

**Town of Falmouth
Little Pond Sewer Service Area
Eco-Toilet Betterment Exemption Program
Participation Agreement**

This is a legally binding document.

This Participation Agreement (the "Agreement") is entered into by and between the Town of Falmouth, Massachusetts 02540 (the "Town") and _____ (the "Property Owner") and applies to the property having an address at _____ (the "Property"). Pursuant to the authority conferred upon the Town by Article 28 of the April, 2014 Annual Town Meeting and by the approval of voters of the Town of Question 1 at the annual town election held on May 20, 2014, the Town plans to construct and operate a sewer system to serve the area known as the Little Pond Sewer Service Area. All residential and commercial property located in the Little Pond Sewer Service Area will be required to connect to the sewer upon its completion and operation and each property in the Little Pond Sewer Service Area will be assessed betterments under Chapters 80 and 83 of the Massachusetts General Laws. The Property described herein lies within the Little Pond Sewer Service Area and will be subject to a sewer betterment assessment. See Schedule A attached hereto.

In accordance with the provisions of Chapter 73 of the Acts of 2014 enacted by the Massachusetts General Court and approved by the Governor of the Commonwealth on April 14, 2014, the Town, acting by its Board of Selectmen, may grant exemptions from future sewer connections and betterment fees attributed to sewer construction for homeowners or business property owners who are chosen to participate in the Town's Eco-Toilet Betterment Exemption Program (the "Program") by installing either composting toilets or urine diverting toilets, or any combination thereof, hereinafter called "eco-toilets" in all sanitary facilities on their property. Said Chapter 73 further requires that all participants adhere to all the requirements of the Program. This Agreement sets forth the terms and conditions of participation in the Program. Further this Agreement is subject to amendment and to such other regulations as the Board of Selectmen may adopt from time to time in accordance with said Chapter 73.

The Town and the Property Owner agree as follows:

1. The Property Owner shall obtain all required permits for the installation of eco-toilets in all sanitary facilities located within the Property described herein. Installation shall be performed by a licensed plumber and shall comply with all codes and regulations including the State Plumbing Code, 248 C.M.R. §10 et seq. and the State Sanitary Code 310 C.M.R. §10 set seq. Approved eco-toilets are composting toilets or urine diverting toilets.

2. Property Owner agrees to the following actions following installation:

- (a) Pay for the installation of a sampling port for gray water from the Property, and allow access to the Property by a Barnstable County Department of Health and Environment representative for the purpose of sampling gray water upon request.
- (b) Provide access to all water use records for the Property.
- (c) Provide information on the occupancy of the Property.
- (d) Allow inspection of the eco-toilets and any septic system on the Property during reasonable hours by appointment. Such inspections may include two inspections per calendar year by a representative of the Falmouth Board of Health.
- (e) Remove all toilets of unmodified traditional design (water flush without urine diversion) from the Property and not connect any such unmodified traditional design toilets to onsite septic systems.
- (f) Preserve the installation of and properly maintain eco-toilets(s).
- (g) Operate the eco-toilet(s) in accordance with the manufacturers' recommendations and report all problems encountered to the Falmouth Board of Health or their representative after contacting the system installer.
- (h) Submit a maintenance plan or service contract upon request and provide notice of all repairs and removal of compost, leachate and/or urine of the eco-toilet(s) by a licensed septic hauler to the Falmouth Board of Health.

3. The Property Owner shall bear all costs associated with participation in the Program, including converting conventional toilets located in the Property to eco-toilets and all inspections, maintenance and repair.

4. The Property Owner shall comply with all provisions of an eco-toilet monitoring and inspection plan adopted by the Falmouth Board of Health from time to time and approved by the Department of Environmental Protection and pay all fees associated with the monitoring and inspection plan.

5. Notwithstanding the provisions of any general or special law to the contrary, the Property Owner may, at the discretion of the Board of Selectmen after public hearing, opt to exit from the Program and connect the Property to the sewer system. Upon authorization from the Board of Selectmen, the Property Owner shall;

- (a) Disconnect and abandon any septic system serving the Property in accordance with all applicable codes and regulations.
- (b) Connect the Property to the sewer in accordance with all applicable codes and regulations.
- (c) Pay the Town all sewer connection fees.
- (d) Pay the Town retroactively all sewer betterment fees and accumulated interest, if any, as determined by the appropriate authority as if the Property had been connected to the sewer upon completion of its construction and operation.
- (e) Pay all costs associated with the conversion and connection to the sewer.

6. In addition to the provisions of paragraph 5, any Property Owner who removes any or all eco-toilets from the Property and replaces them with a conventional toilet without authority from the Board of Selectmen shall be subject to such penalties as the Board of Selectmen may adopt by regulation from time to time in accordance with said Chapter 73.

7. Upon execution of this Agreement and conditional upon the Property Owner's continuous participation in the Program, the Town agrees to exempt the Property from sewer betterment fees related to the Little Pond Sewer Service Area.

8. This Agreement is binding upon the Property Owner and all successors and assigns and shall be recorded in the Barnstable County Registry of Deeds. See additional information on schedule A attached hereto.

9. **HOLD HARMLESS:** The Property Owner is voluntarily participating in the Falmouth Betterment Exemption Program and agrees to hold the Town harmless for all damages of any kind that may result from installation and operation of eco-toilet(s) at the Property.

I/we understand that by signing below I/we agree to all of the requirements stated above for participation in the Town of Falmouth Eco-Toilet Betterment Exemption Project.

Dated: _____

By and between:

Property Owner

Property Owner

Name:

Name:

Town of Falmouth

By:

Julian M. Suso, Town Manager, duly authorized

Prepared by:

Frank K. Duffy, Town Counsel

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Schedule A

Property Owner(s) names as shown on deed:

Address of Property: _____

Assessors property ID#: _____

Title reference: _____ Book _____ Page _____

Certificate of Title

Commonwealth of Massachusetts

County of Barnstable

On _____, before me, the undersigned notary public

personally appeared _____
name(s) of signer(s)

personally known to me

proved to me on the basis of satisfactory evidence of identification which was _____

_____ to be the person(s) whose name(s) is/are subscribed to the within instrument and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of (his)(her) knowledge and belief.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____