



**ANNUAL TOWN MEETING**  
**MONDAY, NOVEMBER 9, 2015 AT 7:00 p.m.**  
**MEMORIAL AUDITORIUM, LAWRENCE SCHOOL**

**Article**

- 1 Reports of Town Committees and Officers
- 2 Appropriate Funds for Unpaid Bills
- 3 Amend Ch. 240 Code of Falmouth - Flood Zone
- 4 Update Local Comprehensive Plan
- 5 Fund Energy Management Services Contract
- 6 Establish Debt Stabilization Fund
- 7 Fund Debt Stabilization Fund
- 8 Supplement FY 2016 Budget
- 9 Fund Capital Improvements
- 10 Fund Non-Capital Projects
- 11 Petition - Amend Bylaw - Ground Mounted Solar
- 12 Authorize Solar Arrays - 458 Thomas B. Landers Road
- 13 Authorize Easements - 458 Thomas B. Landers Road
- 14 Amend Official Zoning Map - 458 Thomas B. Landers Road
- 15 Amend Ch. 140 Code of Falmouth - Licenses and Permits
- 16 Amend Ch. 199 Code of Falmouth Ch. 140 - Streets and Sidewalks
- 17 Amend Ch. 203 Code of Falmouth - Swimming Pools
- 18 Establish New Falmouth Historic District Commission
- 19 Petition - Require 3 Estimates for Purchases Over \$5,000
- 20 Petition - Establish Fees at Compost Facility
- 21 Petition - Divestment of Mass. Public Pension Funds from Fossil Fuels
- 22 Petition - Town Meeting Recounts
- 23 Petition - Voting Rights for Legal Permanent Resident Non-Citizens
- 24 Petition - Ownership/Maintenance of Grinder Pumps
- 25 CPC - Authorize Conservation Restriction
- 26 CPC - Goodwill Park Rehabilitation
- 27 CPC - North Falmouth Elementary School Playground Rehabilitation
- 28 CPC - Falmouth Athletic Field Assessment
- 29 CPC - Sandwich Rd. Field Basketball Court
- 30 CPC - Replace Gates at Bristol Beach
- 31 CPC - Shining Sea Bikeway Rehabilitation Project
- 32 CPC - Recreational Bicycle Racks

- 33 CPC - Shivericks Pond Public Access Improvements
- 34 CPC - Falmouth Housing Stabilization Program
- 35 CPC - Historic Rehabilitation of Carriage House Windows
- 36 CPC - Falmouth Country Club Irrigation System
- 37 CPC - Capital Improvements to Lawrence Academy
- 38 CPC - Establish Land Bank Debt Reserve Account
- 39 CPC - Land Bank Debt Reserve Account
- 40 CPC - Lawrence Academy Historic Preservation Restriction

**ARTICLE 1:** To Hear Reports of Committees and Town Officers and act thereon.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to accept reports presented by the Affordable Housing Committee, Senior Center Site Working Group, Community Preservation Committee, Solid Waste Advisory Committee, School Committee, Water Quality Management Committee, Historical Commission, Bikeways Committee, Town Meeting Rules Committee, Board of Selectmen, Department of Public Works, and the Zoning Board of Appeals. A straw vote was taken to obtain Town Meetings opinion on holding future Town Meetings at Falmouth High School., 127 members were in favor and 75 were opposed.

**ARTICLE 2:** To see if the Town will appropriate a sum of money for the purpose of paying unpaid bills from a prior fiscal year, and to determine how the same shall be raised and by whom expended. Or do or take any other action on this matter. On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to transfer the sum of \$19,917.98 from certified free cash for the purpose of paying:

Cavossa Disposal Corporation	\$ 6,028.27
Dr. Phillip Lobel	\$ 675.00
Foster Appraisal & Consulting Co., Inc.	\$10,812.50
Woodco Machinery, Inc.	\$ 2,402.21

To be expended under the jurisdiction of the Town Manager.

**ARTICLE 3:** To see if the town will vote to amend Chapter 240 – Zoning – of the Code of Falmouth in the following manner:

- 1) Amend Article XIV – Dimensional Regulations - of the Zoning Bylaw by adding the following to **§240-70. Maximum Building Height:**
  - E. In the Flood Hazard Overlay District, the maximum building height shall be 40-feet, and the maximum number of stories shall be 2-1/2.
- 2) delete the current definition of Base Flood Elevation Level from Article III—Definitions
- 3) delete Article XVIII – Floodplain Zone - and insert in its place the following

Article XVIII  
FLOOD HAZARD OVERLAY DISTRICT

#### 240-80. Purpose.

The purpose of this section is to ensure public safety; minimize hazards to persons and property from flooding, to protect watercourses from encroachment, and to maintain the capability of floodplains to retain and carry off floodwaters. Floodplains are subject to recurrent flooding which presents serious hazards to health, safety, welfare and property of the residents of the Town of Falmouth. Regulation of the development and alteration of such areas is thus in the public interest.

#### 240-81. Establishment.

For the purposes of this Article the Town of Falmouth hereby establishes the Flood Hazard Overlay District (FHOD). The FHOD is inclusive of special flood hazard areas designated on the National Flood Insurance Program (NFIP) Flood Insurance Rate Maps (FIRMs) within the Town of Falmouth. The FHOD includes all special flood hazard areas within the Town of Falmouth designated as Zone AE, or VE on the Barnstable County FIRMs and the digital FIRMs issued by the NFIP. The map panels of the Barnstable County FIRMs that are wholly or partially within the Town of Falmouth are panel numbers: 0492, 0494, 0511, 0513, 0514, 0518, 0707, 0709, 0714, 0716, 0717, 0718, 0719, 0726, 0727, 0728, 0729, 0731, 0732, 0733, 0734, 0736, 0737, 0741, 0742, 0751, 0763 dated July 16, 2014. The exact boundaries of the FHOD are defined by the one-hundred-year base flood elevations shown on the FIRMs and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 16, 2014.

#### 240-82. Definitions

##### **Base Flood Elevation (BFE)**

The elevation of the crest of the base flood or one-hundred-year flood. The height, as established in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum where specified), in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

##### **Freeboard**

A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

#### 240-83 Requirements

- A. All construction or substantial improvement undertaken in the FHOD shall be in accordance with the Massachusetts Building Code, or town bylaws if more restrictive.
- B. In Velocity (VE) zones the lowest floor of any new or substantially improved residential structure shall be elevated to base flood elevation, plus two (2) feet. The two foot freeboard above Base Flood Elevation (BFE) shall not be used as habitable space. In Special Flood Hazard (AE) zones the lowest floor of any new or substantially improved residential structure shall be elevated to or above the base flood elevation.

- C. In Velocity (VE) zones the lowest floor of any new or substantially improved non-residential structure shall be elevated to base flood elevation, plus two (2) feet or be flood proofed, as defined, to this level. In Special Flood Hazard (AE) zones the lowest floor of any new or substantially improved non-residential structure shall be elevated to or above the base flood elevation.
- D. Alteration of the land form, as defined, shall not result in diminished flood storage capacity as the result of filling, grading, paving, dredging, mining, excavation or drilling operations. Alteration of the land form shall require the issuance of a special permit when not associated with an activity or use requiring the issuance of a building permit. No alteration of the landform shall be permitted where there may be the liability of altering the drainage or runoff to the detriment of other landowners. Before granting of a special permit for the alteration of the landform, the Board of Appeals shall duly consider any recommendations by the Conservation Commission and Planning Board. Special permits shall only issue upon a determination that the granting of the special permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense or conflict with existing bylaws and the relief granted is the minimum necessary considering the flood hazard. Man-made alteration of sand dunes within Velocity (VE) zones is prohibited.

Or do or take any other action on this matter. On request of the Planning Board.

**VOTED:** By A declared failed majority vote, a quorum being present on Monday, November 9, 2015 the Town voted not to pass Article 3.

**ARTICLE 4:** To see if the Town will vote to update the following Goals and Policies of the Local Comprehensive Plan dated April 2005:

Goal for Transportation Element:

- Falmouth will increase transportation freedom and choice.

Policies for the Transportation Element:

- Falmouth will increase the local and regional transportation system's efficiency, flexibility and resilience.
- Falmouth will institutionalize a budget process to provide for the full-cost pricing needs of the transportation infrastructure.
- Falmouth will encourage alternate modes of travel and promising emerging technologies.

Or do or take any other action on this matter. On request of the Planning Board.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted Indefinite Postponement

**ARTICLE 5:** To see if the Town will vote to appropriate a sum of money for the purpose of funding an Energy Management Services Contract under M.G.L. Chapter 25A, Section 11I between the Town of Falmouth and an Energy Management Services Contractor, to determine how the same shall be raised and by whom expended, or do or take any other action on this matter. On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to appropriate the sum of \$2,000,000 to fund an Energy Management Services Contract under M.G.L. Chapter 25A, section 11I and that to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said amount under and pursuant to Chapter 44, section 7 of the General Laws, or pursuant to any other enabling authority and to issue bonds and notes of the Town therefore, said sums to be expended under the jurisdiction of the Board of Selectmen.

**ARTICLE 6:** To see if the Town will vote to establish a stabilization fund in accordance with Massachusetts General Laws c. 40, s. 5B to be known as the Debt Stabilization Fund, or do or take any other action on the matter. On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to establish a stabilization fund in accordance with Massachusetts General Laws c. 40, s. 5B to be known as the Debt Stabilization Fund.

**ARTICLE 7:** To see if the Town will vote to appropriate a sum of money to fund the debt stabilization fund for further appropriation and to determine how the same shall be raised, or do or take any other action on the matter. On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to appropriate and transfer the sum of \$1,500,000 from certified free cash into the debt stabilization fund.

**ARTICLE 8:** To see if the Town will vote to appropriate a sum of money to supplement the FY 2016 Budget approved by Article 12 of the April 13, 2015 Annual Town Meeting, or do or take any other action on the matter. On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Thursday November 12, 2015 the Town voted to raise and appropriate \$300,000 and transfer the amount of \$615,000 from certified free cash for the purpose of funding the following FY16 budgeted line items:

Professional/Technical Special Counsel	01-151-5300	\$350,000
Purchases of Services Rubbish Contract	01-433-5292	\$295,500
Purchase of Services Recycle	01-433-5379	\$244,500
Short Term Notes	01-752-5910	\$ 25,000

**ARTICLE 9:** To see if the Town will vote to appropriate a sum of money for the purpose of funding Capital Improvements, to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Tuesday, November 10, 2015 the Town voted to transfer the amount of \$3,582,003 from certified free cash for the purposes of Article 9. Said funds to be expended under the jurisdiction of the Town Manager

<b>General Government</b>	
Network Upgrades	80,000
PC Monitors and Software	58,000
Phone System and Maintenance	40,000
Voting Machines	70,300
Municipal Space Improvements (Town Hall Design)	0
Irrigation System Falmouth Country Club	500,000
Facilities Improvement Consolidated Comms Ctr	<u>578,500</u>
Town Hall Archives	95,000
Bike Path Design (CPC Match)	53,000
Golf Equipment	56,356
Senior Center Owners Project Manager	50,000
Public Safety	
Phase 1 Portable Radios (Police, Fire, DPW & MES)	240,465
Police Vehicle Radios	112,000
Ford F250	36,705
FPI Vehicle	25,000
Fire Prevention Officer Vehicle	35,000
EMS Supervisor Vehicle (C33)	35,000

<b>Facilities</b>	
Marina Building Roof	30,000
<u>DPW Garage Upgrades (Windows)</u>	<u>15,000</u>
Rec Center Exterior Wall Board	125,000
<u>Two Emergency Generators</u>	<u>50,000</u>
Highway	
Road Maint/Construction/Sidewalks	200,000
Vehicles/Equipment	
Dump Truck with Plow (36000 GVW)	190,000
Sweeper	260,000
Roadside Mower	100,000
Sewer Cleaning (Vac-Jet) Truck Rehab	45,000
Chipper	70,000
Pickup Truck F350	50,000
Mower and Blower	43,217
Replace Van with F350 Truck	50,000
Wastewater	
Wastewater System Equipment	125,000
Schools	
<u>Fire Safety Improvements and Paging System</u>	<u>163,460</u>

**ARTICLE 10:** To see if the Town will vote to appropriate a sum of money for the purpose of funding non-capital projects, to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Tuesday, November 10, 2015 the Town voted to transfer the amount of \$403,860 from certified free cash for the purposes of this article. Said funds to be expended under the jurisdiction of the Town Manager.

<b>General Government</b>	
GIS Plotter	12,000
<b>Public Safety</b>	
Annual Inlet Dredging	50,000
Rivers and Pond Maintenance (Water Quality)	45,000
Ramp Float Replacement	15,000
<b>Community Development</b>	
Land Management	20,000
<b>Vehicles/Equipment</b>	
Air Compressor	18,000
<b>Water</b>	
Update Water and Sewer Rate Study	30,000

<b>Engineering/Admin</b>	
Bridge Maintenance	50,000
NPDES Compliance	25,000
Transportation Engineering Services	50,000
<b>Parks</b>	
Men's Softball Field Dugouts	20,360
<b>Beach</b>	
Nourishment/Site Improvement	50,000
Trash Containers	16,000
Lifeguard Chairs	2,500

**ARTICLE 11: Proposed Amendment of the Bylaw Allowing Ground Mounted Solar in all Light Industrial Zones in Falmouth without a Special Permit**

Existing Massachusetts law largely exempts photovoltaic installations from local zoning restrictions. Massachusetts General Laws

, provides, in relevant part, that: “No zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.”

In view of M.G.L. chapter 40A § 3, local zoning provisions specifically allowing for the as-of-right construction of smaller solar energy systems – such as those commonly installed on top of or on the lot of a home or business – are unnecessary. However, it is not clear whether M.G.L. chapter 40A § 3 applies to the construction of large-scale ground-mounted systems. Therefore, the Falmouth Energy Committee requests that the municipality of Falmouth modify the existing bylaw which permits the installation of ground mounted solar installations in Light Industrial Zone C without a special permit to include as-of-right siting of ground-mounted systems in the locations of Light Industrial A and Light Industrial B, municipal and public use zones as well. The ground mounted solar may be for primary or accessory use.

Bylaw 240-13 definition: “GROUND-MOUNTED SOLAR PHOTOVOLTAIC ARRAY

A system of solar panels structurally mounted on the ground generating electricity to be used on site or sold to the wholesale electricity market.”

**Compliance with Laws, Ordinances, and Regulations**

The construction and operation of all large-scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

**Building Permit and Building Inspection**

No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

**Site Plan Review**

Ground-mounted large scale solar photovoltaic installations with 250kW or larger of rated nameplate capacity shall undergo site plan review by the Site Plan Review Authority prior to construction, installation or modification as provided in this section.

The Falmouth Energy Committee is seeking support for this amendment to allow ground-mounted solar in Light Industrial zones A, B and C as well as in municipal and public-use zones as the federal tax credits are set to expire at the end of December 2016. The committee would like to see more renewable energy installed in the community and the LI and municipal and public use zones are well suited for ground-mounted PV arrays. On petition of Megan Amsler and others.

**VOTED:** By a unanimous vote, a quorum being present on Tuesday, November 10, 2015 the Town voted Indefinite Postponement

**ARTICLE 12:** To see if the Town will vote to authorize the Board of Selectmen to enter into and execute on behalf of the Town a lease for a term of years to be determined for construction and production of ground mounted solar photovoltaic arrays on the former Town landfill owned by the Town of Falmouth at 0 Blacksmith Shop Road (also known as 458 Thomas B Landers Road) shown on the Falmouth Assessors Map 16 Section 01 Parcel 015 Lot 000 and Map 16 Section 01 Parcel 008C Lot 000, located west of Blacksmith Shop Road and south of Thomas B. Landers Road, on terms and conditions as the Board of Selectmen deem appropriate, or do or take any other action in this matter.

On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Tuesday, November 10, 2015 the Town voted Article 12 as printed.

**ARTICLE 13:** To see if the Town will vote to authorize the Board of Selectmen to grant, transfer and convey any associated and necessary easements on the former Town landfill land owned by the Town of Falmouth for the construction and production of ground mounted solar photovoltaic arrays on the former Town landfill owned by the Town of Falmouth at 0 Blacksmith Shop Road (also known as 458 Thomas B Landers Road) shown on the Falmouth Assessors Map 16 Section 01 Parcel 015 Lot 000 and Map 16 Section 01 Parcel 008C Lot 000, located west of Blacksmith Shop Road and south of Thomas B. Landers Road, for access to said property, for construction purposes, for the distribution of electricity produced on said property, on terms and conditions as the Board of Selectmen deem appropriate, or do or take any other action in this matter.

On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Tuesday, November 10, 2015 the Town voted Article 13 as printed.

**ARTICLE 14:** To see if the Town will vote to amend the Official Zoning Map of the Town of Falmouth so as to rezone from Public Use to Light Industrial C a portion of the former Town landfill land at 0 Blacksmith Shop Road (also known as 458 Thomas B Landers Road) shown on the Falmouth Assessors Map 16 Section 01 Parcel 015 Lot 000 and Map 16 Section 01 Parcel 008C Lot 000, located west of Blacksmith Shop Road and south of Thomas B. Landers Road.

Said land to be rezoned to Light Industrial C is shown on "Plan of Land to Be Rezoned at 0 Blacksmith Shop Road in the Town of Falmouth", Date: August 28, 2015, Scale: 1" = 100 feet, prepared by Weston & Sampson.

Or do or take any other action on the matter. On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Tuesday, November 10, 2015 the Town voted Article 14 as printed.

**ARTICLE 15:** To see if the Town will vote to amend Chapter 140 of the Code of Falmouth, LICENSES AND PERMITS, by adding the following exemption to Sec. 7:



- I. Home improvement and/or weatherization projects for qualified homeowners when the project is funded in whole or in part by grants from utility companies or state or federal agencies.

Or do or take any other action on the matter. On request of the Board of Selectmen.

AMMENDMENT(Brown): Delete the word "qualified.

**VOTED:** By a counted vote of 92 in favor and 83 in opposition, a quorum being present on Thursday November 12, 2015 the Town voted to delete the word "qualified.

**VOTED:** By a declared majority vote, a quorum being present on Thursday, November 12, 2015 the Town voted to amend Chapter 140 of the Code of Falmouth, LICENSES AND PERMITS, by adding the following exemption to Sec. 7:

- I. Home improvement and/or weatherization projects for homeowners when the project is funded in whole or in part by grants from utility companies or state or federal agencies.

**ARTICLE 16:** To see if the Town will vote to amend Chapter 199 of the Code of Falmouth, STREETS AND SIDEWALKS, by adding a new Article V, Closure of Streets, as follows:

ARTICLE V

Closure of Streets

Sec. 199 – 8. The Board of Selectmen may order the closure of any public way or part thereof in the town, except a state highway, parkway or boulevard, to vehicular traffic for such period of time as the board may determine. The board shall obtain written approval from the Chief of the Police Department, the Chief of the Fire Rescue Department and the Director of Public Works and the order shall have due regard in every instance for rights of abutting owners and the general public in the use of such way or part thereof.

Or do or take any other action on the matter. On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted Article 16 as printed.

**ARTICLE 17:** To see if the Town will vote to amend Chapter 203 of the Code of Falmouth, SWIMMING POOLS, by adding a new section 203-6, Draining swimming pools, as follows:

All water drained from a swimming pool shall be contained on the lot on which the pool is located. The water so drained shall not be directed onto abutting property without the owner's permission. The water so drained shall not be directed onto a public or private way or into any sewer or storm drain without permission of the Director of Public Works. The owner of the lot on which the pool is located shall be responsible for compliance with the provisions of this section and shall comply with a cease and desist order issued by the Building Commissioner, Director of Public Works or a police officer immediately. The penalty for violation of this section shall be \$300.00 per event.

Or do or take any other action on the matter. On request of the Board of Selectmen.

AMMENDMENT(Herbst): Add “or pumped out by truck” at end of first sentence.

**VOTED:** By a declared majority vote, a quorum being present on Thursday, November 12, 2015 the Town voted to add “or pumped out by truck” at end of first sentence

**VOTED:** By a counted vote of 92 in favor and 84 in opposition, a quorum being present on Thursday November 12, 2015 the Town voted to amend Chapter 203 of the Code of Falmouth, SWIMMING POOLS, by adding a new section 203-6, Draining swimming pools, as follows:

All water drained from a swimming pool shall be contained on the lot on which the pool is located or pumped out by truck. The water so drained shall not be directed onto abutting property without the owner’s permission. The water so drained shall not be directed onto a public or private way or into any sewer or storm drain without permission of the Director of Public Works. The owner of the lot on which the pool is located shall be responsible for compliance with the provisions of this section and shall comply with a cease and desist order issued by the Building Commissioner, Director of Public Works or a police officer immediately. The penalty for violation of this section shall be \$300.00 per event.

**ARTICLE 18:** To see if the Town will vote to accomplish a merger of the Falmouth Historic District Commission (“FHDC”) established by authority of Chapter 654 of the Acts of 1975, as amended, and the Falmouth Historical Commission (“FHC”) established by authority of Chapter 40, Section 8D of the Massachusetts General Laws, and create a new public body to be known as the Falmouth Historic District Commission (“FHDC”), which public body shall have all the powers and duties of a historic districts commission as set forth in Chapter 40C of the Massachusetts General Laws and of a historical commission as set forth in Chapter 40, Section 8D of said laws, the FHDC to consist of five (5) members to be appointed by the Board of Selectmen, and for this purpose the Town shall further vote:

- a) to accept the provisions of Chapter 40C of the Massachusetts General Laws relative to the establishment of a historic district commission in lieu of a historic district commission established by Chapter 654 of the Acts of 1975, as amended;
- b) to adopt a bylaw submitted herewith as Exhibit A to be known as the Falmouth Historic District Bylaw; and
- c) to amend the Falmouth Home Rule Charter by deleting Article VII Appointed Town Board, § C7-9 Historical Commission, and by amending Article VII, Appointed Town Boards, § C7-15, Historic Districts Commission, to read:

C7-15, Falmouth Historic District. A Historic District Commission shall be appointed as provided by the provisions of Massachusetts General Laws, Chapter 40C and applicable Town bylaw. All such acts and votes to take effect upon approval by the voters of the Town of the necessary amendments to the Falmouth Home Rule Charter, or do or take any other action on the matter on request of the Board of Selectmen.

## **EXHIBIT A**

### **Falmouth Historic District Bylaw**

#### **1. AUTHORITY AND PURPOSE**

This Bylaw shall be known and may be cited as the Falmouth Historic District Bylaw and is adopted pursuant to the provisions of Chapter 40C of the Massachusetts General Laws, as amended.

The purpose of this bylaw is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Falmouth or their architecture, and through the maintenance and improvement of settings for such buildings and places to ensure that new building designs are compatible therewith.

## **2. DEFINITIONS**

**ALTERATION, TO ALTER:** The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.

**BUILDING:** A combination of materials forming shelter for people, animals or property.

**CERTIFICATE:** A certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship as set forth in this Bylaw.

**COMMISSION:** The Historic District Commission as established in accordance with Chapter 40C of the Massachusetts General Laws and shall have all the powers and duties of the historical commission as provided in Chapter 40, § 8D.

**CONSTRUCTION, TO CONSTRUCT:** The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.

**DISTRICT:** One of the seven (7) Historic Districts established pursuant to Chapter 654 of the Acts of 1975, and any additional Historic District as may be established pursuant to Chapter 40C of the Massachusetts General Laws.

**EXTERIOR ARCHITECTURAL FEATURE:** Any portion of the exterior of a building or structure that is open to view from a public street, public way, public park or public body of water, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, the materials applied to exterior surfaces, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

**HARDSHIP:** Means application of this Bylaw to a particular piece of property, evaluated in its totality, owing to the unique characteristics of the property, that is unduly oppressive, arbitrary or confiscatory and would involve substantial economic loss to the Applicant because a literal enforcement of the Bylaw, provided the conditions and characteristics of the property are not the result of actions of the Applicant, or owner, or their agents, predecessors, successors or assigns.

**PERSON AGGRIEVED:** The applicant; an owner of adjoining property; an owner of property within the same district area within 100 feet of the subject property lines; and any non-profit organization in which one of its purposes is the preservation of historic places, structures, buildings or districts.

**SIGNS:** Any symbol, design or device used to identify or advertise any place of business, product, activity or person.

**STRUCTURE:** A combination of materials other than a building, including but not limited to a sign, fence, wall, terrace, walk or driveway.

**TEMPORARY BUILDING:** A building not to be in existence for a period of more than 2-years.

**TEMPORARY SIGN:** A sign not to be in existence for a period of more than 30-days.

**TEMPORARY STRUCTURE:** A structure not to be in existence for a period of more than 1-year.

### **3. DISTRICT**

The historic districts shall consist of the areas listed in Section 14 (Appendices) of this Bylaw.

### **4. COMMISSION**

**4.1** The districts shall be regulated by a commission consisting of 5 members to be appointed by the Board of Selectmen. 1 member shall initially be appointed for 1-year, 2 for 2-years, and 2 for 3-years. Each successive appointment shall be for 3-years.

**4.2** The commission shall include, if possible, 1 member from 2 nominees solicited from the Falmouth Historical Society, 1 member from 2 nominees solicited from the chapter of the American Institute of Architects covering Falmouth; 1 member from 2 nominees of the Board of Realtors covering Falmouth; and 1 property owner from within a district area. If within 30-days after submission of a written request for nominees to any of the organizations herein named, insufficient nominations have been received, the Board of Selectmen may proceed to make open appointments.

**4.3** The Board of Selectmen shall appoint up to 2 alternate members to the commission. Each alternate member shall have the right to act and vote in the place of a regular member should such regular member be absent from a meeting, or unable to vote. Said alternate members shall initially be appointed for terms of 2-or 3-years, and for 3-year terms thereafter.

**4.4** Meetings of the commission shall be held at the call of the Chairman and in such other manner as the commission shall determine in its Rules and Regulations.

**4.6** Three members of the commission shall constitute a quorum.

### **5. COMMISSION POWERS AND DUTIES**

**5.1** The commission shall exercise its powers in administering and regulating the construction and alteration of any structure or building within the district as set forth under the procedures and criteria established in this Bylaw. In exercising its powers and duties hereunder, the commission shall pay due regard to the distinctive characteristics of each building, structure and district area.

**5.2** The commission shall adhere to the Rules and Regulations previously adopted pursuant to Chapter 654 of the Acts of 1975, unless the commission adopts, or from time to time amends, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw, M.G.L. Chapter 40C, or M.G.L. Chapter 40, § 8D, setting forth such forms and procedures as it deems desirable and necessary for the regulation of

its affairs and the conduct of its business, including requirements for the contents and form of applications for certificates, fees, hearing procedures and other matters. The commission shall file a copy of any such Rules and Regulations with the office of the Town Clerk.

5.3 The commission shall adhere to the Guidelines previously adopted pursuant to Chapter 654 of the Acts of 1975, unless the commission, after a public hearing duly posted and advertised at least 14-days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation, adopts or from time to time amends the Guidelines which set forth the designs for certain exterior architectural features which are, in general, suitable for the issuance of a certificate. No such design guidelines shall limit the right of an applicant for a certificate to present other designs to the commission for approval.

5.4 The commission shall, at the beginning of each fiscal year, hold an organizational meeting and elect a Chairman, Vice-Chairman and Secretary, and file notice of such election with the office of the Town Clerk.

5.5 The commission shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.

## **6. ALTERATIONS AND CONSTRUCTIONS PROHIBITED WITHOUT A CERTIFICATE**

6.1 Except as provided in this Bylaw, no building or structure or part thereof within a district shall be constructed or altered in any way that affects the exterior architectural features visible from a public street, public way, public park or public body of water, without a certificate issued by the commission.

6.2 No building permit for construction of a building or structure or for alteration of an exterior architectural feature within a district and no demolition permit for removal of a building or structure within a district shall be issued by the Town or any department until a certificate is issued by the commission.

## **7. PROCEDURES FOR REVIEW OF APPLICATIONS**

7.1 Any person who desires to receive a certificate shall file with the commission an application for a certificate of appropriateness, of non-applicability, or of hardship. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition a statement of the proposed condition and appearance of the property after removal of any buildings or structures, as may be reasonably deemed necessary by the commission.

7.2 The commission shall determine within 14-days of the filing of an application for a certificate whether the application involves any exterior architectural features which are within the jurisdiction of the commission.

7.3 If the commission determines that an application for a certificate does not involve any exterior architectural features, or involves an exterior architectural feature which is not subject to review by the commission under the provisions of this Bylaw, the commission shall forthwith issue a certificate of non-applicability.

7.4 If the commission determines that such application involves any exterior architectural feature subject to review under this Bylaw, it shall hold a public hearing on the application. The commission shall hold such a public hearing within 45-days from the receipt of the application. At least 14-days before the public hearing, notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation. Such notice shall identify the time, place, and purpose of the public hearing.

Concurrently, a copy of the public hearing notice shall be mailed to the applicant, to the owners of all adjoining properties, to the owners of all property within the same district area within 100 feet of the subject property lines, to any non-profit organization in which one of its purposes is the preservation of historic places, structures, buildings or districts, to all other properties deemed by the commission to be materially affected, all as they appear on the most recent applicable tax list, to the Planning Board, and to any person filing a written request for notice of hearings (such request to be renewed yearly in December).

7.5 Within 60-days after the filing of an application for a certificate, or within such further time as the applicant may allow in writing, the commission shall issue a certificate or disapproval. In the case of a disapproval, the commission shall place upon its record the reasons for disapproval and shall set forth the reasons in its written disapproval.

7.6 The concurring vote of a majority of the members shall be required to approve a certificate.

7.7 In issuing certificates, the commission may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose of this Bylaw.

7.8 In the event of an application for a certificate of hardship, the commission shall determine whether, owing to conditions especially affecting the building or structure involved, but not affecting the district generally, failure to approve an application will involve a substantial Hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Bylaw. If the commission determines that owing to such conditions failure to approve an application will involve substantial Hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the commission shall issue a certificate of hardship. The issuance of a certificate of hardship pursuant to the foregoing provision is intended to be employed only in rare and unusual cases.

7.9 The commission shall send a copy of its certificates and disapprovals to the applicant and shall file a copy with the Town Clerk and Building Commissioner. The date of issuance of a certificate or disapproval shall be the date of the filing with the Town Clerk.

7.10 If the commission should fail to issue a certificate or disapproval within 60-days of the filing of the application, or within such further time as the applicant may allow in writing, the commission shall approve the application due to a failure to act.

7.11 Each certificate issued by the commission shall be dated and signed by its chairman or such other person designated by the commission to sign on its behalf.

7.12 A person aggrieved by a determination of the commission may, within 20-days of the issuance of a certificate or disapproval, file an appeal in the Barnstable County Superior Court as provided in Chapter 40C, Section 12A. The remedy provided by this section shall be exclusive but the parties shall have all rights of appeal and exception as in other equity cases.

## **8. CRITERIA FOR DETERMINATIONS**

8.1 In deliberating on applications for certificates, the commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure; the general design, proportions, detailing, mass, arrangement, texture, and material of the exterior architectural features involved; and the relation of such exterior architectural features to similar features of buildings and structures in the surrounding district.

8.2 In the case of new construction or additions to existing buildings or structures, the commission shall consider the appropriateness of the scale, shape and proportions of the building or structure both in relation to the land area upon which the building or structure is situated and in relation to buildings and structures in the district.

8.3 When ruling on applications for certificates on solar energy systems as defined in Section IA of Chapter 40A, the commission shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.

8.4 The commission shall not consider interior arrangements or exterior architectural features not subject to public view from a public way.

## **9. EXCLUSIONS**

9.1 The commission shall exclude from its purview the following:

9.1.1 Temporary buildings, structures or signs subject, however, to conditions pertaining to the duration of existence and use and similar matters as the commission may reasonably specify.

9.1.2 Terraces, walks, driveways, sidewalks and similar structures, provided that any such structure is substantially at grade level.

9.1.3 Storm windows and doors, screen windows and doors, and window air conditioners.

9.1.4 The color of paint.

9.1.5 The color of materials used on roofs.

9.1.6 The reconstruction, substantially similar in exterior design, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.

9.2 Nothing in this Bylaw shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within a district which does not involve a change in design, material

or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration under a permit duly issued prior to the effective date of this Bylaw.

## **10. CATEGORICAL APPROVAL**

The commission may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Falmouth, that certain categories of exterior architectural features, structures or buildings under certain conditions may be constructed or altered without review by the commission without causing substantial derogation from the intent and purpose of this Bylaw.

## **11. ENFORCEMENT AND PENALTIES**

**11.1** The Superior Court shall have jurisdiction to enforce the provisions of this Bylaw and the determinations, rulings and regulations pursuant thereto and may upon the order of the Board of Selectmen or Commission, restrain by injunction violations thereof; and without limitation, such court may order the removal of any building, structure or exterior architectural feature constructed in violation thereof, or the substantial restoration of any building, structure or exterior architectural feature altered or demolished in violation thereof, and may issue such other relief as may be equitable.

**11.2** Notwithstanding the provisions of the state building code, the building commissioner shall withhold any permit for construction, alteration, demolition or the moving, use or occupancy of any building or structure until such time as the commission issues a determination that compliance with its certificate of appropriateness has been accomplished or that the commission has received surety for the completion of construction or other authorized site activities pursuant to the following:

**11.2.1** Before issuing a certificate of appropriateness, the commission may require that construction or other authorized site activities be secured by one of the following methods, which method may be selected and from time to time varied by the applicant upon receiving written approval from the commission

**11.2.1.1** by a proper bond or deposit of money sufficient in the opinion of the commission to secure performance of the conditions of its decision as noted in the certificate of appropriateness or accompanying plans; or

**11.2.1.2** by a covenant executed and duly recorded by the owner of record, running with the land, whereby the conditions of its decision as noted in the certificate of appropriateness or accompanying plans shall be accomplished prior to the issuance of occupancy permits or any conveyance, sale, rental or similar disposition of the property.

**11.3** Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction, fined not more than \$300 for each offense. Each day that such violation continues shall constitute a separate offense.



## **12. POWERS AND DUTIES OF COMMISSIONS ESTABLISHED HEREUNDER AS HISTORICAL COMMISSIONS**

The commission established hereunder shall have the powers and duties of a historical commission as provided in section 8D of Chapter 40, and may be entitled a historical commission in addition to a historic district commission.

## **13. VALIDITY AND SEPARABILITY**

The provisions of this Bylaw 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 the Bylaw shall continue to be in full force and effect.

## **14. APPENDICES**

Appendix 1: North Falmouth Historic District

Appendix 2: West Falmouth Historic District

Appendix 3: Falmouth Village

Appendix 4: Woods Hole

Appendix 5: East Falmouth

Appendix 6: Waquoit

Appendix 7: Quissett

AMMENDMENT(McCluskey): Replace "Falmouth Historic District Commission" with "Falmouth Historical Commission" wherever it appears in Article 18 .

**VOTED:** By a unanimous vote, a quorum being present on Thursday, November 12, 2015 the Town voted to replace "Falmouth Historic District Commission" with "Falmouth Historical Commission" wherever it appears in Article 18 .

**VOTED:** By a counted vote of 137 in favor and 41 in opposition, a quorum being present on Thursday, November 12, 2015 the Town voted to to accomplish a merger of the Falmouth Historic District Commission ("FHDC") established by authority of Chapter 654 of the Acts of 1975, as amended, and the Falmouth Historical Commission ("FHC") established by authority of Chapter 40, Section 8D of the Massachusetts General Laws, and create a new public body to be known as the Falmouth Historical Commission ("FHC"), which public body shall have all the powers and duties of a historic districts commission as set forth in Chapter 40C of the Massachusetts General Laws and of a historical commission as set forth in Chapter 40, Section 8D of said laws, the FHDC to consist of five (5) members to be appointed by the Board of Selectmen, and for this purpose the Town shall further vote:

- a) to accept the provisions of Chapter 40C of the Massachusetts General Laws relative to the establishment of a historic district commission in lieu of a historic district commission established by Chapter 654 of the Acts of 1975, as amended;
- b) to adopt a bylaw submitted herewith as Exhibit A to be known as the Falmouth Historic District Bylaw; and
- c) to amend the Falmouth Home Rule Charter by deleting Article VII Appointed Town Board, § C7-9 Historical Commission, and by amending Article VII, Appointed Town Boards, § C7-15, Historic Districts Commission, to read:

C7-15, Falmouth Historic District. A Historic District Commission to be known as the Falmouth Historical Commission (“FHC”) shall be appointed as provided by the provisions of Massachusetts General Laws, Chapter 40C and applicable Town bylaw.

All such acts and votes to take effect upon approval by the voters of the Town of the necessary amendments to the Falmouth Home Rule Charter, or do or take any other action on the matter on request of the Board of Selectmen.

**EXHIBIT A**

**Falmouth Historic District Bylaw**

**1. AUTHORITY AND PURPOSE**

This Bylaw shall be known and may be cited as the Falmouth Historic District Bylaw and is adopted pursuant to the provisions of Chapter 40C of the Massachusetts General Laws, as amended.

The purpose of this bylaw is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Falmouth or their architecture, and through the maintenance and improvement of settings for such buildings and places to ensure that new building designs are compatible therewith.

**2. DEFINITIONS**

**ALTERATION, TO ALTER:** The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.

**BUILDING:** A combination of materials forming shelter for people, animals or property.

**CERTIFICATE:** A certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship as set forth in this Bylaw.

**COMMISSION:** The Historic District Commission to be known as the Falmouth Historical Commission (“FHC”) as established in accordance with Chapter 40C of the Massachusetts General Laws and shall have all the powers and duties of the historical commission as provided in Chapter 40, § 8D.

**CONSTRUCTION, TO CONSTRUCT:** The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.

**DISTRICT:** One of the seven (7) Historic Districts established pursuant to Chapter 654 of the Acts of 1975, and any additional Historic District as may be established pursuant to Chapter 40C of the Massachusetts General Laws.

**EXTERIOR ARCHITECTURAL FEATURE:** Any portion of the exterior of a building or structure that is open to view from a public street, public way, public park or public body of water, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, the materials applied to exterior surfaces, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

**HARDSHIP:** Means application of this Bylaw to a particular piece of property, evaluated in its totality, owing to the unique characteristics of the property, that is unduly oppressive, arbitrary or confiscatory and would involve substantial economic loss to the Applicant because a literal enforcement of the Bylaw, provided the conditions and characteristics of the property are not the result of actions of the Applicant, or owner, or their agents, predecessors, successors or assigns.

**PERSON AGGRIEVED:** The applicant; an owner of adjoining property; an owner of property within the same district area within 100 feet of the subject property lines; and any non-profit organization in which one of its purposes is the preservation of historic places, structures, buildings or districts.

**SIGNS:** Any symbol, design or device used to identify or advertise any place of business, product, activity or person.

**STRUCTURE:** A combination of materials other than a building, including but not limited to a sign, fence, wall, terrace, walk or driveway.

**TEMPORARY BUILDING:** A building not to be in existence for a period of more than 2-years.

**TEMPORARY SIGN:** A sign not to be in existence for a period of more than 30-days.

**TEMPORARY STRUCTURE:** A structure not to be in existence for a period of more than 1-year.

### **3. DISTRICT**

The historic districts shall consist of the areas listed in Section 14 (Appendices) of this Bylaw.

### **4. COMMISSION**

**4.1** The districts shall be regulated by a commission consisting of 5 members to be appointed by the Board of Selectmen. 1 member shall initially be appointed for 1-year, 2 for 2-years, and 2 for 3-years. Each successive appointment shall be for 3-years.

**4.2** The commission shall include, if possible, 1 member from 2 nominees solicited from the Falmouth Historical Society, 1 member from 2 nominees solicited from the chapter of the American Institute of Architects covering Falmouth; 1 member from 2 nominees of the Board of Realtors covering Falmouth; and 1 property owner from within a district area. If within 30-days after submission of a written request

for nominees to any of the organizations herein named, insufficient nominations have been received, the Board of Selectmen may proceed to make open appointments.

4.3 The Board of Selectmen shall appoint up to 2 alternate members to the commission. Each alternate member shall have the right to act and vote in the place of a regular member should such regular member be absent from a meeting, or unable to vote. Said alternate members shall initially be appointed for terms of 2-or 3-years, and for 3-year terms thereafter.

4.4 Meetings of the commission shall be held at the call of the Chairman and in such other manner as the commission shall determine in its Rules and Regulations.

4.6 Three members of the commission shall constitute a quorum.

## **5. COMMISSION POWERS AND DUTIES**

5.1 The commission shall exercise its powers in administering and regulating the construction and alteration of any structure or building within the district as set forth under the procedures and criteria established in this Bylaw. In exercising its powers and duties hereunder, the commission shall pay due regard to the distinctive characteristics of each building, structure and district area.

5.2 The commission shall adhere to the Rules and Regulations previously adopted pursuant to Chapter 654 of the Acts of 1975, unless the commission adopts, or from time to time amends, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw, M.G.L. Chapter 40C, or M.G.L. Chapter 40, § 8D, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for certificates, fees, hearing procedures and other matters. The commission shall file a copy of any such Rules and Regulations with the office of the Town Clerk.

5.3 The commission shall adhere to the Guidelines previously adopted pursuant to Chapter 654 of the Acts of 1975, unless the commission, after a public hearing duly posted and advertised at least 14-days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation, adopts or from time to time amends the Guidelines which set forth the designs for certain exterior architectural features which are, in general, suitable for the issuance of a certificate. No such design guidelines shall limit the right of an applicant for a certificate to present other designs to the commission for approval.

5.4 The commission shall, at the beginning of each fiscal year, hold an organizational meeting and elect a Chairman, Vice-Chairman and Secretary, and file notice of such election with the office of the Town Clerk.

5.5 The commission shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.

## **6. ALTERATIONS AND CONSTRUCTIONS PROHIBITED WITHOUT A CERTIFICATE**

6.1 Except as provided in this Bylaw, no building or structure or part thereof within a district shall be constructed or altered in any way that affects the exterior architectural features visible from a public street, public way, public park or public body of water, without a certificate issued by the commission.

6.2 No building permit for construction of a building or structure or for alteration of an exterior architectural feature within a district and no demolition permit for removal of a building or structure within a district shall be issued by the Town or any department until a certificate is issued by the commission.

## **7. PROCEDURES FOR REVIEW OF APPLICATIONS**

7.1 Any person who desires to receive a certificate shall file with the commission an application for a certificate of appropriateness, of non-applicability, or of hardship. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition a statement of the proposed condition and appearance of the property after removal of any buildings or structures, as may be reasonably deemed necessary by the commission.

7.2 The commission shall determine within 14-days of the filing of an application for a certificate whether the application involves any exterior architectural features which are within the jurisdiction of the commission.

7.3 If the commission determines that an application for a certificate does not involve any exterior architectural features, or involves an exterior architectural feature which is not subject to review by the commission under the provisions of this Bylaw, the commission shall forthwith issue a certificate of non-applicability.

7.4 If the commission determines that such application involves any exterior architectural feature subject to review under this Bylaw, it shall hold a public hearing on the application. The commission shall hold such a public hearing within 45-days from the receipt of the application. At least 14-days before the public hearing, notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation. Such notice shall identify the time, place, and purpose of the public hearing.

Concurrently, a copy of the public hearing notice shall be mailed to the applicant, to the owners of all adjoining properties, to the owners of all property within the same district area within 100 feet of the subject property lines, to any non-profit organization in which one of its purposes is the preservation of historic places, structures, buildings or districts, to all other properties deemed by the commission to be materially affected, all as they appear on the most recent applicable tax list, to the Planning Board, and to any person filing a written request for notice of hearings (such request to be renewed yearly in December).

7.5 Within 60-days after the filing of an application for a certificate, or within such further time as the applicant may allow in writing, the commission shall issue a certificate or disapproval. In the case of a disapproval, the commission shall place upon its record the reasons for disapproval and shall set forth the reasons in its written disapproval.

7.6 The concurring vote of a majority of the members shall be required to approve a certificate.

7.7 In issuing certificates, the commission may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose of this Bylaw.

7.8 In the event of an application for a certificate of hardship, the commission shall determine whether, owing to conditions especially affecting the building or structure involved, but not affecting the district generally, failure to approve an application will involve a substantial Hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Bylaw. If the commission determines that owing to such conditions failure to approve an application will involve substantial Hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the commission shall issue a certificate of hardship. The issuance of a certificate of hardship pursuant to the foregoing provision is intended to be employed only in rare and unusual cases.

7.9 The commission shall send a copy of its certificates and disapprovals to the applicant and shall file a copy with the Town Clerk and Building Commissioner. The date of issuance of a certificate or disapproval shall be the date of the filing with the Town Clerk.

7.10 If the commission should fail to issue a certificate or disapproval within 60-days of the filing of the application, or within such further time as the applicant may allow in writing, the commission shall approve the application due to a failure to act.

7.11 Each certificate issued by the commission shall be dated and signed by its chairman or such other person designated by the commission to sign on its behalf.

7.12 A person aggrieved by a determination of the commission may, within 20-days of the issuance of a certificate or disapproval, file an appeal in the Barnstable County Superior Court as provided in Chapter 40C, Section 12A. The remedy provided by this section shall be exclusive but the parties shall have all rights of appeal and exception as in other equity cases.

## **8. CRITERIA FOR DETERMINATIONS**

8.1 In deliberating on applications for certificates, the commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure; the general design, proportions, detailing, mass, arrangement, texture, and material of the exterior architectural features involved; and the relation of such exterior architectural features to similar features of buildings and structures in the surrounding district.

8.2 In the case of new construction or additions to existing buildings or structures, the commission shall consider the appropriateness of the scale, shape and proportions of the building or structure both in relation to the land area upon which the building or structure is situated and in relation to buildings and structures in the district.

8.3 When ruling on applications for certificates on solar energy systems as defined in Section IA of Chapter 40A, the commission shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.

8.4 The commission shall not consider interior arrangements or exterior architectural features not subject to public view from a public way.

## **9. EXCLUSIONS**

9.1 The commission shall exclude from its purview the following:

9.1.1 Temporary buildings, structures or signs subject, however, to conditions pertaining to the duration of existence and use and similar matters as the commission may reasonably specify.

9.1.2 Terraces, walks, driveways, sidewalks and similar structures, provided that any such structure is substantially at grade level.

9.1.3 Storm windows and doors, screen windows and doors, and window air conditioners.

9.1.4 The color of paint.

9.1.5 The color of materials used on roofs.

9.1.6 The reconstruction, substantially similar in exterior design, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.

9.2 Nothing in this Bylaw shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within a district which does not involve a change in design, material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration under a permit duly issued prior to the effective date of this Bylaw.

## **10. CATEGORICAL APPROVAL**

The commission may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Falmouth, that certain categories of exterior architectural features, structures or buildings under certain conditions may be constructed or altered without review by the commission without causing substantial derogation from the intent and purpose of this Bylaw.

## **11. ENFORCEMENT AND PENALTIES**

11.1 The Superior Court shall have jurisdiction to enforce the provisions of this Bylaw and the determinations, rulings and regulations pursuant thereto and may upon the on re of the Board of Selectmen or Commission, restrain by injunction violations thereof; and without limitation, such court may order the removal of any building, structure or exterior architectural feature constructed in violation thereof, or the substantial restoration of any building, structure or exterior architectural feature altered or demolished in violation thereof, and may issue such other relief as may be equitable.

11.2 Notwithstanding the provisions of the state building code, the building commissioner shall withhold any permit for construction, alteration, demolition or the moving, use or occupancy of any building or

structure until such time as the commission issues a determination that compliance with its certificate of appropriateness has been accomplished or that the commission has received surety for the completion of construction or other authorized site activities pursuant to the following:

**11.2.1** Before issuing a certificate of appropriateness, the commission may require that construction or other authorized site activities be secured by one of the following methods, which method may be selected and from time to time varied by the applicant upon receiving written approval from the commission

**11.2.1.1** by a proper bond or deposit of money sufficient in the opinion of the commission to secure performance of the conditions of its decision as noted in the certificate of appropriateness or accompanying plans; or

**11.2.1.2** by a covenant executed and duly recorded by the owner of record, running with the land, whereby the conditions of its decision as noted in the certificate of appropriateness or accompanying plans shall be accomplished prior to the issuance of occupancy permits or any conveyance, sale, rental or similar disposition of the property.

**11.3** Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction, fined not more than \$300 for each offense. Each day that such violation continues shall constitute a separate offense.

## **12. POWERS AND DUTIES OF COMMISSIONS ESTABLISHED HEREUNDER AS HISTORICAL COMMISSIONS**

The commission established hereunder shall have the powers and duties of a historical commission as provided in section 8D of Chapter 40, and may be entitled a historical commission in addition to a historic district commission.

## **13. VALIDITY AND SEPARABILITY**

The provisions of this Bylaw 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 the Bylaw shall continue to be in full force and effect.

## **14. APPENDICES**

Appendix 1: North Falmouth Historic District

Appendix 2: West Falmouth Historic District

Appendix 3: Falmouth Village

Appendix 4: Woods Hole

Appendix 5: East Falmouth



Appendix 6: Waquoit

Appendix 7: Quissett

**ARTICLE 19:** Shall Town Meeting vote to require 3 estimates on all town purchases over \$5,000.00. On petition of Marc Finneran and others.

**VOTED:** By a declared failed majority vote, a quorum being present on Thursday, November 12, 2015 the Town voted not to pass Article 19

**ARTICLE 20:** Shall Town Meeting vote to direct the Board of Selectmen to adopt a fee structure at the Compost Facility for commercial users? On petition of Marc Finneran, Jonathan Snyder and others.

**VOTED:** By a declared failed majority vote, a quorum being present on Thursday, November 12, 2015 the Town voted not to pass Article 20

**ARTICLE 21:** To see if the Town will vote to approve the following non-binding resolution regarding divestment of Massachusetts public pension funds from fossil fuel companies:

WHEREAS, greenhouse gases from the burning of fossil fuels have contributed to global warming, glacial melt, sea level rise, and climate changes; and

WHEREAS, global warming is contributing to extremes in weather being experienced with increased frequency, in the form of droughts, heavy rainfall, record high temperatures, and dangerous storms, wild fires, floods, crop failures, destruction of homes and communities, and loss of life; and

WHEREAS, there is a limit to the amount of greenhouse gases the atmosphere can contain beyond which life on the planet as we know it will be severely impacted and unsustainable; and

WHEREAS, the fossil fuel industry is reaping profits and exercising great influence over policy makers and legislators by means of contributions to campaigns in exchange for favorable legislation and government subsidies—at the expense of support for clean, renewable, and sustainable energy; and

WHEREAS, the town of Falmouth has committed itself to reduce “emissions of gases and air pollutants that contribute to global climate change” and to “raise public awareness of climate change and the sources of greenhouse gases” (Town of Falmouth, Climate Protection Action Plan, approved September 12, 2005);

THEREFORE, be it resolved that:

The Town of Falmouth urges the governing officials of the Commonwealth of Massachusetts to direct the managers of the Commonwealth’s Public Pension Funds to divest those Funds of holdings in fossil fuel industries, to pursue other investments instead, and, when and as advantageous, to invest in sustainable energy companies, a step consistent with the Commonwealth’s commitment to clean, renewable, green energy;

And that, upon approval, the Town Clerk will send copies of this Resolution to Governor Charlie Baker, State Treasurer Deborah Goldberg, the Public Reserves Investment Management Board, State Senator Vinny DeMacedo, and State Representatives Timothy Madden and David Vieira.

On petition of Peter L. Waasdorp, Jr. and others.

**VOTED:** By a counted vote of 56 in favor and 101 in opposition, a quorum being present on Thursday, November 12, 2015 the Town voted not to pass Article 21

**ARTICLE 22:** To see if the Town will vote to approve the following resolution regarding mandatory recounts of Town Meeting votes:

Be it resolved that

In all cases in which standing votes in Town Meeting result in a margin of five votes or less between the yeas and nays, there shall be a mandatory recount utilizing two tellers per division.

On petition of Peter L. Waasdorp, Jr. and others.

**VOTED:** By a declared failed majority vote, a quorum being present on Thursday, November 12, 2015 the Town voted not to approve the following resolution regarding mandatory recounts of Town Meeting votes:

Be it resolved that

Until such time as electronic voting is instituted in Falmouth Town and Special Meetings, all standing ("divided" or "counted") votes shall be tallied by two tellers per section who will count each row together and agree on their count before they proceed to the next row.

**ARTICLE 23:** To see if the Town will vote to authorize the Select Board to file with the legislation a request for a special act entitled "An Act authorizing local voting rights for legal permanent resident non-citizens residing in Falmouth," as follows:

Section 1: Notwithstanding the provisions of Section One Chapter fifty one of General Laws, or any other general or special law, rule or regulation to the contrary, legal permanent resident non-citizens 18 yrs. or older who reside in Falmouth may, upon application, have their name entered on a list of voters established by the Town Clerk for the Town of Falmouth and may thereafter vote in any election for local offices or local ballot questions.

Section 2: The Select Board of Falmouth is authorized to formulate regulations and guidelines to implement the purpose of the act.

Section 3: Nothing in this act shall be constructed to confer upon legal permanent resident non-citizens the right to vote for any state or federal office or any state or federal ballot questions.

On petition of Leah Palmer and others.

**VOTED:** By a counted vote of 68 in favor and 97 in opposition, a quorum being present on Thursday, November 12, 2015 the Town voted not to authorize the Board of Selectmen to file with the legislature a request for a special act entitled "An Act authorizing local voting rights for legal permanent resident non-citizens residing in Falmouth" as follows:

Section 1: Notwithstanding the provisions of section one chapter fifty-one of General Laws, or any other general or special law, rule or regulation to the contrary, legal permanent resident non-citizens 18 years or older who reside in Falmouth may, upon application, have their name entered on a list of voters established by the Town Clerk for the Town of Falmouth and may thereafter vote in any election for local offices or local ballot questions.

Section 2: The Board of Selectmen of Falmouth is authorized to formulate regulations and guidelines to implement the purpose of the act.

Section 3: Nothing in this act shall be constructed to confer upon legal permanent resident non-citizens the right to vote for any state or federal office or any state or federal ballot question.

**ARTICLE 24:** To see if the Town will vote to direct the Board of Selectmen to establish a policy wherein:

- \*the grinder pumps installed in the Little Pond Sewer Service Area (LPSSA) will remain the property of the Town; and
- \*the means by which, and the length of the term over which, the Town will take the responsibility for ensuring the proper operation of these pumps.

For the purpose of this article, "proper operation" is defined as all scheduled maintenance, all required repair and/or replacement, and the provision of emergency generator service during power outages.

Or do or take any other action on the matter. On request of Howard Grosser and others.

**VOTED:** By a declared majority vote, a quorum being present on Thursday, November 12, 2015 the Town voted to direct the Board of Selectmen to establish a policy wherein:

- \*the grinder pumps installed in the Little Pond Sewer Service Area (LPSSA) will remain the property of the Town; and
- \*the means by which, and the length of the term over which, the Town will take the responsibility for ensuring the proper operation of these pumps.

For the purpose of this article, "proper operation" is defined as all scheduled maintenance, all required repair and/or replacement, and the provision of emergency generator service during power outages.

**ARTICLE 25:** To see if the Town will vote to authorize the Board of Selectmen to PURCHASE OR TAKE BY EMINENT DOMAIN a conservation restriction, restricting in perpetuity in accordance with G.L. c. 184, ss. 31 -33, on all or a portion of land in Falmouth, Barnstable County, Massachusetts, now or formerly owned by William Metcalf Kelly and Cape Cod Five Cents Savings Bank, Trustees of the Kelly Family 2011 Irrevocable Trust, said conservation restriction to be administered by the Conservation Commission for open space and passive recreational purposes and such other uses as may be permitted

under the conservation restriction, the form of which shall be subject to approval by the Conservation Commission and the Board of Selectmen, said land being described as follows:

Approximately 0.536 acres, more or less, of land in Falmouth, Barnstable County, Massachusetts being shown on Assessors Map 37, Section 20, Parcel 008, Lot 111.

And further to appropriate the sum of \$90,000 from the Community Preservation Fund, for purposes of this article said sums to be expended under the jurisdiction of the Board of Selectmen.

Provided, however, that the expenditure of any sums under this article are contingent upon obtaining all necessary statutory and regulatory approvals of the conservation restriction to be acquired.

Or do or take any other action on this matter. On request of the Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Thursday, November 12, 2015 the Town voted to appropriate \$90,000 from FY 2016 Community Preservation Estimated Revenues, to be expended under the jurisdiction of the Community Preservation Committee, for the purposes of Article 25.

The Finance Committee concurs with Article 25.

**ARTICLE 26:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to rehabilitate Goodwill Park; to determine how the same shall be raised and by whom expended, or do or take any action on the matter. On request of the Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to appropriate the sum of \$160,580 from FY 2016 Community Preservation Estimated Revenues to rehabilitate Goodwill Park Playground and to comply with the Americans with Disabilities Act; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**ARTICLE 27:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to rehabilitate the North Falmouth Elementary School Playground; to determine how the same shall be raised and by whom expended, or do or take any action on the matter. On request of the Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to appropriate the sum of \$57,500 from FY 2016 Community Preservation Estimated Revenues to partially fund the rehabilitation of the North Falmouth Elementary School Playground and to comply with the Americans with Disabilities Act; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**ARTICLE 28:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to develop the Falmouth Athletic Field Demand/Use Assessment; to determine how the same shall be raised and by whom expended, or do or take any action on the matter On request of the Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to appropriate the sum of \$20,220 from FY 2016 Community Preservation Estimated Revenues to conduct a Falmouth Athletic Field Demand/Use Assessment to evaluate existing athletic fields for use and demand, and better plan future expansion; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**ARTICLE 29:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to construct fencing around the Sandwich Road Field Basketball Court; to determine how the same shall be raised and by whom expended, or do or take any action on the matter. On request of the Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to appropriate the sum of \$16,840 from FY 2016 Community Preservation Estimated Revenues to construct perimeter fencing around the basketball court at Sandwich Road Fields to provide a safe play area and to comply with the Americans with Disabilities Act; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**ARTICLE 30:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to replace Beach Gates at Bristol Beach; to determine how the same shall be raised and by whom expended, or do or take any action on the matter. On request of the Community Preservation Committee.

**VOTED:** By a declared majority vote, a quorum being present on Thursday, November 12, 2015 the Town voted to appropriate the sum of \$16,000 from FY 2016 Community Preservation Estimated Revenues to purchase and install beach gates at two existing entrances at Bristol Beach; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**ARTICLE 31:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to prepare plans, specifications, and estimates for permitting and construction of the Shining Sea Bikeway Phase 1 Rehabilitation Project; to determine how the same shall be raised and by whom expended, or do or take any action on the matter. On request of the Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to appropriate the sum of \$53,000 from FY 2016 Community Preservation Estimated Revenues to partially fund preparation of plans, specifications, and estimates for permitting and construction of the Shining Sea Bikeway Phase 1 Rehabilitation Project and to comply with the Americans with Disabilities Act; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**ARTICLE 32:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to purchase and install recreational bike racks in select prioritized locations throughout the Town; to determine how the same shall be raised and by whom expended, or do or take any action on the matter. On request of the Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to appropriate the sum of \$22,050 from FY 2016 Community Preservation Estimated Revenues to

purchase and install approximately 35 recreational bike racks in prioritized locations throughout the Town; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**ARTICLE 33:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to develop an environmental baseline assessment and feasibility study for public access improvements for Shivericks Pond, to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On request of the Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to appropriate the sum of \$10,000 from FY 2016 Community Preservation Estimated Revenues to develop an environmental baseline assessment and feasibility study for public access improvements for Shivericks Pond and its environs; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**ARTICLE 34:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to Falmouth Housing Authority to fund the Falmouth Housing Stabilization Program; to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On request of the Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to appropriate the sum of \$40,000 from FY 2016 Community Preservation Estimated Revenues to the Falmouth Housing Authority's Housing Stabilization Program; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**ARTICLE 35:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to Housing Assistance Corporation to fund historic rehabilitation of windows at the Carriage House located at 294 Old Main Road, North Falmouth; to determine how the same shall be raised and by whom expended, or do or take any action on the matter. On request of the Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to appropriate the sum of \$85,000 from FY 2016 Community Preservation Estimated Revenues to Housing Assistance Corporation to fund historic rehabilitation of windows at 294 Old Main Road by purchasing and installing approximately 48 historically appropriate windows and to comply with the Secretary of the Interior's Standards for Rehabilitation; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**ARTICLE 36:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to partially fund the repair and replacement of the Falmouth Country Club golf course irrigation system and related equipment; to determine how the same shall be raised and by whom expended, or do or take any action on the matter. On request of the Community Preservation Committee.

**VOTED:** By declared majority vote, a quorum being present on Thursday, November 12, 2015 the Town voted to appropriate the sum of \$50,000 from FY 2016 Community Preservation estimated Revenues to partially fund the repair and replacement of the Falmouth Country Club golf course

irrigation system and related equipment; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**ARTICLE 37:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money for capital improvements for historic preservation of the structure located at 20 Academy Lane in Falmouth known as Lawrence Academy, to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On request of the Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted to transfer the sum of \$208,605 from Article 31 of the November, 2013, Annual Town Meeting for historic preservation capital improvements at the structure at 20 Academy Lane and to comply with the Secretary of the Interior's Standards for Treatment of Historic Properties; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**ARTICLE 38:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to establish a Land Bank Debt Reserve Account to fund conservation land acquisition debt service payment obligations beyond FY 2020, or act in any relative thereto. On request of the Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Monday, November 9, 2015 the Town voted Indefinite Postponement

**ARTICLE 39:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to the Land Bank Debt Reserve Account, and to determine how the same shall be raised and by whom expended or do or take any other action on the matter. On the request of the Community Preservation Committee.

**VOTED:** By declared majority vote, a quorum being present on Thursday, November 12, 2015 the Town voted to transfer the sum of \$2,275,000 from the Community Preservation Undesignated Fund Balance to the Open Space Reserve account to fund conservation land acquisition debt service payment obligations beyond FY 2020.

**ARTICLE 40:** To see if the Town will vote to TRANSFER CARE AND CONTROL of the herein described structure to the Historic District Commission of the Town of Falmouth for historic preservation purposes consistent with the provisions of Massachusetts General Laws Chapter 40C and Chapter 654 of the Acts of 1975, as amended, and to GRANT to a governmental body or charitable corporation or trust, whose purposes include preservation of buildings of historical significance, a perpetual historic preservation restriction on said structure as authorized by Massachusetts General Laws Chapter 184, §§ 31-33, providing for the historic preservation of the structure commonly known as the Lawrence Academy. The subject structure is located on property is located at 20 Academy Lane, Falmouth, Massachusetts, which property is described as Assessors Map 38A 09 013A 000.

Or do or take any other action relative thereto. On request of the Board of Selectmen and Community Preservation Committee.

**VOTED:** By a unanimous vote, a quorum being present on Thursday, November 12, 2015 the Town voted to authorize the Board of Selectmen to execute a Declaration of Restrictions to be recorded at the Barnstable County Registry of Deeds restricting, for a term of thirty (30) years, a portion of a town owned structure for the purpose of preserving the exterior architectural features repaired with Community Preservation Act funds, pursuant to terms deemed appropriate by the Board of Selectmen and the Community Preservation Commission. The Town-owned structure is commonly known as the Lawrence Academy located at 20 Academy Lane, Falmouth, Massachusetts, which property is described as Assessors Map 38A 09 013A 000.