



# Truro Planning Board Agenda

## Remote Meeting

Wednesday, March 2, 2022 – 5:00 pm  
[www.truro-ma.gov](http://www.truro-ma.gov)

### Open Meeting

This will be a remote public meeting. Citizens can view the meeting on Channel 18 in Truro and on the web on the "Truro TV Channel 18" button under "Helpful Links" on the homepage of the Town of Truro website ([www.truro-ma.gov](http://www.truro-ma.gov)). Click on the green "Watch" button in the upper right corner of the page. Please note that there may be a slight delay (approx. 15-30 seconds) between the meeting and the television broadcast/live stream.

Citizens can join the meeting to listen and provide public comment by entering the meeting link; clicking on the Agenda's highlighted link; clicking on the meeting date in the Event Calendar; or by calling in toll free at [1-877-309-2073](tel:1-877-309-2073) and entering the access code [570-928-117#](tel:570-928-117) when prompted. Citizens will be muted upon entering the meeting until the public comment portion of the hearing. If you are joining the meeting while watching the television broadcast/live stream, please lower or mute the volume on your computer or television during public comment so that you may be heard clearly. Citizens may also provide written comment via postal mail or by emailing Barbara Carboni, Town Planner and Land Use Counsel, at [bcarboni@truro-ma.gov](mailto:bcarboni@truro-ma.gov).

Meeting link: <https://meet.goto.com/570928117>

### Public Comment Period

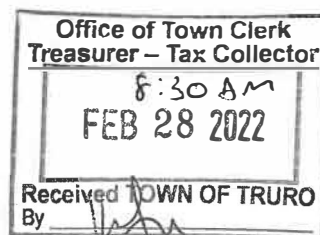
The Commonwealth's Open Meeting Law limits any discussion by members of the Board of an issue raised to whether that issue should be placed on a future agenda. Speakers are limited to no more than 5 minutes.

#### 1. Planner Report

#### 2. Chair Report

#### 3. Public Hearing: Proposed Bylaw Amendments

- ◆ §10.2: to amend the "Purpose" section of the Bylaw
- ◆ §10.4: to amend the definition of the term "Street" as appearing in the Bylaw



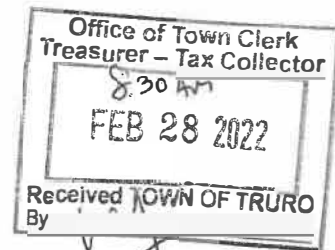
**4. Discussion of Proposed Bylaws for 2022 ATM**

- (1) New Stormwater Management General Bylaw – address identified lack of a bylaw addressing this critical issue;
- (2) Revise §10.2 Purpose to add language;
- (3) Revise §10.4 Street Definition;
- (4) New Lot Coverage Bylaw – new bylaw to require a certain percentage of all Truro lots be covered by trees/vegetation (or limit amount of lot covered by buildings, patios, pools, tennis courts etc.);
- (5) Development Agreement – correct inadvertent elimination of a bylaw and replace that bylaw;
- (6) Revise §40.1 Duplex Bylaw to make it more useful in addressing the housing challenges in Truro;
- (7) Revise §10.4 definition of Mean Ground Level to clarify and better meet original purpose;
- (8) Amend §30.5, Floodplain District, to be consistent with State’s 2020 Model Floodplain Bylaw and requirements of National Flood Insurance Program.

The Board will formulate a report to Town Meeting with recommendations as to whether the members favor or oppose the proposed amendments.

**Next Meetings:** Wednesday, **March 9, 2022 at 4:30 pm:** Public Hearing on all potential bylaws  
Wednesday, **March 16, 2022 at 5:00 pm** (if needed)

**Adjourn**



**PROPOSED WARRANT ARTICLES FOR DISCUSSION  
at MARCH 2, 2022 PLANNING BOARD MEETING**

1. Zoning Bylaw Purpose – 10.2 Revise

- Addition of language to reflect current challenges and conditions

2. Street Definition - Revise

- Inclusion of street design elements referred to into the bylaw
- Address issue of approved subdivision streets

3. Lot Coverage – Revise

- Address issue of runoff and maintain “green” in Truro
- Limit amount of lot that may be covered by impermeable surfaces
- Is this covered concern addressed in the in proposed stormwater management bylaw?

4. Stormwater Management - New

- based on model bylaw from Cape Cod Commission
- to address water quality issues caused by stormwater/runoff

6. Development Agreement- New

- based on model bylaw from Cape Cod Commission
- would provide the Town with flexibility in negotiating with developers
- potential tool in supporting development of creative housing opportunities

7. Duplex Bylaw - revise existing duplex bylaw to

- decrease required lot size
- increase size limit on structure
- remove limit on size of 2<sup>nd</sup> unit
- require 12-month lease or owner occupancy

8. Mean Ground Level - Revise

- clarify definition
- adjust slope requirements to decrease fill required



Planning Board Draft Warrant Article

PB-1

§ 10.2 Purpose (current with **additions**)

The purpose of this bylaw is to:

1. promote the health, safety, convenience and welfare of the inhabitants of Truro,
2. prevent the overcrowding of land,
3. conserve the value of land and buildings,
4. enable the protection of clean and adequate water supply,
5. conserve natural resources,
6. prevent blight of the environment,
7. encourage the most appropriate use of land in Truro,
- 8. promote carbon sequestration by natural means,**
- 9. promote the use of Green Energy and Green building practices,**
- 10. protect native soils from unnecessary removal or disturbance,**
- 11. protect and maintain the scenic rural character, ambiance and aesthetics of Truro,** and
12. to promote the implementation of the goals and policies of the Truro Local Comprehensive Plan.



## Planning Board Draft Article for ATM 2022

### PB – 2 10.4 Definitions

**Street.** A public or private way which affords access to abutting property. For the purposes of this bylaw, the terms "street", "road", "way", and "road right-of-way" bear the same meaning. When a street(s) is to be used for lot frontage, the street(s) shall conform to the *following* requirements:

- 1) The minimum width of street right-of-ways shall be 40 feet.*
- 2) Property lines at street intersections shall be rounded to provide for a curb radius of not less than 20 feet.*
- 3) Dead-end streets shall be provided at the closed end with a turnaround having a propertyline diameter of at least 80 feet. When ways requiring turnarounds may be extended in future subdivisions, the Board may require only an area equal to the above requirement to be shown and marked "Reserved for Turning". Upon extension of the way through this turning area, the portions not included in the way shall revert to their respective lots.*

~~of the Town of Truro Subdivision Regulations, Section IV, Design Standards (b), (c), and (d) as they existed on January 1, 1989.~~

Street(s) shall have a center line length in excess of 100 feet. For dead-end street(s), this distance shall be measured from the sideline of the layout of the road to be intersected to the opposite end of the layout of the turnaround cul-de-sac.

Town of Truro paved street(s) that:

- (1) have a minimum layout width of 20 feet,
- (2) were created prior to January 1, 1989, and
- (3) were accepted by Truro Town Meeting, are exempt from the width requirements

of the Town of Truro Subdivision Regulations, Section IV, Design Standards. These accepted public paved ways shall be deemed adequate as lot frontage for the issuance of building permits. The list of accepted Truro public paved ways is available from the Town of Truro Town Clerk upon request.

*Streets that are:*

- constructed in accordance with subdivision rules & regulations, at the time,*
  - shown within an approved subdivision plan signed by the Truro Planning Board and*
  - recorded at the Barnstable Registry of Deeds*
- are deemed acceptable for frontage.*





## Draft Article for ATM 2022 PB -3 Lot Coverage

### § 10.4 Definitions

#### **Building. (Truro. Current)**

The word building shall be any three-dimensional enclosure, portable or fixed, temporary or permanent, which is composed of building materials and which encloses any space for use or occupancy; building shall include "structure" unless the context unequivocally indicates otherwise; and with the exception of fences, field or garden walls, cold frames, stairways for beach access, and embankment retaining walls, building shall include foundations in the ground and any part of any kind of structure above ground.

#### **Lot. (Truro. Current)**

A parcel of land, undivided by a street, with definite boundaries, title to which is held in undivided ownership.

#### **Lot Area. (Truro. Current)**

The area of a lot when used for building purposes shall not be less than the minimum required by this bylaw for the district in which it is located. Such an area shall not be interpreted to include any portion of a lot below mean water level on fresh water, below mean high water on tidal water or within the limits of any defined way, exclusive of driveways serving only the lot itself. No less than 100% of the minimum lot area required shall consist of contiguous upland exclusive of marsh, bog, swamp, beach, dune or wet meadow. This definition shall apply only to lots created after April 30, 1987.

#### **Lot Coverage. (Truro. Current)**

The portion of a lot which is covered by impervious structures and improvements. Impervious structures and improvements shall include but not be limited to paved driveways and parking areas, principal and accessory structures, swimming pools and other on-site amenities which render any portion of the lot impervious.

#### **Impervious Covered Surface:**

Pavement, pavers or structure(s) on, above, or below the ground that [(inhibit) / (do not allow)] precipitation or surface water runoff from penetrating into the soil. For the purposes of this lot coverage bylaw, pervious paved surfaces shall be included in the computation of covered lot area.

#### **New Bylaw**

##### **Lot Coverage:**

No more than **30 percent (30%)** of the total area of any lot (except for Beach Point) shall be rendered impervious or covered. This includes but is not limited to the installation of buildings, structures, patios, decks, pools and paved surfaces (including permeable and impermeable pavements).

**SECTION 50**  
Area and Height Regulations

§ 50.1 Regulations  
A. Table

(4/05, 4/06,

DIMENSIONAL REQUIREMENT	ALL DISTRICTS
Minimum lot size	33,750 sq. ft. (1)(2)(8)
Minimum lot frontage	150 ft (1)(2)
Minimum frontyard setback	25 ft (3)
Minimum sideyard setback	25 ft (3)(4)
Maximum building height	2 stories; 30 feet (5)(5a)(6)
Minimum backyard setback	25 ft (3)(4)
Lot Shape	(9)
Maximum Lot coverage	30% (10)

4/10)

NOTES

1. Except buildings for accessory use and cottage. (4/10)
2. Except lots or parcels lawfully in existence and shown on a subdivision plan or described in a deed recorded at the Barnstable County Registry of Deeds prior to the adoption of the bylaw by Truro Town Meeting on February 15, 1960, having at least five thousand (5,000) square feet of area and at least fifty (50) feet of lot frontage.
3. Except in the Seashore District where the minimum setback from all streets is 50 ft. measured at a right angle from the street line.
4. Except in those portions of the Beach Point Limited Business district served by the Town of Provincetown Water System, where the minimum sideyard and backyard setbacks shall be equivalent to five (5) ft per story of the building or structure in question. Structures less than a full story shall meet the minimum 5 ft setback.
5. The 2 story limitation shall be measured from above mean ground level.
  - 5a. Except buildings which do not have a ridge or hip the maximum building height shall not exceed twenty-three (23) ft as measured to the highest point of the structure. (4/12)
6. Free standing flagpoles and private noncommercial radio and television antennae shall not exceed fifty (50) ft above mean ground level.
 

(#7 deleted 4/12)
8. Except in the Seashore District where the minimum lot size is 3 acres. (4/05)
9. For any lot created after April 30, 2004, the portion of the lot connecting the frontage with the front line of any building site shall not be less than 50 feet wide, as measured between opposite sidelines. (4/06)
10. Except for Beach Point

**Town of Truro  
Draft Stormwater Management Regulations 2022**

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**SECTION 1 – GENERAL**

**1.01 Purpose and Objectives**

1. To protect and enhance the public health, safety, environment, and general welfare of the citizens of the Town of Truro through the regulation and elimination of Illicit Discharges to the Truro Stormwater System, into the Town’s groundwater aquifers or into the Waters of the Commonwealth, as herein defined.
  
2. To control the detrimental effects of Erosion and Sedimentation deriving from construction site Stormwater Runoff, and require the development of Post-Construction Stormwater Management plans to ensure proper functioning and maintenance of Stormwater infrastructure.
  
3. To ensure the Town of Truro’s compliance with the Environmental Protection Agency’s National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) General Permits of 2003 and 2016, as well as all other applicable Federal and State Laws.

4. To develop comprehensive stormwater management regulations that are congruent with existing Town of Truro Bylaws and Regulations, to establish the Massachusetts Stormwater Standards and the MassDEP Stormwater Handbook as the governing regulatory standard for project design, review, construction and facility operation, to encourage groundwater recharge and the use of stormwater best management practices for the protection of our aquifer.

5. Reasonable guidance for the regulation of design construction and post development stormwater runoff for the purpose of protecting local water resources from degradation.

## **1.02 Authority**

These Regulations are adopted by the Town of Truro pursuant to Massachusetts General Laws c. 83, §10, and the regulations of the Federal Clean Water Act found at 40 CFR 122.34. Nothing in these regulations is intended to replace the requirements of the Town of Truro Wetlands Protection Bylaw, Zoning Bylaw, Subdivision Rules and Regulations, Board Of Health Regulations, or of any other bylaw that may be adopted by the Town of Truro, or any state or federal requirement, law, regulation or policy. Any activity subject to the provisions of these regulations must comply with all other applicable Town, State or Federal requirements.

## **1.03 Definitions**

**ABUTTING PROPERTY** — Land sharing one or more common boundaries with the project area.

**ADVERSE IMPACT** — An activity that has a deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

**AGRICULTURAL ACTIVITIES** – The normal maintenance or improvement of land in agricultural or aquaculture use, as defined by the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40, and its implementing regulations.

**ALTERATION** — Any activity, which will change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area. Examples of alterations include, but are not limited to, earthmoving, paving, and modification of existing vegetation.

**APPLICANT** – Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, applying for a permit with the Town of Truro.

**BEST MANAGEMENT PRACTICE (BMP)** – An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

**BUILDING COMMISSIONER** — The Town of Truro Building Commissioner or his/her designee.

**CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL** – A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

**CLEAN WATER ACT** – The Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.) as amended. **CLEARING** – Any activity that removes the vegetative surface cover.

**CONSTRUCTION AND WASTE MATERIALS** – Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

**CONSTRUCTION SITE** — Any site where activity is proposed or occurs that involves the alteration of more than **5,000** square feet of land area.

**DEVELOPMENT** – The modification of land to accommodate a new use or expansion of use, usually involving construction.

**DIRECT DISCHARGE** – Any pipe, open channel, or concentrated flow path where stormwater runoff is conveyed directly into the ground or into to a water body without prior stormwater treatment or volume reduction.

**DISCHARGE OF POLLUTANTS** – The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the ground or waters of the United States or Commonwealth from any source.

**DISTURBANCE** – Any activity that causes a temporary or permanent change in the position or location of soil, vegetation, impervious cover, or other land surface that exposes soils to potential erosion, changes the ability of a ground surface area to absorb water, increases polluted runoff, and/or changes the existing surface drainage patterns.

**DPW** – Truro Department of Public Works.

**ENFORCEMENT ORDER** – A written order issued by the Select Board or the **Reviewing Agent** in order to enforce the provisions of these regulations.

**EROSION** – The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

**EROSION AND SEDIMENTATION CONTROL PLAN** – A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes BMPs, or

equivalent measures designed to control surface runoff, erosion and sedimentation during pre - construction and construction related land disturbance activities.

**GRADING** – Changing the level or shape of the ground surface.

**GROUNDWATER** – Water beneath the surface of the ground.

**GRUBBING** – The act of clearing land surface by digging up roots and stumps.

**ILLICIT CONNECTION** – A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of these regulations.

**ILLICIT DISCHARGE** – Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 2.04. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from firefighting activities exempted pursuant to Section 2.04 of these regulations.

**IMPERVIOUS SURFACE** – Any material or structure that either prevents or slows the entry of water into the underlying soil or causes water to runoff in greater quantities or at an increased rate of flow. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, unit pavers and gravel or dense-graded crushed stone areas.

**IMPERVIOUS COVER** – Any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious cover includes, without limitation, paved parking lots, roads, sidewalks, driveways, patios, rooftops, and swimming pools. Gravel and dirt surfaced roads and parking areas that have become compacted by vehicles and heavy equipment are considered impervious. Permeable pavers and porous pavements designed to prevent compaction are not considered impervious for the purposes of this bylaw. The term “impervious cover” shall include “impervious area” and “impervious surface.”

**INFILTRATION** – The act of conveying precipitation or runoff into the ground to permit groundwater recharge and the reduction of surface runoff from a project site.

**LOW IMPACT DEVELOPMENT (LID)** – An approach to land development design and stormwater management that attempts to mimic the natural hydrology of the site by avoiding, reducing and mitigating impacts with natural, non-structural and structural measures.

**MASSDEP** – Massachusetts Department of Environmental Protection.

**MASSDEP STORMWATER HANDBOOK** – MassDEP’s published guidelines to assist with compliance with the Massachusetts Stormwater Management Standards

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS – The Standards as further defined by the Massachusetts Stormwater Handbook, issued by the Department of Environmental Protection, and as amended, coordinating the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § . 40 and Massachusetts Clean Waters Act G.L. c. 21, § . 23 - 56. The Standards address stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching both the Town’s groundwater aquifers and water bodies and to control the quantity of runoff from a site.

DRAIN SYSTEM – The system of conveyances designed or used for collecting or conveying stormwater, including, without limitation, any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, and other drainage structure that together comprise the storm drainage system situated within the Town of Truro.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT – A permit issued by United States Environmental Protection Agency or jointly with the Massachusetts Department of Environmental Protection that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE – Discharge to a drainage system not composed entirely of stormwater.

NEW DEVELOPMENT – Any construction or land disturbance on a lot, or portion of a lot, or linear right-of-way or easement that is currently in a vegetated state.

OPERATION AND MAINTENANCE (O&M) PLAN – A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

OUTFALL – The point at which stormwater flows out from a point source discernible, confined and discrete conveyance into waters of the Commonwealth.

OWNER – A person with a legal or equitable interest in property.

PERSON – An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE – Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

POLLUTANT – Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any storm sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard

wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables; pesticides, herbicides, and fertilizers; hazardous materials and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; rock, sand, salt, soils; construction wastes and residues; and noxious or offensive matter of any kind.

POST-CONSTRUCTION or POST-DEVELOPMENT – The conditions expected to exist after completion of the proposed development activity in accordance with approved plans on a specific site or tract of land, and does not refer to or include the construction phase of a project.

PRE-CONSTRUCTION – All activity in preparation for construction.

PRE-DEVELOPMENT – The conditions that exist prior to the proposed development. Where phased development or plan approval occurs (e.g., preliminary grading, roads, and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

PROCESS WASTEWATER – Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

PROJECT AREA – The portion of a parcel of land being developed or redeveloped.

PROVINCETOWN-TRURO INTERMUNICIPAL WATER AGREEMENT- As required by an Act of the Massachusetts State Legislature contractually requiring the Town of Truro's protection of the Pamet Lens as the Sole Source of Provincetown's Public Water Supply serving Provincetown and parts of Truro.

RECHARGE – The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

REDEVELOPMENT – Any construction, alteration, improvement, repaving, or resurfacing on a site that contains impervious cover, provided the activity does not increase net impervious cover. Portions of a project that increase impervious cover will be treated as new development.

REVIEWING AGENT – Any Town Employee, board, commission, or agent delegated in writing by the Select Board to administer, implement, and enforce the Stormwater Management Regulations.

ROAD IMPROVEMENTS – For the purposes of these regulations, work on existing roads that trigger stormwater management compliance include resurfacing projects when the sub-base is intersected, the road is being widened, or when the project includes direct drainage to a beach, pond, tributary or wetland, except as exempted in Section 3.04.

RUNOFF – Rainfall, snowmelt, or irrigation water flowing over the ground surface.



**SEDIMENT** – Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

**SEDIMENTATION** – The process or act of deposition of sediment.

**SITE** - Any lot or parcel of land where land-disturbing activities are, were, or will be performed. A parcel of land being developed or redeveloped.

**SLOPE** – The incline of a ground surface, typically expressed as a ratio of horizontal distance to vertical distance, or alternatively expressed as either an angle relative to horizontal or a percentage.

**SOIL** – Any earth, sand, rock, gravel, loam, or similar material.

**STABILIZATION** – The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

**STORMWATER** – Stormwater runoff, snowmelt runoff, and surface water runoff and drainage.

**STORMWATER MANAGEMENT** – Using engineered structures and non - structural (e.g., site design, vegetation) measures to reduce runoff volume and rates, remove pollutants, promote infiltration, or minimize sources of pollution.

**STRIP** – Any activity, which removes the vegetative ground surface, cover, including tree removal, clearing, grubbing, and storage or removal of topsoil or other surficial organic material.

**SURFACE WATER DISCHARGE PERMIT** – A permit issued by the Massachusetts Department of Environmental Protection (MassDEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

**TOXIC OR HAZARDOUS MATERIAL or WASTE** – Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive, biological, or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000. TSS: Total Suspended Solids.

**WASTEWATER** – Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

**WATERCOURSE** – A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

**WATERS OF THE COMMONWEALTH** – All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

**WETLAND RESOURCE AREAS** – Areas specified in the Massachusetts Wetlands Protection Regulations, 310 CMR 10.00, as amended, and in the Town of Truro Wetland Bylaw and Regulations, as amended.

Terms not defined shall be construed according to their customary and usual meaning, unless the context indicates a special or technical meaning. Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; and the word "shall" is mandatory and not a suggestion. Additional definitions may be adopted by separate regulation.

## **SECTION 2 – ILLICIT DISCHARGE DETECTION AND ELIMINATION**

### **2.01 Applicability**

These regulations shall apply to any and all illicit discharges entering the municipally owned storm drainage system.

### **2.02 Responsibility for Administration**

1. The Truro Select Board or its designated **Reviewing Agent** shall administer, implement and enforce these regulations.

### **2.03 Prohibitive Activities**

1. **Illicit Discharges.** No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm drain system (MS4), into a watercourse, or into the waters of the Commonwealth, or into abutting property.

2. **Illicit Connections.** No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

3. **Obstruction of Municipal Storm Drain System.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Reviewing Agent.

4. **Pumping of Water.** No person shall direct, discharge, lead, or pump water, clear or otherwise, including groundwater and/or rooftop runoff, onto any public ways or streets, adjacent property, into the Town's municipal separate storm drain system, or into any watercourse or waters of the Commonwealth. Any pumping of groundwater shall be done in such a way that the water is contained in its entirety on the originating property and shall not create a public nuisance to the Town or abutting properties.

5. Discharging of Pool Water. No person shall pump pool water, de-chlorinated or otherwise, onto any public ways or streets, adjacent property, into the Town's municipal separate storm drain system, or into any watercourse or waters of the Commonwealth. Any pumping of pool water shall be done in such a way that the water is contained in its entirety on the originating property and shall not create a public nuisance to the Town or abutting properties.

## **2.04 Exemptions**

The following non-stormwater discharges or flows are exempt from these regulations provided that the source is not a significant contributor of a pollutant to the Town's groundwater aquifers or into the Waters of the Commonwealth:

1. Discharge or flow resulting from firefighting activities;
2. Waterline flushing;
3. Flow from potable water sources;
4. Springs;
5. Natural flow from riparian habitats and wetlands;
6. Diverted stream flow;
7. Uncontaminated groundwater infiltration directly into the drainage system and/or MS4 as defined in 40 CFR 35.2005(20);
8. Incidental discharges from landscape irrigation or lawn watering;
9. Water from individual residential car washing;
10. Discharge from street sweeping of minor amounts of water during operations;
11. Dye testing activity in relation with a municipal operation. For private operations, if verbal notification is given to the Board prior to the time of the test;
12. Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and

13. Discharges for which advanced written approval is received from the Select Board or the Reviewing Agent as necessary to protect public health, safety, welfare or the environment.

## 2.05 Enforcement

1. The Select Board or the Reviewing Agent shall enforce these regulations, orders, violation notices, and enforcement orders, and may pursue all civil and non-criminal remedies for such violations.
2. Civil Relief. If a person violates the provisions of these regulations, permit, notice, or order issued thereunder, the Select Board or the Reviewing Agent may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
3. Orders. The Select Board or the Reviewing Agent may issue a written order to enforce the provisions of these regulations, which may include:
  - (1) Elimination of illicit connections or discharges to the MS4;
  - (2) Performance of monitoring, analyses, and reporting;
  - (3) That unlawful discharges, practices, or operations shall cease and desist; and
  - (4) Remediation of contamination in connection therewith.
4. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Truro may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
5. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Truro including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Select Board or the Reviewing Agent within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Select Board or the Reviewing Agent affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the 31st day at which the costs first become due.

6. Civil Penalty. Any violation of any provision of these regulations, order or permit issued thereunder shall be punishable by a civil penalty of not more than \$100 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

7. Non-Criminal Disposition. As an alternative to civil action, the Town of Truro may elect to utilize the non-criminal disposition procedure set forth in MGL c. 40, § 21D, and Chapter I, Article I, of the Town of Truro Bylaws. The fine for the first violation shall be \$100. The fine for the second violation shall be \$200. The fine for the third and all subsequent violations shall be \$300. Each day or part thereof that such violation(s) occurs or continues shall constitute a separate offense. The Town of Truro may also impose additional penalties for reimbursement of labor and/or materials used to temporarily remedy the violation.

8. Entry to Perform Duties Under these regulations. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Select Board or the Reviewing Agent, Truro's municipal agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under these regulations and may make or cause to be made such examinations, surveys or sampling as the Select Board or the Reviewing Agent deems reasonably necessary.

9. Appeals. The decisions or orders of the Select Board or the Reviewing Agent shall be final. Further relief shall be to a court of competent jurisdiction.

10. Remedies Not Exclusive. The remedies listed in these regulations are not exclusive of any other remedies available under any applicable federal, state or local law.

## **2.06 Severability**

The provisions of these regulations are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of these regulations or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of these regulations.

## **SECTION 3 – CONSTRUCTION EROSION AND SEDIMENT CONTROL, AND POST-CONSTRUCTION STORMWATER MANAGEMENT**

### **3.01 Preamble**

Construction site stormwater runoff and post-construction stormwater discharges can adversely affect public safety, public and private property, surface water, groundwater resources, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of land and water. It is in the public interest to regulate construction site stormwater runoff and post-construction stormwater discharges in order to minimize the impacts identified above.

### **3.02 Purpose and Objectives**

The purpose of these regulations is to establish minimum requirements and controls to protect and safeguard the environment, natural resources, general health, safety, and welfare of the public residing in the Town of Truro from the adverse impacts of soil erosion, sedimentation, and stormwater runoff. This section seeks to meet that purpose through the following objectives:

1. Eliminating or reducing the adverse effects of soil erosion and sedimentation;
2. Minimizing stormwater runoff from any development;
3. Minimizing nonpoint source pollution caused by stormwater runoff from development;
4. Providing for groundwater recharge where appropriate;
5. Promote environmentally sensitive design practices;
6. Ensuring controls are in place to respond to the aforementioned objectives and that these controls are properly operated and maintained;
7. Establishing provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety;
8. Encouraging the use of nonstructural stormwater management practices or "low-impact development" practices, i.e. grass swales, rain gardens and other BMPs;
9. Establishing administrative procedures, fees and fines for violations, for the submission, review, approval or disapproval of applications for stormwater management permits, and for the inspection of approved active projects, and long-term follow up;
10. Ensuring development adheres to MassDEP's Stormwater Handbook and Stormwater Standards;
11. Meet federal requirements under phase 11 of the National Pollutant Discharge Elimination System; and
12. Meet the requirements of the Provincetown–Truro Inter-municipal Water Agreement. (2010)

### **3.03 Applicability and Exemptions**

These regulations shall apply to all activities that result in:

1. A land disturbance activity of 10,000 square feet of land, or that will disturb less than 10,000 square feet of land but are part of a larger common plan of

development or sale that will ultimately disturb equal to or greater than 10,000 square feet of land.

2. Any land disturbance activity that results in the alteration of an area equal to or greater than 1,500 square feet of land where the existing grade is greater than 20% (1V:5H).

3. No person shall perform any activity that results in a land disturbance activity of 10,000 square feet or more of land without an approved soil erosion and sediment control plan and stormwater management plan.

4. Any new development or redevelopment that will result in a net increase in impervious surface area equal to or greater than 1,500 square feet.

5. The following exemptions from these regulations apply:

(1) Any land disturbance of less than 10,000 square feet of land;

(2) Any new development or redevelopment that will result in a net increase in impervious surface area of less than 1,500 square feet;

(3) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation, 310 CMR 10.04;

(4) In addition, as authorized in the Phase II Small MS4 General Permit for Massachusetts, stormwater discharges resulting from the above activities that are subject to jurisdiction under the Wetland Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Standards as reflected in an order of conditions issued by the Town of Truro Conservation Commission are deemed to be in compliance with these regulations;

(5) Emergency activities necessary to protect public health or safety, so long as all necessary emergency permits or emergency certifications have been or will be obtained, including emergency repairs to roads or their drainage systems as per the Massachusetts Stormwater Handbook and Stormwater Standards;

(6) Normal maintenance and improvements of Town of Truro publicly owned roads, including but not limited to asphalt resurfacing, road reclamation, re-grading of existing gravel roads and any other minor activities as described by 310 CMR 10.02 (2)(b) 2;

(7) Any work or projects for which all necessary approvals and permits have been issued before the effective date of these regulations.

### **3.04 Soil Erosion and Sediment Control**

1. An erosion and sedimentation control plan review is triggered by a site development plan and/or a building permit application or other activity that falls within the jurisdiction of these regulations.
2. Applicants shall be referred by the permit-issuing agency (Planning Board, Zoning Board of Appeals, Building Department, etc.) to the Department of Public Works to conduct the soil erosion and sediment control plan review.
3. Activities that fall within the jurisdiction of this bylaw that do not require a permit from any Town department are not exempt from this provision. In this situation, the applicant must seek a soil erosion and sediment control plan review directly from the Department of Public Works.
4. The Director of Public Works may take any of the following actions as a result of his/her review: approval, approval with conditions, disapproval, or disapproval without prejudice.
5. The Building Commissioner shall administer, implement and enforce these regulations. Any powers granted to or duties imposed upon the Building Commissioner may be delegated by the Building Commissioner to his/ her designee, including but not limited to the DPW Director.
6. The Erosion and Sediment Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls which include BMPs appropriate to site conditions, including efforts to minimize the areas of land disturbance. The plan shall also describe measures to control construction wastes including but not limited to construction materials, concrete truck wash out chemicals, litter, and sanitary waste.
7. Construction activities and site alterations shall avoid unnecessary disturbances of areas susceptible to erosion and sediment loss. This means avoiding to the greatest extent practicable: the clearing or damaging of large forest stands; the clearing or grubbing beyond what is required for site access, construction and construction staging areas; building on steep slopes **20% (1V:5H)** or greater; and disturbing land in wetland buffer zones and floodplains.

### **3.05 Post-Construction Stormwater Management**

1. A stormwater management plan review is triggered by a site development plan and/or a building permit application or other activity that falls within the jurisdiction of these regulations.
2. Applicants shall be referred by the permit-issuing agency (Planning Board, Zoning Board of Appeals, Building Department, etc.) to the Department of Public Works to conduct the stormwater management plan review



3. Activities that fall within the jurisdiction of this bylaw that do not require a permit from any Town department are not exempt from this provision. In this situation, the applicant must seek stormwater management plan review directly from the Director.
4. An operation and maintenance plan (O&M Plan) is required at the time of application for all projects within the jurisdiction of these stormwater regulations. The maintenance plan shall be designed to ensure compliance with the permit in all seasons and throughout the life of the system.
5. The Director of Public Works shall make the final decision of what maintenance option is appropriate in a given situation. The Director will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision.
6. The O&M Plan shall identify and include all required documents, including, but not limited to, maintenance agreements and stormwater management easements. All documents may be submitted to Town Counsel for review.
7. As-Built. Permittees shall submit as-built plans prepared and certified by a Massachusetts Professional Land Surveyor no later than one year after completion of construction projects to be included with the Stormwater Management Plan. The As-Built plans must depict all on site structural and non-structural controls design to manage stormwater associated with the completed site. The plan set must include design specifications of all stormwater management controls prepared and certified by a Massachusetts Professional Engineer.
8. The operation and maintenance plan shall remain on file with the Department of Public Works and shall be an ongoing requirement.
9. Stormwater Management Systems disturbing a minimum 10,000 square feet of land or projects that are part of a common plan of development that disturb a minimum 10,000 square feet of land must adhere to the following performance standards:
  - (1) All Stormwater Management Systems must be designed in compliance with the latest version of the Massachusetts Stormwater Handbook.
  - (2) All Stormwater Management Systems must be designed to achieve the following reduction in Total Phosphorous and Total Suspended Solids (TSS) from post- construction stormwater runoff from new and redevelopment:
    - a. New development: 90% removal of average annual load of TSS and 60% removal of average annual load of Total Phosphorus;
    - b. Redevelopment: 80% removal of average annual load of TSS and 50% removal of average annual load of Total Phosphorus.

### 3.06 Enforcement

1. The Building Commissioner and the Department of Public Works shall make inspections of all sites covered under these regulations within the Town and may, for these purposes, enter upon the premises where such operations are carried on at all reasonable times.
2. The Select Board or the **Reviewing Agent**, acting through the Building Commissioner, DPW Director, or an authorized employee or agent, shall enforce these regulations, orders, violation notices, and enforcement orders, and may pursue all civil remedies for such violations.
3. Civil Relief. If a person violates the provisions of these regulations, permit, notice, or order issued thereunder, the Select Board or the **Reviewing Agent** may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
4. Orders. The Select Board or the **Reviewing Agent** may issue a written order to enforce the provisions of these regulations, which may include:
  - (1) That practices, or operations, in defiance of these regulations shall cease and desist; and
  - (2) Remediation of erosion, removal of sedimentation spilled beyond approved limits, in connection therewith;
  - (3) Provision of maintenance to stormwater system in accordance with approved O&M plan.
5. Suspension of construction or site alteration activity. In the event that the activity at a site violates the conditions as stated or shown on the approved soil erosion and sediment control plan or stormwater management plan in such a manner as the Select Board or the **Reviewing Agent** determines to adversely affect the environment, public welfare/health and municipal facilities, then the agent may suspend work until the violation is corrected.
6. If the Select Board or the **Reviewing Agent** determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Truro may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
7. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Truro including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Select Board or the **Reviewing Agent** within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a

decision of the Select Board or the Reviewing Agent affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the 31st day at which the costs first become due.

8. Civil Penalty. Any violation of any provision of these regulations, order or permit issued thereunder shall be punishable by a civil penalty of not more than \$100 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

9. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Truro may elect to utilize the non-criminal disposition procedure set forth in MGL c. 40, § 21D, and Appendix A, of the Town of Truro General Bylaws. The fine for the first violation shall be \$100. The fine for the second violation shall be \$200. The fine for the third and all subsequent violations shall be \$300. Each day or part thereof that such violation(s) occurs or continues shall constitute a separate offense. The Town of Truro may also impose additional penalties for reimbursement of labor and/or materials used to temporarily remedy the violation.

10. Entry to Perform Duties Under these regulations. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under these regulations and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary.

11. Appeals. The decisions or orders of the Select Board or the Reviewing Agent shall be final. Further relief shall be to a court of competent jurisdiction.

12. Remedies Not Exclusive. The remedies listed in these regulations are not exclusive of any other remedies available under any applicable federal, state or local law.

### **3.07 Severability**

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any order of determination which previously has been issued.

[https://www.truro-ma.gov/sites/g/files/vyhlf3936/f/file/file/inter-municipal\\_water\\_agreement\\_0.pdf](https://www.truro-ma.gov/sites/g/files/vyhlf3936/f/file/file/inter-municipal_water_agreement_0.pdf)

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\*\*\*\* INSERT STORMWATER SECTION into **Appendix A**, of the Town of Truro General Bylaws.

**SUBJECT      FINE \$      ENFORCING AUTHORITY**

\*\*\*\* PLACE BYLAW into it's own section within General Bylaws

## Draft Warrant Article PB 5 - Development Agreement Bylaw

### Background

This model bylaw/ordinance was prepared by the Cape Cod Commission to assist Cape Cod Towns that wish to incorporate development agreement authority into their local regulations. This model was prepared in conformance with the Cape Cod Commission Act and the Code of Cape Cod Commission Regulations of General Application, as revised.

A development agreement is a consensual, binding contract between two or more parties, typically between a land owner/land developer and a government agency(ies). As empowered by the Cape Cod Commission Act, the Cape Cod Commission has the opportunity to enter into development agreements with the private sector. In addition, and provided that their Local Comprehensive Plans have been certified by the Cape Cod Commission, the Cape's fifteen towns are authorized to execute development agreements directly with a land owner or with a land owner, the Cape Cod Commission and other governmental agencies, including abutting Cape towns. The value of development agreements is found in their flexibility. They can be useful to towns as they allow the extraction of certain public benefits without running afoul of prescribed rules governing regulatory "takings" and other regulatory restrictions. They can be helpful to the land owner/developer as the executed contract provides protection against regulatory changes that may jeopardize a long term project.

In addition to having their Local Comprehensive Plans certified by the Cape Cod Commission, towns wishing to execute development agreements must adopt this bylaw, or a reasonably related substitute, as a general or zoning bylaw or ordinance. Once adopted, Towns are free to execute development agreements in accordance with the regulations noted below.

Finally, as with the execution of any contract, it is strongly recommended that no development agreement be pursued and executed without advice from town counsel.

### **Draft Truro Bylaw**

**01.0 Purpose and Intent:** This bylaw/ordinance enables the Town of Truro to enter into development agreements consistent with the provisions of the Cape Cod Commission Act and Chapter D - Code of Cape Cod Commission Regulations of General Application.

**02.0 Definitions: In this Bylaw, the following words have the meanings indicated:**

**02.1 Development Agreement:** A contract entered into between the Commission and or a unit of a municipality or municipalities and a holder of property development rights, the principal purpose of which is to negotiate and to establish the development regulations that will apply to the subject property during the term of the agreement and to establish the conditions to which the development will be subject including, without limitation, a schedule of impact fees.

**02.2 Lead Community:** The municipality where the proposed development is located. Where more than one town is a signatory on a development agreement, the Lead Community shall be the municipality having the largest land area encompassed by the proposed development, or otherwise by consensus of the municipalities. The Board of Selectmen/Town Manager or their designee shall be authorized to execute, on behalf of the Town, a development agreement.

**02.3 Qualified Applicant:** A person who has a majority legal or equitable interest in the real property which is the subject of the development agreement. A Qualified Applicant may be represented by an authorized agent.

**03.0 Authority:** Notwithstanding provisions to the contrary, the Town of Truro is hereby authorized to enter into a development agreement with a Qualified Applicant provided the following conditions are met:

03.1 The Town's Local Comprehensive Plan has been certified by the Cape Cod Commission as consistent with the Regional Policy Plan and said certification has not been revoked;

03.2 The Town has adopted, either through an amendment to its zoning bylaw/ordinance or as a general Town bylaw, the enabling regulation contained in Sections 01.0 through Section 10.0, herein.

**04.0 Parties to Development Agreements:**

04.1 A development agreement may be executed by and between a Qualified Applicant and

04.1.1 the Cape Cod Commission; or

04.1.2 the Cape Cod Commission and a municipality or municipalities within which the development is located; or

04.1.3 the Cape Cod Commission and a municipality or municipalities within which the development is located and with a state agency or agencies; or

04.1.4 a municipality or municipalities within which the development is located; or

04.1.5 a municipality or municipalities within which the development is located and a state agency or agencies.

**05.0 Negotiation and Execution of Development Agreements:**

05.1 Negotiation of the elements of a development agreement between authorized parties (Section 04.0) and a Qualified Applicant shall follow all pertinent rules of due process currently required for public meetings, public hearings, and ratification of board/council decisions.

05.2 Negotiation of the elements of a development agreement between authorized parties (Section 04.0) and a Qualified Applicant shall be led by the Planning Board or its designee, and may include representatives from other municipal boards, departments and commissions where said joint participation will assist the negotiation process.

05.3 No development agreement may be executed by the Board of Selectmen/ Town Manager prior to an affirmative, majority vote by the Planning Board (**and Town Meeting?**) recommending the execution of the development agreement.

05.4 The Board of Selectmen/Town Manager may make minor amendments to the development agreement recommended by the Planning Board and execute said development agreement as amended, provided that such amendments do not alter the use, intensity or mitigation stipulations of the development agreement. However, in no instance may the Board of Selectmen/ Town Manager make substantial amendments to the development agreement recommended by the Planning Board without first receiving written concurrence from the Planning Board and Qualified Applicant that said substantial amendments are agreed to.

05.5 The Board of Selectmen/Town Manager or their designee shall be authorized to execute, on behalf of the town, a development agreement. Prior to executing said development agreement, the Board of Selectmen shall, at a public meeting, vote to authorize said execution. The Board of Selectmen/Town Manager shall, within seven (7) days of the vote authorizing the execution of the development agreement, cause said development agreement to be so executed and forward the same to the Qualified Applicant by certified, return receipt mail. Within twenty-one (21) days of the date said development agreement has been mailed by the Board of Selectmen/Town Manager, the Qualified Applicant shall execute the agreement and return either by certified mail or hand delivery, the fully executed development agreement.

## **06.0 Elements of Development Agreements:**

**06.1 Proffers by a Qualified Applicant:** A development agreement may include, but is not limited to, the provisions whereby a Qualified Applicant agrees to provide certain benefits which contribute to one or more of the following:

06.1.1 infrastructure;

06.1.2 public capital facilities;

06.1.3 land dedication and/ or preservation;

06.1.4 affordable housing, either on or off-site;

06.1.5 employment opportunities;

06.1.6 community facilities;

06.1.7 recreational facilities;

06.1.8 any other benefit intended to serve the proposed development, municipality or county, including site design standards to ensure preservation of community character and natural resources.

**06.2 Proffers by a Lead Community:** A development agreement may include the provisions whereby a Lead Community and other municipality agree to provide certain protection from future changes in applicable local regulations and assistance in streamlining the local regulatory approval process. Streamlining may include, where not in conflict with existing local, state or federal law, holding of joint hearings, coordination of permit applications and, where possible, accelerated review of permit approvals. A development agreement may also provide for extensions of time within which development approvals under state, regional and local laws may be extended to coincide with the expiration of the development agreement established in Section 09.0, below. When the Cape Cod Commission is not a party to the development agreement, the land use development rights shall not vest with respect to Cape Cod Commission regulations and designations and the property shall be subject to subsequent changes in the Commission's regulations and designations.

**07.0 Procedural Requirements for Development Agreements Where the Cape Cod Commission is a Party to the Agreement:**

07.1 Where the Cape Cod Commission is to be a party to a development agreement, a Qualified Applicant shall complete a Development Agreement Application Form and comply with the specific requirements set forth in Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised.

07.2 Where the Cape Cod Commission is to be a party to a development agreement, the procedural requirements established in Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised, shall be followed and no such development agreement shall be valid unless and until the requirements of said Section 5 of Chapter D have been complied with in full.

**08.0 Procedural Requirements for Development Agreements Where the Cape Cod Commission is Not a Party to the Agreement:**

08.1 Where the Cape Cod Commission is not to be a party to a development agreement, a Qualified Applicant shall complete a Development Agreement Application Form. The Development Agreement Application Form shall include:

- (a) A fully completed Development of Regional Impact Application Form, including a certified list of abutters;
- (b) A legal description of the land subject to the agreement and the names of its legal and equitable owners;
- (c) The proposed duration of the agreement;



- (d) The development uses currently permitted on the land, and development uses proposed on the land including population densities, and building densities and height;
- (e) A description of public facilities that will service the development, including who shall provide such facilities, the date any new facilities will be constructed, and a schedule to assure public facilities adequate to serve the development are available concurrent with the impacts of the development;
- (f) A description of any reservation or dedication of land for public purposes;
- (g) A description of all local development permits approved or needed to be approved for the development of the land;
- (h) A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the Qualified Applicant of the necessity of complying with the law governing said permitting requirements, conditions, term or restriction;
- (i) A Final Environmental Impact Report, certified as adequate by the Secretary of Environmental Affairs, if required under sections 61-62h of chapter 30 of the general laws;
- (j) Additional data and analysis necessary to assess the impact of the proposed development, as determined by the Lead Community.

08.2 All Qualified Applicants seeking to enter into a development agreement without the Cape Cod Commission as a party shall submit the proposed development to the Cape Cod Commission for a Jurisdictional Determination. If the Cape Cod Commission determines that the proposed development is not a Development of Regional Impact, then the Qualified Applicant may pursue a development agreement without the Cape Cod Commission as a party. If the Cape Cod Commission determines that the proposed development is a Development of Regional Impact, then the Cape Cod Commission must be a party to the development agreement, in which case, the provisions of Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised, shall apply. If the Commission determines that the proposed development is not a Development of Regional Impact, then the provisions of Sections 08.3 through 08.10 below, shall apply.

08.3 The municipality which is a party, or when more than one municipality is a party, then the Lead Community shall assume the responsibility for overseeing the development agreement process. The Lead Community shall hold a public hearing after receipt of a fully completed application from a Qualified Applicant for consideration of a proposed development agreement. At least one public hearing shall be held in at least one of the municipality(ies) in which the proposed development is located. The public hearing regarding review of a development agreement shall not exceed ninety (90) days, unless extended by mutual agreement of the parties. Failure to close the public hearing within ninety (90) days shall not result in a constructive grant of the proposed development.

08.4 When more than one municipality is a party to the agreement, then the Lead Community shall be responsible for overseeing the development agreement process as specified in these regulations. Conflicts between the Lead Community and other municipality(ies) which are a party to the agreement shall be resolved through negotiation conducted by the relevant parties. Because a development agreement is a voluntary process, unresolved disputes may result in one or more parties making a determination not to remain a party to the proposed development agreement.

08.5 The municipality or Lead Community shall provide notice of the public hearing to consider a development agreement by publication as required by Sections 5(a) and (d) of the Cape Cod Commission Act and shall also provide notice to the Cape Cod Commission at least fourteen (14) days prior to such hearing.

08.6 The qualified applicant shall bear the cost of providing notice of the public hearing to consider the proposed development agreement.

08.7 The municipality or Lead Community shall review proposed development agreements for their consistency with the Cape Cod Commission Act and with the Regional Policy Plan and Local Comprehensive Plans. The municipality or Lead Community shall obtain a determination from the Cape Cod Commission or its designee that a proposed development agreement is consistent with the Act, the Regional Policy Plan, and Local Comprehensive Plans prior to executing a development agreement.

08.8 The municipality or Lead Community shall file its development agreement with the Clerk of the Cape Cod Commission and with the town clerk(s) of the municipality(ies) in which the development is located. Notices of development agreements shall be published in a newspaper of general circulation in the municipality(ies) in which the development is located, including a brief summary of the contents of the development agreement and a statement that copies of the development agreement are available for public inspection at the town clerk's office during normal business hours of any municipality which is a party to the agreement. In addition, the Lead Community shall provide the Cape Cod Commission with a summary of the development agreement which the Cape Cod Commission shall publish in its official publication pursuant to section 5(i) of the Cape Cod Commission Act.

08.9 Development agreements shall be issued in a form suitable for recording in the Barnstable County Registry of Deeds. The Lead Community shall record the development agreement in the Barnstable County Registry of Deeds and shall submit proof of such recording to the Town Clerk and the Cape Cod Commission Clerk within 14 days of such recording. The qualified applicant shall bear the expense of recording.

08.10 The cost for filing and processing of each development agreement shall be as established by the Board of Selectmen or Town Manager. Said filing and processing fees shall be reviewed and if appropriate, revised annually.

## **09.0 Limitations on Development Agreements:**

09.1 Nothing in this bylaw/ordinance may be construed to permit a municipality to require a Qualified Applicant to enter into a development agreement.

09.2. A development agreement will commence and terminate as agreed by the parties, in writing, except as otherwise provided in this Section. Where the Cape Cod Commission is not a party, a development agreement shall not exceed ten (10) years, however, provisions in the development agreement pertaining to the preservation of open space and park areas, and agreement to pay for maintenance of utilities and other infrastructure may exceed such ten year limitation. Where the Cape Cod Commission is a party, a development agreement may extend for a longer period of time than that noted above, as set forth in Section 7 of the Code of Cape Cod Commission Regulations of General Application, as revised.

09.3 A development agreement may not be used to prevent a Lead Community or other governmental agency from requiring a Qualified Applicant to comply with the laws, rules and regulations and policies enacted after the date of the development agreement, if the Lead Community or governmental agency determines that the imposition and compliance with the newly effective laws and regulations is essential to ensure the public health, safety or welfare of the residents of all or part of the jurisdiction.

## **10.0 Amendments and Rescission:**

10.1 Where the Cape Cod Commission is not a party to the development agreement, any party to the agreement may petition the Lead Community to amend or rescind the development agreement. The petitioning party shall provide notice to all parties to the agreement and to the Cape Cod Commission of its intention to amend or rescind the agreement by providing such parties and the Cape Cod Commission with a copy of the petition seeking such amendment or rescission. When the Lead Community initiates an amendment or rescission, it shall provide notice, in writing, to all other parties to the agreement and to the Cape Cod Commission. The process for amendment or rescission shall follow the procedures for adoption outlined above.

10.2 When the Cape Cod Commission is a party to the development agreement, any other party to the development agreement may petition the Commission to amend or rescind the development agreement. Such petition shall be made in writing, on a form provided by the Cape Cod Commission. The petitioning party shall provide notice to all parties to the development agreement and to the Commission of its intention to amend or rescind the agreement by providing such parties and the Commission with a copy of the petition seeking such amendment or rescission. When the Commission initiates an amendment or rescission, it shall provide notice, in writing, to all other parties to the agreement. The process for amendment or rescission shall follow the procedures for adoption outlined above.

## **11.0 Enforcement:**

11.1 A development agreement is a binding contract which is enforceable in law or equity by a Massachusetts court of competent jurisdiction.

**12.0 Severability:**

0.12.1 If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the [town]'s zoning bylaw.

Potential Planning Board article for ATM 2022

PB – 7 Duplex Bylaw

§ 40.1 Duplex Houses and Apartments

- A. Purpose. For the purpose of promoting the more efficient use of land, in keeping with the protection of the quality of life and ecology, and at the same time giving relief to those with problems of obtaining adequate housing, the Board of Appeals may approve a special permit authorizing the new construction of duplex houses or the conversion of single family dwellings to apartments, consistent with the following conditions.
- B.
- C. ~~These structure, either new or conversion, are allowed in all districts except: Beach Point, Seashore District and Water Resource Protection District.~~
- D. New Construction. lots ~~of one acre~~ meeting minimum lot size of 33,750 sq ft. or more are required for new construction; the duplex shall not exceed 3,600 sq. ft.; the requirements of paragraph D shall be met.
- ~~E.~~ Conversion. Conversion of single family dwellings ~~in any zoning district except the Seashore District , Beach Point and the Water Resource Protection District~~ may be approved by special permit from the Board of Appeals. Lots shall meet current minimum lot area requirements; no more than one apartment in addition to the primary dwelling unit may be created from any one single family dwelling; ~~the floor area of the secondary dwelling unit shall not exceed 50% of that of the primary dwelling unit; the floor area of the secondary dwelling unit shall not exceed 600 sq. ft.~~
- F. Requirements. All new construction or conversions shall comply with the following.
  1. All applicable provisions of the building, health and safety codes, as determined by the Building Commissioner and Board of Health shall be met.
  2. ~~One unit shall have a 12 month lease.~~
  3. ~~One unit shall be owner occupied OR have a 12 month lease~~
  4. ~~The applicant shall demonstrate that the new construction or conversion is essential to provide needed housing.~~
  5. The new construction or conversion is compatible with and will not derogate from or be detrimental to the neighborhood.
  6. Section 50, Area and Height regulations of this bylaw.
  7. The use is in harmony with the general purpose and intent of the bylaw.



## Draft Article for ATM 2022 PB-8 Mean Ground Level

### §10.4 Definitions

Mean Ground Level: Where the finished ground level varies in elevation on different sides of a building footprint, the average of the various elevations at the centers of the four main sides. In the case where fill has been used to raise the finished ground level on a side(s) of the building to an elevation higher than the preconstruction ground level, on those sides the measurement shall be taken from center of that side ten (10) feet out from the side of the building. ~~Further, the finished grade of the fill, within one hundred (100) feet of the building shall not have a grade steeper than ten per cent (10%) (one foot of drop for every ten foot run).~~

### Proposed New Regulation, Section 50, Area and Height Regulations

#### §50.1.1 Building Pad Height and Sloped Site Limitations

1. The finished grade elevation as measured at the center of the highest of the four main sides of the building shall not be more than **18 inches** above the existing grade elevation at that same point.
2. Fill sections on the downhill sides of the building shall be minimized insofar as possible with respect to both the lateral extents and the amount of fill. The grade of the ground surface in filled areas downhill of the building shall not exceed the following maximum grades:
  - a. Within 10 feet of the building: **10% grade (1V:10H)**.
  - b. Beyond 10 feet from the building (Sloped sites): **40% grade (1V:2.5H)**. This limitation applies to slopes to be stabilized by vegetation. Slopes steeper than 40% grade are permissible only in those instances where selected engineered fill materials, armored slopes, reinforced earth or retaining structures are provided to allow for steeper conditions. In all instances where this slope exceeds a 40% grade, the details, type and height of the stabilized slope section (and/or retention structures) shall be described on the site plan or on the building permit application.





## **DRAFT 2-25-2022 Rev 2**

### **Bylaw Definition** ( §10.4 Definitions)

**Mean Ground Level:** Where the finished ground level varies in elevation on different sides of a building, the average of the various elevations at the centers of the four main sides. In the case where fill has been used to raise the finished ground level on a side(s) of the building to an elevation higher than the preconstruction ground level, on those sides the measurement shall be taken from center of that side ten (10) feet out from the side of the building. ~~Further, the finished grade of the fill, within one hundred (100) feet of the building shall not have a grade steeper than ten per cent (10%)(one foot of drop for every ten foot run):~~

### **Commentary and Intent:**

*This definition is pertinent to building heights and building pad fill sections in all zoning districts. The original intent of this definition as written above (as related by Planning Board members serving at the time it was adopted) was to limit the amount of fill used to level or raise a building pad above the existing grade elevation. Raises in the building pad elevation were reportedly being used as a means of enhancing views. Often this resulted in a raise in the grade of the land around the downhill side of the house, resulting in modification of large areas of the landscape, burial of existing naturally vegetated areas, and importation of large quantities of fills. See accompanying sketch SK1.*

### **Problems with the existing definition:**

1. *Last sentence (beginning “Further...”) serves to control fill quantities and preclude the creation of steep fill slopes in certain instances, while in other instances this sentence may require much more fill than would otherwise be needed.*

*An example of the latter case would involve siting a house on a naturally graded, bowl-shaped lot (i.e., valley-shaped; in hilly terrain). If the house is sited at or near a high point on the property, then the current “10%” grade steepness limit would require filling the valley out to a distance of 100 feet away from the downhill side of the house in order to meet this requirement as written. If the natural grade is descending at greater than 10%, then this sentence could result in extensive reworking of the landscape and the need for large quantities of imported fill (i.e., filling of the valley).*

*If the entire lot is naturally steeply sloped (i.e., hillside), compliance could be impossible since a fill section compliant with this last sentence could conceivably extend across more than the full width of the lot (this may occur where the natural descending grade was steeper than 10%).*

2. *The last sentence (“Further...”) is misplaced in the bylaw in that it is not a part of the definition of the term “Mean Ground Level” but rather is a regulation. The regulating limits pertaining to Mean Ground Level should appear elsewhere in the Bylaw, in this case, in Section 50.*

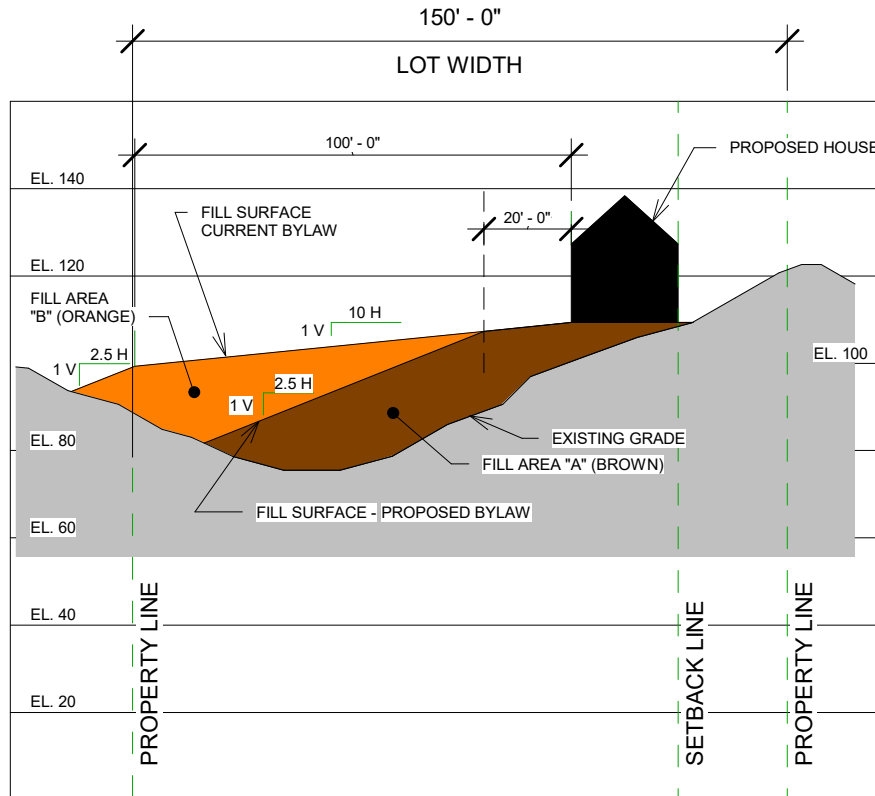
### Objective of this Proposed Change

*Discourage extensive alteration of the existing landscape and topography, limit the construction of unnecessarily high raised building pads and the importation of off-site fill materials by rewriting this definition and adopting a new regulation that would be facilitate these goals in all cases, yet be readily and universally interpretable.*

### Proposed New Regulation, Section 50, Area and Height Regulations

#### §50.1.1 Building Pad Height and Sloped Site Limitations

1. The finished grade elevation as measured at the center of the highest of the four main sides of the building shall not be more than 18 inches above the existing grade elevation at that same point.
2. Fill sections on the downhill sides of the building shall be minimized insofar as possible with respect to both the lateral extents and the amount of fill. The grade of the ground surface in filled areas downhill of the building shall not exceed the following maximum grades:
  - a. Within 20 feet of the building: 10% grade (1V:10H).
  - b. Beyond 20 feet from the building (Sloped sites): 40% grade (1V:2.5H). This limitation applies to slopes to be stabilized by vegetation. Slopes steeper than 40% grade are permissible only in those instances where selected engineered fill materials, armored slopes, reinforced earth or retaining structures are provided to allow for steeper conditions. In all instances where this slope exceeds a 40% grade, the details, type and height of the stabilized slope section (and/or retention structures) shall be described on the site plan or on the building permit application.



**LOT GRADING STUDY - "MEAN GROUND LEVEL"**

1. ABOVE ILLUSTRATION IS A HYPOTHETICAL BUILDING LOT WITH A LOW POINT. NEAR THE CENTER OF THE LOT.
2. EARTH FILL REQUIRED PER THE CURRENT DEFINITION OF "MEAN GROUND LEVEL" IN THE ZONING BYLAWS IS THE SUM OF AREA PLUS AREA "B" AS SHOWN ABOVE, AS PER THE REQUIREMENT FOR A 10% (1V:10H) GRADE FOR A DISTANCE OF 100 FEET FROM THE HOUSE. IN THIS EXAMPLE CROSS SECTION, AREA "A" + AREA "B" = 2237 SQUARE FEET.
3. THE PROPOSED BYLAW REVISION WOULD REQUIRE A 10% GRADE FOR A DISTANCE OF ONLY 20 FEET FROM THE HOUSE, THEREAFTER ALLOWING A 1V:2.5H (40%) GRADE. THIS PROPOSAL WOULD REQUIRE ONLY THE FILL AREA "A", SHADED ABOVE DARK BROWN. IN THIS CROSS SECTION, AREA "A" = 1343 SQUARE FEET.
4. PROPOSED BYLAW CHANGE RESULTS IN A 40% REDUCTION IN FILL VOLUME IN THIS EXAMPLE SECTION.
5. THE PROPOSED BYLAW CHANGES WOULD ALSO ADDRESS REQUIREMENTS FOR A CONTINUOUSLY SLOPED EXISTING GROUND SURFACE, AS OPPOSED TO THE BOWL-SHAPED LOT ILLUSTRATED HERE. WHERE FILL SECTIONS WOULD EXTEND OVER PROPERTY LINES, OR WHERE SLOPES STEEPER THAN 1V:2.5H ARE REQUIRED, THE REVISED BYLAW WOULD PERMIT SLOPE RETENTION BY ARTIFICIAL MEANS (I.E., RETAINING WALLS, BENCHING, ENGINEERED SLOPES, MECHANICALLY STABILIZED EARTH, ETC.) AS AN ALTERNATIVE MEANS OF LIMITING THE VOLUME AND EXTENTS OF IMPORTED FILLS AND THEREBY LIMITING ALTERATION OF THE LANDSCAPE.

	<p><b>Study</b></p> <p>Truro, MA - Planning Board</p> <p><b>Site Grading Illustration</b></p> <p>Scale 1" = 40'-0"    Date:02/01/22</p>	<p>Drawing Number</p> <p><b>SK2</b></p>
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