

ART \_\_\_\_: To see if the Town will vote to amend the Town By-Laws by deleting Article VII New Silver Beach Sewer Service Area and adding a new Article VII – Flow Neutral By-law for Sewer Service Areas -- as follows:

Or do or take any other action in this matter. On request of the Water Quality Management Committee.

**Article VII**  
**Flow Neutral Bylaw for Sewer Service Areas**

**180-37. Purpose**

The Town of Falmouth's Wastewater Treatment Facilities (WWTFs) have limited treatment and disposal capacities; therefore to help manage wastewater flow, comply with water quality standards, and support broader community planning objectives the Town does hereby adopt the following Flow Neutral Bylaw.

Nothing in this bylaw shall exempt an owner from all other applicable regulations and laws.

**180-38. Mandatory Sewer Connection and Elimination of Septic Systems in Sewer Service Areas**

The requirements for Mandatory Connection in Sewer Service Areas are detailed in Chapter 180, Section 6 of the Code of Falmouth "Sewers and Septic Systems".

Within thirty (30) days of the property's connection to the public sewer, any septic system or other waste disposal system located on the property shall be decommissioned in accordance with Board of Health regulations.

**180-39. Determination of Wastewater Flow in Sewer Service Areas**

Wastewater flow to the public sewer shall be determined in accordance with either: 1) the provisions set forth in 310 CMR 15, or; 2) water meter data provided by the Department of Public Works as adjusted for seasonal occupancy or; 3) any other method acceptable to the Department of Environmental Protection and the Town of Falmouth. Any structure, legally in existence as of January 1, 2014, regardless of its flow may by right maintain that flow or number of bedrooms. Bedroom is defined in 310 CMR 15.002 (Title 5: Standard requirements specified in 310 CMR 15.000, Massachusetts State Environmental Code) and the number of bedrooms in the Assessor's records as of January 1, 2014 are presumed accurate.

The flow allocations for the Falmouth Sewer Service Areas as of January 1, 2014 are as follows:

New Silver Beach Wastewater Treatment Plant	60,000 gpd
Blacksmith Shop Rd Wastewater Treatment Plant	570,000 gpd (excluding Little Pond Sewer Service Area)
Little Pond Sewer Service Area	260,000 gpd (subject to approved CWMP)

These flows allocations will be adjusted if additional flow or modifications to sewer service areas are made through (1) approved Comprehensive Wastewater Management Plans, (2) approved Notice of Project Change to Environmental Impact Reports for the 2001 West Falmouth Harbor Facilities, or (3) approval from MA Department of Environmental Protection.

**180-40. Allocation of Available Capacity in Sewer Service Areas**

The Wastewater Superintendent shall notify the Board of Selectmen of the available capacity at each treatment facility. The Selectmen in consultation with the Planning Board may set priorities for the available capacities.

**180-41. Modifications to Existing Parcels or Changes in Use in Sewer Service Areas**

## (1) Single-Family Residences

### (a) Existing Development

Modifications of an existing single family dwelling on a parcel of 40,000 square feet or less may increase the total number of bedrooms to four (4) by right. Modifications of existing single family residences on parcels over 40,000 square feet may increase the number of bedrooms to (1) bedroom per 10,000 square feet by right.

### (b) New Development

A single-family residence may have four (4) Bedrooms by right on parcels of 40,000 square feet or less. On parcels greater than 40,000 square feet, a single-family residence may have one (1) bedroom per 10,000 square feet by right.

Addition of Bedrooms, beyond those permitted in 1(a) or 1(b) above shall require a variance from the Board of Selectmen in accordance with section 180-42.

## (2) Multi-Family Residences

### (a) Existing Development

Modifications of an existing multi-family residence may increase the number of bedrooms to one (1) bedroom per 10,000 square feet by right.

### (b) New Development

A new multi-family dwelling is allowed one (1) bedroom per 10,000 square feet by right.

Addition of Bedrooms in multi-family dwellings, beyond (1) bedroom per 10,000 square feet, shall require a variance from the Board of Selectmen in accordance with section 180-42.

## (3) Nonresidential Development

### (a) Existing Development

Modifications or changes of use, including residential to non-residential, that increase flow to a level that is no more than ten (10) percent above that permitted as of January 1, 2014 by 310 CMR 15 (Title 5) are allowed by right.

Modifications or changes of use that increase flow more than that allowed by right in (3a) require a variance from the Board of Selectmen in accordance with section 180-42.

### (b) New Development

New non-residential development on a vacant parcel with a wastewater flow up to 110 gallons per day per 10,000 square feet is allowed by right.

New non-residential development on a vacant parcel with a proposed wastewater flow greater than 110 gallons per day per 10,000 square feet shall require a variance from the Board of Selectmen in accordance with section 180-42.

#### **180-42. Variances in Sewer Service Areas**

The Board of Selectmen, after a public hearing of which notice has been given by publication 1) in a newspaper of general circulation and 2) posting with the Town Clerk for a period of no less than fourteen (14) days prior to the date of hearing, may grant a variance, provided that:

1. Sufficient capacity exists in the treatment facility, as determined by the Wastewater Superintendent, and
2. Through a referral from the Board of Health, the applicant demonstrates that a septic system for the total number of bedrooms or nonresidential flow requested, meeting the provisions of 310 CMR 15.000 (Title 5) without significant variances can be sited on the parcel. If the Board of Health does not make a referral within 45 days of receipt of the request, it shall be considered a positive referral, or
3. Such relief may be granted without substantially derogating from the intent or purpose of this bylaw

The Board of Selectmen may develop additional policies and guidelines for granting variances.

#### **180-43. Rebuilding a Building Because of Casualty Loss in Sewer Service Areas**

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 wastewater flow and number of bedrooms of the structure being replaced.

#### **180-44. Mandatory Water Conservation in Sewer Service Areas**

The Board of Selectmen may adopt mandatory water conservation measures, after public hearing, consistent with the purposes of this bylaw.

#### **180-45. Transferability in Sewer Service Areas**

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

#### **180-46. Severability**

If any provision of this bylaw is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

#### **180-47. Violations in Sewer Service Areas**

1. Any person found to be violating any provision of this Chapter 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.
2. Any person who shall continue any violation beyond the period permitted in Subsection (1) shall be guilty of a misdemeanor and subject to a fine in an amount not exceeding fifty dollars (\$50) for each violation. Each day in which such a violation shall continue shall be deemed a separate offense.
3. 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.