

**Appendix 8-1**

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**Falmouth Sewer Code for New Silver Beach as  
Management Growth Example**

**New Silver Beach Sewer Service Area**

**180-37 Public Health Emergency**

Because of high ground water, high density of development, significant numbers of failed septic systems, groundwater contamination, recreational water contamination and the inability of property owners to meet the requirements for Title V septic systems, there presently exists a public health emergency in the area designated by Town Meeting, Article 19, Annual Spring Town Meeting, April, 1997, as the New Silver Beach Sewer Service Area.

**180-38 Mandatory Connection**

The owner of any house, building or property located in the New Silver Beach Sewer Service Area which is used for human occupancy, employment, recreation or other purpose is hereby required, at his expense, to install suitable toilet facilities therein, including appliances required by section 180-48, and to connect such facilities directly with the public sewer in accordance with this chapter and the provisions contained herein, within 90 days from the date the sewer shall be declared ready for operation by the Board of Selectmen. Any new construction occurring within the New Silver Beach Sewer Service Area after such date shall be properly equipped with suitable toilet facilities and connected with the sewer prior to the issuance of a Certificate of Occupancy.

**180-39 Limited Treatment Capacity**

The treatment plant for the New Silver Beach Sewer Service Area is designed with limited capacity. The design capacity is capable of properly treating the effluent of all existing lots in the district and the North Falmouth School provided that each residence is limited to a maximum of three bedrooms plus allowance for residences in existence with more than three bedrooms as reflected in the Assessor's records as of January 1, 1999. A bedroom is defined in 310 CMR 15.002, Title V Regulations, and includes that circumstance where the total number of rooms for single family dwellings exceeds eight, not including bathrooms, hallways, unfinished cellars and unheated storage areas, the number of bedrooms presumed shall be calculated by dividing the total number of rooms by two then rounding down to next lowest whole number.

**180-40 Allocation of Treatment Capacity**

Each single family residence in the New Silver Beach Sewer Service Area is presumed to have three bedrooms. Residences with less than three bedrooms may be expanded to three bedrooms as a matter of right relative to sewer capacity. No residence may be expanded beyond 3 bedrooms unless the owner shall first obtain a variance pursuant to this part of the chapter. New construction is limited to three bedrooms.

**180-41 Existing Residences**

Any residence in existence on January 1, 1999, regardless of its number of bedrooms, as determined by the assessor's records, may maintain that

number of bedrooms without regard to the three bedroom limitation. Further expansion of existing residences beyond three bedrooms as defined herein shall not be allowed unless a variance pursuant to section 180-46 is first obtained.

#### **180-42 Undeveloped Parcels**

For the purposes of sewer capacity any existing lot, otherwise qualified, may be permitted for a three bedroom single residence. Pursuant to Mass. Gen. L. ch.41 §81U, the Board of Health shall disapprove a definitive plan of subdivision of property within the New Silver Beach Sewer Service Area unless and until the applicant shall first obtain a variance pursuant to section 180-46. Without an approved variance, any approval by the Planning Board shall be on condition that no building or structure shall be built or placed upon the areas designated without benefit of a variance in accordance with section 180-46.

#### **180-43 Transferability of Development Rights**

The size of a residence or number of bedrooms on any particular parcel of land cannot be sold, exchanged, transferred or otherwise used to benefit another's right to connection or the number of bedrooms on another lot.

#### **180-44 Multiple Family and Nonresidential Uses**

Any multiple family or nonresidential use legally in existence on January 1, 1999 may maintain its current level of activity, as measured by water consumption, as a matter of right. Any expansion of such multiple family or nonresidential use cannot occur unless the owner or operator shall first obtain a variance pursuant to section 180-46. No new multiple family or nonresidential use may be commenced unless the owner or operator shall first obtain a variance pursuant to section 180-46.

#### **180-45 Properties Outside of the New Silver Beach Sewer Service Area**

Because of the limited treatment capacity, properties located outside of the New Silver Beach Sewer Service Area, with the exception of the North Falmouth School for which specific capacity was included in the treatment facility, that abut a sewer line may not, as of right, connect to the sewer. In cases of unusual hardship, not owing to the acts or omissions of the property owner, and with the permission of the Board of Selectmen after a public hearing and provided the Board of Selectmen shall first make a specific finding that adequate treatment capacity exists, such owner whose property is outside the New Silver Beach Sewer Service Area may connect to the sewer. Any costs associated with such connection are the responsibility of the individual seeking the connection.

#### **180-46 Variances**

In case of unusual and substantial hardship, not the result of acts or omissions of the landowner, the Board of Selectmen, after a public hearing of which notice has been given by publication and posting for a minimum of two weeks, may grant a variance to this part of the By-law, provided that sufficient capacity exists and such relief may be granted without

substantially derogating from the intent of purpose of this By-law.

**180-47 Rebuilding because of fire, flood, storm or other acts of nature.**

Relating to this chapter, a property owner may rebuild a structure destroyed by fire, flood, storm or other acts of nature as a matter of right provided that the new structure does not exceed the number of bedrooms of the structure being replaced.

**180-48 Mandatory water conservation**

The Board of Selectmen, after public hearing, may adopt mandatory water conservation measures including restricted flow plumbing devices for the New Silver Beach Sewer Service Area. Such restrictions may be permanent.

**180-49 Termination and elimination of septic systems**

Within 30 days of the property's connection to the public sewer, any septic system, cesspool, privy or other waste disposal system located on the property shall be pumped out and permanently decommissioned in accordance with methods and procedures approved by the Board of Health and the Sewer Division of the Department of Public Works.

**180-50 Violations**

A. Any person found to be violating any provision of this Part 3 shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof.

B. Any person who shall continue any violation beyond the period permitted in subsection A shall be guilty of a misdemeanor and subject to a fine in an amount not exceeding Fifty Dollars (\$50.00) for each violation. Each day in which such a violation shall continue shall be deemed a separate offense.

C. This section shall in no way limit the Town's power and authority to seek other remedies at law that it may have. Any person violating any of the provisions contained herein shall be liable to the Town for any expense, loss, or damage occasioned the Town by such violation.

Or do or take any other action in this matter. On request of the Board of Health.  
**VOTED:** By majority vote, a quorum being present on Tuesday May 6, 1999, the by-law was adopted for the purposes of Article 41 as requested.

[Approved by the Attorney General on July 23, 1999]