior Custodian:</b>			
	Min. Step 1	Step 2	Max. Step 3
7/1/2017	1,174.69	1,242.46	1,310.13
7/1/2018	1,198.18	1,267.31	1,336.34
<b>Senior Custodian:</b>			
	Min. Step 1	Step 2	Max. Step 3
7/1/2017	1,334.51	1,402.24	1,469.89
7/1/2018	1,361.20	1,430.28	1,499.29
<b>Head Custodian:</b>			
	Step 1		
7/1/2017	1,688.29		
7/1/2018	1,722.06		
<b>Junior Custodian 20 years of service:</b>			
	Min. Step 1	Step 2	Max. Step 3
7/1/2017	1,209.93	1,279.73	1,349.44
7/1/2018	1,234.13	1,305.32	1,376.43
<b>Senior Custodian 20 years of service:</b>			
	Min. Step 1	Step 2	Max. Step 3
7/1/2017	1,374.55	1,444.31	1,535.09
7/1/2018	1,402.04	1,473.20	1,565.80
<b>Head Custodian 20 years of service:</b>			
	Step 1		
7/1/2017	1,738.94		
7/1/2018	1,773.72		



PAUL E. COOGAN  
Mayor

City of Fall River  
Massachusetts  
Office of the Mayor

RECEIVED

2021 MAY 20 P 1:17

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

May 18, 2021

The Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Dear Honorable Council Members:

The audit report has been received from The Edward Davis Company (EDC) dated May 12, 2021. As you know the audit was designed to look at the collective bargaining agreements, the administration manual, the minimum personnel in the uniform division, comp time as well as other relevant documents within our Police Department.

Mr. Davis is available to make a presentation to the Council and discuss the report, his findings, and his recommendations.

If you have any questions or concerns regarding this, please feel free to contact me.

Best Regards,

Paul E. Coogan  
Mayor

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THE  
EDWARD DAVIS  
COMPANY

# **CONFIDENTIAL REPORT**

CITY OF FALL RIVER

Prepared for Mayor Paul Coogan  
City of Fall River  
One Government Center, Room 619  
Fall River, MA 02722

Chief Jeffrey Cardoza  
Fall River Police Department  
685 Pleasant Street  
Fall River, MA 02721

Prepared by The Edward Davis Company  
2 Atlantic Avenue, 3rd Floor  
Boston, MA 02110

Submitted: 05/12/2021



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## **I. Introduction**

The Edward Davis Company (EDC), an independent security services and consulting firm, was retained by the Fall River Police Department/City of Fall River (Department) to provide advisory services on management and supervisory topics including staffing, compensatory (comp) time, attendance, deployment and other issues that may impact the Department's future collective bargaining agreements. Some of the challenges currently facing the Department stem from compensation provisions that have been collectively bargained or have resulted from other practices over several years. Ed Davis and EDC Team had a series of in-person and virtual meetings with Police Chief Jeffrey Cardoza and his designee, Detective Sergeant Thomas Mauretti to understand the history of the Department and its practices. During these meetings, the EDC Team discussed strategies to address the different issues presented with Chief Cardoza, with a focus on the administration of comp time and operational management. There are some concerns that can be addressed in the short term, while others will need to be raised and addressed through the collective bargaining process. All recommendations should be reviewed with the Department's Labor Counsel and Finance Department to ensure an understanding of all legal and financial implications.

## **II. Executive Summary**

I would like to commend Mayor Coogan and Police Chief Cardoza for their thoughtful leadership in commissioning this report. I would also like to thank Detective Sergeant Mauretti for his hard work in compiling and providing us data and context for the report. The nature of police management is complicated, made even more so by decades of collective bargaining agreements. These agreements have all been negotiated in good faith during both positive and challenging fiscal years. When salary benefits are hard to come by, cities and unions rely on working conditions and other ways to negotiate an acceptable contract. However, over the years what began as reasonable accommodations can often build upon each other and the outcome can be confusing and difficult for a city to manage both financially and operationally. It is logical to routinely revisit the cumulative changes to identify operational issues and financial ramifications that impact the taxpayers of the city and can be amended through the collective bargaining process. We are a police consulting firm that understands police practice in Massachusetts, and we have provided a plan for your consideration in ongoing negotiations and operations of the Fall River Police Department.

## **III. Methodology**

Ed Davis and the EDC Team held a series of meetings with Chief Cardoza and Detective Sergeant Mauretti to discuss managerial and operational challenges facing the Department. In preparation for these meetings, the EDC Team reviewed the relevant documentation provided by the Department, in addition to guiding regulations, which included the following:

- Collective Bargaining Agreements
  - Patrolmen (7/1/15 – 6/30/19)
  - Superior Officers (7/1/16 – 6/30/19)
- Fall River Police Department Administration Manual
  - Compensation, Benefits, and Conditions of Work (Review date 12/25/2019)
  - Leave Benefit Programs (Review date 2/19/2020)
  - Allocation of Personnel (Review date 12/31/2020)
- Minimum Personnel in Uniform Division (Chief's Order 20-08)



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- Fall River Police Department Budget (fiscal year ending 6/30/2021)
- Fall River Police Department Comp Time Report (as of 6/30/2020)
- Fair Labor Standards Act (FLSA), 29 CFR § 553.22 - "FLSA compensatory time" and "FLSA compensatory time off"

#### IV. Review

One of the main concerns identified by the Department was maintaining operational efficiency while working within its allocated budget. This is partially due to bargained and past practice compensation obligations. The Department's compensation practices rely heavily on comp time. A police department's overuse and/or reliance on comp time can cause both operational and fiscal challenges including:

- *Staffing* – Police departments often struggle to meet their obligation to grant all paid leave required by union contract(s). The addition of a significant pool of earned comp time makes scheduling time off an even greater operational challenge.
- *Unfunded Liability* – Comp time is not paid out each payroll cycle in the same manner as overtime. Consequently, the associated financial exposure generally does not come to the attention of administrative budget officials in a timely manner and is not monitored by budget officials with the same level of scrutiny as overtime expenses. Police departments also frequently view comp time as less costly than overtime. For this reason, comp time is granted in a less discerning manner than overtime by department supervisors. This situation can be exacerbated if a police department does not require all comp time to be recorded in the payroll system. If comp time is recorded in a separate record keeping system, it is difficult to track the total associated unfunded liability to the department/city. It is also more challenging to confirm the accuracy of the records because they are not being routed through the same multi-level approval process that is built into a payroll system. It becomes easy for supervisors to overlook the fact that their success in controlling overtime costs may come at the expense of a significant increase in comp time banks and the associated unfunded liability to the department/city.
- *Fair Labor Standard Act Compliance (FLSA)* – police departments need to carefully monitor the use of comp time to ensure that they are complying with the relevant provisions of the FLSA. There is a misconception that there is no FLSA exposure as long as police departments comply with the relevant union contract(s). However, the FLSA supersedes the language in a collective bargaining agreement. The FLSA provides public safety departments with a range of different "FLSA Pay Cycles" (i.e., 7-day, 28-day). The number of hours an officer needs to actually work before the department is required to pay FLSA overtime or comp time varies based on the department's designated FLSA Pay Cycle. The FLSA also caps the total amount of comp time that can be accrued by law enforcement personnel at four hundred and eighty (480) hours. If an FLSA non-exempt employee reaches this cap, then he/she must be paid for all additional hours until such time as the employee's comp time bank has been brought below the cap. Like other FLSA regulations, this cap cannot be waived due to contract language or past practice, nor can the employer and the employee agree to waive this requirement. (Senior command staff may qualify as exempt employees under the FLSA and in which case, they are not covered by this cap.)



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#### *FALL RIVER COMP TIME ACCRUAL (As of 6/30/2020)*

Based on a report provided by the City, the Department's total comp time liability as of June 30, 2020 was \$3,204,964.53. Of this total, \$1,476,682.34 was for comp time hours exceeding the four-hundred and eighty (480) hour FLSA cap for law enforcement personnel. Again, a portion of the comp time included in the report may not be subject to the FLSA cap if it was earned by FLSA exempt personnel. The Department should consult with Labor Counsel and the Finance Department to discuss the implications of and strategies for addressing comp time hours in excess of the FLSA cap.

### **V. Recommendations**

#### **COMP TIME MANAGEMENT**

When used modestly, comp time can provide officers with greater work/life flexibility and can provide the Department with the ability to spread out the costs associated with temporary increases in staffing demands or decreases in available officers. However, if comp time is used to excess and/or without proper controls, it can enable a department to regularly live beyond its means. This can result in officers earning an amount of comp time that cannot reasonably be drawn down during their active employment. It can also result in the creation of a large off-the-books unfunded liability and FLSA exposure potentially resulting in litigation. Instituting controls for monitoring comp time and ensuring compliance with FLSA standards will mitigate the risk of litigation in this area.

For these reasons, EDC recommends establishing a reasonable cap (i.e., between one hundred and twenty (120) and one hundred and forty (140) hours) on the total number of hours of comp time that a Department employee can accrue. The established cap should be applicable to all comp time hours, both administrative and cashable comp time. All comp time should be entered into the Department's payroll system on a regular basis to ensure it is subject to the same monitoring and controls as other forms of monetary compensation. This will also allow budget officials to manage any unfunded liability associated with the accumulated comp time. Additionally, EDC makes the following recommendations regarding the Department's current practices to further manage the accumulation of Department comp time. These recommendations are based upon EDC Team members experience leading, managing and working with other police departments.

EDC Recommendations regarding existing administrative and cashable comp time practices include the following:

##### **1. *Range Qualification***

#### **Current practice:**

Officers can attend based upon the schedule provided. They are given the day off to attend and their assignment will be filled with overtime, if necessary. Officers are also permitted to attend on a scheduled day off and will receive eight (8) hours of administrative comp time if they choose to do so.

#### **Recommendations:**

- End the practice of allowing officers to attend the range qualification on a day off, which results in the accumulation of administrative comp time.
- Use on-duty personnel (including the administrative and detective divisions, where possible) to backfill for the officers attending the range qualification. This will eliminate or significantly limit the amount of overtime needed to maintain minimum staffing requirements during the qualification.



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- The use of overtime to backfill for officers attending the range qualification should only be allowed for last minute emergency situations with the Chief, or his designee's, approval.

## 2. *Taser Certification*

### Current Practice:

Training is conducted by range supervisors after a range shift. Officers that attend on a day off receive administrative comp time. Officers attending in lieu of shift create overtime due to backfilling.

### Recommendations:

- Similar to the range qualification, end the practice of allowing officers to attend taser certification on a day off, which results in the accumulation of administrative comp time.
- Use on-duty personnel (including the administrative and detective divisions, where possible) to backfill for the officers attending the taser certification. This will eliminate or significantly limit the amount of overtime needed to maintain minimum staffing requirements during the certification.
- The use of overtime to backfill for officers attending the taser certification should only be allowed for last minute emergency situations with the Chief, or his designee's, approval.

## 3. *In-Service Instructors*

### Current Practice:

The Department conducts in-service training four (4) days per year. The in-service instructors receive administrative comp time to conduct the training.

### Recommendations:

- The practice of giving overtime or comp time to a few officers who in-turn train the entire department is a common use of both overtime and comp time. This is a cost-effective manner to deliver training without expanding the training unit to an unsustainable level.

## 4. *Ordered In*

### Current Practice:

If an officer is ordered in for an overtime shift, (s)he will receive eight (8) hours comp time, in addition to the overtime for working the shift.

### Recommendations:

- This can be problematic because it can encourage officers not to volunteer for overtime shifts and instead to wait for the rotation to be forced in and receive the comp time in addition to the overtime pay.
- The Department should consider negotiating the removal of this provision in the upcoming contract negotiations.

## 5. *Court Time*

### Current Practice:

Court time can be changed into administrative comp time (any overtime can be converted to comp time).



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Recommendations:

- The Department should consider requiring that all court time be paid or used within the calendar year it was earned.
- 6. *Booking Room Officer*  
*Staff Sergeants*  
*Watch Commander*  
*Uniform Clerks*

Current Practice:

When there is only one Booking Room Officer and/or one Staff Sergeant and (s)he does not get a lunch (30 minutes) and breaks (2 x 15 minutes) the Booking Room Officer and/or Staff Sergeant will put in for and receive one (1) hour of comp time. Similarly, if the Watch Commander or Uniform Clerk does not get a lunch and breaks, they will also put in for and receive one (1) hour of comp time. When there are more than two Sergeants assigned to patrol, one of the patrol Sergeants will relieve the Staff Sergeant to allow for breaks, when required. Similarly, when there are more than twelve (12) officers assigned to a patrol shift, one of the officers will relieve the booking officer to allow for breaks, when required.

Recommendations:

- EDC is not familiar with this practice. The Department should consider ending this practice immediately by using on-duty personnel and supervisors to provide breaks to the Booking Officer, Staff Sergeant, Watch Commander, and Uniform Clerks, thereby ending the accumulation of comp time on potentially a daily basis.
- Best practice does not require backfilling for lunch breaks in these positions. Officers either manage to find time for necessary meal breaks during the course of his/her shift or relief for these breaks is supplied by on-duty personnel.

7. *Emergency Service Unit*

Current Practice:

The Emergency Service Unit trains two (2) days per month. If an officer is on a day off, they receive comp time for the training. If an officer is working, they will be removed from their assignment to attend the training. This may cause overtime if backfilling is required for an officer in a uniform assignment.

Recommendations:

- This is consistent with other Massachusetts police department practices.
- EDC understands that the Department is currently working to get all members of the Emergency Service Unit on the same schedule.
- The Department could also consider assigning Officers to a regional law enforcement council (LEC) SWAT Team. Some of the benefits include:
  - Significant reduction in training and equipment expenses
  - Increased expertise among team members
  - Better training and equipment when shared with other police departments
  - Maintain local operational control by Fall River Police Department Supervisor





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#### 8. *Honor Guard*

##### Current Practice:

The Honor Guard trains one (1) day per month. If approved for an out of town event/parade, Honor Guard members will receive comp time. If the event involves a City function, Honor Guard members will be paid overtime.

##### Recommendations:

- The use of an Honor Guard is important for all police departments and is an appropriate use of comp time for a part-time unit.
- The amount of dedicated training days should be reviewed by Department leadership.

#### 9. *Medical Supply Officer*

##### Current Practice:

The Medical Supply Officer receives four (4) hours per month for inventorying/ordering of Personal Protective Equipment (PPE) and medical supplies for cruisers.

##### Recommendations:

- This is consistent with other Massachusetts police department practices.
- The Department should consider switching to overtime compensation, with prior supervisor approval.

#### 10. *Converting Overtime to Comp Time*

##### Current Practice:

Officers are allowed to change their overtime to comp time at a rate of time and one half.

##### Recommendations:

- This practice can save the Department money in the short term because it has the potential to lessen the overtime paid out immediately. However, the Department is incurring the cost eventually when the officer uses the accrued comp time.
- If the overtime is paid up front, it is a simple calculation (1.5 times the hours worked). If the officer elects comp time, the result can multiply with a cascading effect.
- The conversion of overtime to comp time should not exceed the Department determined comp time cap.

#### 11. *Commendation Committee*

##### Current Practice:

Officers who attend the Commendation Committee outside of their normal shift receive comp time.

##### Recommendation:

- This is consistent with other Massachusetts police department practices.



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#### 12. *Union Meetings Executive Board*

##### Current Practice:

Officers can attend in lieu of shift.

##### Recommendations:

- This is consistent with other Massachusetts police department practices.
- There should not be an option for comp time accrual for attendance.

#### 13. *Fall River Police Association Meetings*

##### Current Practice:

Two (2) days per year the Board (approximately eight (8) members) will get comp time or days off.

##### Recommendation:

- Best practice is to allow officers to attend on duty, and officers who are off duty are allowed to trade days.
- Comp time should not be allowed for these meetings.

#### 14. *Mass-Cop Mass Police Association City Insurance Board PERAC*

##### Current Practice:

- *Mass-Cop Convention* – Officer attending as a delegate gets time off
- *Mass Police Association Representatives* – twelve (12) days per year, additional three (3) days for convention
- *City Insurance Board Representatives* – one (1) day per month, comp time
- *PERAC Board Representative* – one (1) day per month

##### Recommendations:

- All of the above days off should be allowed to swap with working days, if required.
- No accumulation of comp time should be allowed for these positions.

#### 15. *Furlough Extensions*

##### Current:

If an officer receives a court subpoena while on furlough and appears, (s)he can either add a furlough day on the end or turn it into administrative comp time.

##### Recommendations:

- This is consistent with other Massachusetts police department practices.



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16. *Uniform Commander On-Call*  
*Staff Services Commander*

Current:

When not on vacation, the Uniform Commander and Staff Services Commander will get cashable comp time for taking calls.

Recommendation:

- This is consistent with other Massachusetts police department practices.
- Officers should be required to use the accumulated time within the calendar year it is earned.

17. *Court time*

Current:

Court overtime can be turned into cashable comp time.

Recommendations:

- This should be subject to the Department determined comp time cap. Any court time exceeding the cap should be automatically paid as court overtime.

18. *Major Crimes Division On-Call*  
*Crime Scene Detective On-Call*

Current:

For every week a detective in the Major Crimes Division is on-call, (s)he receives four (4) hours of comp time. For every week a supervisor is on call, (s)he receives six (6) hours comp time. Up to forty (40) hours can be cashed in at a time. This is considered straight time, not overtime. Detectives can only carry one-hundred sixty (160) hours and supervisors can only carry one hundred seventy-eight (178) hours of comp time.

Recommendations:

- This is consistent with other Massachusetts police department practices.
- Officers should be required to use the accumulated time within the calendar year it is earned.

19. *K-9 Officer On-Call*

Current:

K-9 Officers receive four (4) hours of comp time per week when on-call. This is managed on a rotating schedule. K-9 handlers also receive sixteen (16) of comp time per month for maintaining the Department K-9.

Recommendations:

- This is consistent with other Massachusetts police department practices.
- Earned comp time should be subject to the Department determined cap.



## 20. Group 7 Days

### Current:

Every three (3) weeks personnel that work Monday through Friday have worked more hours than personnel working a four (4) on two (2) off schedule. Monday through Friday personnel receive a "group 7 day." This is essentially comp time but has a different name.

### Recommendation:

- EDC is not familiar with a practice which automatically allows working days off. This should be stopped immediately and only allowed if prior approval by the Chief. The Department should require the officer to take the designated day off rather than having the option of working and accruing comp time.

## 21. Boat Maintenance and Patrols

### Current:

The Department saves money having officers do maintenance on the marine unit. These officers will also occasionally do patrols for comp time.

### Recommendation:

- It is recommended that overtime be used as the primary method to compensate rather than comp time.
- If comp time is allowed, it should be subject to the Department determined cap.

## BARGAINING CONSIDERATIONS

There are bargaining implications that must be considered when changing Department practices. The requirements differ based upon the type of practice and the specific circumstances surrounding it. The below outlines general considerations for implementing practice changes. All changes should be made in consultation with Labor Counsel to identify and address any legal/collective bargaining requirements.

### Past Practice

A past practice may exist when an action has taken place on more than one occasion with the knowledge of management. One-time occurrences, administrative errors, and actions that were taken without management's knowledge generally do not constitute a past practice. There are both binding and non-binding past practices and the bargaining obligations associated with changing a past practice differ based upon how a past practice is classified.

Past practice can limit the Department's ability to make certain changes. However, depending on the specific facts of a given situation, the Department may have options to cease or change certain practices. It is important to work with Labor Counsel to conduct further analysis into the specifics of a practice to ensure an understanding of both the opportunities and restrictions associated with changing the specific practice.



The Department should also ensure that command staff members and civilian managers understand the basic concepts of past practice so they can take steps to prevent the creation of future past practices that may hinder the Department's ability to achieve its goals.

#### Binding Past Practice

A past practice may be binding when it brings further meaning to an ambiguous contract provision or further clarifies an issue not specifically addressed by the contract. A past practice may also be binding because it is neither contrary to the contract language, nor the management rights provision of the contract. The Department is required to give the union the opportunity to bargain a change to a binding past practice.

#### Non-Binding/Unenforceable Past Practice

There are limitations which can classify a past practice as non-binding or unenforceable. For example, past practice cannot result in the Department losing its ability to enforce the clear language of the contract. Additionally, past practice cannot be contrary to management rights, or outside of the scope of something that can be lawfully bargained. Past practices that are fraudulent or unlawful are also unenforceable. In these scenarios, the Department does not need to bargain a decision to follow the clear language of the contract, but the Department must notify the union of its intent to enforce the clear language of the contract and the union does have the right to bargain the impact of the change.

Determining staffing levels (i.e., minimum manning) is a core management right that cannot be protected by past practice. While the Department may have maintained a certain staffing level for a period of time, it still has a right to change this staffing level at its discretion. The Chief could offer to meet with the union to discuss (not bargain) a change in staffing levels, but this type of meeting is not required.

#### Department Obligations

In some cases, the Department is not required to bargain the decision to change or eliminate a past practice, but the Department is required to bargain the impact(s) of the change on members of the union. Bargaining best practices recommend the following for employers to satisfy impact bargaining obligations:

- Proactively offer dates to meet with the union and follow-up to confirm dates;
- Document the number of meetings held;
- Respond in writing to all legitimate questions raised by the union;
- Respond to information requests as quickly and thoroughly as possible;
- Send a letter to the union confirming the impact bargaining obligation has been met, if applicable.

When the Department implements a change, the union has the ability to file a charge with the Massachusetts Division of Labor Relations (DOL) in which it could allege the employer implemented the change prior to completing the impact bargaining process. For this reason, the Department should always consult with Labor Counsel in addition to following the above best practice recommendations when implementing a change to a past practice.

#### The Brookline Rule

This rule is based on a DOL decision issued against the Town of Brookline and pertains to impact bargaining that is taking place shortly before the commencement of, or during, negotiations for a successor collective bargaining agreement. This rule allows the union to request that any open impact bargaining obligations be addressed during the larger negotiation for a successor collective bargaining agreement (during main table negotiations). In practice, this can significantly delay the employer's ability to implement a change to a past



practice and can allow the union to attempt to leverage the matter at the main table to secure some other benefit.

#### **OPERATIONAL MANAGEMENT**

##### **Current:**

The Department currently has two (2) non-union, civil service Deputy Chief positions. These are the two highest ranking members of the Command Staff under the Chief. They report directly to the Chief and are responsible for the management and oversight of the Department's two major divisions, Operations and Administration. These two positions are currently filled, and the Department has an active civil service list for the Deputy Chief position, which was established in October 2020.

##### **Recommendation:**

As these positions are integral to the functioning of the Department, the City should consider the possibility of removing the positions from the civil service system and making them appointed positions to be appointed by or in consultation with the Police Chief. The City should also consider having the Deputy Chief appointments run concurrently with the Police Chief's term. Allowing the Chief discretion to place qualified and trusted personnel in these critical roles, will increase the overall efficiency of the Department by allowing the Chief to confidently delegate responsibility and will avoid challenges similar to those currently facing the Department.

#### **VI. Conclusion**

EDC commends the Department and the City for requesting a review of these challenging issues. Many police departments are faced with similar challenges in trying to address costly practices that have accumulated and/or been bargained for over a number of years and multiple administrations. The combination of implementing a reasonable cap on the accumulation of total comp time hours and instituting controls for stronger monitoring of the accumulated time will assist the Department in ensuring adequate staffing levels can be met, while also being able to quantify the unfunded liability to the Department/City. Addressing these issues will take time and will require collaboration with both Labor Counsel and the Finance Department to ensure all legal and financial implications are adequately considered. EDC appreciates the opportunity to work with Chief Cardoza, the Department and the City in providing these advisory services. If there are additional issues that arise, we would be happy to assist further.



PAUL E. COOGAN  
Mayor

City of Fall River  
Massachusetts  
Office of the Mayor

RECEIVED

2021 MAY 20 P 2:41

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

May 20, 2021

Honorable Members of the City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Council President and Members of the Honorable Council:

I hereby request the confirmation of the City Council for the following appointment:

Name: Christopher Boyle  
Address: 95 Timber Lane  
Dartmouth, MA 02747 ( mailing address only)  
Position: Conservation Commission  
Effective: May 20, 2021  
Term to expire: May 20, 2024  
Replacing: n/a

Sincerely,

Paul E. Coogan  
Mayor

PC/amos



PAUL E. COOGAN  
Mayor

City of Fall River  
Massachusetts  
Office of the Mayor

4  
RECEIVED

2021 MAY 20 P 5:06

CITY CLERK  
FALL RIVER, MA

May 20, 2021

Honorable Members of the City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Council President and Members of the Honorable Council:

I hereby request the confirmation of the City Council for the following appointment:

Name: Melanie C. Cordeiro  
Address: 1082 Davol Street, Apt.# 501  
Fall River, MA 02720  
Position: Licensing Commission  
Effective: May 20, 2021  
Term to expire:  
Replacing: Timothy McCoy

Sincerely,

Paul E. Coogan  
Mayor

PC/amos





**City of Fall River  
Massachusetts  
City Council**

Rec'd via email 5/12/21 @ 7:50 PM

5

**CLIFF PONTE**  
*President  
City Council*

May 12, 2021

Alison M. Bouchard  
City Clerk  
One Government Center  
Fall River, MA 02722

Madam Clerk:

At last night's meeting, a motion was made and seconded to request that I review the city ordinances available to me. I have had the opportunity to do that and my thoughts are outlined below:

**§ 62-2 Collection and disposal generally.**

C. The City shall collect solid waste and recyclables from single-family dwellings and multiple-family residential buildings containing up to six dwelling units. Solid waste shall be collected only if placed in an official City bag and placed in a green cart. Recyclables shall not be placed in green carts, and solid waste shall not be placed in blue or pink carts.

As a result, it is my opinion that without specific verbiage in which 'commercial trash' is collected and since Section 62-2(C) does specify collection for HOUSEHOLD trash, it could be and is implied that collection for commercial establishments does not occur. (But is currently happening.)

**ARTICLE II - Collection Regulations**

**§ 62-42 Placement of refuse from commercial establishments on sidewalk.**

Business establishments, stores, restaurants and laundries will be permitted to place refuse and rubbish on the sidewalk on the day of collection, provided such refuse and rubbish shall be in proper containers and bundles and shall occupy a space not larger than 12 feet long, three feet wide and four feet high.

As Council Vice President indicated, Section 62-42 does specify trash but does not authorize collection of trash.

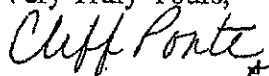
5

Last evening, I believe that the body of the Fall River City Council had a clear message – the 110 businesses that are currently having trash picked up need to be put on notice that it will no longer be the case, with a date set forth by the Mayor and Administration. Furthermore, Sec. 62-1 Definitions defines **CART** as “The City-supplied wheeled trash receptor. Blue and pink carts are solely used for recycling and green carts for household trash.”

Please request that they work on this at once. Please proceed with sending a letter to the Mayor and Corp Counsel as per the discussion last evening and with the information above. It is my opinion that we need to address ordinance changes, impose a timeframe for stopping collection of trash to businesses and review the possible changes in terms of verbiage, etc.. The Ordinance Committee can hear this matter once the proposed ordinance change comes from Mayor Coogan and the Administration.

Please urge them to have a response to the Council's request for action by May 25, 2021.

Very Truly Yours,



Cliff A. Ponte  
President, Fall River City Council



**PAUL E. COOGAN**  
*Mayor*

**City of Fall River**  
**Massachusetts**  
**Department of Community Services**  
PLANNING \* HEALTH & HUMAN SERVICES  
LIBRARY \* INSPECTIONAL SERVICES \* ELECTIONS

*Inspectional Services*  
*Building Division*

**GLENN HATHAWAY**  
*Inspector of Buildings*  
*Director of Inspectional Services*

**MEMORANDUM**

**TO:** Fall River City Council

**FROM:** Mr. Glenn Hathaway, Director of Code Enforcement

**DATE:** April 26, 2021

**RE:** Ordinance Change required by FEMA

RECEIVED  
2021 MAY -7 A 11:06  
CITY CLERK  
FALL RIVER, MA

The Federal Emergency Management Agency is requiring all cities and towns to change their ordinance in regards to Flood Plains. We met with Eric Carlson, a local representative who guided us in making the required changes. The changes were made and approved by Mr. Carlson. I am requesting that this is brought before the city council as soon as possible for approval. The FEMA deadline to sign these changes into ordinance is July 8, 2021. The failure to meet this deadline will result in citizens losing their flood insurance for their homes.

I have enclosed for your review the following:

Copy of Current Ordinance

Copy of the changes that are being Mandated by FEMA

Copy of New Ordinance with the Mandated changes from FEMA

Once again, the ordinance needs to be in place by July 8, 2021 to meet the FEMA deadline. Cities and Towns not in compliance will result in a loss of homeowner's flood insurance.

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City of Fall River, MA  
Friday, May 7, 2021

## Chapter 10. Buildings and Building Regulations

### ARTICLE VI. Removal of Soil or Filling of Land

#### DIVISION 3. Floodplain District

[Amended 8-12-2009 by Ord. No. 2009-22; 5-13-2014 by Ord. No. 2014-9]

##### § 10-246. Floodplain district boundaries.

The floodplain district is herein established as an overlay district. The district includes all special flood hazard areas within the City designated as Zone A, AE, AO or VE on the county Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the county FIRM that are wholly or partially within the City are panel numbers 25005C0264F, 25005C0268F, 25005C0269F, 25005C0329F, 25005C0342F, 25005C0344F, 25005C0351F, 25005C0352F, 25005C0353F, 25005C0354F, 25005C0356F, 25005C0357F, 25005C0358F, 25005C0359F, 25005C0361F, and 25005C0432F, dated July 7, 2009; and panel numbers 25005C0244G, 25005C0263G, 25005C0329G, 25005C0331G, 25005C0332G, 25005C0333G, 25005C0334G, 25005C0337G, and 25005C0341G, dated July 16, 2014. The exact boundaries of the district may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the county Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the City Clerk.

##### § 10-247. Base flood elevation data and floodway data.

- A. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- B. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within the unnumbered A Zones.

##### § 10-248. Other use regulations.

- A. All new construction within Zone VE must be located landward of the reach of mean high tide.
- B. In a riverine situation, the director of code enforcement shall notify the following agencies of any alteration or relocation of a watercourse:
  - (1) Adjacent communities, including the towns:

- 6
- (a) Tiverton, Rhode Island;
  - (b) Somerset, Massachusetts;
  - (c) Westport, Massachusetts;
  - (d) Dartmouth, Massachusetts; and
  - (e) Freetown, Massachusetts;
- (2) NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104; and
- (3) NFIP Program Specialist, Federal Emergency Management Agency, Region 1, 99 High Street, 6th Floor, Boston, MA 02110.
- C. Man-made alteration of sand dunes within Zone VE which would increase potential flood damage are prohibited.
- D. Within Zone AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

# Massachusetts 2020 Model Floodplain Bylaws

## Table of Contents

Section 1.	Introduction
Section 2.	Local Required Bylaws
Section 3.	Required Definitions
Section 4.	Explanations

## Section 1. Introduction

After years of devastation from flooding across the nation, Congress created the National Flood Insurance Act of 1968 in an attempt to offer flood disaster relief in the form of insurance. This insurance would be available to residents of communities that voluntarily adopt and enforce floodplain management ordinances that meet at least minimum National Flood Insurance Program (NFIP or the Program) requirements.

According to FEMA's Community Status Book, the first Massachusetts community to officially participate in the NFIP was the Town of Wareham, who joined the NFIP on May 28, 1971. Most other MA communities quickly followed suit in the 1970s and early 1980s. The State NFIP Coordinating Office was created by Executive Order of the Governor in 1978 and is housed under the Water Resources Commission in the Department of Conservation & Recreation's Flood Hazard Management Program.

This document has been prepared in order to assist NFIP communities in Massachusetts to understand the minimum requirements of the NFIP, and to assure that their local bylaws or ordinances contain the necessary and proper language for compliance with the Program.

The local floodplain overlay district is established as an overlay to all other districts. In Massachusetts, the floodplain overlay district bylaw or ordinance is part of a federal requirement for communities that choose to participate in the NFIP. However, the state already administers regulations that take care of many floodplain management requirements and concerns. Referencing existing regulations is important to ensure that projects have been reviewed under the appropriate state regulations and that variances to the conditions of the bylaw do not erroneously allow variances to state requirements.

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All development in the floodplain overlay district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with the following:

- 780 CMR- Massachusetts Statewide Building Code
- 310 CMR- Department of Environmental Protection Regulations

For those NFIP requirements that are not found in the above state regulations, the community must adopt these requirements in their bylaws (towns) or ordinances (cities.) The following section contains all NFIP requirements that must be adopted as local regulations, since they are not found in the above listed regulations.

Section 3 contains floodplain management definitions that FEMA Region I feels are critical for inclusion in local codes.

Section 4 of this document offers explanations to support local understanding of these requirements.

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## Section 2. Required Local Bylaws

For those National Flood Insurance Program minimum requirements that are not found in existing state law, the following articles must be adopted by the community as a part of their local bylaws or ordinances, if these are not already adopted. The suggested language in this section is compliant with the federal requirements.

### 1. Stated local purpose for flood resistant standards

The purpose of the Floodplain Overlay District is to:

- 1) Ensure public safety through reducing the threats to life and personal injury
- 2) Eliminate new hazards to emergency response officials
- 3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
- 4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
- 5) Eliminate costs associated with the response and cleanup of flooding conditions
- 6) Reduce damage to public and private property resulting from flooding waters

### 2. Use of FEMA maps and supporting studies

**A community must select the appropriate option as follows:**

#### *A. Bylaw text for communities with "Community-Based" FIRMs, FBFM and FIS*

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the [Town or City]'s Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program, dated (effective map dates on FIRM) and on the Flood Boundary & Floodway Map (if applicable) dated (FBFM effective date.) These maps indicate the 1%-chance regulatory floodplain. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Flood Insurance Study (FIS) report dated (FIS date.) The effective FIRM, FBFM, and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and [other.]



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OR

*B. Bylaw text for communities with "Countywide" FIRMs and FIS*

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated within [Town or City]'s [Name County] Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the [Name County] Flood Insurance Study (FIS) report dated (FIS date.) The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and [other.]

3. Abrogation and greater restriction section

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

4. Disclaimer of liability

The degree of flood protection required by this bylaw [ordinance] is considered reasonable but does not imply total flood protection.

5. Severability section

If any section, provision or portion of this bylaw [ordinance] is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

6. Designation of community Floodplain Administrator

The Town/City of \_\_\_\_\_ hereby designates the position of \_\_\_\_\_ to be the official floodplain administrator for the Town/City.

## 7. Requirement to submit new technical data

If the Town/City acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town/City will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief  
99 High St., 6<sup>th</sup> floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator  
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

## 8. Variances to building code floodplain standards

CHOOSE THE APPROPRIATE OPTION:

*A. If the State issues variances to the flood-resistant standards as found in the state building code, the community will use this text for local adoption:*

The Town/City will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

The Town/City shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

*B. Certain communities have the authority to issue variances to the state building code. If your community has this authority from the BBRs, you will use this text for local adoption:*

Variances to floodplain development regulations shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

A written justification for the variance will be maintained in the Town's/City's building permit files, delineating the technical reason for the variance, and stating that the variance is the minimum necessary (considering the flood hazard) to afford relief.

The Town/City shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

9. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

10. Permits are required for all proposed development in the Floodplain Overlay District

The Town/City of \_\_\_\_\_ requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and

any other development that might increase flooding or adversely impact flood risks to other properties.

11. Assure that all necessary permits are obtained

(Town/City) \_\_\_\_\_'s permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.

12. Subdivision proposals

All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

- (a) Such proposals minimize flood damage.
- (b) Public utilities and facilities are located & constructed so as to minimize flood damage.
- (c) Adequate drainage is provided.

13. Base flood elevation data for subdivision proposals

When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

14. Unnumbered A Zones

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

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#### 15. Floodway encroachment

In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's/City's FIRM or Flood Boundary & Floodway Map (choose map which delineates floodways for your community) encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

#### 16. Watercourse alterations or relocations in riverine areas

In a riverine situation, the \_\_\_\_\_ (appropriate official in community) shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream
- Bordering States, if affected
- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, 8<sup>th</sup> floor  
Boston, MA 02114
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6<sup>th</sup> Floor  
Boston, MA 02110

#### 17. AO and AH zones drainage requirements

Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

#### 18. Recreational vehicles

In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for

foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

19. Protection of dunes

Alteration of sand dunes is prohibited when the alteration would increase potential flood damage.

20. Local Enforcement

**This is not sample bylaw text, but rather an instruction:**

*Please read the explanation in Section 4 about the importance of being able to point to specific local enforcement procedures for non-compliant floodplain development.*

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### **Section 3. Definitions not found in the State Building Code**

National Flood Insurance Program (NFIP) definitions are found in Title 44 of the Code of Federal Regulations, section 59.1. The definitions below refer to their source; if the definition is from the MA building code, it is from the 9<sup>th</sup> Edition, which meets the minimum standards of the NFIP.

In order for the bylaw or ordinance to be clearly understood, it is necessary to define technical terms or key words. An understanding of these terms is a prerequisite to effective administration of the floodplain management bylaw or ordinance.

***Per FEMA Region I, these additional definitions must be included in local bylaws or ordinances.***

**DEVELOPMENT** means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

**FLOOD BOUNDARY AND FLOODWAY MAP** means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

**FLOOD HAZARD BOUNDARY MAP (FHBM.)** An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

**FLOODWAY.** The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

**FUNCTIONALLY DEPENDENT USE** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

**HIGHEST ADJACENT GRADE** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

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HISTORIC STRUCTURE means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the Secretary of the Interior or

- (2) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling



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units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

ZONES, FLOOD – *These definitions do not need to be included in local bylaws.*

### **Definitions of Flood Zones**

*The community shall use the pertinent definitions for flood zones delineated within the community. All of these terms are defined in the US Code of Federal Regulations, Title 44, Part 64.3.*

ZONE A means an area of special flood hazard without water surface elevations determined

ZONE A1-30 and ZONE AE means area of special flood hazard with water surface elevations determined

ZONE AH means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined

ZONE AO means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. *(Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)*

ZONE A99 means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

ZONES B, C, AND X means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. *(Zone X replaces Zones B and C on new and revised maps.)*

ZONE V means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area)

ZONE V1-30 and ZONE VE *(for new and revised maps)* means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area)

## Section 4. Explanations

The requirements of the NFIP can be found in the US Code of Federal Regulations, Title 44 Emergency Management, generally in sections 59 through 75, although the requirements that most specifically address development in the floodplain are found in section 60.3. The highlighted bold italic type below states the requirement as found in the federal code and is followed by the code citation.

### 1. Stated local purpose for flood resistant standards

To justify the community's reasoning behind local floodplain overlay district zoning bylaws, the NFIP requires:

***A purpose section citing health, safety, and welfare reasons for adoption [44 CFR 59.22(a)(1)]***

The statement of purpose should set forth the goals and objectives to be achieved through the bylaw or ordinance. In other words, the statement of purpose enumerates what the community intends to accomplish by enacting regulations. The underlying purpose of the floodplain management regulations is to protect the public health, safety, and general welfare and to minimize the harmful impacts of flooding upon the community

These stated purposes will be ever more critical as community liabilities increase due to climate changes and increased flooding/ flood damages. The community is responsible to assure that all development is implemented in a safe, healthy, and socially/economically acceptable manner.

### 2. Use of FEMA maps and supporting studies

For local adoption of current effective FEMA flood maps and Flood Insurance Studies (FIS), the NFIP requirements state:

***Adopt or reference correct Flood Insurance Rate Map (and where applicable, Flood Boundary Floodway Map) and date. [44CFR 60.2(h)]***

and

***Adopt or reference correct Flood Insurance Study and date. [44CFR 60.2(h)]***

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FEMA guidance (publication #495) states:

*"The basis of your community's floodplain management regulations is the flood hazard data FEMA provides. In support of the NFIP, FEMA identifies flood hazards nationwide and publishes and periodically updates flood hazard data. These data are provided to communities in the form of a Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report..."*

*and "Each time FEMA provides your community with new or revised flood hazard data, you must either adopt new floodplain management regulations to incorporate the data into your ordinance or amend the existing ones to reference the new FIRM and FIS report."*

*Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the 1973 Act as amended. (Text from actual FEMA Letter of Final Determination.)*

### 3. Abrogation and greater restriction section

***The community must provide that floodplain management regulations take precedence over any less restrictive conflicting local laws, ordinances or codes. [44CFR 60.1(b)]***

This is a legal provision that specifies that the floodplain management bylaw, ordinance, regulations, and building codes take precedence over less restrictive requirements.

### 4. Disclaimer of liability

The community must state that the degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

### 5. Severability section

If any section, provision or portion of the ordinance is deemed unconstitutional or invalid by a court, the remainder of the ordinance shall still be effective.

#### 6. Designation of community Floodplain Administrator

***Designate the official responsible to submit a report to the Federal Insurance Administrator concerning the community participation in the Program, including, but not limited to the development and implementation of floodplain management regulations. [44CFR 59.22 (b)]***

The community must designate by title one person to act as the community's floodplain administrator (sometimes referred to as the FPA.). This is so that FEMA can use this information in their local contacts database, and so that this person can act on behalf of the community when implementing certain tasks under the National Flood Insurance Program. For example, the local FPA would sign the Community Acknowledgement Form when a property owner wishes to file for a Letter of Map Revision (LOMR).

The designation refers to a local staff position and can be anyone with the local authority to assure that the community is meeting its obligations as a participant in the National Flood Insurance Program. The FPA does not need to be someone who is directly involved in local development, but it should be someone who has at least a general concept of NFIP requirements and of the community's obligations under the Program. Typically, across the nation the FPA can be a building commissioner, town manager, town engineer, director of planning, environmental planner, etc.

Typical duties of an FPA include but are not limited to:

- a) Understanding the regulations for development in the floodplain overlay district
- b) Ensuring that permits are applied for when development of any kind is proposed in the floodplain overlay district
- c) Involvement with the permit process and/or permit application review for development in the floodplain overlay district
- d) Coordinating with other local departments such as public works, stormwater/engineering, planning & zoning, conservation commission, or housing
- e) Notifying adjacent communities prior to alteration of a watercourse
- f) Dealing with compliance issues and enforcement actions such as correcting violations, or working with the appropriate local staff to correct violations
- g) Maintaining records of floodplain development, and keeping FEMA current and historic maps available for public inspection

#### 7. Requirement to submit new technical data

***Within 6 months, notify FEMA of changes in the base flood elevation by submitting technical or scientific data so insurance & floodplain management can be based on current data. [44CFR 65.3]***

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Many development changes to the floodplain will trigger the requirement to file a Letter of Map Revision or other type of Letter of Map Change. When the development does not trigger the LOMC requirement but impacts the heights or extents of the base flood (usually to lower the risk), FEMA should be notified that a change was made so that in future map studies/updates this can be adequately addressed.

#### 8. Variances to building code floodplain standards

##### **44CFR 60.6(a)(3-6):**

***(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;***

***(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;***

***(5) A community shall notify the applicant in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (a)(6) of this section.***

***(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance***

Because a variance can lead to an increased risk to life and property, variances from flood elevation requirements or other floodplain management requirements should be granted only rarely. Variances for floodplain development regulations must show that:

- Good and sufficient cause and exceptional hardship exist;
- The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
- The variance is the minimum action necessary to afford relief.

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In Massachusetts, typically the State Building Code Appeals Board issues a variance to the state building code, unless your community is one of those approved by BBRS for local variance authority. When a local building official's interpretation of the flood-resistant standards under the building code are contested through the appeal process, the community must keep written documentation of both:

- a. the justification for local decision to deny the permit, and
- b. the results of the state's appeal/variance hearing (either in agreement with the local community, or having granted the variance through appeal.)

The community must also send a letter to the property owner stating that the implications of this variance may adversely impact the cost of the flood insurance policy covering the structure.

A FEMA suggestion for language to be used in such a letter is as follows:

*"The granting of this variance may result in increased flood insurance premium rates, up to \$25 per \$100 of coverage, and such construction below the base flood level increases risks to life and property."*

The justification for the variance (or the denial of the variance) and the community letter must be maintained as documentation that these actions were taken.

#### 9. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)

**Please note:** This section addresses local Zoning Board variances only, and applies only when other variance procedures (such as those under the state building code) do not cover the variance request.

#### **§60.6 Variances and exceptions. Excerpts:**

***(a) The Federal Insurance Administrator does not set forth absolute criteria for granting variances from the criteria set forth in §§60.3, 60.4, and 60.5. The issuance of a variance is for flood plain management purposes only.***

***The community, after examining the applicant's hardships, shall approve or disapprove a request.***

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*The Federal Insurance Administrator may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Federal Insurance Administrator may take appropriate action under §59.24(b) of this subchapter.*

*Procedures for the granting of variances by a community are as follows:*

*(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;*

*(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;*

*(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;*

*(5) A community shall notify the applicant in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (a)(6) of this section; and*

*(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator.*

*(7) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria of paragraphs (a)(1) through (a)(4) of this section are met, and (ii) the structure or other development is protected by methods that minimize*



***flood damages during the base flood and create no additional threats to public safety.***

For further information, see FEMA publication P-993, "Variances & the National Flood Insurance Program."

***From the State NFIP Coordinating Office:*** For all variances to floodplain development regulations, the community must maintain documentation that includes the variance request; determinations made by the entity granting the request that the three criterium listed above have been met; a copy of the letter to the property owner regarding possible insurance premium impacts; and that all appropriate flood protection and hazard mitigation measures were taken where applicable and possible, as specifically described in the variance file.

10. Permits are required for all proposed development in the Floodplain Overlay District

***Require permits for all proposed construction and other developments including the placement of manufactured homes [44CFR 60.3(b)(1)]***

NFIP requirements are focused on "development" in the floodplain. The NFIP definition of development is "*any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.*" [44CFR 59.1]

Most Massachusetts communities have long used building permits to review construction in their floodplain overlay district, and conservation commissions use several documents for review of other types of development, but the regulation of all development in a floodplain is essential so that flood risks are not increased either on the site or to adjacent or upstream/downstream properties.

Some communities use a 'Floodplain Development Review Form' in addition to the traditional building permit, so they can document the review of all activities in the floodplain such as filling and grading; excavation, mining and drilling, storage of materials or equipment, placement of recreational vehicles or temporary stream crossings, and the review of activities conducted by other agencies such as roads or bridges built by state or federal government.

In Massachusetts, the local conservation commission reviews many of the above-listed activities, but use of a floodplain development review form for all floodplain overlay district proposals ensures that nothing slips through the cracks. This NFIP permitting

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requirement is not prescriptive, but the documentation of some kind of permit or review process is mandatory for all floodplain development.

An additional benefit of documenting all floodplain development is that when a violation is discovered, the community can demonstrate that they did not approve the development as constructed, or that the developer did not come in for a full review of the development activity.

11. Assure that all necessary permits are obtained

***Assure that all other State and Federal permits are obtained [44CFR 60.3(a)(2)]***

While the community does not have to participate in the acquisition or review of all necessary state and federal permits for floodplain development, the community is obligated to assure that all necessary permits have been obtained by the proponent. The use of a checklist facilitates awareness for the proponent of which other permits must be obtained, generally prior to beginning the development project.

12. Subdivision proposals

***Review subdivision proposals and development proposals to assure that:***

***(a) Such proposals minimize flood damage.***

***(b) Public utilities and facilities are located & constructed so as to minimize flood damage.***

***(c) Adequate drainage is provided.***

***[44CFR 60.3(a)(4) (I thru iii)]***

13. Base flood elevation data for subdivision proposals

***Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres. [44CFR 60.3(b)(3)]***

If a subdivision fitting this size description is proposed in the floodplain overlay district where there are not already base flood elevations (BFEs) for each parcel, then the developer must provide BFEs for each parcel so that flood-resistant standards can be appropriately applied. The developer is responsible for providing the necessary technical data to support the base flood elevations shown on his/her design drawings.

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#### 14. Unnumbered A Zones

*In A Zones, in the absence of FEMA BFE data and floodway data, obtain, review and reasonably utilize base flood elevation and floodway data available from available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways. [44CFR 60.3(b)(4)]*

If the community has the engineering resources required to determine the base flood elevation in an unnumbered A zone, these resources can be used to meet this requirement. For those communities that do not have these resources, and even in communities that do, the permitting office can require that the proponent pay for resources to determine the base flood elevation when a development is being proposed. Historical records can be used, as well as any other data that reasonably indicates the 1% chance flood event. Two notes about this requirement:

- a) FEMA does allow a "defacto" elevation of two (2) feet above the highest adjacent grade in cases where the BFE cannot be reasonably determined, but the 9<sup>th</sup> Edition of the Massachusetts building code requires an additional foot of freeboard. This means that the top of the lowest floor would have to be three (3) feet above the highest adjacent grade.
- b) The 9<sup>th</sup> Edition of the MA building code allows communities to use preliminary FEMA maps once the Letter of Final Determination has been issued. These maps may indicate a BFE where none existed before, by virtue of the map update process.

#### 15. Floodway encroachment

**310 CMR 10.57(4) General Performance Standards.**

**(a) Bordering Land Subject to Flooding.**

**1. Compensatory storage shall be provided for all flood storage volume that will be lost as the result of a proposed project within Bordering Land Subject to Flooding, when in the judgment of the issuing authority said loss will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows.**

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***Compensatory storage shall mean a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream or creek.***

***2. Work within Bordering Land Subject to Flooding, including that work required to provide the above-specified compensatory storage, shall not restrict flows so as to cause an increase in flood stage or velocity.***

This standard is found in the Wetlands Protection Act (WPA), and essentially means that there is no rise allowed in the elevation of the base flood anywhere in the entire floodplain. While an official certification is not required in floodways that are not regulated (shown on the FEMA map), for the intent of the WPA to be fulfilled the community must be sure that there will be no rise in the base flood elevation. If the area is located in an unnumbered A zone, a BFE must be determined before the development is designed, so that the "no rise" standard can be demonstrated.

***Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. [44CFR 60.3(b)(6)]***

Under federal NFIP requirements, the community must require certification from a registered professional that shows there will be no rise in the base flood elevation when development takes place in the regulated floodway. This cannot be accomplished by showing compensatory alone; the documentation must include a hydrologic and hydraulic (H&H) analysis.

**16. Watercourse alterations or relocations in riverine areas**

***In riverine areas, notify neighboring communities of watercourse alterations or relocations. [44CFR 60.3(b)(6)]***

Neighboring communities (and possibly a neighboring state) need to know in advance if the alteration or relocation of a watercourse might change their floodplain or flood risk. Send plans for this development to the CEOs of those communities, as well as to the Massachusetts NFIP State Coordinator and to the FEMA Regional Office.

#### 17. AO and AH zones drainage requirements

***In Zones AO and AH, require drainage paths around structures on slopes to guide water away from structures. [44CFR 60.3(c)(11)]***

Guiding water away from the structure must also consider adjacent properties, where drainage cannot impact those lots or structures.

#### 18. Recreational vehicles

***In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored or be on the site for less than 180 consecutive days or be fully licensed and highway ready. [44CFR 60.3(c)(14)]***

***In V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored or be on the site for less than 180 consecutive days or be fully licensed & highway ready. [44CFR 60.3(e)(9)]***

"Fully licensed and highway ready" means that wheels must be inflated; the vehicle must be self-propelled or towable by a light-duty truck; have no attached deck, porch or shed; and have quick-disconnect sewage, water and electrical connections. In other words, the vehicle must be ready to relocate immediately upon notification of the possibility of flooding in the area.

#### 19. Protection of dunes

***Prohibit alteration of sand dunes which would increase potential flood damage. [44CFR 60.3(e)(7)]***

## **20. Local Enforcement**

***The NFIP requires that the floodplain management ordinance be legally enforceable and enforced uniformly throughout the community. [44 CFR 60.1(b)]***

Sample bylaw language has not been offered regarding local enforcement of flood-resistant and flood reduction standards because enforcement is typically already addressed elsewhere in codes that are locally enforced.

As a part of implementing the NFIP in a local community, however, FEMA will need to know how the community enforces these regulations and standards. Each NFIP community should be prepared to answer the following questions:

1. How do you enforce the building code in your community? What specific actions are taken, and how are these actions documented? What penalties are specified? *[Definitions and regulations related to building code enforcement are found in CMR 780 Chapter 1 Sections 114 and 115, which refer to M.G.L. c. 143, c. 148, and M.G.L. c. 148A, and specifically M.G.L. c. 143, section 94(a.)]*
2. How do you enforce the Wetlands Protection Act? What actions and documentation exist to prove that enforcement was implemented? *[Enforcement regulations related to the Wetlands Protection Act are found in 310 CMR section 10.08.]*
3. How are other NFIP floodplain development requirements enforced, such as fencing that increases flood risk, the placement of recreational vehicles in the floodplain, re-grading of large commercial properties, construction of agricultural structures, placement of tanks, pools, temporary construction offices, etc.?

FEMA will expect to hear about a rigorous enforcement program that includes specific actions taken by the community for non-compliant floodplain development.

Enforcement provisions establish the responsibilities of persons, enforcement authority, what makes a violation, notice of violation, stop work and other orders, and citation and penalties for violations. These penalties may include fines and/or jail sentences.

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## **Explanations for Definitions found in Section 3**

Development. FEMA's minimum standards for the NFIP require review of, and possibly permitting for all activities defined as development within the Special Flood Hazard Area (SFHA.) Some of these activities might not normally require permitting under existing state or local regulations, and not all of these activities might be reviewed by the building department in a community.

Flood Boundary & Floodway Map. Some communities with older mapping (typically 1987 and prior) have two sets of flood maps, the familiar Flood Insurance Rate Map (FIRM) and the Flood Boundary & Floodway Map (FBFM). The floodway is delineated only on the FBFM. Communities with a FBFM must include it in the district definition in order to enforce floodway standards.

Flood Hazard Boundary Map. Communities with very old mapping (usually prior to 1980) might have a Flood Hazard Boundary Map (FHBM). This map must be referenced in the community's floodplain district definition. In most cases the FHBM has been converted to a FIRM by letter but the map will still say "Flood Hazard Boundary Map."

Floodway, Regulatory Floodway. The floodway, or regulatory floodway, is established by regulation and through hydraulic analysis. It is not a natural, physical feature of the watercourse. It is part of the 100-year floodplain but has specific requirements that exceed those in the floodplain fringe (the rest of the floodplain). The NFIP standards for floodway encroachments (for example including no-rise analysis) are not in state regulations.

Functionally dependent use. This term is used in the evaluation of variances to floodplain management standards. Sometimes variances can be issued for functionally dependent uses.

Highest adjacent grade. In an AO zone, the base flood elevation is determined by adding the depth indicated on the FIRM to the highest adjacent grade, or two feet if no depth is indicated (and if no alternative floodplain analysis is conducted and applied.)

Historic structure. NFIP standards for substantial improvement include an exception for structures that are identified as historic structures. Only those structures meeting this definition are eligible for this exception.

New construction. NFIP minimum standards apply to all new construction, which includes improvements to structures defined as new construction. as follows: (1) new

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construction, including subsequent work to such structures, and (2) work classified as substantial improvement of an existing structure that is not an historic structure. [ASCE 24-14]

Recreational vehicle. NFIP elevation standards can sometimes apply to these vehicles when they are placed in the SFHA.

Special Flood Hazard Area (SFHA). The flood-prone areas on the FEMA maps (and subsequently adopted in a community's Floodplain Overlay District) where NFIP minimum standards apply, within special flood hazard areas.

Start of construction. Knowing the start of construction, as defined, can sometimes determine which version of a FIRM or regulation is used in situations where the FIRM or the regulation has been or is being updated.

Structure. NFIP minimum standards apply to all structures meeting this definition.

Substantial Repair of a Foundation. This is a Massachusetts unique definition included in the 9th Edition Building Code. It is important to be familiar with this definition as Building Code standards will apply.

Variance. It is important to understand the term in order to properly administer, consider and potentially issue variances. Note that variances are not the same as (and shouldn't be confused with) similar terms and/or processes such as special permits, exceptions or exemptions. Variances to standards enforced under state regulations must be administered through the proper state authority.

Violation. Violations can affect the community's standing in the NFIP and will likely result in higher flood insurance premiums. Violations can also prevent a community from entering participating in the Community Rating System.



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City of Fall River, In City Council

BE IT ORDAINED, by the City Council of the City of Fall River, Massachusetts, as follows: That Chapter 10 of the Revised Ordinances of the City of Fall River, Massachusetts, 1999, which chapter relates to Buildings and Building Regulations, be amended, by striking out Sections 10-246, 10-247, and 10-248, in their entirety, and inserting in place thereof, the following:

**Sec. 10-246. Floodplain district boundaries and base flood elevation data.**

**The purposes of the Floodplain District are to:**

- 1) Ensure public safety through reducing the threats to life and personal injury;**
- 2) Eliminate new hazards to emergency response officials;**
- 3) Prevent the occurrence of public emergencies resulting from water quality, contaminations, and pollution due to flooding;**
- 4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;**
- 5) Eliminate costs associated with response and cleanup of flooding conditions;**
- 6) Reduce damage to public and private property resulting from flooding waters.**

The floodplain district is herein established as an overlay district. The district includes all special flood hazard areas within the City designated as Zone A, AE, AO or VE on Fall River's Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the county FIRM that are wholly or partially within the City are panel **numbers 25005C0264F, 25005C0269F, 25005C0342F, 25005C0344F, 25005C0351F, 25005C0353F, and 25005C0432F, dated July 7, 2009; and panel numbers 25005C0244G, 25005C0263G, 25005C0329G, 25005C0331G, 25005C0332G, 25005C0333G, 25005C0334G, 25005C0341G, and 25005C0337G dated July 16, 2014, and 25005C0268G, 25005C0352G, 25005C0354G, 25005C0356G, 25005C0357G, 25005C0358G, 25005C0359G, 25005C0361G, and 25005C0362G dated July, 6, 2021.** The exact boundaries of the district may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the county Flood Insurance Study (FIS) report dated July 6, 2021. The FIRM and FIS report are incorporated herein by reference and are on file with the City Clerk.

## USE REGULATIONS

The floodplain district bylaw is part of a federal requirement for communities that choose to participate in the NFIP. However, the state already administers regulations that take care of many floodplain management concerns. Referencing existing regulations is important to ensure that projects have been reviewed under the appropriate state regulations and that variances to the conditions of the bylaw do not erroneously allow variances to state requirements.

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Sections of the Massachusetts state Building Code (780 CMR) which address floodplain and coastal high hazard areas;
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00); (e communities only)
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

### **Sec. 10-247. Base flood elevation data and floodway data**

- (a) In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge
- (b) Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within the unnumbered A zones.

6

## Sec. 10-248. Other use regulations

- (a) All new construction within zone VE must be located landward of the reach of mean high tide.
- (b) In a riverine situation, the director of code enforcement shall notify the following agencies of any alteration or relocation of a watercourse:
  - (1) Adjacent communities including the towns:
    - a. Tiverton, Rhode Island,
    - b. Somerset, Massachusetts
    - c. Westport, Massachusetts;
    - d. Dartmouth, Massachusetts; and
    - e. Freetown, Massachusetts;
  - (2) NFIP State Coordinator, Massachusetts Department of conservation and Recreation, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104; and
  - (3) NFIP Program Specialist, Federal Emergency Management Agency, Region I, 99 High Street, 6<sup>th</sup> Floor, Boston MA 02110
- (c) Man-made alteration of sand dunes within Zone VE which would increase potential flood damage are prohibited.
- (d) Within Zone AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- (e) Within Zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures. (c, d, e communities, if AH or AO appear)
- (f) All subdivision proposals must be designed to assure that:
  - (1) Such proposals minimize flood damage;
  - (2) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - (3) Adequate drainage is provided to reduce exposure to flood hazards. (b, c, d, e communities)

## Sec. 10-249 Use of FEMA maps and supporting studies

### 1. Abrogation and greater restriction section

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

6

## **2. Disclaimer of liability**

The degree of flood protection required by this bylaw [ordinance] is considered reasonable but does not imply total flood protection.

## **3. Designation of community Floodplain Administrator**

The City of Fall River hereby designates the Inspector of Buildings to be the official floodplain administrator for Fall River.

## **4. Requirement to submit new technical data**

If Fall River acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, Fall River will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief  
99 High St., 6<sup>th</sup> floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator  
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

## **5. Variances to building code floodplain standards**

Fall River will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

Fall River shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

6

**6. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)**

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

**7. Permits are required for all proposed development in the Floodplain Overlay District**

Fall River requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and to other properties.

**8. Assure that all necessary permits are obtained**

Fall River's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.

**9. Subdivision proposals**

All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

- (a) Such proposals minimize flood damage.
- (b) Public utilities and facilities are located & constructed so as to minimize flood damage.
- (c) Adequate drainage is provided.

**10. Unnumbered A Zones**

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for flood proofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

6

## **11. Recreational vehicles**

In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

### **Section 3. Definitions**

**DEVELOPMENT** means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

**FLOODWAY** The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

**FUNCTIONALLY DEPENDENT USE** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

**HIGHEST ADJACENT GRADE** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

**HISTORIC STRUCTURE** means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

6

**NEW CONSTRUCTION** Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]

**RECREATIONAL VEHICLE** means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

**REGULATORY FLOODWAY** - see FLOODWAY.

**SPECIAL FLOOD HAZARD AREA** The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

**START OF CONSTRUCTION** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

**STRUCTURE** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

**SUBSTANTIAL REPAIR OF A FOUNDATION** When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall

requires all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

**VARIANCE** means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

**VIOLATION** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]





**CITY OF FALL RIVER  
MASSACHUSETTS**

*Traffic & Parking Division*

**Paul E. Coogan**  
*Mayor*

**LAURA FERREIRA**  
Manager of Traffic

May 14, 2021

The Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

RECEIVED  
2021 MAY 18 P 3:35  
CITY CLERK  
FALL RIVER, MA

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Wednesday, April 21, 2021 the following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

That Chapter 70 of Revised Ordinances be amended in the following Section:

Article: 70  
Section: 241 Stop Sign

By inserting in proper alphabetical order the following.

<u>Name of Street</u>	<u>Direction of Travel</u>	<u>At Intersection of</u>
Aetna Street	Eastbound	Aetna Street at Rhode Island Avenue

Very truly yours,

Laura Ferreira  
Manager of Traffic



**CITY OF FALL RIVER  
MASSACHUSETTS**

*Traffic & Parking Division*

**Paul E. Coogan**  
*Mayor*

**LAURA FERREIRA**  
*Parking Clerk*

May 13, 2021

The Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02720

RECEIVED  
2021 MAY 18 P 3:35  
CITY CLERK  
FALL RIVER, MA

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Wednesday, April 21, 2021 following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

That Chapter 70 of Revised Ordinances be amended in the following Section:

Article: 70  
Section: 281 One Way Street

By striking out in proper alphabetical order the following:

**STRIKE OUT**

Name of Street	Direction of Travel	Location
Aetna Street	Westerly	From Laurel Street to Rhode Island Avenue

Very truly yours,

Laura Ferreira  
Parking Clerk

**CITY OF FALL RIVER**

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8

To the City Council

Councillors:

The Committee on Real Estate, at a meeting held on May 18, 2021, voted unanimously to recommend that the accompanying resolution be granted leave to withdraw.

*Claudia A. Taylor*  
Clerk of Committees

City of Fall River, In City Council

8

(Councilor Cliff Ponte)

WHEREAS, Duro Textiles closed approximately two years ago, and

WHEREAS, this shuttered building is within close proximity to the Matthew J. Kuss Middle School, and

WHEREAS, there are approximately 800 students that attend this school, and

WHEREAS, the City of Fall River has begun foreclosure proceedings for the non-payment of taxes, and

WHEREAS, the City has had its challenges disposing of shuttered properties, especially those that pose a threat to the safety and security of its residents, now therefore

BE IT RESOLVED, that the Administration be invited to a future meeting of the Committee on Finance to discuss the status of this possible tax title property.

In City Council, November 14, 2017  
Adopted, as amended

A true copy. Attest:

*Alison M. Bouchard*  
City Clerk

CITY OF FALL RIVER  
IN CITY COUNCIL  
JAN 09 2018

*Referred to the  
Committee on Real  
Estate*

Resolution – Discuss flooding and building issues on Whitefield Street

## CITY OF FALL RIVER

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9

To the City Council

Councillors:

The Committee on Real Estate, at a meeting held on May 18, 2021, voted unanimously to recommend that the accompanying resolution be granted leave to withdraw.

*William A. Taylor*  
Clerk of Committees

# City of Fall River, *In City Council*

9

(Councilor Joseph D. Camara)

BE IT RESOLVED, that the Committee on Real Estate meet to discuss the flooding and building issues on Whitefield Street with all interested parties, including city officials, members of the state delegation, residents and contractor.

In City Council, November 19, 2019  
Adopted

A true copy. Attest:

*Alison M. Bouchard*  
City Clerk

Resolution – Discuss the possibility of selling parcels of land used for drainage improvements

## CITY OF FALL RIVER

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10

To the City Council

Councillors:

The Committee on Real Estate, at a meeting held on May 18, 2021, voted unanimously to recommend that the accompanying resolution be granted leave to withdraw.

*Cullen A. Taylor*  
Clerk of Committees

*City of Fall River, In City Council*

(Councilor Linda M. Pereira)

WHEREAS, Hyacinth Street has had flooding problems for years, and

WHEREAS, the City of Fall River purchased two lots on Hyacinth Street for drainage improvements in the area, and

WHEREAS, these drainage improvements are now complete, now therefore

BE IT RESOLVED, that the Committee on Real Estate convene to discuss the possibility of the City of Fall River selling these lots now that improvements are complete.

In City Council, May 5, 2020  
Adopted, 9 yeas

A true copy. Attest:

*Alison M. Bouchard*

City Clerk



Chapter \_\_\_\_ - RESIDENTIAL COMPOST RECYCLING PROGRAM

§ \_\_\_\_ Short title.

This article may be cited as the "City Compost Recycling Program Ordinance."

§ \_\_\_\_ Findings and intent.

The City Council, in consultation with the Board of Health, find that the excessive food and organic materials deposited into the solid waste stream and authorized receptacles in the City are harmful to the environment and are creating a potential health and safety hazard for residents, affect the general welfare of the public, increase the cost associated with solid waste disposal for the City, and may constitute a public nuisance. It further finds that composting is a powerful method to reduce household waste. According to the United States Environmental Protection Agency, food scraps accounted for 22% of the 34.6 million tons of municipal solid waste produced in 2018, and much of our municipal waste stream is compostable. As such, this article establishes a residential compost program to help reduce the amount of compostable materials found within the City's solid waste stream. The program is also intended to educate and guide residents as to the importance of reducing waste through composting.

§ \_\_\_\_ Definitions.

Unless otherwise set out in this article, any term defined in 310 CMR 16.00 shall have the same meaning in this article, and shall be expressly incorporated herein.

§ \_\_\_\_ Purchase of composting bins.

- A. Residents who desire to participate in the City Compost Recycling Program may purchase a composting bin from the Department of Community Maintenance for a fee of \$25.00. Said fee shall be deposited in the Home Composting Revolving Fund established in § 2-1044 of the City Code.
- B. Nothing herein shall prohibit residents from participating in a private compost recycling program so long as they comply with the standards, rules, and regulations for the placement and disposal of compost in the City.

§ \_\_\_\_ Standards for placement of composting bins.

- A. Compost bins and containers purchased from the Department of Community Maintenance shall not be used as domestic trash containers and shall be placed at the location or residence from which the compostable materials are disposed. The Compost Bins and containers shall be placed at least one (1) foot from all property lines and shall not be placed in the street or in any area which creates a safety or traffic hazard.
- B. No such composting bins or receptacles shall be placed or maintained in such a manner as to constitute a safety hazard to pedestrians, cyclists, or motor vehicles. The Traffic

Commented [DCB1]: I note that there is a compostable yard and leaf waste article in the solid waste ordinance (Chapter 62), and you may wish to include inserting this as a new section in that ordinance.

Commented [DCB2]: The authority to regulate compost is designated by state regulation to municipal boards of health. Where the city council will enact the ordinance, I recommend that findings and support from the Board of Health are incorporated into the history of the ordinance. See 310 CMR 16.02 (board of health of a municipality ... may coordinate activities in effecting compliance with 310 CMR 16.00 for the management of solid waste or recycling, composting or conversion operations).

Moreover, the state regulates and requires permits for certain types of composting activities. In my opinion, municipalities seeking to regulate operations already encompassed within the DEP regulatory scheme may be preempted and so subject to challenge. Accordingly, we recommend further discussion with Counsel and DEP with respect to any legal issues that might arise and any permits that might be required, as well as adhering to DEP regulations and exemptions to ensure consistency with state composting standards, before this ordinance is enacted.

Commented [DCB3]: Will the City be responsible for picking up compost? You may wish to explicitly specify whether the compost will be transported to a municipal composting facility or any approved private composting facility at the owner or occupant's expense and provide information as to where those dropoff locations will be.

Commented [DCB4]: DEP's Regulations define "Composting" and "Biodegradable" materials. The City, however, may enact specific definitions as desired so long as they are not inconsistent with the state's regulations.

Commented [DCB5]: Some clarification may be needed in this ordinance - Is the city providing bins and will provide dates and times at which a solid waste provider arranged by the City will pick up the bins? Or is the city providing bins and educating residents on composting, but it is their responsibility to drop off waste at designated facilities? Do residents opt in to the program or is everyone assessed a fee for their bin and are automatically enrolled in the program?

Commented [DCB6]: What day should they be placed out? When will they be collected? This could be established by regulation, as set forth below.

Alternatively, if this will be residents' responsibility, you may wish to set forth a designated list of approved compost or drop-off locations by regulation.

Commission may prescribe additional rules and regulations governing the placing and maintaining of any composting bins, which may be amended from time to time.

- C. Nothing herein shall be construed as replacing or supplanting the requirement that certain persons apply for permits and licenses with respect to non-exempt solid waste disposal. All persons shall comply with any other applicable federal, state, or local laws with respect to solid waste disposal.

§ \_\_ Educational materials.

- A. The Department of Community Maintenance shall make available educational materials to all residents of the City, as well as information about how residents may participate in the Compost Recycling Program.
- B. Introductory materials about the benefits of composting and how to maintain a composting bin also may be found in the rules and regulations promulgated hereunder as well as at the Massachusetts Department of Environmental Protection.

§ \_\_ Rules and regulations.

The process for providing and distributing any bins and educational materials, as well as the types of materials that may and may not be composted and separated from the City's solid waste stream, may be designated by the Board of Health, who may consult with the Director of Community Maintenance and/or City Council, through any rules and regulations which may be amended from time to time, in accordance with this article.

§ 26-55 Violations and penalties; disposition of fines.

The provisions of this article shall be enforced by the Police Department, Board of Health, the Department of Community Maintenance, or its agents or designees. Each day that any composting bin or other receptacle is placed or maintained in violation of this section shall constitute a separate offense and shall be punishable as provided in § 2-1025 of the City Code.

§ \_\_ Severability.

The provisions of this article shall be deemed to be separable. If any of its provisions, sections, subsections, sentences, or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this chapter shall continue to be in full force and effect.

Commented [JRD7]: This provides some leeway for the creation of rules and regulations to support the Program as issues arise without having to amend the ordinance entirely.

Commented [JRD8]: Violations are likely to be in the form of health and safety violations, so it makes sense for the BOH to have enforcement authority, in my opinion.

Commented [DCB9]: Note that there is a general severability provision in the code as a whole, so a severability clause may be omitted from this specific ordinance.



**ROB LEVINE  
& ASSOCIATES**

The Lawyers for the Injured and Disabled

Personal Injury Law RI, MA & CT

Social Security Disability Nationwide

Veterans Disability Nationwide

2021 MAY 10 A.11:57

Certified Mail/Return Receipt Requested  
7020 2450 0000 5896 9340

CITY CLERK 20-59A  
FALL RIVER, MA

May 4, 2021

**STATUTORY PRESENTMENT AND DEMAND**

City of Fall River  
Attn: Fall River City Clerk's Office- Alison Bouchard, City Clerk  
1 Government Center  
Fall River, MA 02722

Re: **Our Client:** *Joshua W. Washburn*

Dear Madam:

This letter of presentment is being sent to you pursuant to M.G.L. Ch. 258 §4, and M.G.L. Ch. 84 §18. Please be advised that I represent Joshua Washburn of 90 Hargraves Street, Fall River, MA 02723 with regard to injuries sustained in a motor vehicle accident on September 6, 2020, at the intersection of Plymouth Ave. and Pleasant Street, Fall River, MA, due to your insured's negligence.

On September 6, 2020 at approximately 8:00 a.m., Joshua was traveling on Pleasant Street in Fall River, MA. Joshua came to the intersection of Pleasant Street and Plymouth Avenue. Joshua had the green light to continue on Pleasant Street when your insured came through the red light on Plymouth Avenue, causing the collision with Joshua. Joshua went to St. Anne's Hospital the day of the collision and was diagnosed with a concussion, head pain, neck pain and back pain. Please see the attached form for additional information.

Demand - as the client is still treating at this time and the full value of their injuries is unknown, the value to settle this claim at this time is five million dollars, \$5,000,000.00. This demand is being provided according to the requirements set forth under chapter 258, section 4 of The Massachusetts General Laws. Thank you for your anticipated cooperation in this matter.

Very truly yours,

Chris Lindberg Esq.

**THE HEAVY HITTER®**

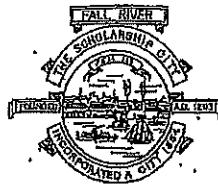
544 Douglas Ave. - Providence, RI 02908 - local: 401-621-7000 - toll free 800-LAW-2201 - www.roblevine.com

5/10/2021 original & email to Han  
1 email to J Cardozo

1 copy to city clerk  
1 copy to city council

#21-04B 18

RECEIVED



2021 MAY 17 P 1:53

City of Fall River  
Notice of Claim

CITY CLERK  
FALL RIVER, MA

1. Claimant's name: Farm Family Casualty - Victor Molina
2. Claimant's complete address: Po Box 22091 - Albany NY 12201
3. Telephone number: Home: 800-333-2861 Work: x.2635
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
Damage to property due to poorly maintained roadway
5. Date and time of accident: 12/26/20 1PM Amount of damages claimed: \$1,438.41
6. Exact location of the incident: (include as much detail as possible):  
Quequechan & Boutwell, Fall River MA
7. Circumstances of the incident: (attach additional pages if necessary):  
Damage caused to wheel on vehicle due to pothole

8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company: ☒ Yes ☐ No

Farm Family Casualty - PoBox 22091 Albany NY 12201

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge:

Date: 5/13/21

Claimant's signature: Megan Smith

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:

Copies forwarded to: ☒ City Clerk ☒ Law ☒ City Council ☐ City Administrator ☒ DPW

Date: 5/17/2021



GEICO General Insurance Company

18

Buffalo/New Jersey Claims, PO BOX 9515  
Fredericksburg, VA 22403-9515

RECEIVED

2021 MAY -7 P 1:25

CITY CLERK *Claim #16E*  
FALL RIVER, MA

05/03/2021

Fall River Police Department

1 Government Ctr FL 2ND  
City Clerk  
Fall River, MA 02722-7700

Company Name: GEICO General Insurance Company  
Claim Number: 056035933 0101 037  
Loss Date: Saturday, February 13, 2021  
Policyholder: Alice Harkins  
Claimant Vehicle: Police

Dear Fall River Police Department,

We haven't received a response to our prior written communication attempts. We also haven't been able to reach you by phone.

We previously sent you our supporting documents and written subrogation demands. Our investigation reveals that your insured is at fault for this loss.

If we do not hear from you within 10 days, we will take further action which may include litigation or referring our damages to a collection agency. If you wish to resolve this amicably, please forward your settlement draft or call me at the number listed below to discuss the claim.

Please include our claim number on your check and make the check payable to GEICO General Insurance Company as subrogee of Alice Harkins. Your check can be mailed to:

GEICO General Insurance Company  
ATTN: Plaza Cashiers  
P.O. Box 96008  
Washington, DC 20090-6006

Thank you for your prompt attention to this matter.

18



RECEIVED

2021 MAY 10 A 11:57

City of Fall River  
Notice of Claim

CITY CLERK #21-28  
FALL RIVER, MA

1. Claimant's name: CJ Ferry
2. Claimant's complete address: 300 Buffinton St Fall River MA 02721
3. Telephone number: Home: 5086469026 Work: \_\_\_\_\_
4. Nature of claim: (e.g., auto accident, slip and fall on public way, or property damage):  
tire damage related to pothole
5. Date and time of accident: 05/05/2021 Amount of damages claimed: \$ 114.70
6. Exact location of the incident: (include as much detail as possible):  
in front 43 Tecumseh Street Fall River MA 02721
7. Circumstances of the incident: (attach additional pages if necessary):  
While driving east on Tecumseh St I could not avoid a pothole in front of 43 Tecumseh St  
the pothole cause tire damage that resulted in a bubble on the sidewall of the tire
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company: ☐ Yes ☒ No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: 05/06/2021

Claimant's signature: [Signature]

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

**Return this from to : City Clerk, 2<sup>nd</sup> FL, One Government Center, Fall River, MA 02722**

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:	
Copies forwarded to: <input checked="" type="checkbox"/> City Clerk <input checked="" type="checkbox"/> Law <input checked="" type="checkbox"/> City Council <input checked="" type="checkbox"/> City Administrator <input checked="" type="checkbox"/> DCM	Date: <u>5/10/21</u>



PAUL E. COOGAN  
Mayor

## City of Fall River Massachusetts

Department of Community Maintenance  
CEMETERIES • MUNICIPAL BUILDINGS • ENGINEERING • SANITATION •  
PARKS • STREETS & HIGHWAYS • TRAFFIC & PARKING • VEHICLES

### Engineering Division

20  
RECEIVED

2021 MAY 20 P 3: 30

CITY CLERK  
FALL RIVER, MA

JOHN PERRY  
Director

CHRIS J.  
GALLAGHER, P.E.  
City Engineer

**To:** Fall River City Council  
**From:** Chris J. Gallagher, P.E., City Engineer  
**Date:** May 20, 2021  
**Subject:** Street Opening Request for Pavement Less Than Five Years Old

---

The Engineering Division has received a request for a road opening to install natural gas service at 14 John Street. John St. between Brow St. and Wade St. was paved in 2016. The improvement is less than 5 years old and City Council approval for a road opening is required.

The Engineering Division recommends approval of the request subject to the following conditions for pavement restoration in streets less than five years old:

- 1) All work shall meet or exceed the "Standards Employed by the Public Utility Operators When Restoring Municipal Streets" (the Standards) as published by the Commonwealth of Massachusetts Division of Telecommunications and Industry and with the requirements of the Fall River City Council;
- 2) Entire trench shall be sawcut at a uniform width from the tap location at the main to the curb. The trench length shall span the entire roadway;
- 3) All excavated material shall be removed from the site and appropriately disposed of;
- 4) All backfill materials shall be clean sand or sand and gravel mixtures meeting USCS classifications of GW, GP, SW, or SPC, free of silt, clay, and organic silts or soils, with 100% passing 3" sieve;
- 5) Backfill shall be executed in lifts not to exceed 6", and compacted between lifts;
- 6) Pavement restoration shall meet or exceed the existing pavement thickness;
- 7) Type I binder course(s) not to exceed 2" shall be placed and thoroughly compacted to within 1.5" of finished grade;
- 8) The existing pavement edge shall be tapered into the patch area to increase the surface binding area between the existing and new pavement;
- 9) A Type I surface course shall be placed with a minimum thickness of 1.5";

- 10) The patch area shall be heated using infrared to a surface temperature sufficient to allow remixing asphalt without oxidation or burning, but in no case shall the surface temperature exceed 350 degrees F;
- 11) The surface shall be compacted using a steel drum roller, resulting in a smooth, tight, pavement surface which matches the grade of the existing pavement;
- 12) Sand should be evenly distributed over the surface to fill small voids and absorb excess sealant if surface sealant is applied;
- 13) The repaired area shall be allowed to cool to 175 degrees F before opening to traffic.

Prior to opening the street, the applicant shall provide to the City Engineer a copy of the contract for any subcontractor providing work covered by this application. A minimum of 24-hours in advance of excavation, the contractor must call the Engineering Division at 508-324-2512 to request inspection services. Material specifications shall be provided to the City Engineer for all materials brought to the site for use as backfill, base course, and surface course.



RECEIVED

20

**City Council**

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**From:** Christopher J. Gallagher  
**Sent:** Thursday, May 20, 2021 3:48 PM  
**To:** City Council  
**Subject:** 14 John Street

2021 MAY 20 P 3:53

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

Colleen,

FYI the 14 John Street road opening request is due to the existing gas service getting shut off for remodeling of the existing home. The gas company, Liberty Utilities, requires the installation of a new service prior to turning it back on, according to the person requesting the road opening.

Chris J. Gallagher, P.E.

21



May 20, 2021

200 Pocasset Street  
Fall River, MA 02721

Fall River City Council  
One Government Center  
Fall River, MA 02722

Cell: 617-418-0728

Dear Councilors,

[jmckeag@massdevelopment.com](mailto:jmckeag@massdevelopment.com)

On behalf of Viva Fall River, a program of the Bristol County Chamber Foundation, I am writing to inform you that I plan attend the Council Meeting scheduled for May 25, 2021 to seek approval for three outdoor dining locations to support local restaurants along South Main Street. I am submitting applications seeking to place a structure (outdoor seating) adjacent to Harry's Restaurant, the TA Restaurant, and New England Homemade Donuts to provide seating for al fresco dining that will support these businesses, help brand and promote and promote the South Main Street corridor as a safe and attractive place to visit, and increase foot traffic and interest in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim McKeag".

Jim McKeag, Fall River Fellow  
Transformative Development Initiative  
MassDevelopment

CITY CLERK  
FALL RIVER, MA

2021 MAY 21 A 9:02

RECEIVED

21



CITY OF FALL RIVER  
OFFICE OF THE CITY CLERK

To the City Council:

Application for permit to place or maintain a structure or device on or over a public way.

Name of Applicant: Viva Fall River, c/o the Bristol County Chamber Foundation

Name of Business (if applicable): Harry's Restaurant

Address: 270 S Main St, Fall River, MA 02721

Street

City

State

Phone: 617-418-0728

E-mail: jmckeag@massdevelopment.com

Type of structure or device: Outdoor Dining

Description (include dimensions): Cafe tables inside wood fence enclosure on eastern portion of sidewalk;  
pedestrian traffic rerouted in 4' walkway in two adjacent parking spaces. ~14' x 40' including walkway

Location: Eastern section of South Main Street in front of Harry's Restaurant

Dates: Anticipated from mid June through October, 2021

The applicant agrees to maintain this structure or device in accordance with the requirements of the Building Inspector and the City Council and that this permit may be revoked at the pleasure of the City Council.

Signature of Applicant

Date 5/20/21

Building Inspector

Date

APPROVED ☐

DISAPPROVED ☐

Director of Traffic

Date

APPROVED ☐

DISAPPROVED ☐

Chief of Police

Date

APPROVED ☐

DISAPPROVED ☐

In City Council, \_\_\_\_\_

Date

Permit (approved) (disapproved)

OFFICE USE ONLY

☐ Fee Paid

\_\_\_\_\_  
Allison M. Bouchard  
City Clerk

21



CITY OF FALL RIVER  
OFFICE OF THE CITY CLERK

To the City Council:

Application for permit to place or maintain a structure or device on or over a public way.

Name of Applicant: Viva Fall River, c/o the Bristol County Chamber Foundation

Name of Business (If applicable): TA Restaurant

Address: 408 S Main St, Fall River, MA 02721

Street

City

State

Phone: 617-418-0728

E-mail: jmckeag@massdevelopment.com

Type of structure or device: Outdoor Dining

Description (Include dimensions): Picnic and cafe tables inside concrete block and wooden fence enclosure. Seating would occupy northern section of sidewalk into the street. ~ 18' x 50'

Location: Bottom of Morgan Street at the intersection of South Main Street

Dates: Anticipated from mid June through October, 2021

The applicant agrees to maintain this structure or device in accordance with the requirements of the Building Inspector and the City Council and that this permit may be revoked at the pleasure of the City Council.

Signature of Applicant

Date 5/20/21

Building Inspector

Date

APPROVED ☐

DISAPPROVED ☐

Director of Traffic

Date

APPROVED ☐

DISAPPROVED ☐

Chief of Police

Date

APPROVED ☐

DISAPPROVED ☐

In City Council,

Date

Permit (approved) (disapproved)

OFFICE USE ONLY

☐ Fee Paid

Allison M. Bouchard  
City Clerk

21



CITY OF FALL RIVER  
OFFICE OF THE CITY CLERK

To the City Council:

Application for permit to place or maintain a structure or device on or over a public way.

Name of Applicant: Viva Fall River, c/o the Bristol County Chamber Foundation

Name of Business (if applicable): New England Homemade Donuts

Address: 138 S Main St, Fall River, MA 02721

Street

City

State

Phone: 617-418-0728

E-mail: jmckeag@massdevelopment.com

Type of structure or device: Outdoor Seating

Description (include dimensions): Wooden outdoor bench around the tree in pedestrian bump-out  
~6' x 6'

Location: Bottom of Borden Street in the bump-out at the intersection of South Main Street

Dates: Anticipated from mid June through October, 2021

The applicant agrees to maintain this structure or device in accordance with the requirements of the Building Inspector and the City Council and that this permit may be revoked at the pleasure of the City Council.

Signature of Applicant

Date 5/20/21

Building Inspector

Date

APPROVED ☐

DISAPPROVED ☐

Director of Traffic

Date

APPROVED ☐

DISAPPROVED ☐

Chief of Police

Date

APPROVED ☐

DISAPPROVED ☐

In City Council,

Date

Permit (approved) (disapproved)

OFFICE USE ONLY

☐ Fee Paid

Alison M. Bouchard  
City Clerk

## CITY COUNCIL PUBLIC HEARINGS

MEETING: Tuesday, May 11, 2021 at 5:55 p.m.  
Council Chamber, One Government Center

PRESENT: President Cliff Ponte, presiding;  
Councilors Shawn E. Cadime, Michelle M. Dionne,  
Bradford L. Kilby, Pam Laliberte-Lebeau, Trott Lee,  
Christopher M. Peckham, Leo O. Pelletier and Linda M. Pereira

ABSENT: None

IN ATTENDANCE: None

The President called the meeting to order at 6:35 p.m. and announced that the meeting may be recorded with audio or video and transmitted through any medium and that the purpose of the hearings was to hear all persons interested and wishing to be heard on the following:

**Curb Removals**

*On a motion made by Councilor Trott Lee and seconded by Councilor Leo O. Pelletier, it was unanimously voted that the hearing be opened.*

1. Michelle Arruda, 37 Chicago Street, for the removal of curbing as follows:

	Existing opening	Curbing to be removed	Curbing to be added	Proposed Opening after alteration
37 Chicago Street	16'	16'	0"	32'

The petitioner is requesting the removal of 16 feet of curbing to the existing 16 foot driveway opening for purposes of creating a horseshoe driveway.

*The President then directed the proponents to be heard and no one came forward. The President then directed the opponents to be heard and there were no opponents. The President asked the City Clerk if any proponents or opponents submitted written testimony and the City Clerk stated that a letter of objection was received from Ronald Sevigny. The City Clerk then read the letter of objection, a copy of said letter is attached hereto and made a part of these minutes. Councilor Leo O. Pelletier stated that this property currently has parking for four vehicles. On a motion made by Councilor Michelle M. Dionne and seconded by Councilor Christopher M. Peckham, it was unanimously voted that the hearing be closed.*

On a motion made by Councilor Shawn E. Cadime and seconded by Councilor Christopher M. Peckham, it was unanimously voted that the hearing be opened.

2. Laurinda Goncalves, 539 President Avenue, for the removal of curbing as follows:

	Existing opening	Curbing to be removed	Curbing to be added	Proposed opening after alteration
539 President Avenue	31'	16'	0'	47'

The petitioner is requesting the removal of 16 feet of curbing on President Avenue to the existing 31 foot driveway opening located on the Belmont Street side of the property (corner lot). The work will be done during the upcoming President Avenue reconstruction project.

*The President then directed the proponents to be heard and stated that Laurinda Goncalves was present. The President then directed the opponents to be heard and there were no opponents. The President asked the City Clerk if any proponents or opponents submitted written testimony and the City Clerk stated that none was received. On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Michelle M. Dionne, it was unanimously voted that the hearing be closed.*

On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Michelle M. Dionne, it was unanimously voted to adjourn at 6:40 p.m.

List of documents and other exhibits used during the meeting:

Agenda (attached)

DVD of meeting

Letter of objection from Ronald Sevigny

A true copy. Attest:

*Alison M. Bouchard*

City Clerk

23

May 10, 2021

To Whom it may concern:

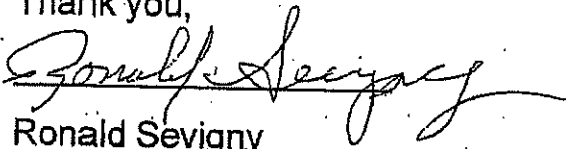
This is regarding the request of Michelle Arruda of 37 Chicago Street, Fall River, for the removal of 16' of curbing on Chicago Street.

Please be advised that I own property at 17 Chicago Street and I am opposed to this request for the following reasons:

1. Parking on Chicago Street is currently limited
2. There are currently newly constructed homes in the area (5 - 6) on Chicago Street and the question of how this will impact the parking on Chicago Street is unknown
3. There is a beauty salon on the corner of Stafford Road and Chicago Street which affects the availability of parking.

To remove curbing will limit parking spaces that are needed in this area and I request that you oppose this request.

Thank you,



Ronald Sevigny

250 Kennedy Street

Fall River, Ma. 02721

(owner of 17 Chicago Street, Fall River, Ma.)

CITY CLERK  
FALL RIVER, MA

2021 MAY 11 A 10:13

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