

## **The Charter**

BREWSTER CODE

**Chapter C**

**CHARTER**

**[HISTORY: Adopted by Ch. 396, Acts of 20221-5-2023. Amendments noted where applicable.]**

NOTE: As passed by the legislature on January 5, 2023, some titles omitted from the official version have been added back for clarity and some grammatical errors have been fixed and changed for consistency by the Town.

Preamble: We, the people of the town of Brewster, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government, adopt this charter with the expectation and intent that the charter will continue and enhance the town's strong traditions of active voter participation; ethical, transparent and responsive leadership; wise use of public resources; respect for all in the community; and an engaged citizenry. We expect and intend that our government will be welcoming and inclusive and will promote equality and respect for all people.

CHAPTER 1  
**POWERS OF THE TOWN**

**Section 1. Incorporation**

1-1-1 The present town of Brewster, within its corporate limits as now established, shall continue to be a body politic and corporate under the name, town of Brewster.

**Section 2. Scope of Town Powers**

1-2-1 The town shall possess and exercise all powers possible under the constitution and laws of the commonwealth as fully and completely as though those powers were expressly enumerated in this chapter.

**Section 3. Form of Government**

1-3-1 This charter provides for a select board-open town meeting-town manager form of government.

**Section 4. Construction of Charter**

1-4-1 The powers of the town under this charter shall be construed liberally in favor of the town, and the specific mention of particular powers in the charter shall not be construed as limiting the general powers of the town as stated in section 1-2-1.

**Section 5. Intergovernmental Relations**

1-5-1 The town may exercise, consistent with the law, any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any 1 or more civil divisions, subdivisions or agencies of the commonwealth, other states or the United States government.

## CHAPTER 2 TOWN MEETINGS AND ELECTIONS

### Section 1. Legislative Power

2-1-1 The legislative powers of the town shall be exercised by a town meeting open to all registered voters of the town.

### Section 2. Open Town Meeting

2-2-1 Business sessions of the annual town meeting shall be held on the first Monday in May and may be continued on such additional days as may be decided by the town meeting upon recommendation of the select board. There shall also be a second business session of the annual town meeting, referred to as the annual fall town meeting, held in the last 3 months of the calendar year on a date to be determined by the select board, which meeting shall be an annual town meeting for purposes of the General Laws; provided, however, that the select board may, at its discretion, cancel the fall annual town meeting not later than September 15 in any year, so long as no more than 5 citizen petitioned articles submitted pursuant to section 4 of this charter for inclusion on the warrant at the fall annual town meeting and notice of the select board's action with regard to such meeting shall be posted on the town website and principal bulletin board. The select board's decision as to whether to hold an annual fall town meeting shall not prohibit the select board from calling for a special town meeting, from time to time, at its discretion.

### Section 3. Warrant

2-3-1(a) Except for procedural matters, all subjects to be acted on by town meeting shall be placed on warrants issued by the select board.

(b) The date of the closure of the warrant to petitioned articles shall be set by general by-law.

2-3-2(a) In addition to any notice required by the General Laws, the select board shall: (i) post the town meeting warrant at the locations listed in subsection (b), town hall and at least 1 location in each precinct and (ii) make available sufficient copies of the warrant at the town meeting for all registered voters in attendance.

(b) The select board shall, at least 1 week prior to the meeting, post the warrant for the town meeting on the town website and make the same available at town hall, and as required by general by-law or select board policy, at town facilities and other common locations throughout the town; provided, however, that failure to timely post the warrant on the website or to make such copies available no later than 1 week prior to the date of the town meeting shall not invalidate or otherwise affect the legality or validity of the actions taken at the town meeting.

### Section 4. Citizen Petitions

2-4-1 Any 10 registered voters of the town may secure, by written petition to the select board, the inclusion of an article for the warrant of any duly scheduled annual town meeting and not less 100 registered voters may secure the same for any duly scheduled special town meeting.

2-4-2 The select board may provide a pre-petition process whereby petitioners may seek review of proposed petitions prior to submission.

### Section 5. Quorum

2-5-1 The town meeting shall establish by general by-law a quorum requirement for the opening of its business, but a smaller number than the established quorum may adjourn immediately any meeting to a stated date, time and place as recommended by the select board; provided, however, that in the event of a state of emergency declared by the governor to protect the public health or safety, the quorum may be reduced in the manner set forth in section 7 of chapter 92 of the acts of 2020.

### **Section 6. Presiding Officer**

2-6-1 A moderator, who shall be a registered voter of the town, shall be elected for a 3-year term as provided in section 2-11-1. The moderator shall preside over all sessions of the town meeting. The moderator shall regulate the proceedings, decide questions of order and make public declarations of all votes. The moderator shall have all of the powers and duties given to moderators pursuant to the Constitution of the Commonwealth and the General Laws and such additional powers and duties as may be authorized by the charter, by-law or other town meeting vote.

2-6-2 The moderator shall appoint a deputy moderator for a 1-year term who shall serve as moderator, if the moderator is absent or has a conflict.

2-6-3 If the office of moderator becomes vacant, the select board shall appoint a registered voter of the town as acting moderator. The acting moderator shall not be an elected town officer and shall serve as acting moderator until the next scheduled election of town officers.

### **Section 7. Rules**

2-7-1 Unless otherwise provided by general by-law, rules of procedure for the town meeting shall be in accordance with "Town Meeting Time: A Handbook of Parliamentary Law" published by the Massachusetts Moderators Association.

### **Section 8. Clerk of the Meeting**

2-8-1 The town clerk shall serve as the clerk of the town meeting. If the town clerk is absent, the assistant town clerk shall serve as town clerk regardless of whether such assistant is a resident or registered voter of the town.

### **Section 9. Report**

2-9-1 A journal of the proceedings of the town meeting shall be kept as a permanent record in the town clerk's office and the journal shall be a public record.

### **Section 10. Elections**

2-10-1 The annual election for the election of officers and such matters as are by law determined by ballot shall be held on the third Tuesday in May. If the annual election for the election of officers and such matters as are by law determined by ballot falls less than 2 weeks after the scheduled beginning of the spring annual town meeting, then the annual election shall be held on the fourth Tuesday in May; provided, however, that the select board may delay the date of the annual election to another date in the same fiscal year if the governor has declared a state of emergency to protect the public health or safety. If the governor has declared a state of emergency to protect the public health or safety, then the annual election shall be held on the fourth Tuesday in May or any other Tuesday in May or June as determined by the select board after consultation with the town clerk.

**Section 11. Elected Officers**

2-11-1 The registered voters of the town of Brewster shall, in accordance with any applicable laws, general by-laws, votes of the town or intergovernmental agreement, elect the following position; provided, however, that members of multiple-member bodies shall be elected for overlapping terms:

- (a) moderator for a 3-year term;
- (b) select board of 5 members, each for a 3-year term;
- (c) school committee of 5 members, each for a 3-year term;
- (d) representatives to the Nauset Regional School District school committee, as the regional school agreement shall provide;
- (e) board of health of 5 members, each for a 3-year term;
- (f) planning board of 7 members, each for a 4-year term;
- (g) recreation commission of 5 members, each for a 3-year term;
- (h) historic district committee of 5 members, of which 4 members shall be elected and 1 member shall be appointed by the select board, each for a 3- year term;
- (i) housing authority of 5 members, of which 3 members shall be elected and 2 members shall be appointed in accordance with the General Laws; and
- (j) constable for a 3-year term; provided, however, that the authority of the elected constable in the town of Brewster shall be limited to the posting of the warrant for a town meeting or town election; provided further, that the person holding such position shall conform to any reasonable regulations concerning such responsibilities as may, from time to time, be proposed by the chief of police and approved by the select board.

**Section 12. Recall of Elected Officers****2-12-1 Recall of Elected Officers**

Any holder of an elected office in the town may be recalled from that office by the registered voters of the town as hereinafter provided, for reasons including, but not limited to, neglect of duties, malfeasance, misconduct or inability to perform official duties; provided, however, that the question of whether the reasons stated for recall justify recall of a particular officer shall be determined solely by the voters.

- (a) Initiation of petition; submission; certification

Any 25 registered voters of the town of Brewster may initiate a recall petition by filing with the town clerk an affidavit containing the name of the officer sought to be recalled, a statement of the grounds for recall and specifying the lead petitioner. The town clerk shall thereupon make available to the lead petitioner copies of petition blanks demanding such recall, printed copies of which the town clerk shall keep available. The blanks shall be issued by the town clerk under the town seal, and be dated and addressed to the select board. The blanks shall contain the names of all the persons to whom they are issued, the name of the person whose recall is sought and the grounds for such recall as stated in the affidavit and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of

the town clerk. The recall petition shall be returned and filed with the town clerk within 20 days after notification by the town clerk to the lead petitioner that the recall petitions are available and shall have been signed by at least 12 percent of the registered voters of the town as of the last regular municipal election, who shall add to their signatures the street and number, if any, of their residence. The town clerk shall within 1 working day of receipt submit the petition to the registrars of voters in the town and the registrars shall, within 5 working days, certify thereon the number of signatures which are names of registered voters of the town.

(b) Delivery to officer, order of recall proceedings

If the petition shall be found and certified by the town clerk and board of registrars to be sufficient, the town clerk shall submit the petition with the town clerk's certificate to the select board within 3 working days and the select board shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled. If the officer does not resign within 5 days thereafter, the select board shall order an election to be held on a date fixed by it which shall be not less than 65 and not more than 90 days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within 100 days after the date of certification, the select board shall postpone submission of the question of recall to the date of such other election. No person shall be subject to recall if their term of office expires within 90 days of the certification. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

(c) Conduct of recall

An officer sought to be recalled may be a candidate to succeed themselves and, unless the officer requests otherwise in writing, the town clerk shall place the officer's name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the recall election shall all be in accordance with the provisions of law relating to elections.

(d) Action upon completion of recall

The incumbent shall continue to perform the duties of the office until the question of recall has been acted upon by the voters. If then re-elected, the officer shall continue in office for the remainder of their unexpired term subject to recall as before, except as provided in this charter. If not re-elected, the officer shall be deemed removed and the successor shall serve the remainder of the unexpired term; provided, however, that if the successor fails to qualify within 10 days after receiving notification of election, the office shall be deemed vacant.

(e) Ballots to be used

(1) Ballots used for recall shall submit the following propositions in the order indicated:

For the recall of (name and title of officer).

Against the recall of (name and title of officer).

(2) Under the propositions shall appear the word "Candidates", the directions to the voters required by section 42 of chapter 54 of the General Laws and, beneath the directions, the names of candidates nominated in accordance with the laws relating to elections. If a majority of the votes cast upon the question of recall is in the affirmative, then the candidate receiving the highest number of votes shall be declared elected. If a majority of

the votes on the question of recall is in the negative, then the ballots for candidates shall not be counted.

(f) Time limits on filing of petitions

No recall petition shall be filed against an officer within 90 days after taking office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least 6 months after the election at which their recall was submitted to the voters of the town.

(g) Limits on appointments after filing of recall petition

No person who has been recalled from an office or who has resigned from office following the filing of a recall petition shall be appointed to any town office within 2 years after such recall or such resignation.



CHAPTER 3  
**THE SELECT BOARD**

**Section 1. Composition, Compensation and Vacancies**

3-1-1 There shall be a select board consisting of 5 members elected for 3-year overlapping terms. The select board shall serve as the executive branch of town government. The select board shall have all of the powers, duties and responsibilities of a board of selectmen as provided in the General Laws and any regulations there under, special laws applicable to the town of Brewster and any local laws and regulations.

3-1-2 A chair, vice-chair and clerk shall be elected by the select board at the first meeting following each regular town election.

3-1-3 A quorum of the select board shall be 3 members.

3-1-4 Each member of the select board may receive an annual stipend as set forth in the general by-laws, subject to appropriation by town meeting.

3-1-5 If a member of the select board dies, resigns, is convicted of a felony while serving or ceases to be a registered voter of the town, the resulting vacancy may be filled by special election in accordance with the General Laws.

**Section 2. General Powers and Responsibilities**

3-2-1 The select board shall exercise the powers and duties prescribed by the General Laws, this charter and the general by-laws. The select board may delegate powers and duties to the town manager or to another town board. The select board shall enforce the laws and orders of the town, including this charter.

3-2-2 The select board shall be the primary policy making, planning and goal-setting agency of the town; provided, however, that no individual member of the board, nor a majority of them, shall at any time, attempt to become involved in the day-to-day administration of the affairs of the town. The select board shall act only through the adoption of policy directives and guidelines which are to be implemented by officers and employees appointed by or under its authority.

3-2-3 The select board, following the development of the proposed budget by the town manager, shall review the annual proposed operating and capital budgets submitted by the department heads and shall make the main motion under the budget article at the annual town meeting.

3-2-4 The select board shall protect the assets of the town.

3-2-5 The select board shall approve all collective bargaining agreements of the town negotiated by the town manager, consistent with chapter 150E of the General Laws.

3-2-6 The select board shall, at least once annually, meet jointly with the finance committee, the school committee, the Nauset Regional School District school committee and the Cape Cod Regional Technical High School District school committee, or their respective designees, for the purpose of sharing information.

3-2-7 The select board shall be the licensing authority of the town and shall have the power to issue licenses, make all necessary rules and regulations regarding the issuance of licenses, attach conditions and restrictions thereto as it deems to be in the public interest and enforce the laws relating to all

businesses for which it issues licenses; provided, however, that the board may, at its discretion, delegate responsibility to the town manager or a board created for such purposes for issuance and enforcement of any licenses.

3-2-8 The select board shall ensure that the general by-laws are kept current.

3-2-9 The select board shall be responsible to ensure that the town manager complies with the charter.

3-2-10 The select board shall approve all personnel policies proposed by the town manager in accordance with subparagraph (k) of paragraph 4-1-4.

### **Section 3. Written Records and Communication to the Town**

3-3-1 Any goal, policy, plan or official act adopted by the select board shall be in writing and included in its entirety in the minutes of the meeting at which it was adopted. The town manager shall ensure that a file containing a complete list of the select board's current policies and goals is posted on the town website for public reference. The select board shall designate to the town manager the publishing of an annual town report for each calendar year.

3-3-2 Before August 31 and after the annual town election, the select board shall hold a meeting for the purpose of stating the board's goals for the next fiscal year or years, hereinafter referred to as the annual goal setting meeting.

### **Section 4. Powers of Appointment**

3-4-1 The select board shall select and enter into a contract with a town manager. If the town manager position becomes vacant for any reason, the select board shall designate a qualified person to serve in an acting capacity.

3-4-2 The select board shall appoint, following consultation with the town manager, the fire chief, police chief and town counsel.

3-4-3 The select board shall appoint members of all multiple-member bodies, except as otherwise provided in this charter.

3-4-4 The select board may appoint ad hoc committees as it deems necessary or appropriate.

### **Section 5. Investigatory Powers**

3-5-1 The select board may investigate the alleged misconduct of the town manager, any town board or any member of a town board. The select board may direct the town manager to investigate: (i) the affairs of the town; (ii) the conduct of any town department or town employee; and (iii) any claim against the town.

3-5-2 Any alleged potentially criminal matter shall be referred to the appropriate law enforcement agency.

### **Section 6. Limitations and Public Ceremonies**

3-6-1 Unless specifically provided in the General Laws, a member of the select board shall not hold any other position in town government, whether appointed or elected, paid or unpaid, that is created by the select board or town meeting; provided, however, that serving in an ex officio capacity shall not be considered a separate position for purposes of this paragraph. Service as a representative from the town to a governmental body other than the town shall not be prohibited by this paragraph.

3-6-2 The select board, and individual members thereof, shall deal with employees who are under the direction and supervision of the town manager solely through the town manager, except when the select board is conducting an investigation of the town manager under paragraph 3-5-1, in which case the employees shall contact the select board chair. Neither the select board nor its individual members shall give direct orders to any such employee.

3-6-3 Except as otherwise specified in this chapter, the select board shall be subject to the same rules as apply to all other town boards, including that members have no authority in their individual capacities except as delegated by majority vote of the select board.

3-6-4 The select board shall represent the town for all ceremonial purposes.

### **Section 7. Code of Conduct**

The select board shall adopt a policy establishing a code of conduct applicable to all appointed and elected officials, which policy shall be amended from time to time at the board's discretion and any additional code of conduct adopted by another board shall be no less restrictive. Any code of conduct adopted by a board shall be posted in its office and on the town website.

CHAPTER 4  
**TOWN MANAGEMENT**

**Section 1. Town manager****4-1-1 Appointments and qualifications**

The select board shall by majority vote of the entire select board appoint a town manager. The method of selection shall be left to the discretion of the select board so long as the method of selection ensures orderly, nonpartisan action toward securing a competent and qualified person to fill the position. The town manager shall be chosen solely upon the basis of the individual's administrative training, education, experience and ability and need not, when appointed, be a resident of the town; provided, however, that the town manager shall establish such residence within 12 months following the effective date of appointment; provided further, that the select board may, by a 2/3 vote of the entire board, extend to a time certain the time for establishing residence or waiving this requirement.

**4-1-2 Compensation**

The town manager shall receive such compensation as may be fixed by the select board within the amount appropriated by town meeting and according to the town manager's expertise, education and training. Any contract between the select board and the town manager shall be made consistent with section 108N of chapter 41 of the General Laws.

**4-1-3 Term and Removal**

The town manager may be appointed for a definite term, but may be removed at the discretion of the select board by majority vote of the entire select board. The action of the select board in suspending or removing the town manager shall be final. It is the intention of this charter to invest all authority and fix all responsibilities of such suspension or removal in the select board.

**4-1-4 Powers and duties**

The town manager shall be responsible to the select board for the proper administration of the affairs of the town consistent with the General Laws and this charter, and shall:

- (a) appoint for a term of years or, at the town manager's discretion, for an unlimited period, all town employees, including civil service positions, not otherwise addressed herein, but excluding employees of the school department; provided, however, that the town manager shall:
  - (i) act upon recommendations from the police chief and the fire chief, respectively, for appointment of employees of the police and fire departments;
  - (ii) consult with the appropriate department head or multiple-member body for appointment of employees of other departments or multiple-member bodies;
- (b) supervise, discipline, suspend or remove all appointed department heads and employees and organize and structure all town departments accordingly, except as otherwise provided in section 3;
- (c) administer and enforce the General Laws and special acts and all by-laws and regulations established by the select board;
- (d) coordinate activities of all town departments;

- (e) attend all sessions of the town meeting and answer all questions addressed to the town manager which are related to the warrant articles and to matters under the general supervision of the town manager;
- (f) keep the select board fully informed as to the needs of the town and recommend to the select board for adoption such measures requiring action by the select board or by the town as the town manager deems necessary or expedient;
- (g) ensure that complete and full records of the financial and administrative activity of the town are maintained and render reports to the select board as may be required;
- (h) be responsible for the rental, use, maintenance, repair and the development of a comprehensive maintenance program for all town facilities;
- (i) serve as the chief procurement officer for purposes of chapter 30B of the General Laws and be responsible for the purchase of all supplies, materials and equipment, approve the award and execute all such contracts; provided, however, that any contract over \$1,000,000, or such higher amount as shall be approved by the select board from time to time, shall require approval by the select board;
- (j) develop and maintain a formal and complete inventory of all town-owned real and personal property and equipment;
- (k) propose personnel policies for approval by the select board under section 3-2-10 and administer all personnel policies, practices, rules and regulations, any compensation plan and any related matters for all municipal employees and administer all collective bargaining agreements entered into by the town;
- (l) fix the compensation of all town employees and officers appointed by the town manager within the limits established by appropriation and any applicable compensation plan and collective bargaining agreements;
- (m) be responsible for the negotiation of all contracts with town employees regarding wages and other terms and conditions of employment, except employees of the school department. The town manager may, subject to the approval of the select board, employ special counsel to assist in the performance of these duties; provided, however, collective bargaining agreements shall be subject to the approval of the select board in accordance with chapter 150E of the General Laws;
- (n) be responsible for the preparation and development of the financial forecast, annual operating and capital budgets and 5-year capital improvement plan, consistent with policy guidance provided by the select board, and prepare and submit to the select board and finance committee such budget and plan, and be responsible for the administration of such budget and plan after their adoption;
- (o) keep the select board and the finance committee fully informed as to the financial condition of the town and make recommendations to the select board;
- (p) investigate or inquire into the affairs of any town department or office;
- (q) have full authority to act on behalf of the town during emergencies, including the direction of town personnel, declaring states of emergency, opening the emergency operations center and shelters and the emergency expenditure of funds, and to delegate such responsibility by

appointing an emergency management director, who shall be a town employee duly trained in public safety, and a deputy emergency management director to assist the emergency management director and to assume the duties of the emergency management director in the director's absence;

- (r) delegate, authorize or direct any subordinate or employee in the town, including an assistant town manager, if any, and subject to funding therefor, to exercise any power, duty or responsibility that the office of town manager may exercise; provided, however, that all acts performed under such delegation shall be deemed to be the acts of the town manager; and
- (s) perform such other duties as necessary or as may be assigned by this charter, by-law, town meeting vote or vote of the select board.

#### 4-1-5 Acting town manager

The town manager shall appoint as acting town manager a town employee who shall perform the duties of the town manager in the town manager's absence; provided, however, that if there is an assistant town manager serving at the time of any such absence, such person may function as the acting town manager. In the event of long-term disability or absence exceeding 14 days, or the resignation, termination or vacancy in the office of town manager, the select board shall not later than 14 days thereafter, appoint an acting town manager for the duration of any such disability or absence or until appointment of a permanent town manager. No member of the select board shall serve as acting town manager.

### **Section 2. Town Counsel**

4-2-1 The select board shall appoint a competent and duly qualified and licensed attorney practicing in the commonwealth to be the counsel for the town. Town counsel shall receive such compensation for services as may be fixed by the select board and shall hold office at the pleasure of the select board. The town counsel shall be the legal adviser of all offices and departments of the town and shall represent the town in all litigation and other legal proceedings; provided however, that the select board may retain special counsel at any time the select board deems appropriate and necessary. The town counsel shall review and concur or dissent upon all documents, contracts and legal instruments in which the town may have an interest. The town counsel shall perform other duties prescribed by this charter, by by-law or as directed by the select board. No employee, committee or board, elected or appointed, other than the select board, shall contact or otherwise interact with the town, labor or other special counsel in a manner inconsistent with the policy relative to access to counsel established by the select board. This section shall not limit the school committee from retaining its own legal counsel.

### **Section 3. Fire, Police and Water Departments; Other Departments**

4-3-1 Except as otherwise provided in this charter, there shall be a fire department consistent with sections 42, 43 and 44 of chapter 48 of the General Laws. The fire chief shall have responsibility for the day-to-day supervision of firefighters and the fire department. The fire chief shall have additional authority to place a firefighter on administrative leave with pay, or discipline or suspend a firefighter, for a period of no more than 5 days and shall provide the town manager with written notification upon implementation of such suspension. When the town manager intends to take action under clause (b) of subsection 4-1-4 of section 1 with respect to subordinate members of the fire department, the town manager shall consult with the fire chief before taking such action.

4-3-2 Except as otherwise provided in this charter, there shall be a police department consistent with section 97A of chapter 41 of the General Laws. The police chief shall have responsibility for the day-to-day supervision of police officers and the police department. The police chief shall have additional authority to place a police officer on administrative leave with pay, or discipline or suspend a police officer, for a period of no more than 5 days and shall provide the town manager with written notification upon implementation of such suspension. When the town manager intends to take action under clause (b) of subsection 4-1-4 of section 1 with respect to subordinate members of the police department, the town manager shall consult with the police chief before taking such action.

#### 4-3-3 Water Department

- (a) There shall be a water department under the supervision of a water superintendent. The department shall have all of the powers, rights and duties to be exercised by a water commission under the General Laws and special laws, except as otherwise provided herein. The water superintendent shall be responsible for the efficient exercise, performance and coordination of the department. Any exercise by the department of the authority of water commissioners with respect to acquisition or disposition of land shall be approved by the select board prior to any such acquisition or disposition of land. The superintendent shall report to the town manager as to the doings of the office at such times as the town manager may require.
- (b) The water superintendent shall supervise and direct the operations and employees of the department in accordance with the town's personnel by-laws and any applicable collective bargaining agreements. The water superintendent shall be especially qualified by education, training and experience to perform the duties of the office and shall have such other qualifications as may be required from time to time. While employed by the town, the water superintendent shall not engage in a business or occupation falling within the jurisdiction of the water department, unless approved in advance by the town manager with the concurrence of the select board. Unless specifically provided in the General Laws, the water superintendent shall not hold any other position in town government, whether appointed or elected, paid or unpaid, that is created by the select board or town meeting; provided, however, that serving in an ex officio capacity shall not be considered a separate position for purposes of this subparagraph. Service as a representative from the town to a governmental body other than the town shall not be prohibited by this subparagraph. The water superintendent need not be a resident of the town during their tenure.
- (c) There shall be a water commission consisting of 3 members to be appointed by the select board for alternating, overlapping 3-year terms. The commission shall be responsible for setting water rates, making budget recommendations and providing advice and support to the superintendent with respect to other policy matters on which the commission may be consulted and which falls within the jurisdiction of the water department. The water commission shall recommend priorities and policies to govern the provision of water in the town, and, with the concurrence of the water superintendent, may adopt policies and regulations to carry out the same.

CHAPTER 5  
**TOWN BOARDS/COMMISSIONS/COMMITTEES**

**Section 1. Appointed Boards and Committees**

## 5-1-1 General Authority

- (a) In addition to any boards and committees specified in this charter, boards and committees may be created by adoption of by-laws, by town meeting vote or a vote of the select board. A list of any such boards and committees, specifying the number of members, terms of office, if any, and listing their respective charges, shall be maintained in the office of the town clerk and, within 10 business days after the creation of the board or committee, posted on the town website.
- (b) Notwithstanding any other provision of this charter or General Laws to the contrary, any person appointed to a multiple-member body may be removed by their respective appointing authority following written notice and the opportunity for a public hearing; provided, however, that failure to reappoint following the expiration of an appointed term shall not constitute removal.

**Section 2. Moderator Appointments**

## 5-2-1 Power to appoint

The moderator may appoint members of the boards, committees and commissions established under this section or as may be authorized by by-law, town meeting vote or regional school district agreement. Appointments made by the moderator shall each be for a fixed term and such appointments shall not be subject to review or confirmation by any other person or group.

## 5-2-2 Finance Committee

- (a) There shall be a finance committee which shall be consisting of 9 residents of the town who shall be appointed by the moderator, shall serve without pay and shall hold no other town office or employment; provided, further, that each member shall serve for a 3-year term beginning on July 1 and terminating on June 30 of the third year following appointment. Vacancies on the committee shall be filled by the moderator for the remainder of the unexpired term. A member of the finance committee shall not hold any other position in town government, whether appointed or elected or paid or unpaid, that is created by the select board or town meeting; provided, however, that serving in an ex officio capacity shall not be considered a separate position for purposes of this paragraph.
- (b) The finance committee shall consider all the articles in any town meeting warrant and report to the town meeting its recommendations by posting the same on the town website and in any other manner it deems appropriate. Following the drawing up of the warrant for a town meeting, the select board shall forthwith forward the warrant to the members of the finance committee. The finance committee shall annually prepare for the annual town meeting a comprehensive summary of the current condition of the town's finances.
- (c) To carry out the finance committee's duties, the finance committee may investigate the books and accounts of any town department. The finance committee and the individual members thereof shall deal with employees who are under the direction and supervision of the town manager solely through the town manager. Neither the finance committee nor its individual members shall give direct orders to any such employee.



**Section 3. Alternate Members of Certain Multiple-Member bodies****5-3-1 Alternate members of certain elected boards**

The select board, following consultation with a committee, commission or board elected under clause (c), (e), (f), (g) or (h) of subsection 2-11-1 of section 11 of chapter 2 may appoint not more than 2 alternate members to serve for terms of 1 or 2 years. The chair of each committee, commission or board to which alternate members have been appointed may designate an alternate member to sit on the committee, commission or board in the case of absence, inability to act or conflict of interest on the part of any member of the committee, commission or board, or in the event of a vacancy. Any vacancy arising in the alternate position shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

**5-3-2 Alternate Members of Appointed Boards**

The appointing authority may appoint not more than 2 alternate members to boards, committees or commissions established pursuant to paragraph (a) of subsection 5-1-1 of section 1 for terms of 1 or 2 years. The chair of each board to which alternate members have been appointed may designate an alternate member to sit on the board in the case of absence, to act or conflict of interest on the part of any member of the board, or in the event of a vacancy. Any vacancies arising in the alternate position shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

**Section 4. General Provisions Applicable to Multiple-Member Bodies****5-4-1 Charge**

Except as otherwise provided in this charter, each multiple-member body set forth herein or established pursuant to paragraph (a) of subsection 5-1-1 of section 1 shall be organized and charged with, as applicable, the powers and duties specified in any general or special law or in any by-law, town meeting vote, vote of the select board or as otherwise provided herein.

**5-4-2 Organization and report**

Each multiple-member body shall elect a chair, vice chair and clerk, and shall cause the select board and the town clerk to be notified of its selection. Such elections shall be taken up at the first meeting after the election for all elected boards, at the first meeting after annual appointments are made or at the first meeting of a new board or committee. All boards and committees created under this chapter or by by-law, shall make a written annual report of their activities to the select board in accordance with subsection 3-3-1 of section 3 of chapter 3.

**5-4-3 Resignation**

The resignation of any elected town officer under subsection 2-11-1 of section 11 of chapter 2 or any appointed multiple-member body created by this charter or by by-law under clause (a) of subsection 5-1-1 of section 1 shall be deemed effective when such resignation is filed with the town clerk or at such later time as may be specified in the filed resignation.

**5-4-4 Excessive Absences; Loss of Appointed Office**

For the purpose of this charter, 3 consecutive absences from meetings of an appointed member of a multiple-member body shall be considered a reason for removal. Under such circumstances, the chair of the multiple-member body may notify the appointing authority and the appointing authority may

remove the member pursuant to clause (b) of subsection 5-1-1 of section 1 and notify the town clerk in writing that the position has been vacated.

**Section 5. Cape Cod Regional Technical High School District School Committee and Other Regional Entities**

5-5-1 Members of the Cape Cod Regional Technical High School District school committee shall be appointed or elected in accordance with the regional school district agreement as it may be amended from time to time.

5-5-2 Election or appointment to other regional entities shall be in accordance with an applicable intermunicipal agreement for such purposes.

## CHAPTER 6 FINANCIAL PROVISIONS

### Section 1. Budget Schedule

6-1-1 Annually, before December 1, the town manager shall establish and issue a budget schedule that shall set forth the calendar dates for developing the annual budget for the next fiscal year.

6-1-2 On or before December 15, the town manager shall present a financial forecast to the select board. Thereafter, the select board shall set guidelines for the preparation of the annual budget.

6-1-3 On or before February 15, the town manager shall submit to the select board a proposed line item budget and accompanying message.

### Section 2. Proposed Budget

6-2-1 The budget shall provide a complete financial plan of all town funds and activities, including details on debt and debt service, anticipated income and proposed expenditures.

6-2-2 The budget message shall begin with a clear general summary of its content and explain, in both fiscal terms and program objectives, the proposed expenditures for each department and the projected tax rate.

### Section 3. Budget Adoption

6-3-1 The town meeting shall adopt the annual operating budget, with or without amendments, before the beginning of the fiscal year, except in the event that the governor has declared a state of emergency to protect the public health or safety and the town meeting cannot complete its business as a result thereof.

### Section 4. Capital Planning

#### 6-4-1 Capital improvement plan

The town manager shall prepare a 5-year capital improvement plan identifying proposed capital outlays or acquisitions in excess of \$10,000 or such other sum as shall be determined by the select board for any 1 project, whether it be spent in 1 year or over several years. The town manager, in the town manager's sole discretion, may appoint a committee to assist the town manager with preparation of the plan.

#### 6-4-2 Contents of plan

- (a) The capital improvement plan shall include all town activities and departments. Proposed capital expenditures for regional entities shall be consistent with the regional or intermunicipal agreement establishing such entities.
- (b) The capital improvement plan shall include a list, by department, of all proposed capital improvements to be undertaken during the next 5 fiscal years and shall include cost estimates, methods of financing and time schedules. This information shall be revised and extended on an annual basis.

#### 6-4-3 Submission to select board

- (a) The capital improvement plan shall be submitted to the select board by February 1 of each year.
- (b) The select board shall, after providing 7 days' notice in the manner required by section 20 of chapter 30A of the General Laws and applicable regulations, hold a public hearing on the capital improvement plan. The select board shall make the capital improvement plan available for public inspection.

#### 6-4-4 Submission to town meeting

The select board shall prepare and submit to each annual town meeting a summary of the capital improvement plan, identifying all proposed capital expenditures for the next 5 years estimated to cost \$100,000 or more, or such other amount as the select board shall determine from time to time and which shall include the fiscal year in which it is anticipated to be expended, the amount and its anticipated source of funding.

### **Section 5. Annual Audit**

- 6-5-1 At the close of each fiscal year and at such other times as may be deemed necessary, an independent audit shall be undertaken of all accounts of the town by a certified public accountant. The audit committee created by by-law, if any, or in the absence thereof, the select board, shall solicit a firm or firms for such purposes. The certified public accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the town or any of its offices. Upon completion of the audit, the results shall be reviewed by the audit committee, if any, and by the select board and the finance committee. The results, in summary form, shall be placed on file in the office of the town clerk and on the town website as a public record and shall be available in the public library for public information.

CHAPTER 7

**BY-LAWS AND CHARTER - ADOPTION, AMENDMENT AND PERIODIC REVIEW**

**Section 1. By-laws**

7-1-1 By-laws may be proposed by warrant article consistent with the General Laws and this charter.

7-1-2 Adoption and amendment of by-laws shall be approved in accordance with applicable General Laws.

7-1-3 The select board shall ensure that the by-laws are reviewed and prepared for any necessary revisions at least once every 10 years.

7-1-4 The town clerk shall codify and republish the by-laws from time to time as may be reasonable and such by-laws shall also be posted on the town website.

7-1-5 All special acts, by-laws, town meeting resolutions, and rules and regulations of the town in force at the time this charter takes effect, not inconsistent with this charter, shall continue in full force and effect.

**Section 2. Charter**

7-2-1 Amendments to the charter may be approved by any means available pursuant to the Constitution of the Commonwealth and the General Laws; provided, however, that if such amendments are to be acted upon by town meeting in accordance with section 10 of chapter 43B of the General Laws, the select board and finance committee shall present their recommendations to town meeting for consideration upon any such proposed amendment.

7-2-2 The select board shall appoint a committee of not less than 5 nor more than 9 members to review the charter at least once every 10 years, such that review of the charter shall begin 5 years after the by-law review provided for in section 7-1-3 and shall provide recommendations, if any, to a subsequent town meeting with respect to such review.

**Town Meeting Enactments**

**Administrative Legislation**

Section 2

ADMINISTRATION

**Chapter 5**

**ADMINISTRATION**

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Boards, commissions and authorities — See Ch. 6.**

**Minutes of public meetings — See Ch. 38.**

**Bylaws — See Ch. 8.**

**Select Board — See Ch. 42.**

**Committees — See Ch. 12.**

**Town Counsel — See Ch. 46.**

**Personnel — See Ch. 36.**

**Town meetings — See Ch. 48.**

## ARTICLE I

**Form of Government****[Adopted 11-18-1996 FYTM, Art. 18]****§ 5-1. Incorporation and authority.**

- A. Incorporation continued. The inhabitants of the Town of Brewster, Massachusetts, within its territorial limits as now or may hereafter be established by law, shall continue to be a body politic and corporate, known as the "Town of Brewster."
- B. Powers of the Town. The intent and purpose of this bylaw is to secure for the voters of the Town of Brewster, through the adoption of this bylaw, all the powers possible to secure for their government under Article LXXXIX of the Amendments to the Constitution of the Commonwealth and laws of the Commonwealth, as fully and as though each such power were specifically and individually enumerated herein. To the extent that the provisions of this bylaw modify or repeal the body of law which constitutes the Town Code under Section 9 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this bylaw shall govern.

**§ 5-2. Legislative branch: Town meeting.**

The legislative powers of the Town shall continue to be exercised by a Town meeting open to all voters of the Town.

**§ 5-3. Chief executive function: Select Board. [Amended 5-3-1999 STM, Art. 5; 10-19-2009 FYTM, Art. 8; 5-4-2009 ATM, Art. 36; 11-13-2017 FYTM, Art. 13]**

- A. Composition, term of office. There shall be a Board of Selectmen composed of five members elected for terms of three years each, so arranged that the term of as nearly equal number of members as is possible shall expire each year. For purposes of these bylaws, the Board of Selectmen shall be referred to as the "Select Board."
- B. Powers and duties.
  - (1) Unless otherwise provided by this bylaw, the executive powers of the Town shall be vested in the Select Board. The Select Board shall have all of the powers and duties given to Boards of Selectmen under the constitution and laws of the Commonwealth and such additional powers and duties as may be authorized by this bylaw, special act or by other Town meeting vote. The Select Board shall cause the laws and orders of the government of the Town to be enforced and shall cause a record of its official acts to be maintained. The Select Board shall be the chief policy making board of the Town and shall act by the issuance of policy statements and guidelines to be followed and implemented by Town agencies serving under the Board.
  - (2) The Select Board shall be the licensing authority of the Town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of said licenses and to attach such conditions and restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all business for which it issues licenses.
  - (3) The Select Board shall be primarily responsible for the preparation of the Town's long range plan and shall develop strategies to incorporate the plan into policies for the effective management of the Town.
  - (4) To aid the Select Board in the conduct of its official business and duties, the Select Board shall



appoint a Town Administrator.

- C. Appointment powers. The Select Board shall appoint a Town Administrator, a Town Counsel, a Town Clerk, a Personnel Committee, a Board of Water Commissioners, a Police Chief and a Fire Chief and the Director of Operations of the Captains Golf Course. The Select Board shall also actively recruit and appoint all boards, committees and commissions except as otherwise provided by this bylaw, the General Laws, special act or other vote of the Town meeting and such other regional authorities, districts or committees in accordance with any applicable laws or interlocal agreement. The Select Board may appoint ad hoc committees as it deems necessary.

#### § 5-4. Elected Town officers.

The registered voters of the Town of Brewster shall, in accordance with any applicable laws, bylaws, voters of the Town or interlocal agreement, continue to elect the following:

- A. Moderator;
- B. Select Board;<sup>1</sup> **[Amended 11-13-2017 FYTM, Art. 13]**
- C. <sup>2</sup>Brewster School Committee of five members;
- D. Representatives to the Nauset School District Committee, as the Regional School Agreement shall authorize;
- E. Board of Health of five members;
- F. Planning Board of seven members;
- G. Recreation Commission of five members;
- H. <sup>3</sup>Historic District Committee of five members, with four elected members and one member appointed by the Select Board; and **[Amended 11-13-2017 FYTM, Art. 13]**
- I. Housing Authority of five members, with three members to be elected by voters and two members appointed in accordance with requirements of state law.

#### § 5-5. Administrative Officer/Town Administrator. **[Amended 11-13-2017 FYTM, Art. 13]**

- A. Appointment, qualifications of Town Administrator. The Select Board shall appoint a Town Administrator who shall serve at the pleasure of the Board and may enter into a contract under Massachusetts General Laws C. 41, § 108N. The Town Administrator shall be especially fitted by education, training and experience in public or business administration to perform the duties of the office. Any vacancy in the office of Town Administrator shall be filled as soon as possible by the Select Board. Pending the appointment of a Town Administrator or the filling of a vacancy, the Select Board shall appoint a suitable person to perform the duties of the office. In the event of the temporary absence or disability of the Town Administrator, the Select Board may designate a qualified person

---

1. Editor's Note: The phrase "Board of Assessors of five members" was deleted from this subsection pursuant to a majority of the qualified voters participating in the Annual Town Election of 5-20-1997 voting to have the Board of Selectmen appoint the Town's Board of Assessors. See § 6-1 of the Code.

2. Editor's Note: Former Subsection C, Town Clerk, was repealed 10-19-2009 FYTM, Art. 8. This article also redesignated former Subsection D through Subsection K as Subsection C through Subsection J, respectively.

3. Editor's Note: Former Subsection H, Water Commission of three members, was repealed 5-4-2009 ATM, Art. 36. Article 36 also redesignated former Subsections I and J as Subsections H and I, respectively.

to serve as acting Town Administrator during such temporary absence or disability. The Town Administrator shall receive such compensation for services as the Select Board shall determine, but such compensation shall not exceed the amount appropriated therefor by the Town.

- B. General responsibilities of the Town Administrator. The Town Administrator shall be the chief administrative officer of the Town, shall act as the agent for the Select Board and shall be responsible to the Select Board for the proper operation of Town affairs for which the Town Administrator is given responsibility under this bylaw. The Town Administrator, under the authority of the Select Board, shall supervise, direct and be responsible for the efficient administration of all officers appointed by the Town Administrator and their respective departments and of all functions for which the Town Administrator is given responsibility, authority or control by act, by bylaw, by Town meeting vote or by vote of the Select Board. The Town Administrator shall have the power to delegate, authorize or direct any subordinate or employee of the Town to exercise any power, duty or responsibility which the office of Town Administrator is authorized to exercise under this bylaw. All actions that are performed under such delegation shall be deemed to be the actions of the Town Administrator.
- C. Appointment responsibilities. Except as otherwise provided by this bylaw, the Town Administrator, under the authority of the Select Board, shall appoint, based upon merit and fitness alone, a Town Accountant, a Deputy Assessor, a Treasurer/Collector, a Building Commissioner, a Superintendent of Public Works and all department heads and officers, subordinates and employees under the direct supervision of the Town Administrator, and officers, subordinates and employees for whom no other method of selection is provided in this bylaw, except employees of the School Department, Police Department and Fire Department.
- D. Personnel management responsibilities.
  - (1) The personnel management powers, duties and responsibilities of the Town Administrator shall include, but not intended to be limited to, the following:
    - (a) To administer personnel policies and any related matters for all municipal employees, by adopting appropriate practices, rules or regulations and to administer all collective bargaining agreements, except those relating to school employees, entered into by the Town.
    - (b) To fix compensation of all Town employees and officers appointed by the Town Administrator within the limits established by appropriation and any applicable compensation plan, personnel bylaw and/or collective bargaining agreements. The personnel bylaw in effect on the effective date of this bylaw shall remain in effect to the extent it is consistent with the provisions of this bylaw.
    - (c) To be responsible for the negotiation, subject to the approval of the Select Board, of all contracts with Town employees over wages and other terms and conditions of employment, except employees of the School Department. The Town Administrator may, subject to the approval of the Select Board, employ special counsel to assist in the performance of these duties.
  - (2) To assist the Town Administrator in carrying out these duties, the Select Board shall appoint a Personnel Committee which shall serve in an advisory capacity to the Town.
- E. Financial management responsibilities. The Town Administrator, with the assistance of the Town Accountant, the Treasurer/Collector and the Deputy Assessor, shall be responsible for the financial

management function of the Town, unless otherwise provided by this bylaw. Such functions shall include, but are not intended to be limited to, the following:

- (1) To prepare and submit to the Select Board and the Finance Committee after consultation with all Town departments an annual operating budget and capital improvement program for all Town departments.
- (2) To ensure that complete and full records of the financial and administrative activity of the Town are maintained and to render reports to the Select Board as may be required.
- (3) To be responsible for the purchase of all supplies, materials and equipment, except books and other educational materials for schools and books and other media materials for libraries. The Town Administrator shall serve as chief procurement office for the Town and shall approve the award of all contracts for all Town departments with the exception of the School Committee.
- (4) To keep the Select Board and the Finance Committee fully informed as to the financial condition of the Town and to make recommendations to the Select Board and to other elected and appointed officials as the Town Administrator deems necessary or expedient.
- (5) To prepare, annually, a financial forecast of Town revenues, expenditures and the general financial condition of the Town. Long-range forecasts will be provided to the Select Board when requested.

F. Administrative responsibilities. The administrative powers, duties and responsibilities of the Town Administrator shall include, but are not intended to be limited to, the following:

- (1) To attend all regular and special meetings of the Select Board, unless excused.
- (2) To attend all sessions of the Town meeting and to answer all questions addressed to the Town Administrator which are related to the warrant articles and to matters under the general supervision of the Town Administrator.
- (3) To administer either directly or through a person or persons supervised by the Town Administrator, in accordance with this bylaw, provisions of general or special laws, bylaws and other votes of the Town meeting.
- (4) To investigate or inquire into the affairs of any Town department or office under the supervision of the Town Administrator.
- (5) To coordinate activities of all Town departments, officers, boards or commissions of the Town.
- (6) To keep the Select Board fully informed as to the needs of the Town requiring action by the Town or as the Town Administrator deems necessary or expedient.
- (7) To be responsible for the efficient use, maintenance and repair of all Town facilities, except those under the jurisdiction of the School Committee, the Police Chief or the Fire Chief.
- (8) To develop and maintain a full and complete inventory of all Town-owned real and personal property.
- (9) To perform such other duties as necessary or as may be assigned by this bylaw, Town meeting vote, act or vote of the Select Board.

ARTICLE II

**Power to Reorganize**

**[Adopted 11-18-1996 FYTM, Art. 19]**

**§ 5-6. Authority of Town Administrator.**

The Town Administrator may, after due notice and public hearing, reorganize, consolidate or abolish, create, merge or divide, alter the term of office or the manner of selection of any Town department, office, agency or function under the jurisdiction of the Town Administrator. No changes undertaken under the authority of this bylaw shall violate any provision of state law.

**§ 5-7. Authority of Select Board. [Amended 11-13-2017 FYTM, Art. 13]**

The Select Board may, after due notice and public hearing, reorganize, consolidate or abolish, create, merge, reassign responsibilities and duties or divide, alter the term of office, the number of members or the manner of selection of any board, commission or committee of the Town under the jurisdiction of the Select Board. No changes undertaken under the authority of this bylaw shall violate any provision of state law.

ADMINISTRATION

§ 5-7

ARTICLE III  
**(Reserved)**

## ARTICLE IV

**Sunset Provision****[Adopted 11-18-1996 FYTM, Art. 21; amended in its entirety 11-13-2017 FYTM, Art. 13]****§ 5-8. Annual needs assessment.**

Annually during the course of the budget preparation process the Town Administrator shall consider the administrative and practical needs of all Town boards, commissions and committees. During the course of such consideration the Town Administrator shall review whether each board, commission or committee has a defined purpose or function or if there is another possible method of achieving the mission of the board, commission or committee. If the Town Administrator determines that any board, commission or committee does not appear to serve a purpose or another method of achieving the board, commission or committee's mission is desirable, the Town Administrator shall report such findings and make any recommendations deemed appropriate to the Select Board. A public hearing shall be held on any finding or recommendation made by the Town Administrator, and any action deemed necessary shall be taken in accordance with Article II of Chapter 5 of the Code of the Town of Brewster.

## ARTICLE V

**Planning Department****[Adopted 5-5-2008 ATM, Art. 16;<sup>4</sup> amended in its entirety 11-13-2017 FYTM, Art. 13]****§ 5-9. Establishment; responsibilities.**

There shall be established a Planning Department consisting of a Town Planner and an Assistant Town Planner. The Planning Department shall be charged with responsibility for the management of the planning functions of the Town as defined by the Select Board with input from the various Town boards, committees, commissions and Town officials. The Planning Department shall work under the administrative and management direction of the Town Administrator. The Planning Department shall also perform such functions and responsibilities as required by bylaw, special act, general laws or vote of the Town.

---

4. Editor's Note: This article also repealed former Art. V, Planning Department, adopted 11-18-1996 FYTM, Art. 22.





BOARDS, COMMISSIONS AND AUTHORITIES

**Chapter 6**

**BOARDS, COMMISSIONS AND AUTHORITIES**

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

GENERAL REFERENCES

Committees — See Ch. 12.

Conservation Commission — See Ch. A295.

Select Board — See Ch. 42.

Committees, boards and councils — See Ch. A296.

Planning Board — See Ch. A295.

ARTICLE I  
**Board of Assessors<sup>5</sup>**  
**[Adopted 5-20-1997 ATE<sup>6</sup>]**

**§ 6-1. Members appointed.**

The Town votes to have its Selectmen appoint its Board of Assessors.

- 
5. Editor's Note: Pursuant to Art. 8, adopted 10-19-1992 FYTM, the Town voted to disband and terminate the existence of the Subdivision Board of Appeals as established 3-7-1950 ATM, Art. 65 (former Art. I, Subdivision Board of Appeals, of this chapter) and to designate the Board of Appeals to act under and in accordance with MGL c. 41, § 81Z, as amended from time to time
6. Editor's Note: The Town voted to include this question on the Annual Town Election Ballot 5-5-1997 ATM, Art. 12. Said question was approved by a majority of the qualified voters participating in the election.

ARTICLE II

**Board of Public Works**

**[Adopted 3-3-1964 ATM, Art. 11; amended in its entirety 11-13-2017 FYTM, Art. 13]**

**§ 6-2. Powers.**

The Select Board, acting as a Board of Public Works, shall have powers with respect to furnishing of engineering services, the collection and disposal of garbage and refuse and the maintenance and repair of Town buildings and properties, including grounds, excluding school property.

ARTICLE III  
**Water Commission**  
**[Adopted 11-17-1975 STM, Art. 39]**

**§ 6-3. Authority to levy special assessments.**

The Water Commissioners are authorized to use the provisions of MGL c. 40, § 42G, H and I, for the levy of special assessments to meet the whole or part of the cost hereafter incurred of laying pipes in public and private ways for distribution of water.

ARTICLE IV  
**Recreation Commission**  
**[Adopted 5-21-1970 STM, Art. 7]**

**§ 6-4. Increase in membership; terms. [Amended 5-7-1977 ATM, Art. 43]**

The number of members on the Brewster Recreation Commission will be increased from the present three to five members, the two new members to be elected at the next annual Town election, May 15, 1978. One member shall be elected to a two-year term, and one member shall be elected to a three-year term and thereafter shall be elected to three-year terms. The succeeding year, one member will be elected; the next year, two members will be elected; and the third year, two members will be elected.

## ARTICLE V

**Golf Commission****[Adopted 6-7-1983 STM, Art. 3; amended in its entirety 11-13-2023FYTM by Art. 12]****§ 6-5. Appointment; terms.**

The Select Board shall appoint a Golf Commission of seven members to serve as the policy-making board of the Captains Golf Course. Each member shall be appointed for a staggered term of three years. Reappointment at the end of a term shall be determined by the Select Board. All vacancies shall be filled by the Select Board. The Select Board may appoint a member to serve the unexpired term of a former member. All appointments will be made in accordance with the Town Charter and relevant Select Board policies.

**§ 6-6. Purpose.**

- A. In fulfilling its responsibility to the Town of Brewster, the Select Board, and the Town Manager, the Golf Commission shall be guided by the following principles:
  - (1) The Captains Golf Course facility shall be operated as an enterprise fund in accordance with MGL c. 44, § 53F 1/2.
  - (2) The golf course shall be operated and maintained as a recreational facility available to the residents of the Town as well as to the general public.
- B. The Golf Commission, in coordination with the Town Manager, the Golf Operations Director, and the Course Superintendent, shall be responsible for establishing near- and long-term plans, policies and strategies for the golf course. The Golf Commission may provide recommendations on financial matters to the Town Manager and Select Board as appropriate. The Select Board shall vote to approve any proposed changes to fees, limitations on membership, and/or allocation of tee times. The Town Manager may consult with the Golf Commission in the preparation and development of the Golf Department's budget and capital plan.

**§ 6-7. through § 6-10. (Reserved)**

ARTICLE VI  
(Reserved)<sup>7</sup>

§ 6-11. (Reserved)

§ 6-12. (Reserved)

---

7. Editor's Note: Former Art. VI, Punkhorn Management Advisory Board, adopted 5-9-1988 ATM, Art. 70, was repealed 11-13-1989 STM, Art. 21. See now Ch. 12, Committees, Art. XII, Punkhorn Parklands Coordinating Committee.

ARTICLE VII  
**Board of Health**  
[Adopted 5-14-1990 ATM, Art. 18]

**§ 6-13. Increase in membership; terms.**

The number of members of the Board of Health will be increased from three to five members with the term of office to remain at three years for each member, except that, at the 1991 Annual Town Election, one member shall be elected for a term of one year, one member shall be elected for a term of two years and one member shall be elected for a term of three years.



ARTICLE VIII  
**Town Special Events Committee**  
**[Adopted 11-17-1997 FYTM, Art. 15]**

**§ 6-14. Creation; membership.**

- A. There is hereby created a Town Special Events Committee.
- B. This Committee shall consist of up to five members appointed by the Select Board. Two members shall be appointed for three years; two members shall be appointed for two years; one member shall be appointed for one year; and all members thereafter, unless filling the remainder of an unexpired term, shall be appointed for three years. The Select Board, for good cause, may remove members from this Committee. **[Amended 11-13-2017 FYTM, Art. 13]**

**§ 6-15. Purpose; duties. [Amended 11-13-2017 FYTM, Art. 13]**

Town Special Events Committee is hereby established to develop and execute plans and proposals for various Town special events such as anniversaries, dedications, Memorial Day observations and other like responsibilities as assigned by the Select Board.

ARTICLE IX  
(Reserved)

§ 6-16. (Reserved)

§ 6-17. (Reserved)

§ 6-18. (Reserved)

§ 6-19. (Reserved)

§ 6-20. (Reserved)

§ 6-21. (Reserved)

§ 6-22. (Reserved)

§ 6-23. (Reserved)

§ 6-24. (Reserved)

§ 6-25. (Reserved)

## ARTICLE X

**Recall Elections****[Adopted 5-1-2000 ATM, Art. 28<sup>8</sup>]****§ 6-26. Elected officers may be recalled.**

Any holder of an elected office in the Town of Brewster may be recalled therefrom by the registered voters of the Town as hereinafter provided, for reason of lack of fitness, incompetence, neglect of duties, corruption, malfeasance, misfeasance, or violation of oath.

**§ 6-27. Initiation of petition; submission; certification. [Amended 11-13-2017 FYTM, Art. 13]**

Any 25 registered voters of the Town of Brewster may initiate a recall petition by filing with the Town Clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The Town Clerk shall thereupon deliver to said voters making such affidavit copies of petition blanks demanding such recall, printed copies of which the Town Clerk shall keep available. Such blanks shall be issued by the Town Clerk, with his or her signature and official seal attached thereto. They shall be dated, shall be addressed to the Select Board, and shall contain the names of all the persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the Town Clerk. Said recall petition shall be returned and filed with the Town Clerk within 20 days after notification by the Town Clerk to the moving party that the affidavit has been certified by the Registrars of the Voters, and shall have been signed by at least 12% of the registered voters of the Town, who shall add to their signatures the street and number, if any, of their residence. The Town Clerk shall within one working day of receipt submit the petition to the Registrars of Voters in the Town, and the Registrars shall within 15 working days certify thereon the number of signatures which are names of registered voters of the Town.

**§ 6-28. Delivery to officer; order of election. [Amended 11-13-2017 FYTM, Art. 13]**

If the petition shall be found, and certified by the Town Clerk to be sufficient, he or she shall submit the same with the Town Clerk's certificate to the Select Board within three working days, and the Select Board shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than 65 and not more than 90 days after the date of the Town Clerk's certificate that a sufficient petition has been filed; provided, however, that if any other Town election is to occur within 100 days after the date of certification, the Select Board shall postpone the holding of the recall election to the date of such other election. No person shall be subject to recall if his or her term of office expires within 90 days of the certification. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

**§ 6-29. Conduct of election.**

An officer sought to be removed may be a candidate to succeed himself or herself and unless he or she requests otherwise in writing, the Town Clerk shall place his or her name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of same, shall all be in accordance with the provisions of law relating to elections.

---

8. Editor's Note: This Article took effect on 9-7-2000 when the General Court approved the petition of the Town to repeal Ch. 474, §§ 1 through 8 of the Acts of 1991, and to adopt as a general bylaw various provision for the recall of elected officials and board members.

**§ 6-30. Action upon completion of election.**

The incumbent shall continue to perform the duties of his or her office until the recall election. If then re-elected, he or she shall continue in office for the remainder of his or her unexpired term subject to recall as before, except as provided in this article. If not re-elected in the recall election, he or she shall be deemed removed upon the qualification of his or her successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his or her election, the incumbent shall thereupon be deemed removed and the office vacant.

**§ 6-31. Ballots.**

A. Ballots used in a recall election shall submit the following propositions in the order indicated:

- (1) For the recall of (name of officer).
- (2) Against the recall of (name of officer).

B. Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X) may vote for either of the said propositions. Under the propositions shall appear the word "Candidates," the directions to the voters required by MGL c. 54, § 42, and beneath this the names of candidates nominated in accordance with the provisions of law relating to election. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes on the question are in the negative, the ballots for candidates need not be counted.

**§ 6-32. Time limits on filing of petitions.**

No recall petition shall be filed against an officer within 90 days after he or she takes office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least six months after the election at which his or her recall was submitted to the voters of the Town.

**§ 6-33. Effect on holding office in future.**

No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him or her, shall be appointed to any Town office within two years after such recall or such resignation.



BREWSTER CODE

**Chapter 7**

**FESTIVALS**

**[HISTORY: Adopted: Art. I, 5-9-1988 Annual Town Meeting, Art. 28; Art. II, 10-19-1992 FYTM, Art. 15. Amendments noted where applicable.]**

ARTICLE I

**Brewster-In-Bloom**

**[Adopted 5-9-1988 ATM, Art. 28]**

**§ 7-1. Designation for official status.**

The Town voted to designate for official Town status the Board of Trade's Brewster-in-Bloom Festival.

ARTICLE II

**Christmas Prelude**

**[Adopted 10-19-1992 Fall Yearly Town Meeting, Art. 15]**

**§ 7-2. Designation for official status.**

The Town voted to designate for official Town status the Brewster Chamber of Commerce's Christmas Prelude Festival to be held in December of each year.





BREWSTER CODE

**Chapter 8**

**BYLAWS**

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

GENERAL REFERENCES

Town Meetings — See Ch. 48.

ARTICLE I

**Enforcement**

**[Adopted 1-17-1984 STM, Art. 12]**

**§ 8-1. Alternative to initiation of proceedings.**

Any bylaw of the Town of Brewster enforceable by the Police Department and a violation of which is subject to a specific penalty may, as an alternative to initiating criminal proceedings, be enforced by the Police Department by the method provided in MGL C. 40, § 21D.

ARTICLE II  
**Noncriminal Disposition**  
**[Adopted 10-21-1991 FYTM, Art. 8]**

**§ 8-2. Applicability to Board of Health rules and regulations.**

- A. Whoever violates any provision of the rules and regulations of the Board of Health may be sanctioned through the noncriminal disposition process (civil fines accruing to the Town) provided by MGL C. 40, § 21D, as amended from time to time, if the regulation or rule prescribes a specific penalty for its violation. Resort to this noncriminal disposition method shall lie within the discretion of the enforcing officer, and this noncriminal option shall exist wholly in addition to all other available enforcement alternatives.
- B. Any enforcement officer who takes cognizance of a violation of a regulation or rule subject to this noncriminal disposition procedure and who elects, as an alternative to criminal process, to proceed with noncriminal enforcement shall give the offender a written notice to appear before the Clerk of the Orleans Division of the District Court Department at any time during office hours but not later than 21 days after the date of such notice.

**§ 8-3. Rules specifically subject to noncriminal disposition process.**

The following rules and regulations are hereby made specifically subject to the noncriminal disposition process; the specific penalties listed here shall, for purposes of noncriminal disposition, apply in such cases; police shall be deemed enforcement officers for all rules and regulations listed below; and any other Town employee or officer shall be deemed to be an enforcement officer for a particular rule or regulation if so listed below:

- A. Septic systems.
  - (1) Regulation: septic system inspection/maintenance program regulation.
  - (2) Enforcement officer: Health Director; Assistant Health Director.
  - (3) Fines.
    - (a) Failure to raise manhole cover to within 12 inches of the finished grade: \$20.
    - (b) Failure to install sanitary tee(s): \$20.
    - (c) Failure to pump: \$50.
    - (d) Failure to upgrade a system which is malfunctioning or a nuisance to the public health, safety and welfare, or to quality of surface waters or groundwaters: \$200.
    - (e) Failure to replace a single cesspool: \$200.
    - (f) Failure to expose the cover of the first component of the septic system: \$20. **[Added 11-15-1993 FYTM, Art. 28]**
- B. Shellfish Department. **[Added 5-9-1994 STM, Art. 8]**
  - (1) Regulations for the taking from the flats or waters of the Town of Brewster of soft-shell clams, sea clams, mussels, quahogs, razor clams, sea worms or eels.

(2) Enforcement Officer: Shellfish Constable, Assistant Shellfish Constables.

(3) Fines.

(a) The following are punishable by a fee of: \$50:

- [1] Possession of shellfish without a shellfish permit.
- [2] Possession of shellfish during closed season.
- [3] Possession of shellfish during open season, on closed day.
- [4] Possession of shellfish in excess of the weekly limit.
- [5] Possession of scallops in excess of the weekly limit or landing scallops in other than a designated area.
- [6] Possession of more than 5% per batch of seed shellfish, such as quahogs, soft-shell clams, oysters or sea clams as defined in the Rules and Regulations.
- [7] Possession of scallops without a defined annual raised growth ring.
- [8] Taking of shellfish from the water and flats within the Town of Brewster by implements other than those known as a "long rake," "scratcher," "tong," "quahog rake," "clam rake" or "clam hoe."
- [9] Failure to cover all seed and undamaged shellfish and refill all holes.
- [10] Possession or the spearing of eels without a permit.
- [11] Transferring a shellfish permit outside the immediate family.
- [12] Digging, taking or carrying away any shellfish and sea worms between the hours of sunset and sunrise.
- [13] The collection of shellfish and sea worms for permit holders waiting on shore, unless this permit holder is disabled and has previously arranged it with the Shellfish Constable.
- [14] Bringing shellfish ashore not in its shell with the exception of sea clams.
- [15] Possession of shellfish or sea worms from an area which the Selectmen or the Shellfish Constable may designate from time to time as a closed area.
- [16] Shellfishing when the air temperature is 30° F. or -1° C. or below.
- [17] Failure to allow the Shellfish Constable or Deputy Shellfish Constable to inspect a boat or permit for any person who takes, digs or carries away any shellfish and sea worms.
- [18] Digging in grass areas.
- [19] While shellfishing in tidal areas or coastal waters, failure to produce a shellfish permit for inspection upon the request of the Shellfish Constable or any federal, state or local official authorized to enforce federal, state or local laws relating to marine fisheries.

[20] Selling shellfish taken under a family permit.

(b) The following are punishable by a fine of \$100:

[1] Taking of shellfish from an area under a shellfish grant/license.

[2] Possession of soft-shell clams, quahogs, scallops, eels or sea clams in excess of the daily commercial limit.

(c) The following are punishable by a fine of \$200:

[1] Commercial shellfishing in areas designated for family permits only.

(d) The following are punishable by a fine of \$300:

[1] Taking shellfish commercially in Brewster without a commercial permit.

C. Herring/Alewife Fishery. **[Added 5-9-1994 STM, Art. 8]**

(1) Regulations: Taking of herring/alewife from the run located at the Stoney Brook Millsites.

(2) Enforcement Officer: Alewife Committee, Shellfish Constable, Assistant Shellfish Constable and other designees as appointed by the Alewife Committee.

(3) Fines:

(a) Taking of herring/alewife without a permit: \$25.

(b) Taking of herring/alewife in excess of established limits: \$50.

(c) Taking of herring/alewife on nonauthorized days: \$25.

(d) Taking of herring/alewife from undesignated areas: \$25.



BREWSTER CODE

**Chapter 9**

**CEMETERY, TOWN**

**[HISTORY: Adopted 3-6-1967 Annual Town Meeting, Art. 44. Amendments noted where applicable.]**

**§ 9-1. Authority to make layout.**

The town authorizes the Selectmen to make a layout of the Town Cemetery, including roads, lots and footpaths, and raises and appropriates the sum of \$500 for this purpose and also prohibits the sale of lots until a proper price can be established at the next Annual Town Meeting.



**Chapter 10****CIVIL DEFENSE**

**[HISTORY: Adopted 3-6-1951 Annual Town Meeting, Art. 22. Amendments noted where applicable.]**

**§ 10-1. Department established.**

There is hereby established a Department of Civil Defense, hereinafter called the "Department."

**§ 10-2. Function of Department.**

It shall be the function of the Department to have charge of all civil defense as defined in Section 1, Chapter 639, Acts of 1950, and to perform all civil defense functions as authorized or directed by said chapter or by any and all executive orders or general regulations promulgated thereunder, and to exercise any authority delegated to it by the Governor under said Chapter 639.

**§ 10-3. Director.**

The Department shall be under the direction of a Director of Civil Defense, hereinafter called the "Director," who shall be appointed as prescribed by law.

**§ 10-4. Director's responsibilities; compensation.**

- A. The Director shall have direct responsibility for the organization, administration and operation of the Department, subject to the direction and control of the appointing authority.
- B. The Director may, within the limits of the amount appropriated therefor, appoint such clerks, experts and other assistants as the work of the Department may require, and may remove them.
- C. The Director may receive such salary as may be fixed from time to time by the appointing authority and may make such expenditures as may be necessary to execute effectively the purpose of Chapter 639 of the Acts of 1950.
- D. The Director shall also have authority to appoint district coordinators and may accept and receive, on behalf of the Town, services, equipment, supplies, materials or funds by way of gifts, grant or loan, for the purposes of civil defense, offered by the federal government or any agency or officer thereof or any person, firm or corporation, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.
- E. The Director shall cause appropriate records to be kept of all matters relating to such gifts, grants or loans.

**§ 10-5. Advisory Council established.**

There is hereby established a Civil Defense Advisory Council, hereinafter called the "Council"; said Council shall service without pay and shall consist of the Director of Civil Defense, such other department heads and such other persons as the authority appointing the Director may deem necessary. Such member of said Council as said appointing authority shall designate shall serve as Chairman of said Council. Said Council shall serve subject to the direction and control of the appointing authority and the Director on matters pertaining to civil defense.

**§ 10-6. Police aid to other municipalities.**

The Police Department is hereby authorized to go to aid another city or Town at the request of said city or Town in the suppression of riots or other forms of violence therein.

**§ 10-7. Termination of provisions.**

This chapter shall remain in full force and virtue during the effective period of Chapter 639, Acts of 1950, and any act in amendment or continuation or substitution thereof.

**§ 10-8. Statutory provisions.**

All reference to Chapter 639, Acts of 1950, as now in force, shall be applicable to any act or acts in amendment of or continuation of or substitution for said Chapter 639.

## COMMITTEES

### Chapter 12

## COMMITTEES

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

### GENERAL REFERENCES

**Boards, Commissions and Authorities — See Ch. 6.**

**Committees, Boards and Councils — See Ch. A296.**

ARTICLE I  
**Finance Committee**  
**[Adopted 4-26-1929 STM]**

**§ 12-1. Establishment; membership. [Amended 6-24-1974 STM, Art. 4; 5-14-1979 STM, Art. 15; 5-9-1983 STM, Art. 37]**

There shall be a Finance Committee consisting of nine members, who are residents of the Town and who shall hold no other Town office. All members of the Finance Committee shall be appointed by the Moderator for the term of three years. The Town Moderator shall annually appoint three members for a term of three years. All appointments by the Moderator shall begin on July 1 and shall terminate on June 30 of the third year following appointment, except vacancies in existing offices, which may be appointed by the Moderator for the original term.

**§ 12-2. Duties.**

It shall be the duty of this Committee to consider all matters of business included within the articles of any warrant for a Town Meeting, and it shall be the duty of the Selectmen, immediately upon drawing up a warrant for Town Meeting, to transmit a copy thereof to the Finance Committee. The Committee shall report on each article to the Town Meeting, in print or otherwise as it deems for the best interest of the Town.

**§ 12-3. Authority to investigate accounts.**

The Finance Committee shall have authority at any time to investigate the books, accounts and management of any department of the Town, and the books and accounts of the Town shall be open to inspection of the Committee or any person authorized to act for the Committee.

**§ 12-4. Compensation.**

The members of the Finance Committee shall serve without pay for their services but may be reimbursed for actual expenses incurred in the discharge of their duties thereunder.

**§ 12-5. Filling of vacancies. [Amended 5-6-1996 ATM, Art. 18]**

Any vacancy which may occur in said Committee shall be filled by the Town Moderator.

**§ 12-6. Existing appointments.**

All existing appointments shall remain in effect until their normal expiration date.

ARTICLE II  
**Alewife Committee**  
[Adopted 3-2-1965 ATM, Art. 2]

**§ 12-7. Appointment authorized.**

The Selectmen are authorized to appoint the Alewife Committee to consist of three members.

ARTICLE III  
**School Committee**  
**[Adopted 3-3-1969 ATM, Art. 36]**

**§ 12-8. Authority to designate attorney.**

The Town authorizes the School Committee, in accordance with MGL c. 149, § 1781, as amended by Chapter 633 of the Acts of 1968, to designate an attorney as a representative of the School Committee for the purpose of bargaining with employee organizations for school employees or taking any other action relating to the same.

§ 12-9

COMMITTEES

§ 12-11

ARTICLE IV  
(Reserved)<sup>9</sup>

§ 12-9. (Reserved)

§ 12-10. (Reserved)

§ 12-11. (Reserved)

---

9. Editor's Note: Former Art. IV, Economic Development Committee, adopted 5-7-1977 STM, Art. 9, was repealed 5-13-1991 ATM, Art. 33.

§ 12-12

COMMITTEES

§ 12-13

ARTICLE V  
(Reserved)<sup>10</sup>

§ 12-12. (Reserved)

§ 12-13. (Reserved)

---

10. Editor's Note: Former Art. V, Streetlighting Committee, adopted 12-10-1979 STM, Art. 26, was repealed 5-1-2017 ATM, Art. 25.



ARTICLE VI  
(Reserved)<sup>11</sup>

§ 12-14. (Reserved)

---

11. Editor's Note: Former Art. VI, Data Processing Advisory Committee, adopted 1-6-1983 STM, Art. 10, was repealed 5-1-2017 ATM, Art. 26.

ARTICLE VII  
(Reserved)<sup>12</sup>

§ 12-15. (Reserved)

---

12. Editor's Note: Former Art. VII, Town Audit Committee, adopted 5-9-1983 ATM, Art. 40, was repealed 5-13-1991 ATM, Art. 33.

ARTICLE VIII  
**The Egg Committee**  
**[Adopted 5-14-1984 STM, Art. 1]**

**§ 12-16. Establishment authorized; duties. [Amended 11-13-2017 FYTM, Art. 13]**

The Select Board is authorized to establish a permanent Committee of three members to be known as "The Egg Committee," for future recommendations to the Select Board as the Board of Public Works, for care and maintenance of the park known as "The Egg."

**§ 12-17. Manner of funding.**

This Committee will not be funded through Town funds.

§ 12-18

COMMITTEES

§ 12-19

ARTICLE IX  
(Reserved)<sup>13</sup>

§ 12-18. (Reserved)

§ 12-19. (Reserved)

---

13. Editor's Note: Former Art. IX, Land Acquisition Committee, adopted 5-14-1984 ATM, Art. 117, as amended, was repealed 10-19-1992 FYTM, Art. 9.

## ARTICLE X

**Audit Committee<sup>14</sup>****[Adopted 11-18-2019FYTM, Art. 8]****§ 12-20. Membership; Terms.**

- A. There shall be an Audit Committee consisting of five members, two to be appointed by the Select Board, two to be appointed by the Finance Committee, and one to be appointed by the Moderator. No member of the Audit Committee shall be a compensated Town employee, other than a person holding a position designated by the Select Board as a "special municipal employee" for purposes of the Conflict of Interest Law. Notwithstanding the provisions of § 12-1 of the General Bylaws, a Finance Committee member may serve as a member of the Audit Committee. The appointing authorities shall seek to appoint persons to the Audit Committee with professional experience in accounting, finance, law, or business management. The Town Administrator and the Finance Director shall serve as ex officio, nonvoting members of the Committee, and shall not count toward the quorum.
- B. Appointments to the Audit Committee shall be for three-year rotating terms, with initial appointments as follows: the Select Board and the Finance Committee shall each appoint one person for terms to end on June 30, 2020, and one person for terms to end on June 30, 2021; the Moderator shall appoint one person for a term to end June 30, 2022.

**§ 12-21. Duties.**

- A. The Audit Committee shall solicit, interview, and recommend to the Chief Procurement Officer a firm or firms of independent auditor(s) that the Audit Committee has determined are best qualified to provide audit services and report on the financial statements issued by the Town. The Audit Committee shall review the audit plan with the independent auditor(s) and, upon completion of the audit, meet with the independent auditor(s) to review the results of the audit, including the annual financial reports, management letters and similar communications, the Town's response, and recommendation for any corrective actions. The Audit Committee shall, following receipt, transmit a copy of the completed audit, including management letters and related communications, to the Finance Committee and the Board of Selectman by the end of the calendar year within the Fiscal Year covered by the audit.
- B. Notwithstanding the duties listed in this section, the recommendations of the Audit Committee will not replace, constrain, nor infringe upon the duties of the Chief Procurement Officer as prescribed under the provisions of the Town of Brewster General Bylaw.

**§ 12-22. (Reserved)****§ 12-23. (Reserved)**

---

14. Editor's Note: Former Art. X, New Elementary School Building Committee, adopted 5-9-1988 ATM, Art. 91, as amended, was repealed 5-3-1999 ATM, Art. 17. Prior to this, Art. X, Elementary School Committee, adopted 5-12-1986 ATM, Art. 28, as amended, had been repealed 5-13-1991 ATM, Art. 33.

## ARTICLE XI

**Capital Planning Committee****[Adopted 5-12-1986 ATM, Art. 64; amended in its entirety 5-14-1990 ATM, Art. 15]****§ 12-24. Creation; membership; terms. [Amended 11-13-2017 FYTM, Art. 13]**

The Capital Planning Committee, which will be a five-member Committee, consisting of three citizens appointed by the Select Board for three-year staggered terms, the Town Treasurer and the Executive Secretary, with the Town Accountant serving as an alternate to either the Town Treasurer or the Executive Secretary, is created.

**§ 12-25. Purpose; contents of plan; submission to Select Board; hearing.**

- A. The purpose of the Committee will be as follows: to prepare a five-year capital expenditures plan, identifying proposed capital outlays or acquisitions in excess of \$10,000 for any one project, whether it be spent in one year or over several years.
- B. Contents of plan.
  - (1) The plan shall include all Town activities and departments. Proposed capital expenditures for regional entities shall be consistent with the regional or intermunicipal agreement establishing such entities.
  - (2) The plan shall include a list, by department, of all proposed capital improvements to be undertaken during the next five fiscal years and shall include cost estimates, methods of financing and time schedules. This information shall be revised and extended on an annual basis.
  - (3) The plan shall identify capital expenditures estimated to cost \$100,000 or greater, and those expenditures shall be included on the "Report of the Selectmen on the Capital Expenditures Plan" to be included in every Annual Town Meeting Warrant per the provisions of Subsection D(2) herein. **[Added 5-7-2012 ATM, Art. 20]**
  - (4) Projects funded through an enterprise fund, betterment or the Community Preservation Act shall not be included in the five-year Capital Expenditures Plan identified in Subsection A herein, nor in the Report of the Selectmen on the Capital Expenditures Plan identified in Subsection B(3) and D(2) herein. **[Added 5-7-2012 ATM, Art. 20]**
- C. Submission to Select Board. **[Amended 11-20-1995 FYTM, Art. 6; 5-7-2012 ATM, Art. 20; 11-13-2017 FYTM, Art. 13]**
  - (1) The capital expenditures plan shall be submitted to the Select Board by January 31 of each year. The Select Board shall act thereon within 30 days and shall then submit it to the Finance Committee, who shall issue its recommendations as part of the annual Finance Committee report.
  - (2) The Select Board shall hold an advertised public hearing on said plan and shall make copies of the plan available for the public inspection.
  - (3) Should a Board, Committee or Department fail to submit a capital project request by October 1, it will be required to secure a waiver from the Select Board prior to seeking funding from Town Meeting. A vote of the Select Board to include such capital project requests on the warrant for

a Town Meeting shall constitute a waiver for purposes of this section.

D. Submission to Town Meeting. [**Added 11-21-1994 FYTM, Art. 41; amended 5-7-2012 ATM, Art. 20; 11-13-2017 FYTM, Art. 13**]

- (1) The Select Board shall prepare and submit to Town Meeting a single article in which all proposed capital expenditures may be consolidated. The article shall include a breakdown by department and requested items and shall summarize specific expenses for each capital request.
- (2) The Select Board shall prepare and submit to every Annual Town Meeting a "Report of the Selectmen on the Capital Expenditures Plan," identifying all proposed capital expenditures for the next five years estimated to cost \$100,000 or more, and including the year in which it is anticipated to be expended, the amount and its anticipated source of funding.

**§ 12-26. (Reserved)**

**§ 12-27. (Reserved)**

**§ 12-28. (Reserved)**

**§ 12-29. (Reserved)**

**§ 12-30. (Reserved)**

**§ 12-31. (Reserved)**

§ 12-32

COMMITTEES

§ 12-33

ARTICLE XII  
(Reserved)<sup>15</sup>

§ 12-32. (Reserved)

§ 12-33. (Reserved)

---

15. Editor's Note: Former Art. XII, Punkhorn Parklands Coordinating Committee, adopted 11-13-1989 STM, Art. 21, was repealed 11-20-1995 FYTM, Art. 11.



§ 12-34

COMMITTEES

§ 12-35

ARTICLE XIII  
(Reserved)<sup>16</sup>

§ 12-34. (Reserved)

§ 12-35. (Reserved)

---

16. Editor's Note: Former Art. XIII, Septic Upgrade Betterment Reserved for Appropriation Account Committee, adopted 10-15-1990 STM, Art. 12, was repealed 11-20-1995 FYTM, Art. 11.

ARTICLE XIV

**Stoney Brook Mill Sites Committee<sup>17</sup>**

**[Adopted 5-13-1991 ATM, Art. 35; amended in its entirety 11-13-2017 FYTM, Art. 13]**

**§ 12-36. Appointment; terms.**

The Stoney Brook Mill Sites Committee shall consist of seven members, who shall be appointed by the Select Board for three-year overlapping terms.

---

**17. Editor's Note: The Stoney Brook Mill Sites Committee was originally adopted as Art. XII but redesignated as Art. XIV to retain the numerical order of the articles in the chapter.**

ARTICLE XV  
(Reserved)<sup>18</sup>

§ 12-37. (Reserved)

---

18. Editor's Note: Former Art. XV, Building and Needs Assessment Committee, adopted 11-20-1995 FYTM by Art. 7, as amended, was repealed 5-1-2023ATM by Art. 23.

ARTICLE XVI  
**Agricultural Commission**  
**[Adopted 5-2-2005 ATM, Art. 24]**

**§ 12-38. Membership. [Amended 11-13-2017 FYTM, Art. 13]**

There is hereby appointed a Agricultural Commission, consisting of seven members. The Commission members shall be appointed by the Select Board for a term of three years; provided, however, that the initial appointments shall be staggered so that three members shall be initially appointed for a three-year term, two members shall be initially appointed for a two-year term, and the remaining two members shall be initially appointed for a one-year term; thereafter, all members shall be appointed for three-year terms. Any member of the Commission may be removed by the Select Board, with prior notice to the member and a hearing, for good cause.

**§ 12-39. Development of work plan.**

To guide its activities, the Commission shall develop a work plan which may include its service as a facilitator to encourage the pursuit of agriculture in Brewster, its promotion of agriculturally based economic opportunities within the Town, its education of other Town boards, committees and departments about farming related issues, its efforts to preserve the agricultural lands currently owned by the Town, its pursuit of initiatives for the creation of a sustainable, agricultural community.



BREWSTER CODE

**Chapter 15**

**COUNCIL ON AGING**

**[HISTORY: Adopted 5-14-1974 Annual Town Meeting, Art. 91. Amendments noted where applicable.]**

**§ 15-1. Appointment of members; terms; compensation.**

The Selectmen shall appoint the members of the Council on Aging consisting of seven members. Three members shall be appointed for three years, two members for two years and two members for one year. Members may be appointed for concurrent terms. Members shall serve without pay.

**§ 15-2. Filling of vacancies.**

Whenever a vacancy shall occur in the membership of the Council, by reason of death, resignation, inability to act or for any other reason, the vacancy shall be filled by appointment by the Selectmen for the period of the unexpired term.

**§ 15-3. Appointment of officers.**

The Council on Aging shall, as soon as possible after the members are appointed, and annually thereafter, at its first meeting after the Annual Town Meeting, elect from its membership a Chairman, a Vice Chairman, a Secretary and a Treasurer. Each officer shall hold office until the next Annual Town Meeting. In the event that a vacancy occurs in any of these offices, the Council shall elect one of its members to fill the vacancy.

HEALTH AND HUMAN SERVICES COMMITTEE

**Chapter 16**

**HEALTH AND HUMAN SERVICES COMMITTEE**

**[HISTORY: Adopted 5-5-1997 Annual Town Meeting, Art. 23. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Board of Health — See Ch. 6, Art. VII.**

---

**§ 16-1. Creation; membership. [Amended 11-13-2017 FYTM, Art. 13]**

There is hereby created a Health and Human Services Committee. This Committee shall consist of up to nine members appointed by the Select Board. Three members shall be appointed for one year; three members shall be appointed for two years; three members shall be appointed for three years; and all members thereafter, unless filling the remainder of an unexpired term, shall be appointed for three years. The Select Board, for good cause, may remove members from this Committee.

**§ 16-2. Purpose; powers and duties.**

The Health and Human Services Committee is established to enhance the quality of life of all Brewster residents by ensuring a range of health and human services in an effective and cost-efficient manner. This Committee shall evaluate and assess the health and human service needs of the Town, shall review and weigh requests for financial assistance, shall set priorities and shall submit recommendations concerning the funding of those agencies and organizations best able to provide needed services to the Town.

**Chapter 17****COMMUNITY PRESERVATION COMMITTEE**

**[HISTORY: Adopted by the 11-15-2004 Fall Yearly Town Meeting, Art. 13. Amendments noted where applicable.]**

**§ 17-1. Membership; terms. [Amended 5-7-2012 ATM, Art. 36; 11-13-2017 FYTM, Art. 13; 11-14-2022FYTM , Art. 5]**

There is hereby established a Community Preservation Committee, consisting of nine voting members pursuant to the provisions of Section 298 of Chapter 149 of the Acts of 2004, as amended by Sections 129 through 133 of Chapter 352 of the Acts of 2004. The composition of the Committee, the appointing authority and the term of office for the Committee members shall be as follows; one member of the Conservation Commission, as designated by said Commission; one member of the Historical Commission, as designated by said Commission; one member of the Planning Board, designated by the said Board; one member of the Recreation Commission, as designated by the Commission; one member of the Brewster Housing Authority, as designated by said Authority; and four individuals to be appointed by the Select Board. Each member of the Committee shall serve a term of three years or until the person no longer serves in the position or on the board or on the Committee as set forth above, whichever is earlier; provided, however, that the initial appointments shall be staggered so that the members designated by the Conservation Commission, the Housing Authority and the Historical Commission shall each be initially appointed for a three-year term, the members designated by the Planning Board and Recreation Commission, and one of the members appointed by the Select Board, shall each be initially appointed for a two-year term, and the remaining three members appointed by the Select Board shall be initially appointed for a one-year term; thereafter, all members shall be appointed for three-year terms. Should any of the officers and commissions, boards or committees who have appointing authority under this chapter be no longer in existence for whatever reason, the Select Board shall appoint a suitable person to serve in their place. Any member of the Committee may be removed by the Selectmen, with prior notice to the member and a hearing, for good cause.

**§ 17-2. Duties. [Amended 11-14-2022FYTM, Art. 5]**

- A. Annually, the Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including the Conservation Commission, the Recreation Commission, the Historical Commission, the Planning Board, and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearings, at its discretion, on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town.
- B. Every five years ending in 2 and 7:
  - (1) The Committee shall conduct a public process to develop a Community Preservation Plan ("CPP") establishing goals for expenditures in each of the eligible categories. The CPP shall include a Target Allocation Policy ("TAP") setting forth non-binding guidelines for the next five years for the allocation of CPA funds amongst eligible expenditure categories, expressed as percentages of estimated annual revenues.



§ 17-2

COMMUNITY PRESERVATION COMMITTEE

- (2) Following adoption of the CPP under Section B(1), the non-binding TAP contained therein shall be presented to Town Meeting as a proposed amendment to § 17-4B of this bylaw.

**§ 17-3. Recommendations to Town Meeting. [Amended 11-14-2022FYTM, Art. 5]**

The Community Preservation Committee shall make recommendations no less than annually to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section.

**§ 17-4. Recommendations for spending. [Amended 11-14-2022FYTM, Art. 5]**

- A. Annual Minimum Recommendations. As required by MGL c. 44B § 6, in every fiscal year, the Community Preservation Committee shall recommend that Town Meeting spend, or set aside for future spending, the fixed figure of 10% of CPA estimated annual revenues in the Community Preservation Fund for open space and recreation purposes, not less than 10% of CPA estimated annual revenues for community housing purposes, and not less than 10% of CPA estimated annual revenues for historic resources purposes.
- B. For the fiscal years FY24 through FY27, and until otherwise voted by Town Meeting, the non-binding TAP shall be as follows: 30% open space; 30% community housing; 10% recreation; 10% historic preservation, and 20% to be allocated as recommended by the CPC. Actual CPC recommendations may vary from the non-binding percentages set forth in the TAP.

**§ 17-5. (Reserved)<sup>19</sup>**

**§ 17-6. Severability.**

It is hereby declared that the provisions of Chapter 17, §§ 17-1 through 17-5, are severable, and if any provision hereof or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions hereof or applications thereof which can be given effect without the invalid provision or application.

---

19. Editor's Note: Former § 17-5, When effective, was repealed 11-14-2022FYTM, Art. 5.

**Chapter 18****AFFORDABLE HOUSING TRUST FUND**

**[HISTORY: Adopted 5-7-2018STM by Art. 7. Amendments noted where applicable.]**

**§ 18-1. Name of the Trust.**

The Trust shall be called the "Brewster Affordable Housing Trust," herein referred to as the "Trust."

**§ 18-2. Purpose. [Amended 11-18-2024FYTM by Art. 8]**

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Brewster for the benefit of low and moderate income households and for the funding of community housing as defined in and in accordance with the provisions of Massachusetts General Laws, Chapter 44B ("Chapter 44B"). The Trust shall use such property, both real and personal, and shall dispense such funds in such manner as the Board of Trustees shall deem most appropriate to carry out such purpose consistent with the policies adopted from time to time by the Select Board regarding affordable housing. The Trust shall be governed by a Board of Trustees in accordance with General Laws Chapter 44, Section 55C ("Section 55C"), as revised from time to time, and the authority granted by Town Meeting.

**§ 18-3. Board of Trustees. [Amended 5-6-2019ATM, Art. 16; 11-18-2024FYTM by Art. 8]**

- A. There shall be a seven-member Board of Trustees (the "Board") appointed by the Select Board from amongst the residents of the Town (except that the Town Manager or a staff member selected as his or her designee shall not be required to be Town residents). The members of the Board shall be comprised of as follows:
- (1) One member of the Select Board;
  - (2) One member of the Brewster Housing Partnership;
  - (3) One member of the Community Preservation Committee;
  - (4) One member of the Planning Board;
  - (5) Two residents at large; and
  - (6) The Town Manager, a staff member or a resident (nonstaff member) selected by the Town Manager as the Manager's designee.
- B. Trustees shall serve for a term not to exceed two years, with the initial terms of the Trustees staggered such that Trustees who are members of the Select Board, the Brewster Housing Partnership, the Community Preservation Committee, and the Planning Board, shall serve for a term of one year, and thereafter for two years. Trustees who are appointed as representatives of boards or committees shall serve for two-year terms or until they no longer serve on such board or committee, whichever is shorter. The Town Manager shall serve by virtue of the office. To the extent possible, the Select Board shall appoint as Trustees individuals with background or interest in affordable housing, and specifically those with financial, legal or development expertise, or experience and perspective on housing preservation. Any Trustee (other than the Town Manager or staff person acting as the Town Manager's designee) who ceases to be a resident of the Town of Brewster shall vacate the office. Any Trustee may resign by filing with the Town Clerk written notice thereof.

- C. Any vacancy in the office of Trustee shall be filled by appointment of the Select Board, notice of which shall be filed with the Town Clerk. The title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees.
- D. Trustees may be removed by the Select Board at any time for cause following the opportunity for a hearing. For purposes of this bylaw, the term "cause" shall include, but not be limited to, violation of any local, state, or federal law; incapacity to perform the duties of a Trustee; and acts of a Trustee, that in the opinion of the Select Board, are negligent or detrimental to the Town of Brewster or the Trust; and four consecutive absences from Board of Trustees meetings. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.
- E. The Trustees shall annually elect a Trustee to serve as Chair. The Chair may establish sub-committees and/or ad hoc task-related committees to carry out the purposes of the Trust. Chairs of the sub-committees may be selected by the members of the sub-committees.

#### **§ 18-4. Meetings of the Trust.**

The Board shall meet at least quarterly in the Town of Brewster at such time and at such place as the Trustees shall determine. Special meetings may be called by the Chair or by a majority of Trustees. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, General Laws Chapter 30A, Sections 18-25. While a majority of the full Board of Trustees shall constitute a quorum for the transaction of any business of the Board of Trustees, less than a quorum may, subject to the requirements of the Open Meeting Law, continue a meeting to a time, date and place certain.

#### **§ 18-5. Powers of the Board. [Amended 11-18-2024FYTM by Art. 8]**

The powers and duties of the Board shall include the following, all of which shall be carried on in furtherance of the purposes and in compliance with the terms set forth in Section 55C of Chapter 44 of the General Laws:

- A. To accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the Trust in connection with any by-law or any general or special law or any other source, including money appropriated pursuant to the Community Preservation Act, Chapter 44B of the Massachusetts General Laws; provided, however, that any Community Preservation Act monies received shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the Trust, and such funds shall be accounted for separately by the Trust; and provided further, that no later than July 15 of any calendar year, the Trust shall ensure that all expenditures of funds received from said Chapter 44B are reported to the Community Preservation Committee for inclusion in the year end reporting to the Massachusetts Department of Revenue;
- B. To purchase and retain real or personal property, including, without restriction, investments that yield a high rate of income or no income; provided that any expenditure of funds in excess of \$250,000 to purchase real or personal property shall first be approved by the Select Board;
- C. To sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the Board deems advisable notwithstanding the length of any such lease or contract; provided that any sale, lease, exchange,

transfer or conveyance of any property having a value in excess of \$250,000 shall first be approved by the Select Board;

- D. To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;
- E. To employ advisors and agents, such as accountants, appraisers and lawyers as the Board deems necessary;
- F. To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;
- G. To apportion receipts and charges between incomes and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- H. To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- I. To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;
- J. To carry property for accounting purposes other than acquisition date values;
- K. To borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge trust assets as collateral, provided that any borrowing of funds in excess of \$250,000 shall first be approved by the Select Board;
- L. To make distributions or divisions of principal in kind;
- M. To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of Section 55C, to continue to hold the same for such period of time as the Board may deem appropriate;
- N. To manage or improve real property; and to abandon any property which the Board determined not to be worth retaining;
- O. To hold all or part of the Trust property uninvested for such purposes and for such time as the Board may deem appropriate; and
- P. To extend the time for payment of any obligation to the Trust;
- Q. To issue policy goals and statements to serve as guidelines for the Trust;
- R. To provide funds for the benefit of low and moderate income households to assist in the acquisition, creation, preservation, rehabilitation and support of housing affordable for such families; and

- S. To exercise such additional powers, if any, as may be set forth in MGL c. 44, § 55C, as it may be amended from time to time.

**§ 18-6. Acts of Trustees. [Amended 11-18-2024FYTM by Art. 8]**

- A. Except as otherwise provided, any action of the Board of Trustees shall be approved by a majority of those present and voting at a duly called meeting provided that a quorum is present, and any and all instruments executed by such majority shall be binding upon the Trust, and shall be conclusive evidence that such action has been duly authorized. The Trustees may, by instrument executed by all the Trustees, delegate to any attorney, agent or employee such other powers and duties as they deem advisable, including power to execute and deliver instruments as fully as the Trustees might themselves and to sign and endorse checks for the account of the Trustees of the Trust. The Trustees shall not delegate the authority to amend or terminate the Trust and no such delegation shall be effective. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust estate. No one dealing with the Trustees need inquire concerning the validity of any act of the Trustees or see to the application of anything paid to or upon the order of the Trustees. No Trustee shall be liable for the act, negligence or default of any other Trustee or any employee, agent, or representative of the Trustees selected with reasonable care, nor for errors in judgment, nor mistakes of law or fact made in good faith nor in reliance in good faith on advice of counsel nor for other acts or omissions in good faith.
- B. In exercising these powers, the Trustees shall recognize the role of the Select Board or its designee as the principal procurement officer under MGL c. 30B, including the bidding and awarding of all contracts. Where an act of the Trustees requires prior written notice to the Select Board, notice shall be deemed given when addressed to the Select Board.

**§ 18-7. Status of Trust and Board of Trustees.**

The Trust is a public employer and the members of the Board are public employees for purposes of General Laws Chapter 258. The Trust shall be deemed a municipal agency and the members of the Board of Trustees special municipal employees for purposes of General Laws Chapter 268A, the Conflict of Interest Law. The Trust is a governmental body for purposes of Massachusetts General Laws Chapter 30A, Sections 18-25, the Open Meeting Law. The Trust is also a board of the Town for purposes of General Laws Chapter 30B, the Uniform Procurement Act, and General Laws Chapter 40, Section 15; provided, however, that agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the Town shall be exempt from said Chapter 30B. Notwithstanding the foregoing, neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town.

**§ 18-8. Custodian of funds. [Amended 11-18-2024FYTM by Art. 8]**

The Town Treasurer shall be the custodian of the Trust's funds and shall maintain separate accounts and records for said funds. The Treasurer shall invest the Trust's funds in the manner authorized by MGL c. 44, § 55B. Any income or proceeds received from the investment of unrestricted funds shall be credited to and become part of the Trust. The yearly approved budget, and any approved budget revisions, will be filed with the Town Treasurer. As custodian, the Treasurer shall issue checks or transfer monies as directed by the Trustees and approved by the Select Board. In addition to the requirements of MGL c. 44, § 55C, the Trust shall comply with all requirements, if any, of all the funds deposited into the Trust, and shall ensure that restricted funds, and any interest thereon, are appropriately segregated and reported. The books

and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices. Cost associated with the independent audit shall be borne by the Trust. Upon receipt of the audit by the Board of Trustees, a copy shall be provided forthwith to the Select Board.

#### **§ 18-9. Funds paid to the Trust.**

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning by-law, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the Board within one year of the date they were appropriated into the Trust, remain Trust property.

#### **§ 18-10. Taxes.**

The Trust is exempt from General Laws Chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.

#### **§ 18-11. Duration of the Trust. [Amended 11-18-2024FYTM by Art. 8]**

This Trust shall continue until terminated by a vote of the Brewster Town Meeting. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Select Board for affordable housing purposes except that any net funds generated pursuant to MGL c. 44B which shall be returned to the CPA Fund for community housing. In making any such distribution, the Trustees shall, subject to the approval of the Select Board, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind to the Select Board. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

#### **§ 18-12. Compensation of Trustees.**

Trustees shall not receive a salary, stipend, bonus or other means of compensation for their service as a Trustee, nor shall they be eligible for any benefits from the Town of Brewster. Trustees may be compensated for reasonable out-of-pocket expenses for travel and other Trust-related expenses. All such out-of-pocket expenses shall be fully documented with receipts for expenses prior to payment by the Trust.

#### **§ 18-13. Annual report. [Amended 11-18-2024FYTM by Art. 8]**

The Trustees shall prepare an annual report describing the activities of the Trust on a calendar year basis. The annual report shall be submitted to the Brewster Select Board by December 31st of each year and will be included in the Town's Annual Report. The annual report shall list all financial transactions conducted by the Trust including all revenues and costs, provide a balance sheet of liabilities and assets of the Trust, list an inventory of all affordable housing units created, sold, and/or managed by the Trust, and any other pertinent information related to the business of the Trust.

#### **§ 18-14. Recording; amendments. [Amended 11-18-2024FYTM by Art. 8]**

The Trustees are hereby authorized to execute a Declaration of Trust and Certificate of Trust for the Trust, to be recorded with the Barnstable Registry of Deeds and the Barnstable Registry District of the Land Court, as applicable. The Declaration of Trust may be amended from time to time except as to those

§ 18-14

AFFORDABLE HOUSING TRUST FUND

provisions specifically required under MGL c. 44, § 55C and/or this bylaw, by an instrument in writing signed by a majority of the Trustees and approved at a meeting called for that purpose, and approved by the Select Board.

**§ 18-15. Titles.**

The titles to the various Sections herein are for convenience only and are not to be considered part of said Sections nor shall they affect the meaning or the language of any such Section.

BREWSTER CODE

**Chapter 20**

**FEES**

**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**



ARTICLE I  
**Clerk's Fees**  
**[Adopted 5-11-1981 STM, Art. 31]**

**§ 20-1. Enumeration of fees.**

A. MGL c. 262, § 34. [Amended 10-17-1988 STM, Art. 30; 11-13-2006 FYTM, Art. 13]

	<b>Statutory Provisions</b>	<b>Clerk's Fees</b>
(1)	For filing and indexing assignment for the benefit of creditors	\$10.00
(11)	For entering amendment of a record of the birth of a child born out of wedlock subsequently legitimized	\$10.00
(12)	For correcting errors in a record of birth	\$10.00
(13)	For furnishing certificate of a birth	\$10.00
(13A)	For furnishing an abstract copy of a record of birth	\$4.00
(14)	For entering delayed record of birth	\$20.00
(20)	For filing certificate of a person conducting business under any title other than his real name	\$30.00
(21)	For filing by a person conducting business under any title, other than his real name, of statement of change of his residence or of his discontinuance, retirement or withdrawal from, or of, a change of location of such business	\$15.00

	<b>Statutory Provisions</b>	<b>Clerk's Fees</b>
(22)	For furnishing certified copy of certificate of person conducting business under any title other than his real name or a statement by such person of his discontinuance, retirement or withdrawal from such business	\$5.00
(24)	For recording the name and address, the date and number of the certificate issued to a person registered for the practice of podiatry in the commonwealth	\$20.00
(29)	For correcting errors in a record of death	\$10.00
(30)	For furnishing a certificate of death	\$10.00
(30A)	For furnishing an abstract copy of a record of death	\$4.00
(42)	For entering notice of intention of marriage and issuing certificates thereof	\$25.00
(43)	For entering certificate of marriage filed by persons married out of the commonwealth	\$5.00
(44)	For issuing certificate of marriage	\$10.00
(44A)	For furnishing an abstract copy of a record of marriage	\$4.00
(45)	For correcting errors in a record of marriage	\$10.00
(54)	For recording power of attorney	\$20.00

	<b>Statutory Provisions</b>	<b>Clerk's Fees</b>
(57)	For recording certificate of registration granted to a person to engage in the practice of optometry or issuing a certified copy thereof	\$20.00
(58)	For recording the name of the owner of a certificate of registration as a physician or osteopath in the commonwealth	\$20.00
(62)	For recording order granting locations of poles, piers, abutments or conduits, alterations or transfers thereof, and increase in number of wires and cable or attachments under the provisions of Section 22 of Chapter 166	\$40.00
	Each additional company	\$5.00
	Each additional street	\$25.00
(66)	For examining records or papers relating to birth, marriage or death upon the application of any person: the actual expense thereof, but not less than	\$10.00
(67)	For copying any manuscript or record pertaining to a birth, marriage or death, per page	\$5.00
(69)	For receiving and filing of a complete inventory of all items to be included in a closing out sale, etc.	
	First page	\$10.00

	<b>Statutory Provisions</b>	<b>Clerk's Fees</b>
	Additional page	\$2.00
(75)	For filing a copy of written instrument or declaration of trust by the trustees of an association or trust, or any amendment thereof as provided by Section 2, Chapter 182	\$20.00
(78)	For recording deed of lot or plot in a public burial place or cemetery	\$10.00
(79)	Recording any other documents	
	First page	\$10.00
	Additional page	\$2.00
	Voter's certificate	\$5.00

## B. MGL c.140, § 202.

	<b>Statutory Provisions</b>	<b>Clerk's Fees</b>
(37)	For issuing and recording licenses to keepers of intelligence offices: \$25	\$25.00
(38)	For issuing and recording license to junk dealers: \$50	\$100.00
(38A)	For issuing and recording license to junk collector: \$25	\$50.00
(39)	For issuing and recording pawnbroker's license: \$50	\$100.00
(40)	For issuing and recording licenses to keepers of billiard saloons, pool or sippio rooms or tables, bowling alleys, etc.: \$25 first table or alley, \$10 for each additional	\$30.00 first \$15.00 additional

ARTICLE II  
**Sealer of Weights and Measures Fees**  
**[Adopted 5-9-1988 ATM, Art 30]**

**§ 20-2. Enumeration of fees.**

The Sealer of Weights and Measures shall be authorized to charge and collect fees in the following categories for the following amounts:

<b>Type</b>	<b>Fee</b>
Scales (pounds)	
Over 10,000	\$50.00
5,000 to 10,000	\$30.00
1,000 to 5,000	\$20.00
100 to 1,000	\$10.00
Over 10, but less than 100	\$5.00
10 or less	\$5.00
Weights (each)	
Avoirdupois	\$1.00
Metric	\$1.00
Apothecary	\$1.00
Troy	\$1.00
Liquid measures (inches)	
Inlet 1/2 or less, oil and grease	\$5.00
Inlet 1/2 to 1, gasoline pump	\$8.00
Inlet more than 1	
Vehicle tank pump	\$15.00
Vehicle tank, gravity	\$20.00
Bulk storage	\$40.00
Bulk with prover supplied	\$20.00
Other	
Taxi meter	\$6.00
Odometer	\$6.00
Fabric measure	\$4.00
Leather measure	\$4.00
All other measures	\$1.00



FINANCES

**Chapter 21**

**FINANCES**

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I  
**Law Enforcement Trust Fund**  
**[Adopted 8-26-1985 STM, Art. 32]**

**§ 21-1. Establishment.**

The Town voted to establish a special Law Enforcement Trust Fund.

**§ 21-2. Proceeds to go into fund; expenditures.**

This fund shall receive proceeds from criminal investigations and shall be expended to defray the costs of protracted investigations, to provide adequate technical equipment or expertise, to provide matching funds to obtain federal grants or have such other law enforcement purposes as the Chief of Police shall deem appropriate.

**§ 21-3. Statutory authority.**

This fund shall be established pursuant to MGL c. 94C, § 47.



ARTICLE II  
**Stabilization Fund**  
**[Adopted 3-6-1967 ATM, Art. 47]**

**§ 21-4. Establishment.**

The Town has established a stabilization fund in accordance with the provisions of MGL c. 40, § 5B (Ch. 377, Acts of 1961), and acts and amendments thereto, and, to raise and appropriate for said fund, a sum of \$25,000.

ARTICLE III  
**Departmental Revolving Funds<sup>20</sup>**  
**[Adopted 5-1-2017 STM, Art. 6]**

**§ 21-5. Purpose.**

This article establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by MGL c. 44, § 53E 1/2.

**§ 21-6. Expenditure limitations.**

A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this article without appropriation subject to the following limitations:

- A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund, except for those employed as school bus drivers.
- B. No liability shall be incurred in excess of the available balance of the fund.
- C. The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Select Board and Finance Committee.

**§ 21-7. Interest.**

Interest earned on monies credited to a revolving fund established by this article shall be credited to the general fund.

---

20. Editor's Note: Former Art. III, Departmental Budgets, adopted 9-26-1983 STM, Art. 8, as amended 1-13-1986 STM, Art. 3, was repealed 11-20-1995 FYTM, Art. 11.

**§ 21-8. Revolving funds. [Amended 11-14-2022FYTM, Art. 13; 5-1-2023ATM by Art. 13]**

<b>Revolving Fund</b>	<b>Department, Board, Committee, Agency, or Officer Authorized to Spend from Fund</b>	<b>Fees, Charges or Other Receipts Credited to Fund</b>	<b>Program or Activity Expenses Payable from Fund</b>	<b>Restrictions or Conditions on Expenses Payable from Fund</b>	<b>Other Requirements/ Reports</b>	<b>Fiscal Years</b>	<b>Fiscal Year Spending Limit</b>
Crosby Mansion	Crosby Mansion Property Manager	Fees received for property and cottage rentals, tours and events	Pay for salaries, benefits, operating expenses, and contracted services	Expenses shall be related to salaries and operations of the Crosby Mansion and cottages and not used for any other purposes	Provide a quarterly status report of revenue, expenditures, and overall operations to the Town Administrator	Fiscal Year 2017 and subsequent years	
Recreation	Department Head -Recreation	Fees and charges related to seasonal program, yoga, youth sports, adult fitness, breakfast with Santa, tennis and special events	Pay for salaries, benefits, operating expenses, and contracted services	Expenses shall be related to salaries and operations of providing recreational services and not used for any other purposes	Provide a quarterly status report of revenue, expenditures, and overall operations to the Town Administrator	Fiscal Year 2017 and subsequent years	
Tele-communications	Department Head - Information Techno-logy	Fees and charges related to cell towers	Pay for operating expense and contracted services	Expenses shall be related to operating, maintaining, and improvement of tele-communications in Town departments	Provide a quarterly status report of revenue, expenditures, and overall operations to the Town Administrator	Fiscal Year 2017 and subsequent years	
Bay Property Pool	Department Head - Recreation			Expenses shall be related to salaries and operations of the Bay Property Pool and not for any other purposes			\$200,000

<b>Revolving Fund</b>	<b>Department, Board, Committee, Agency, or Officer Authorized to Spend from Fund</b>	<b>Fees, Charges or Other Receipts Credited to Fund</b>	<b>Program or Activity Expenses Payable from Fund</b>	<b>Restrictions or Conditions on Expenses Payable from Fund</b>	<b>Other Requirements/ Reports</b>	<b>Fiscal Years</b>	<b>Fiscal Year Spending Limit</b>
Community Garden	Council on Aging and Town Manager	Fees received for community garden programs and related services and operations		Expenses shall be related to operating and managing the community garden and not used for any other purposes			\$50,000

## ARTICLE IV

**Department of Municipal Finance**  
**[Adopted 5-1-2017 ATM, Art. 23]****§ 21-9. Composition; head; duties.**

- A. The Consolidated Department of Municipal Finance shall include the offices of Accountant, Treasurer/Collector, Assessor, and Information Technology.
- B. The Department shall be headed by a Director of Municipal Finance who shall be appointed by the Town Administrator for a term of three years, subject to removal by the Town Administrator for cause. The Director of Municipal Finance shall serve ex-officio as the Town Accountant.
- C. The Director shall be responsible for the performance of the functions of Treasurer/Collector, Accountant, Assessor and Information Technology in accordance with the laws of the commonwealth and, to the extent that such exist, appropriate regulations of departments thereof.
- D. In addition to responsibilities listed in Subsection C, the Director of Municipal Finance shall also be responsible for the following:
  - (1) Coordination of all financial services and activities, including assistance with budget preparation for all departments;
  - (2) Maintenance of all accounting records and other financial statements;
  - (3) Payment of all obligations of the Town;
  - (4) Receipt of all funds due the Town;
  - (5) Assistance to all other Town departments and offices in any matter related to financial affairs;
  - (6) Monitoring of the expenditure of all funds, including periodic reporting to appropriate agencies on the status of accounts;
  - (7) Such other matters as may be determined necessary from time to time by the Town Administrator.



(RESERVED)

**Chapter 22**

(RESERVED)

**[Former Ch. 22, Founder's Day, adopted 3-6-1962 ATM, Art. 31, as amended, was repeated 5-13-1991 ATM, Art 33.]**

**Chapter 36****PERSONNEL**

**[HISTORY: Adopted 5-8-1989 Annual Town Meeting, Art 4.<sup>21</sup> Amendments noted where applicable.]**

**§ 36-1. Purpose; statutory authority.**

The purpose of the Personnel Bylaw is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensures a uniform, fair and efficient application of personnel policies. This chapter is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and MGL C. 41, §§ 108A and 108C.

**§ 36-2. Applicability.**

All Town departments and positions shall be subject to the provisions of this chapter except elected officers, employees with personal contracts, employees of the School Department and members of the Police Department. The provisions of this chapter shall not be applicable to employees covered under collective bargaining agreements except where such collective bargaining agreements expressly so provide.

**§ 36-3. Personnel Board.**

- A. Composition; terms of office. The Select Board shall serve as the Personnel Board under the authority of MGL C. 41, § 108C. The term of office shall be concurrent with the term of each Selectman. **[Amended 11-13-2017 FYTM, Art. 13]**
- B. Powers and duties. The Board shall be responsible for establishment and maintenance of a personnel system based on merit principles, the classification and reclassification of positions, an annual compensation plan and the development of personnel policies pursuant to § 36-5 of this chapter.

**§ 36-4. Personnel system.**

A personnel system shall be established by promulgation of policies pursuant to § 36-5. The personnel system shall make use of current concepts of personnel management and shall include but not be limited to the following elements:

- A. Method of administration. A system of administration which assigns specific responsibility for all elements of the personnel system, including: maintaining personnel records, implementing effective recruitment and selection processes, maintaining the classification and compensation plans, monitoring the application of personnel policies and periodic reviews and evaluating the personnel system.
- B. A classification plan. A position classification plan for all employees subject to this chapter shall be established, based on similarity of duties performed and the responsibilities assumed so that the same qualifications may be reasonably required for, and the same schedule of pay may be equitably applied to, all positions in the same class. No employee may be appointed to a position not included in the classification plan.

---

**21. Editor's Note: This article also provided for the deletion of former Ch. 36, Personnel, adopted 5-7-1977 Special Town Meeting, Art. 46, as amended.**



§ 36-4

PERSONNEL

- C. A compensation plan. A compensation plan for all positions subject to this chapter shall consist of:
  - (1) A schedule of pay grades including minimum and maximum rates for each grade.
  - (2) An official list indicating the assignment of each position to specific pay grades.
- D. A recruitment and selection policy. A recruitment, employment, promotion and transfer policy which ensures that reasonable effort is made to attract qualified persons and that selection criteria are job-related.
- E. Personnel records. A centralized record keeping system which maintains essential personnel records.
- F. Personnel policies. A series of personnel policies which establishes the rights and benefits to which personnel employed by the Town are entitled and the obligations of said employees to the Town.
- G. Other elements. Other elements of a personnel system as deemed appropriate or required by law.

**§ 36-5. Personnel policies. [Amended 11-13-2017 FYTM, Art. 13]**

The Select Board/Personnel Board shall promulgate personnel policies defining the rights, benefits and obligations of employees subject to this chapter. Policies shall be adopted or amended as follows:

- A. Preparation of policies. The Select Board/Personnel Board shall prepare policies or amendments to policies. Any member of the Select Board, Personnel Board, the Executive Secretary or any three employees may suggest policies for consideration by the Select Board/Personnel Board. The Select Board/Personnel Board need not consider any proposal already considered in the preceding 12 months. Any person proposing a new or amended policy shall provide the substance and the reason for the proposed policy to the Select Board/Personnel Board in writing. The Select Board/Personnel Board shall hold a public hearing on any proposed policies or amendments. Any proposed policies or amendments shall be posted at least five days prior to the public hearing in prominent work locations, and a copy of all proposals shall be provided to the Town Clerk.
- B. Public hearing. The Select Board/Personnel Board shall present the proposed policy(ies) or amendment(s), the purpose of the proposal and the implication of any proposed change at the public hearing. Any person may attend the hearing, speak and present information. Within 20 days after such public hearing, the Personnel Board/Select Board shall consider the proposed policies and may vote to adopt the policies (with or without modifications), reject the policies or indicate that further study is necessary. Policies shall become effective upon approval of the Personnel Board/Select Board, unless some other date is specified.

**§ 36-6. Severability.**

The provisions of this chapter and any regulations adopted pursuant to this chapter are severable. If any chapter provision or regulation is held invalid, the remaining provisions of the chapter or regulations shall not be effected thereby.

**§ 36-7. Effective date.**

This chapter shall take effect on July 1, 1989. Personnel policies existing prior to said date as presented in Chapter 36, Personnel, will remain in effect for at least 90 days from said date and until promulgation of new policies in accordance with § 36-5 herein.

BREWSTER CODE

**Chapter 38**

**PUBLIC MEETINGS, MINUTES OF**

**[HISTORY: Adopted 10-15-1990 Special Town Meeting, Art 2. Amendments now where applicable.]**

**GENERAL REFERENCES**

**Boards, commissions and authorities — See Ch. 6.**

**Committees, boards and councils — See Ch. A296.**

**Committees — See Ch. 12.**

---

**§ 38-1. Copies of approved minutes to be filed.**

All boards, committees and commissions shall file a copy of their approved minutes of public meetings with the office of the Town Clerk for storage with the official Town records.

PROPERTY, SALE OF

**Chapter 39**

PROPERTY, SALE OF

**[HISTORY: Adopted 8-26-1985 Special Town Meeting, Art. 21. Amendments noted where applicable.]**

**§ 39-1. Presentation to Town agencies for consideration.**

The Selectmen, who are required to sell foreclosure properties, will hereby first present these parcels to the various committees, commissions, boards and department heads, in order to see if there is any advantage in keeping these parcels for the Town.

**§ 39-2. Acceptance or sale of property by voters.**

If there is such a need, then the Selectmen will come to Town Meeting and ask the voters to accept these properties as Town properties. If no such needs are presented, then these properties would be sold in accordance with the law.

BREWSTER CODE

**Chapter 41**

**REGIONAL SCHOOL DISTRICT**

**[The agreement establishing the Nauset Regional School District, passed by the Nauset Regional School District Committee, and all amendments thereto, is on file in the Town Clerk's office.]**

SELECT BOARD

**Chapter 42**

SELECT BOARD

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I

**Acceptance of Gifts**

**[Adopted 10-19-1987 STM, Art 1; amended in its entirety 11-13-2017 FYTM, Art. 13]**

**§ 42-1. Authority of Selectmen.**

The Select Board is authorized to accept or reject in whole or in part and on behalf of the Town all gifts tendered to the Town. The acceptance of gifts authorized by this article does not include funds from governmental sources, gifts of real estate interests or gifts tendered to the School Committee.



BREWSTER CODE

**Chapter 43**

**TOWN PROPERTY, DISPOSAL OF**

**[HISTORY: Adopted 10-19-1987 Special Town Meeting, Art. 2. Amendments noted where applicable.]**

**§ 43-1. Authority of Selectmen. [Amended 11-13-2017 FYTM, Art. 13]**

The Select Board shall have the authority to sell or otherwise dispose of surplus and obsolete tangible personal property of the Town.

**§ 43-2. Notice of surplus property.**

The Department Head responsible for the surplus property shall notify the Executive Secretary that it is considered surplus. The notification should contain a description of the property. The Executive Secretary shall notify all departments that the surplus property is available for their use and will post notification of it on the bulletin board of the Town offices.

**§ 43-3. Use by other departments. [Amended 11-13-2017 FYTM, Art. 13]**

Any department desiring use of the property shall request it from the Executive Secretary, who will authorize its use. In the case where more than one department requests the use of said property, the Select Board shall make the decision about the use of said property.

**§ 43-4. Unclaimed surplus property; method of disposal. [Amended 11-13-2017 FYTM, Art. 13]**

If said property is not claimed by any department after three weeks, the Executive Secretary shall notify the Select Board of its availability. The Select Board shall determine the method of disposal.



TOWN COUNSEL

**Chapter 46**

TOWN COUNSEL

**[HISTORY: Adopted 11-17-1969 Special Town Meeting, Art. 6. Amendments noted where applicable.]**

**§ 46-1. Appointment; term; compensation.**

The Selectmen shall annually appoint a Town Counsel, who shall be an attorney and counsellor at law and who shall hold office for the term of one year from the first day of April until his successor is appointed and qualified. He shall receive such compensation as the Selectmen may determine, subject to the appropriation of the Town therefor.

**§ 46-2. Engagement of other attorneys.**

The Selectmen may engage the services of attorneys, other than the appointed Town Counsel, to act as Counsel for the Town or any of its departments in any particular matter as the Selectmen may deem advisable, and they shall receive such compensation as the Selectmen may determine, subject to the appropriation of the Town therefor.

**§ 46-3. Duties of Town Counsel.**

The Town Counsel shall act as legal advisor and counsellor to the Town and all its departments.

BREWSTER CODE

**Chapter 48**

**TOWN MEETINGS**

**[HISTORY: Adopted by Town Meeting as indicated in article histories. Amendments noted where applicable.]**

## ARTICLE I

**Annual Town Meeting****[Adopted 3-8-1938 ATM, Art. 34]**

**§ 48-1. Designation of time. [Amended 3-3-1941 ATM, Art. 24; 3-3-1953 ATM, Art. 31; 5-8-1958 STM, Art. 1; 3-2-1965 ATM, Art. 54; 5-14-1984 STM, Art. 2; 5-11-1987 ATM, Art. 90; 5-14-1990 ATM, Art. 16; 10-19-1992 FYTM, Art. 2; 11-21-1994, FYTM, Art. 8; 11-14-2005 FYTM, Art. 14; 11-13-2006 FYTM, Art. 14; 9-2-2015 FYTM, Art. 11; 12-3-2018 FYTM, Art. 9]**

The Town will hold two regularly scheduled Town Meetings. The Spring Annual Town Meeting for the transaction of all business for the town, other than matters to be determined by ballot, shall be held on the first Monday in May at 6:00 p.m. or such later time as set forth in the warrant for the Annual Town Meeting. The Annual Election for the election of officers and such matters as are by law determined by ballot shall be held on the third Tuesday in May. Whenever the Annual Election for the election of officers and such matters as are by law determined by ballot falls fewer than two weeks after the scheduled beginning of the Spring Annual Town Meeting then the Annual Election shall be held on the fourth Tuesday in May. The Special Town Meeting will be held between the first week of October and the first week of December.

ARTICLE II

**Warrants**

**[Adopted 3-6-1939 ATM, Art. 22]**

**§ 48-2. Posting. [Amended 3-4-1952 ATM, Art. 31]**

The warrant for any Town Meeting shall be posted in at least five public places in different parts of the Town and shall be acted fully thereon.

**§ 48-3. Closing of warrant. [Added 3-2-1965 ATM, Art. 56; amended 6-24-1974 STM, Art. 3; 5-14-1979 ATM, Art. 14]**

The warrant for the Annual Town Meeting will be closed 75 days before each Annual Town Meeting and be in the hands of the Finance Committee by 60 days before each Annual Town Meeting, commencing in 1980.

**§ 48-4. Provision of notice. [Added 10-1-1973 STM, Art. 22; amended 11-13-2017 FYTM, Art. 13]**

No warrant of the holding of a Special Town Meeting shall be issued by the Select Board of the Town of Brewster unless it provides a notice of not less than 21 days after the warrant has been delivered to the Constable for posting.

ARTICLE III

**Quorum**

**[Adopted 3-5-1957 ATM, Art. 63]**

**§ 48-5. Requirement. [Amended 11-13-1972 STM, Art. 63; 9-29-1997 STM, Art. 3]**

The quorum for Annual Town Meetings and for Special Town Meetings is hereby set at 200 registered voters.

ARTICLE IV

**Conduct**

**[Adopted 5-8-1978 ATM, Art. 15]**

**§ 48-6. Attorney to address Town Meeting.**

The Moderator is authorized, in his sole discretion, to permit the Town Counsel or an attorney temporarily acting in that position to address the Town Meeting without the necessity of a Town Meeting vote in response to any question raised at the Town Meeting by a registered voter of the Town of Brewster.

ARTICLE V

**Annual Town Report**

**[Adopted 5-9-1983 ATM, Art. 36; amended in its entirety 5-3-1999 ATM, Art. 16]**

**§ 48-7. Time of availability.**

The Annual Town Report shall be printed and available for distribution to the inhabitants of Brewster within 120 days of the close of the calendar year, commencing with the year ending December 31, 1999, and each year thereafter. However, the Town Accountant's and the Town Treasurer/Collector's reports may be included with information on a fiscal year basis.

ARTICLE VI  
**Special Town Meetings**  
**[Adopted 5-12-1986 ATM, Art. 85]**

**§ 48-8. Designation of time. [Amended 12-3-2018 FYTM, Art. 9]**

Special Town Meetings which do not fall within Annual or other Special Town Meetings shall begin at 6:00 p.m. or such later time as set forth in the warrant for the Special Town Meeting.

**§ 48-8.1. Adoption of guide for operation. [Added 8-18-1998 ATM, Art. 27]**

The Town of Brewster shall adopt the publication which is called "Town Meeting Time" as its guide for the operation of Town meetings.



## ARTICLE VII

**Consent Calendar Grouping of Articles<sup>22</sup>****[Adopted 11-21-1994 FYTM, Art. 42; amended in its entirety 11-13-2017 FYTM, Art. 13]****§ 48-9. Consent Calendar article.**

The Brewster Select Board and the Finance Committee may present to Town Meeting a consent calendar article. This article will attempt to consolidate various articles from the Town Meeting warrant into one, single consent calendar article. Should an individual or individuals object to said inclusion of any given article within the consent calendar article, it will not be considered and will be reviewed individually as originally presented on the posted Town Meeting Warrant; otherwise, all articles remaining in the consent article shall be moved together as a block. In the event the articles require different measures of vote for passage, those articles requiring the same vote may be grouped together and may be moved as separate blocks.

---

22. Editor's Note: Former Article VII, Bonding Articles, adopted 5-11-1987 ATM, Art. 89, as amended in its entirety 5-9-1988 ATM, Art. 27, was repealed 5-14-1990 ATM, Art. 12.

## ARTICLE VIII

**Placement of Articles on Town Meeting Warrant****[Adopted 5-3-1999 ATM, Art. 51; amended in its entirety 5-1-2000 ATM, Art. 25]****§ 48-10. Placement of articles. [Amended 5-7-2018 ATM, Art. 28; 9-12-2020 ATM, Art. 21]**

The Town will address the placement of articles on the Town Meeting warrant by lottery on the Town Meeting floor. All articles, excepting the Town's operating budget, the schools operating budget, Capital and Special Project Expenditures, Community Preservation Articles, transfer from Capital Stabilization fund, transfer from General Stabilization fund, the consent calendar and debt obligation articles shall be placed in a "fish bowl" or other suitable container to be drawn randomly by the Town Moderator, and each article shall be considered according to the order in which it is drawn; provided, however, that articles deemed by the Moderator to be substantively related and best acted upon together and in a certain order, or articles so identified in the warrant, may in the Moderator's discretion, after consultation with the articles' sponsors, be treated as a single article for the purposes such drawing.

ARTICLE IX  
**Debate on Motions; Counting of Votes**  
**[Adopted 5-3-1999 ATM, Art. 18]**

**§ 48-11. Limit of debate.**

- A. A presenter of a motion may speak up to five minutes when presenting the motion except for motions that the Moderator has given specific permission for more time.
- B. Following speakers may have up to three minutes to speak on a motion.
- C. Speakers to each motion may speak no more than twice, except for the presenter of a motion who may speak to comments or questions made by voters with respect to the motion presented.

**§ 48-12. Counting of votes. [Added 11-14-2005 STM, Art. 15]**

When a Town Meeting motion requires a four-fifths vote or a nine-tenths vote to pass, a count shall be taken unless the vote is unanimous; however, when a Town Meeting motion requires a two-thirds vote to pass, a count shall be taken unless a) the vote is unanimous or b) the Town Moderator or presiding official declares the vote has passed and the declaration is not immediately questioned by seven or more voters.

ARTICLE X  
**Meeting Sites**

**[Adopted 11-7-2011 FYTM, Art. 22; amended in its entirety 11-13-2017 FYTM, Art. 13]**

**§ 48-13. Sites for Town Meetings.**

In the event that meeting facilities available within the Town will not accommodate the number of voters likely to attend a Special Town Meeting or an Annual Town Meeting, the Select Board may designate a suitable meeting site outside the geographic limits of the Town. This authorization does not extend to any election or question to be determined by ballot.



BREWSTER CODE

**Chapter 49**

**POLICE DEPARTMENT**

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

## ARTICLE I

**Fingerprint-Based Criminal History Record Checks**  
**[Adopted 11-18-2013 FYTM, Art. II]****§ 49-1. Purpose; legislative authority.**

- A. In order to protect the health, safety, and welfare of the inhabitants of the Town of Brewster, and as authorized by MGL c. 6, § 172B ½, as enacted by Chapter 256 of the Acts of 2010, this bylaw shall require a) applicants for certain Town licenses permitting the engagement in specific occupational activities within the Town as enumerated in § 49-2 below to submit to fingerprinting by the Brewster Police Department, b) the Police Department to conduct criminal history record checks based on such fingerprints pursuant to MGL c. 6, §§ 168 and 172, and 28 U.S.C. § 534, and c) the Town to consider the results of such background checks in determining whether or not to grant a license.
- B. Fingerprint submissions may be submitted under this chapter to the identification unit within the department of the Massachusetts State Police through the Massachusetts Department of Criminal Justice Information Systems (DCJIS), or its successor, for a state criminal history records check and to the Federal Bureau of Investigation (FBI) for a national criminal history records check, as may be applicable and consistent with this bylaw. The Town authorizes the licensing authority and Police Department to receive and utilize these state and FBI records in connection with such background checks, consistent with this bylaw.

**§ 49-2. Submission to fingerprinting; notification.**

- A. Any applicant for a license to engage in any of the following occupational activities within the Town shall submit a full set of fingerprints taken by the Brewster Police Department within 10 days of the date of the application for a license for the purpose of conducting a state and national criminal history record check to determine the suitability of the applicant for the license:
  - (1) Alcoholic beverage license (manager).
  - (2) Hawker and peddler.
  - (3) Ice cream truck vendor.
- B. At the time of fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's state and FBI criminal history records.

**§ 49-3. Processing and communication of results.**

- A. The Police Department shall transmit fingerprints it has obtained pursuant to § 49-2 of this bylaw to the identification section of the Massachusetts State Police, DCJIS, and/or the FBI as may be necessary for the purpose of conducting fingerprint-based state and national criminal history records checks of license applicants specified in § 49-2.
- B. The Police Department shall provide the applicant with a copy of the results of his or her fingerprint-based criminal history record check and supply the applicant the opportunity to complete or challenge the accuracy of the information contained in it, including in the FBI identification record. The Police Department shall also supply applicants with information regarding the procedures for obtaining a change, correction, or updating of a criminal record, including a copy of 28 CFR Part 16.34, pertaining to FBI identification records. The Police Department shall not utilize the fingerprint-based criminal history record check pursuant to Subsection C below until it has taken the steps detailed in

this subsection and otherwise complied with the Town's policy applicable to Town licensing-related criminal history record checks.

- C. The Police Department shall communicate the results of fingerprint-based criminal history record checks to the applicable licensing authority within the Town. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon his or her suitability, or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

#### **§ 49-4. Reliance on results.**

Licensing authorities of the Town shall utilize the results of fingerprint-based criminal history record checks for the sole purpose of determining the suitability of the applicants for the proposed occupational activity that is the subject of the license applications specified in § 49-2. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination. The licensing authority shall not deny a license based on information in a criminal record unless the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.

#### **§ 49-5. Compliance with law, regulation, and Town policy.**

Implementation of this bylaw and the conducting of fingerprint-based criminal record background checks by the Town shall be in accordance with all applicable laws, regulations, and Town policies, including, but not limited to, the Town's policy applicable to licensing-related criminal record background checks, which shall include record retention and confidentiality requirements. The Town shall not disseminate the results of fingerprint-based criminal background checks except as may be provided by law, regulation, and Town policy. The Town shall not disseminate criminal record information received from the FBI to unauthorized persons or entities.

#### **§ 49-6. Fees.**

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be \$100. A portion of the fee, as specified in MGL c. 6, § 172B 1/2, shall be deposited into the Firearms Fingerprint Agency Account, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.





**Chapter 53****WATER DISTRICTS**

**[HISTORY: Adopted 3-4-1968 Special Town Meeting, Art. 2. Amendments noted where applicable.]**

**§ 53-1. Boundaries.**

The body comprising the Dennis Water District as established by the Massachusetts Legislature in Chapter 277 of the Acts of 1945 shall include the tax-paying inhabitants of Brewster residing within the following boundary lines:

- A. Area I. Commencing at the intersection of the boundary lines between the Town of Brewster and the Town of Dennis, at a monument near Old County Way, and running northwesterly by the boundary line between the Town of Brewster and the Town of Dennis, located in Quivet Creek to Old County Way; thence northeasterly by Old County Way one hundred seven and twenty-six hundredths (107.26) feet; thence southeasterly by the Sears Cemetery and the land of Richard Tonis et ux two hundred sixty-two and zero-hundredths (262.00) feet; thence easterly, southerly, easterly, southerly and easterly by the land now or formerly of Mary C. Connolly and Lester T. Wolff et ux three hundred thirty-one and fifty-hundredths (331.50) feet, four hundred fifty-nine and eighty-hundredths (459.80) feet, two hundred seventy-nine and forty-three hundredths (279.43) feet, one thousand two hundred five and ninety-two hundredths (1,205.92) feet and three hundred ninety-two and sixty-nine hundredths (392.69) feet, respectively; thence southerly and westerly by the side line of a way four hundred seventy-one and sixty-seven hundredths (471.67) feet and six hundred forty-one and twenty-eight hundredths (641.28) feet, respectively, to the boundary line between the Town of Brewster and the Town of Dennis; thence in a northwesterly direction by the boundary line between the Town of Brewster and the Town of Dennis two thousand eight and seventy-hundredths (2,008.70) feet to the point of beginning.
- B. Area II. Commencing at a monument on the boundary line between the Town of Brewster and the Town of Dennis and running easterly and southerly by the land now or formerly of Lester T. Wolff four hundred forty-six and ninety-seven hundredths (446.97) feet and three hundred fifty-one and fifty-five hundredths (351.55) feet, respectively; thence running westerly and southerly by land now or formerly of Howard A. Spurr one hundred forty-three and seventy-three hundredths (143.73) feet and five hundred sixteen and sixty-four hundredths (516.64) feet, respectively; thence southeasterly by said Spurr land and the land now or formerly of Sarah J. Walker et al. four hundred ninety and fifteenth-hundredths (490.15) feet; thence southerly by land now or formerly of Geneva Delgard five hundred nine and ninety-hundredths (509.90) feet; thence westerly by land now or formerly of Alice F. MacKenzie two hundred twenty-six and forty-five hundredths (226.45) feet; thence westerly by the land of Anna K. Welch two hundred sixty-two and zero-hundredths (262.00) feet to the boundary line between the Town of Brewster and the Town of Dennis; thence in a northwesterly direction by the boundary line between the Town of Brewster and the Town of Dennis one thousand seven hundred sixty-two and fifty-hundredths (1,762.50) feet to the point of beginning.

**General Legislation**

## Chapter 56

### ACCOMMODATIONS

**[HISTORY: Adopted 3-3-1953 Annual Town Meeting, Art. 51. Amendments noted where applicable.]**

#### **§ 56-1. Definitions.**

For the purpose of this chapter, certain words and phrases are defined, and certain provisions shall be construed, as herein set out, unless it shall be apparent from the context that a different meaning is intended.

**OVERNIGHT CABINS, TENTS AND TRAILERS** — Any one- or two-room building, tent, house car or automobile trailer, respectively, used for temporary living quarters.

**OVERNIGHT CAMP OR CABIN** — Any tract or parcel of land used, either with or without charge, for public camping by transient guests or upon which cabins, tents, tent houses or similar facilities are provided for use by the public for temporary lodging.

**TOURIST CAMP or PARK SITE** — Any place where two or more overnight cabins, trailers, tents or motels are located, or any premises designated or intended for the purpose of supplying to the public a location for overnight cabins, so-called, trailers, tents or motels.

**UNIT** — A section of ground in any tourist camp or park site used, or designated for use, as a location for a single overnight cabin, trailer, tent or motel.

#### **§ 56-2. Spacing requirements.**

No overnight cabin, trailer, tent or motel shall be closer to another than 30 feet, and no unit shall be permitted to accommodate more than one overnight cabin, trailer, tent or motel.

#### **§ 56-3. Proximity to street.**

No trailer camp or tent site shall be located closer to a street or public way than 200 feet.

#### **§ 56-4. Exceptions.**

The provisions of this chapter shall not, however, be construed to prohibit any property owner, residing upon his own land, from accommodating auto trailers of nonpaying guests; nor shall they be construed as abrogating the right of any property owner to erect "overnight cabins," as they are commonly known, under the above unit rules and under such sanitary restrictions as the Town may establish.

BREWSTER CODE

**Chapter 58**

**ALARM SYSTEMS**

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I  
**Miscellaneous Provisions**  
**[Adopted 5-13-1975 ATM, Art. 34]**

**§ 58-1. Certain devices prohibited.**

It shall be unlawful to install, maintain or use a mechanical protection device that is automatically keyed to and/or activates the telephone (numbers) lines controlled by and/or listed to the Brewster Fire Department and/or Police Department without written approval of the department head. All such devices shall be removed or shall obtain the appropriate written approval within 60 days of the effective date of this article.

**§ 58-2. Definitions.**

For the purpose of this article, the following terms shall have the meanings indicated:

MECHANICAL PROTECTION DEVICES — An electrically operated instrument composed of sensory apparatus and related hardware which automatically sends over regular telephone lines, by direct connection or otherwise, prerecorded voice alarm upon receipt of a stimulus from the sensory apparatus that has detected a physical force or unauthorized intrusion or condition inherently characteristic of a fire.

**§ 58-3. Violations and penalties. [Added 5-14-1984 ATM, Art. 62]**

Any person violating this article shall be punished by a fine of not more than \$50 for each offense. Each day, or portion of a day, that the violation is allowed to continue is considered a separate offense.

## ARTICLE II

**Control of System, False Alarms**  
**[Adopted 5-11-1987 ATM, Art. 88]****§ 58-4. Definitions.**

For the purpose of this article, the following terms shall have the following meanings:

**ALARM SYSTEM** — An assembly of equipment and devices or a single device, such as a solid state unit, which plugs directly into a one-hundred-ten-volt AC line, arranged to signal the presence of a hazard or emergency requiring urgent attention and to which police, emergency medical personnel or firefighters are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted break-in at a premises are included.

**FALSE ALARM** —

- A. The activation of an alarm system by an agency other than a bona fide hazard or emergency of a type which the system is designed to warn against. For fire hazard or emergency of a type which the system is designed to warn against. For purpose of this definition, activation of alarm systems by acts of vandals or by acts of God, including but not limited to hurricanes, tornados, earthquakes and similar weather or atmospheric disturbances or power failure shall not be deemed to be a false alarm.
- B. Any signal or oral communication transmitted to the Police or Fire Department requesting, requiring or resulting in a response on the part of the Police or Fire Department in the absence of any bona fide hazard or emergency.

**USERS** — The owner-occupant, and his/her agents, of the premises containing the alarm systems, whether residential, commercial or otherwise.

**§ 58-5. Control of signal.**

- A. Every user shall submit to the Police and/or Fire Chief the names and telephone numbers of at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed.
- B. All alarm systems, except fire alarm systems installed after the effective date of this article, which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within 10 minutes after activation of the system.
- C. Any alarm system emitting a continuous and uninterrupted signal for more than 15 minutes between 10:00 p.m. and 6:00 a.m. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under Subsection A of this section and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located shall constitute a public nuisance and be subject to the penalties described in § 58-6 below. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Police or Fire Chief shall endeavor to contact the alarm user or members of the alarm user's family or those persons designated by the alarm users under Subsection A of this section in an effort to abate nuisance. The Police and/or Fire Chief shall cause to be recorded the names and addresses of all complaints and the time each complaint was made.

**§ 58-6. Violations and penalties.**

- A. Upon receipt of three or more false alarms from the same system within a calendar year, the Police or Fire Chief may, in writing, order:
  - (1) The user to discontinue the use of the alarm.
  - (2) That any direct connections to the Police or Fire Departments be disconnected.
  - (3) That any further connection to the communications console in the Police or Fire Station be contingent upon the user equipping any alarm system with a device that will shut off any audible horn or bell within 10 minutes after activation of the system.
  - (4) That the alarm system be changed, modified, repaired, upgraded or replaced to eliminate false alarms.
- B. The user shall be assessed a fee of \$50 for each false alarm in excess of three occurring within the calendar year. All fines assessed and collected hereunder shall be paid to the Town Treasurer for deposit in the General Fund.
- C. Whoever violates a written order of the Police or Fire Chief as set forth in Subsection A of this section shall be punished by a fine not to exceed \$50 for each offense, and each day a violation continues shall be considered a separate offense.





## RECREATIONAL MARIJUANA RETAILERS

### Chapter 59

## RECREATIONAL MARIJUANA RETAILERS

**[HISTORY: Adopted 3-12-2018STM by Art. 4. Amendments noted where applicable.]**

### **§ 59-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**MARIJUANA RETAILER** — An entity licensed by the Cannabis Control Commission to purchase and deliver recreational marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer recreational marijuana and marijuana products to marijuana establishments and to consumers, as defined in MGL c. 94G, § 1 and the Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use Marijuana.

**MEDICAL MARIJUANA DISPENSARY** — An entity registered by the Department of Public Health or the Cannabis Control Commission that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers medical use marijuana, products containing medical use marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

### **§ 59-2. Number of recreational marijuana retailers.**

Pursuant to MGL c. 94G, § 3(a)(2), the number of recreational Marijuana Retailers shall be limited to one establishment in Brewster which is fewer than 20% of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under MGL c. 138 § 15 (package store licenses). Any Medical Marijuana Dispensary, licensed or registered not later than July 1, 2017, engaged in retail sale of marijuana or marijuana products, shall be exempt from this limitation for purposes of converting from a Medical Marijuana Dispensary to a recreational Marijuana Retailer.

BREWSTER CODE

**Chapter 60**

**ALCOHOLIC BEVERAGES**

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I

**Consumption on Highways or in Parking Places**  
**[Adopted 3-3-1964 ATM, Art. 39]**

**§ 60-1. Consumption on highways prohibited.**

It shall be unlawful for any person to consume alcoholic beverages on public highways or in public parking places, including vehicles thereon, within the Town of Brewster.

**§ 60-2. Violations and penalties. [Amended 10-29-1974 STM, Art. 18]**

Whoever violates the provisions of this article shall be fined in an amount not exceeding \$50 for each offense.

ARTICLE II

**Sale of Miniature Single-Use Containers**  
**[Adopted 5-1-2023ATM by Art. 24]**

**§ 60-3. Sale or distribution prohibited; effective date.**

No person shall sell, offer for sale, or otherwise distribute alcoholic beverages in containers less than or equal to 100 milliliters within the Town of Brewster. This article shall take effect on January 1, 2024.



BREWSTER CODE

**Chapter 61**

**AMBULANCE SERVICE**

**[HISTORY: Adopted 5-9-1988 Annual Town Meeting, Art. 7; amended in its entirety 11-13-2017 FYTM, Art. 13. Subsequent amendments noted where applicable.]**

**§ 61-1. Determination of fee.**

The Select Board is authorized and required to set and collect a fee for the use of the Town-owned and -operated ambulance service.

AUCTIONS

**Chapter 62**

AUCTIONS

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I

**Notice of Land Sales**

**[Adopted 3-8-1949 ATM, Art. 56]**

**§ 62-1. Required notice.**

In addition to the notice prescribed by statute, when land is to be sold at public auction by the Town Treasurer, under the provisions of MGL c. 60, § 79, notice of the time and place of sale shall be given 14 days, at least, before the time of the sale by publishing such notice in a newspaper published in the Town or in a newspaper published in the County of Barnstable and having a circulation in the Town.



ARTICLE II  
**Tax Land Sales**  
**[Adopted 3-5-1963 ATM, Art. 23]**

**§ 62-2. Required notice.**

Any sale of parcels of land taken by the Town under Tax Title to be sold at public auction by the Town shall be advertised in a newspaper of local circulation, stating the time and place of said auction, at least 14 days prior to the auction.



BEACHES

**Chapter 65**

**BEACHES**

**[HISTORY: Adopted by Town Meeting as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I  
**Operation of Vehicles**  
**[Adopted 3-6-1972 ATM, Art. 43]**

**§ 65-1. Permits required.**

No powered vehicle may be operated on or over salt marshes and public saltwater beach areas in the Town of Brewster, except those who have authorized permits. These permits shall be issued by the Selectmen.

**§ 65-2. Exceptions.**

This regulation shall not apply to official vehicles in any emergency situation.

**§ 65-3. Violations and penalties. [Added 5-14-1984 ATM, Art. 69; amended 5-2-2011 ATM, Art. 24]**

Any person violating this article shall be punished by a fine of \$100 for each offense.

ARTICLE II  
**Parking Permits**  
[Adopted 5-7-1977 STM, Art. 45]

**§ 65-4. Required pass.**

The Brewster vehicle pass shall be accepted as a Town beach and landing parking permit.

**§ 65-5. Applicable charge.**

All vehicles without a Brewster vehicle pass will be subject to a parking fee charge.



BOATS

**Chapter 69**

**BOATS**

**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I  
**Operation on Ponds**  
**[Adopted 3-6-1962 ATM, Art. 22]**

**§ 69-1. Operation on Sheep Pond.**

- A. No person shall operate any motorboat on the waters of Sheep Pond for the manipulation of water skis, surfboard or similar device.
- B. Whoever violates any part of this section shall be punishable by fine of not more than \$20 for each offense.

**§ 69-2. Operation on Great Ponds. [Added 3-6-1972 ATM, Art. 44; amended 5-14-1984 ATM, Art. 68; 10-17-1988 STM, Art. 29]**

- A. No gasoline, diesel or electric powered motors over three horsepower shall be permitted on any freshwater ponds in the Town of Brewster.
- B. Any emergency rescue boat shall be exempted from these limitations.
- C. These regulations shall not apply to ponds in Nickerson Park or ponds which are partly in the Town of Harwich, with the exception of Seymour Pond.
- D. Any person violating this section shall be punished by a fine of \$100 for each offense. **[Amended 11-7-2011 FYTM, Art. 12]**

**§ 69-2.1. Operation on Long Pond. [Added 5-9-1988 ATM, Art. 31]**

- A. All motorboats, including jet skis and similar personal watercraft, shall be operated at headway speed (six miles per hour or enough speed to maintain steering control) within 150 feet of the shoreline of Long Pond, except for police and/or emergency boats.
- B. No motorboat shall be operated at any time on the waters of Long Pond at a speed greater than is reasonable and proper having regard to the lives and safety of the public; the state of visibility; the traffic density; the maneuverability of the vessel; the state of wind, water and current; and the proximity of navigational hazards. On Long Pond, speed by a motorboat, jet-ski watercraft, surfjet watercraft or wetbike watercraft, or similar personal watercraft, in excess of 45 miles per hour shall be presumed to be in excess of a reasonable and proper speed.
- C. Enforcement and penalties.
  - (1) Enforcement. Long Pond is a Great Pond owned by the Commonwealth of Massachusetts. These regulations are intended to supplement the state regulations and are additional to the restrictions on distance and headway speed in 323 CMR Division of Law Enforcement, Section 2.07.(1) and (3). The Towns of Brewster and Harwich hold common jurisdiction for law enforcement purposes, and Long Pond is patrolled by police of both towns.
  - (2) Penalties. Operators and/or owners who violate these regulations shall be fined as follows:
    - (a) First offense: \$50.
    - (b) Second offense: \$100.



- (c) Third and subsequent offenses: \$200.
- D. To assist in enforcement and designate the areas for boaters, swimmers and law enforcement personnel, marker buoys are to be placed in appropriate locations around the perimeter of Long Pond, designating the one-hundred-fifty-foot distance from shore and the three-hundred-foot distance from public bathing beaches required by the commonwealth. Each town (Brewster and Harwich) is to provide the marker buoys for its shoreline, and they are to be placed under the joint direction of the Police Chiefs of the two towns and the Division of Marine Law Enforcement. The area shoreward of these markers is designated "Headway Speed Zone," and these marker buoys should so indicate.

ARTICLE II  
**Operation Near Shore**  
[Adopted 3-6-1962 ATM, Art. 23]

**§ 69-3. Prohibited activities.**

No person shall operate a motorboat, except when approaching or leaving the shore or other boats within 150 feet distance from anchored or moored boats, piers, floats, rafts, a line of floats outlining swimming areas, skin divers' flags or the shore. In all such cases, the speed of such motorboats shall be reduced to a safe speed, so as to provide full visibility and control and prevent their wash from being thrown into or causing excessive rocking to other boats.

**§ 69-4. Responsibility for compliance.**

The boat operator shall be responsible for the compliance herewith; also, no person shall engage in water skiing, surfboarding or other similar devices, except in compliance with this article.

**§ 69-5. Violations and penalties.**

Violations of this article shall be subject to the penalties of Ch. 275, § 14(c), Acts of 1960.

ARTICLE III

**Personal Motorized Watercraft**  
**[Adopted 11-15-1999 FYTM, Art. 21]**

**§ 69-6. Launching restricted.**

Personal motorized watercraft, such as jet skis, shall not be launched from any Town-owned property abutting freshwater ponds.



(RESERVED)

**Chapter 72**

(RESERVED)

**[Former Ch. 72, Building Construction, comprised of Art. I, Notice to Be Filed, adopted 3-7-1950 ATM, Art. 64, was repealed 5-5-2014 ATM, Art. 25.]**

BREWSTER CODE

**Chapter 77**

**CAMPING**

**[HISTORY: Adopted 3-3-1969 Annual Town Meeting, Art. 33. Amendments noted where applicable.]**

**§ 77-1. Restricted activities. [Amended 5-14-1984 ATM, Art. 61]**

- A. No person shall, between the hours of 8:00 p.m. and 8:00 a.m., set up on any property, public or private, without permission of the owner thereof, a camp, tent or sleep in the open on any property, public or private, within the territorial limits of the Town of Brewster.
- B. Any person violating this chapter shall be punished by a fine of \$100 for each offense. **[Amended 5-7-2012 ATM, Art. 21]**

STAFF REVIEW

**Chapter 83**

STAFF REVIEW

**[HISTORY: Adopted 5-14-1990 Special Town Meeting, Art. 11. Amendments noted where applicable.]**

GENERAL REFERENCES

**Boards, Commissions and Authorities — See Ch. 6.**

**Sewers — See Ch. 150.**

**Dredging and soil removal — See Ch. 89.**

**Wetlands protection — See Ch. 172.**

**Erosion — See Ch. 93.**

**Zoning — See Ch. 179.**

**Flooding — See Ch. 100.**

**Subdivision rules and regulations — See Ch. 290.**

## ARTICLE I

**General Provisions; Staff Review**

**[Amended 5-9-1994 ATM, Art. 27; 5-1-1995 ATM, Art. 17; 11-16-1998 FYTM, Art. 16; 5-2-2011 ATM, Art. 29]**

**§ 83-1. Intent.**

The intent of staff review is to provide nonbinding, coordinated review of preliminary development proposals by Town staff; to improve interdepartmental communications; to facilitate compliance with applicable development controls, including Town bylaws, such as the Wetlands Bylaw and the Zoning Bylaw,<sup>23</sup> and Town board regulations, such as health and subdivision regulations;<sup>24</sup> and to discuss potential development impact. It is also intended to act as a guide to those proposing to enter the development and permitting process by providing early comment and information on the proposed development and the requirements of the permitting process. Applicants shall complete the staff review process prior to applying to or appearing before any other Town board or committee regarding an application for a permit for the same project. Failure to complete the staff review process prior to seeking any permit may result in procedural denial of permits by other boards and/or committees.

**§ 83-2. Staff review.**

Staff participating in staff review include the Town Planner, or a designee, who shall be the coordinator of staff plan reviews, plus one representative designated by each of the following: Town Administrator, Building Department, Health Department, Conservation Department, Water Department, Natural Resource Department, Department of Public Works, Police Chief and Fire Chief. Department representatives shall not be elected or appointed board or committee members. Each department head shall determine its representative and shall provide for alternates to act in the event that the representative is unable to attend. It shall be the responsibility of each representative to report back to his/her department in order to provide ongoing information related to a proposed plan. It shall also be necessary for said department to formulate questions or comments related to the application and review process as described under § 83-4 of this chapter.

---

23. Editor's Note: See Ch. 172, Wetlands Protection, and Ch. 179, Zoning.

24. Editor's Note: See Ch. 290, Subdivision Rules and Regulations.



ARTICLE II  
Procedure

**§ 83-3. Applicability. [Amended 5-1-1995 ATM, Art. 17; 5-2-2011 ATM, Art. 29]**

- A. Proposed developments are required to complete staff review pursuant to this section if they include any one or more of the following:
- (1) A new principal nonresidential building.
  - (2) An increase in floor area by more than 500 square feet through a new accessory building or a five-hundred-square-foot building addition or an increase in lot coverage by 10% or more; provided, however, that this provision shall not apply to single-family or two-family dwellings or to their accessory buildings, or to the coverage of their lots.
  - (3) Alteration to a parking facility having 10 or more spaces.
  - (4) Removal of existing vegetative ground cover from more than 10,000 square feet of site area, whether a structure is proposed or not.
  - (5) Any change of use of an existing building and/or property as listed in Chapter 179 of the Code of the Town of Brewster, Massachusetts.
  - (6) Any use or development required by the Zoning Bylaw to seek staff plan review.
  - (7) A new personal wireless services facility.
  - (8) A new medium-scale wind energy turbine (MWET) or large-scale wind energy turbine (LWET) as defined in Chapter 179, Article IX, Section 179-40.2C.
  - (9) A new utility-scale solar energy installation.
- B. Any person proposing a development of any kind wishing to present proposed plans for plan review on an informal basis is encouraged to do so.
- C. This chapter shall not apply to single-family or two-family dwellings or to their accessory buildings and structures.
- D. This chapter shall not apply to developments which, prior to its effective date, have been granted a special permit under § 179-51 of the Zoning Bylaw, or a building permit.
- E. Chapter 179, Article XII (Site Plan Review), requires either a special permit or a waiver for developments subject to review under § 83-3A. The review afforded by the staff review process is believed to greatly benefit the applicant and relevant Town boards, committees and departments. As a result, applicants are required to go through staff plan review prior to appearing before the Planning Board for the special permit.

**§ 83-4. Staff review process. [Amended 5-13-1991 ATM, Art. 34; 5-9-1994 ATM, Art. 27; 5-1-1995 ATM, Art. 17; 5-3-1999 ATM, Arts. 14 and 15; 5-1-2000 ATM, Art. 26; 5-2-2011 ATM, Art. 29]**

- A. Presubmittal information. Those submitting plans for review are urged to confer with the Town Planner regarding materials necessary or appropriate for submittal for plan review.
- B. Submittal and distribution. All staff review submission material shall be submitted to the Town

Planner, with 12 copies so that each staff member participating in the review shall be provided a copy. The Town Planner shall transmit copies of those materials to those staff members. Within 14 days of submittal, each of those staff members shall notify the Town Planner of any specific further information or materials needed.

- C. Staff review meeting. A staff review meeting shall be held within 30 days of receipt of a submission for review or such later time as the submitter may agree to. When the date has been established, the departments to which the submittals have been distributed shall be notified.
- D. Report. The staff performing the review shall determine what further review and/or permitting is required and provide the submitter with a written report to that effect and shall notify the Building Commissioner of its findings within 14 days of the staff review meeting. The report shall be generated by the Planning Department.

**§ 83-5. Required submissions. [Amended 5-1-1995 ATM, Art. 17; 5-2-2011 ATM, Art. 29]**

The following materials shall be submitted for review, except for any determined by staff to not be germane to the specific case, as communicated to the submitter prior to submittal:

- A. Site plan showing the following:
  - (1) The location and boundaries of the site and of any lots proposed.
  - (2) An indication of each zoning district and overlay district involved.
  - (3) The use and ownership of adjacent premises, approximate location of buildings within 50 feet of the site and, if the proposal may include on-site sewage disposal, the approximate location of any wells on or off the premises within 300 feet of the leaching field or other discharge location.
  - (4) The existing and proposed buildings, streets, ways, drives, walks, service areas, parking spaces, loading areas, fences and screening, utilities, waste storage and disposal facilities, wells and drainage facilities, to the extent these have been designed.
  - (5) The existing and proposed topography and vegetation, indicating areas of retained vegetation and identifying the location of any trees exceeding eight inches in trunk diameter 4 1/2 feet above grade, if proposed for removal, and identifying size and species of trees and shrubs to be planted, if known.
  - (6) An indication of wetlands if known and other areas subject to control under the Wetlands Protection Bylaw,<sup>25</sup> and the one-hundred-foot zone surrounding such areas.
  - (7) The location of signs and exterior lighting and accompanying materials to describe those elements, if known.
- B. Building plans. Building plans and elevations in a general manner.
- C. Any other information that could assist staff in understanding the proposal.

**§ 83-6. Required submissions.**

The following materials shall be submitted for development plan review, except for any determined by the Plan Review Committee to not be germane to the specific case, as communicated to the applicant in writing

---

25. Editor's Note: See Ch. 172, Wetlands Protection.

prior to submittal:

- A. Site plan. A site plan prepared by a registered architect, landscape architect or professional engineer showing the following:
- (1) The location and boundaries of the site and of any lots proposed and an indication of each zoning district and overlay district involved.
  - (2) The use and ownership of adjacent premises, approximate location of buildings within 50 feet of the site and, if the proposal includes on-site sewage disposal, the approximate location of any wells on or off the premises within 300 feet of the leaching field or other discharge location.
  - (3) The existing and proposed buildings, streets, ways, drives, walks, service areas, parking spaces, loading areas, fences and screening, utilities, waste storage and disposal facilities, wells and drainage facilities.
  - (4) The existing and proposed topography and vegetation, indicating areas of retained vegetation and identifying the location of any trees exceeding eight inches in trunk diameter 4 1/2 feet above grade, if proposed for removal, and identifying size and species of trees and shrubs to be planted.
  - (5) An indication of wetlands and other areas subject to control under the Wetlands Protection Bylaw,<sup>26</sup> and the one-hundred-foot zone surrounding such areas, identified through field survey acceptable to the Conservation Commission, and proposed erosion control measures.
  - (6) The location of signs and exterior lighting and accompanying materials to describe those elements.
- B. Building plans. Building floor plans and architectural elevations, prepared by a registered architect or engineer unless there is no building proposed exceeding 35,000 cubic feet.
- C. Submittals documentation. Documentation that all required submittals which under law can be made actually have been made to other agencies, such as the Conservation Committee under the Wetlands Bylaw,<sup>27</sup> the Brewster Department of Public Works for utility connections, the Massachusetts Department of Public Works for curb cut permits, the Board of Health or Department of Environmental Protection for on-site disposal facilities and EOEA for MEPA review, and that any necessary special permits or variances have been granted. **[Amended 5-1-1995 ATM, Art. 17]**
- D. Additional studies. Any additional studies or other materials required to document compliance under Article III, Development Standards, whether by example of similar facilities or by engineering analysis. That may include, as germane, traffic impact analysis, water supply analysis, acoustic analysis, a lighting plan, documentation of air or water quality modeling, identification of any toxic or hazardous materials involved and substances to be emitted, a description of precautions, handling practices, monitoring and recovery systems proposed and a hazard prevention and contingency response plan.
- E. Review fee. A development plan review fee, as required under a schedule of fees to be established and, from time to time, amended by the Town Administrator, based on the actual cost of review for applications. **[Amended 5-1-1995 ATM, Art. 17]**

---

26. Editor's Note: See Ch. 172, Wetlands Protection.

27. Editor's Note: See Ch. 172, Wetlands Protection.

ARTICLE III  
**Development Standards**

**§ 83-7. Service adequacy requirements.**

- A. Approval shall be granted only for development served by a street providing adequate access as required under the Brewster Planning Board's Subdivision Regulations.<sup>28</sup>
- B. Sight distance at any driveway projected to carry more than 20 trips per day shall meet American Association of State Highway and Transportation Officials (AASHTO) standards based on observed (not posted) travel speeds.
- C. Pedestrian and bicycle circulation shall be provided for between the principal building and the street and, where appropriate, connection to any adjacent developed premises.
- D. Driveway locations shall provide the maximum practicable separation between access locations, using shared access where feasible.
- E. Applications for developments having aggregate net floor area on the premises exceeding 0.20 times lot area or forecast to involve more than trip ends of 0.25 per 1,000 square feet of lot area in the peak hour of traffic on serving streets [based on current Institute of Transportation Engineers (ITE) trip generation estimates] shall include a traffic impact study prepared consistent with study guidelines adopted and, from time to time, amended by the Planning Board.
- F. Developments requiring a traffic impact study under Subsection E shall be authorized only upon determination by the Plan Review Committee that, based upon facilities as existing or committed to be improved by the Town or the applicant, on no lane of any street or intersection will the peak hour volume/capacity ratio be increased by more than 0.1 above baseline as a result of projected traffic, with "baseline" being the ratio resulting from the traffic forecast in five years given development of the premises for single-family residences at densities as allowed under the Zoning Bylaw.<sup>29</sup>

**§ 83-8. Environmental protection requirements.**

- A. Stormwater management. All development shall be designed so that resulting stormwater patterns resemble, as nearly as possible, preexisting conditions of volume, velocity, quality and location of runoff. Any increase over predevelopment runoff peak rate shall be authorized only if the PRC determines that any potential problems with capacity, downstream erosion or siltation will be prevented through on- or off-site improvements or compensatory actions and that the public interest is better served by allowing the increase than by denying it.
- B. Erosion control.
  - (1) Any area of bare earth exposed through building or site development or demolition must be permanently stabilized through replanting, paving or other means of eliminating wind or water erosion. Such stabilization must be completed prior to building occupancy or, where no building is committed, within 60 days of exposure, or a performance bond must be posted in an amount sufficient to assure completion of such work.
  - (2) All construction must comply with the following. An erosion control plan shall be submitted for

---

28. Editor's Note: See Ch. 290, Subdivision Rules and Regulations.

29. Editor's Note: See Ch. 179, Zoning.

every development which will expose more than 60,000 square feet of bare earth during development through either removal or filling on the same parcel or on contiguous parcels in the same ownership and for developments exposing 20,000 to 60,000 square feet of bare earth where the Plan Review Committee deems such plan to be necessitated by slopes in excess of 10% highly erodible soils or other unusual conditions. Such plan shall have sufficient information on existing and proposed topography, vegetation and control measures to allow determination of compliance.

- (a) Stripping of vegetation, regrading or other development shall be done in a way which will minimize soil erosion.
  - (b) Whenever practical, trees and other natural vegetation shall be retained, protected and supplemented.
  - (c) The disturbed area shall be kept to a minimum.
  - (d) Where necessary, temporary vegetation and/or mulching shall be used to protect areas exposed during development.
  - (e) Sediment basins (debris basins, desilting basins or silt traps) shall be installed and maintained where necessary to remove from runoff waters any sediment from land undergoing development.
  - (f) The angle of graded slopes and fills shall be no greater than two horizontal to one vertical. Slopes left exposed must immediately be planted or otherwise provided with permanent ground cover or other means sufficient to restrain erosion.
  - (g) A ground cover sufficient to restrain erosion must be planted or otherwise provided within 30 working days, season permitting, on any portion of the tract upon which further active construction is not being undertaken.
  - (h) The development plan shall be fitted to the topography and soils so as to minimize erosion potential.
- (3) The Plan Review Committee may require a report on the erosion control proposals by the Soil Conservation Service or others expert in soil mechanics in cases where doubt as to adequacy of proposed measures exists. Selection of techniques and determination of adequacy of measures shall, unless otherwise specified, be consistent with Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts, United States Department of Agriculture Soil Conservation Service, 1975.
- C. Air quality. Any use whose emissions are such as to cause it to be classified as a major new stationary source of air pollution, as defined by the Environmental Protection Agency (EPA) under the Clean Air Act, and any use required to apply to the Massachusetts Department of Environmental Protection (DEP) under 310 Code of Massachusetts Regulations (CMR) 7.00 or to the EPA under Section 112 of the Clean Air Act for permission to emit asbestos, benzene, beryllium, mercury, vinyl chloride or radionuclides shall be permitted only upon determination by the PRC that compliance with the requirements of those agencies is assured and that health and safety are adequately protected.
- D. Plants and animals. Location and design shall not cause avoidable damage to wildlife habitats, forests or corridors or to any plant or animal species listed as rare, endangered, watch list or of special concern by the Massachusetts Natural Heritage Program or to any tree exceeding 12 inches in trunk diameter at a height of 4 1/2 feet above grade. Specimen plants and trees shall be preserved or

relocated when possible. Applicants shall be required to submit signed documentation from the Conservation Commission or its agent that the project has been reviewed by the Conservation Commission with respect to these considerations. The Conservation Commission or its agent may determine that the proposed site either contains no such habitats or species or that all feasible efforts to avoid, minimize or compensate for damage have been reflected in the proposal. The Conservation Commission or its agent may refer the project to the Massachusetts Natural Heritage Program for further review or comment. If additional review of wildlife habitats, forests and/or corridors is determined to be necessary by the Plan Review Committee, the Committee shall be guided by the standards outlined in the most current EIR CCC Plant and Wildlife Habitat Guide Technical Bulletin. **[Amended 11-20-1995 FYTM, Art. 14]**

E. Hazardous materials.

(1) Activities involving one or more of the following are considered unusually hazardous:

(a) Manufacturing as the principal activity on the premises, if the products manufactured are either:

[1] When wastes, regulated as hazardous under MGL C. 21C.

[2] Substances listed on the Massachusetts Substance List contained in 105 CMR 670.000, Appendix A.

(b) Keeping of flammable fluids, solids or gases in quantities exceeding four times that requiring licensing under 527 CMR 14.00, except for storage of fuel for consumption on the premises or by vehicles operated incidental to the principal use of the premises.

(c) Any activity for which licensing is required under 310 CMR 30.800 to transport, use, treat, store or dispose of hazardous waste (but not those excluded under 310 CMR 30.801).

(2) Unusually hazardous activities shall be approved only if the PRC finds that the proposed activity will not cause harm or adverse disturbance to the environment or to other premises, will not jeopardize health or safety either on or off premises and that either any control or safety systems being relied upon are fail-safe or redundant or it has been demonstrated that there would be no adverse health or safety consequences beyond the boundaries of the premises in the event of system failure, in light of on-site decay, dilution or dispersion.

F. Water quality and usage. **[Added 11-20-1995 FYTM, Art. 14]**

(1) If a project lies within a zone of contribution, a cumulative nitrogen loading calculation shall be submitted to the Plan Review Committee, and review by the Water Quality Review Board shall be required.

(2) Applicants of projects that do not encroach upon the Groundwater Protection District may be required to submit a cumulative nitrogen loading calculation in accordance with the standards outlined in the most current EIR CCC Nitrogen Loading Calculation Technical Bulletin.

(3) Applicants proposing to use in excess of 5,000 gallons of water per day shall provide the Plan Review Committee with an estimate of the project's daily water usage and the proposed water source. The applicant may be required to submit a water conservation plan.

G. Open space. The term "open space" as applied in this section shall refer to land set aside which is restricted for conservation, agriculture or recreation. Open space may include woodlands, pasture,

landscaped yards, gardens or play areas, walking and riding trails, but shall not include structures, buildings, tennis courts, swimming pools or surfaces used for parking or storage. Projects on lots in excess of two acres or altering more than 25% of the project's lot area shall submit a calculation in accordance with the most current EIR CCC Calculation for Open Space Technical Bulletin. Multifamily residential projects are expected to set aside the equivalent of 60% of the total lot area for open space. Commercial projects are expected to set aside the equivalent of 40% of the total lot area for open space. The Plan Review Committee may require that the applicant provide more open space in order to mitigate the project's impact. **[Added 11-20-1995 FYTM, Art. 14]**

#### **§ 83-9. Other design requirements.**

- A. Site design. Site designs not complying with any of the following guidelines shall be allowed only upon determination by the PRC that for the given location, use and size of development, no design better serving the purposes of the chapter is reasonably feasible:
  - (1) Parking and loading areas shall be located to the side or rear of the principal structure, wherever possible. Where site constraints prevent this, visibility of parking areas shall be reduced through location of not more than 1/3 of all parking between the building and the street. **[Amended 5-9-1994 ATM, Art. 27]**
  - (2) At least 25% of the required front yard area shall be vegetated.
  - (3) Existing grade shall be changed minimally, typically departing from existing grade by no more than six feet and resulting in a balance on site between cut and fill, except for basement and cellar excavations.
  - (4) Site circulation shall have clarity from the driver's perspective, aided by simple patterns and use of planting islands or other devices in larger circulation areas.
  - (5) Pedestrian access, or bicycle and wheelchair access where possible, shall be provided among all facilities on the site, between them and the street and between them and adjacent premises developed for uses open to the public. **[Amended 5-1-1995 ATM, Art. 17]**
- B. Lighting.
  - (1) The following lighting zones are hereby created:
    - (a) Zone A: locations within a C-H, C-L, I, V-B or MRD District as established in the Brewster Zoning Bylaw.<sup>30</sup>
    - (b) Zone B: all other locations.
  - (2) Fixtures. Lighting fixture types are defined as follows:
    - (a) Type 1: no light cutoff.
    - (b) Type 2: luminaire shielded such that peak candlepower is at an angle of 75° or less from vertical and essentially no light is emitted above the horizontal.
    - (c) Type 3: luminaire shielded such that total cutoff is at less than 90° from vertical and no light source is in direct view from five feet above the ground at any point off the premises.

---

30. Editor's Note: See Ch. 179, Zoning.

- (3) Lighting limitation. The following limitations shall be observed by all uses, unless the PRC determines that it is inherently unfeasible for that use (e.g., public outdoor recreation) to meet these standards, and that all reasonable efforts have been made to avoid glare or light overspill. **[Amended 5-1-1995 ATM, Art. 17]**

- (a) Maximum luminaire mounting height:

Fixture Type	Zone A (feet)	Zone B (feet)
1	20	10
2	30	15
3	40	20

- (b) Maximum off-site overspill:

Fixture Type	Zone A (footcandles)	Zone B (footcandles)
1	0.3	0.2
2	1.0	0.3
3	3.0	0.5

- (4) No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing reflected from the sky.
- (5) When the Conservation Commission determines that lighting as proposed by an applicant may have a detrimental effect on plants, wildlife or a wildlife habitat or corridor, the Plan Review Committee may impose more stringent restrictions or require further mitigation. **[Added 11-20-1995 FYTM, Art. 14]**
- C. Solid waste. Each development must document arrangements for satisfactory disposal of tree stumps and debris resulting from or discovered during construction and must make permanent arrangements for satisfactory on-site storage of refuse and recyclable material pending its removal. Such storage shall be screened from view from public ways, secured from vermin or other animals and located to present minimal hazard in the event of fire and minimal threat to water quality in the event of container failure. **[Amended 5-1-1995 ATM, Art. 17]**
- D. Historic and archaeologic resources. Historic and archaeologic resources shall not be impaired, damaged or altered by any proposed activity. An agent of the Plan Review Committee shall provide written determination if a Massachusetts Historic Commission notification form Appendix A needs to be filed with the State. A determination of nonsignificance may be made at the local level for certain types of projects after an on-site inspection by an agent of the Plan Review Committee is made. **[Amended 11-20-1995 FYTM, Art. 14]**
- E. Noise. Where exterior noise levels after construction are expected to exceed 100 decibels at the source for more than 15 minutes at a time, continually on a regular or sporadic basis, the applicant shall be required to show the Plan Review Committee the means by which this impact shall be mitigated. The Committee shall have the authority to require greater degrees of mitigation if the Plan Review



Committee is not satisfied that the resultant noise level will have a minimal effect on surrounding neighborhoods or wildlife habitats. [**Added 11-20-1995 FYTM, Art. 14**]

ARTICLE IV  
**Severability**

**§ 83-10. Severability.**

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.



BREWSTER CODE

**Chapter 86**

**DOGS**

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I

**Restraint**

**[Adopted 3-5-1973 STM, Art. 55; amended 5-14-1974 STM, Art. 38; 5-10-1976 STM, Art. 50]**

**§ 86-1. Action by Dog Officer.**

To implement the year-round dog restraining order, all dogs found at large shall be picked up by the Dog Officer and brought to the dog pound.

**§ 86-2. Violations and penalties.**

A fine of \$25 shall be paid for an initial offense and a fine of \$25 for all subsequent offenses, as provided in MGL c. 140, § 173A, as amended by Ch. 627, Acts of 1973.

ARTICLE II  
**Licensing**  
**[Adopted 5-11-1982 ATM, Art. 90]**

**§ 86-3. Animal control. [Added 11-19-2001 FYTM, Art. 6<sup>31</sup>]**

A. Definitions. The following words and phrases shall have the following meanings:

KEEPER — Any person, other than the owner, harboring or having in his possession any dog.

LICENSE PERIOD — Between January 1 and December 31, both dates inclusive. **[Amended 12-3-2018 FYTM, Art. 10]**

MULTIPLE PET HOUSEHOLD — More than three dogs over the age of six months of age at a single private residence.

B. Licensing required.

- (1) Effective January 1, 2003, any person residing in the Town of Brewster who, at the beginning of the license period (January 1 to December 31), or who during the license period becomes the owner or keeper of a dog six months old or over, shall cause the dog to be licensed within 30 days. **[Amended 12-3-2018 FYTM, Art. 10]**
- (2) On the license form, the Town Clerk shall record the name, address, phone number of the owner or keeper of the dog, and the name, license number, breed, age and date of rabies expiration. The name of the Town and the year will also be printed on the tag.
- (3) The owner or keeper shall cause the dog to wear around its neck or body a collar or harness to which he shall securely attach the license tags. In the event that any tag is lost, defaced, or destroyed, the owner or keeper shall obtain substitute tags from the Town Clerk at the cost of \$1.
- (4) The Town Clerk shall not issue a license for any dog unless the owner or keeper provides the Town Clerk with a veterinarian's certificate verifying that the dog is currently vaccinated against rabies.
- (5) The fee for each dog license shall be \$12 unless it is accompanied by a certificate from a veterinarian stating that the dog has been spayed or neutered, in which case the fee shall be \$6. No fee shall be charged for a dog specially trained to lead the blind or serve a blind or deaf person upon presentation to the Town Clerk of a certificate of such training.
- (6) The Town Clerk shall collect a late fee of \$10 for every dog license issued after the thirty-day period.
- (7) Any owner or keeper of a dog who moves into the Town of Brewster and has a valid license for his/her dog from another city or town in the commonwealth may obtain a dog license, upon forfeiture of the old license, for \$1.
- (8) Violation and penalties. Whoever, as owner or keeper of a dog, fails to license such dog later than the 30 days after a license period begins shall be subject to a fine of \$25.

C. Kennel licenses.

---

31. Editor's Note: This article also repealed former § 86-3, Annual fees.

- (1) Any owner or keeper of more than three dogs shall obtain a kennel license for a multiple pet household upon payment of \$50. The owner or keeper shall present the Town Clerk verification that all dogs six months or older have been currently immunized against rabies.
  - (2) Violations and penalties. Any person who violates the provisions of this subsection shall receive a written warning for the offense, and for each subsequent offense shall be liable for a payment of a fine of \$25.
- D. Restraining of dogs. All dogs owned or kept within the Town of Brewster shall at all times be kept securely restrained by means of a suitable leash, rope, chain or other reasonable method which effectively confines the dog to the property owned, occupied or controlled by the dog's owner or keeper; provided, however, a dog in the presence of its owner or keeper or responsible person having charge thereof and under the control of said person, need not be restrained by means of a rope. Whoever as owner or keeper fails to restrain his/her dog shall be subject to a fine of \$25 and to act fully thereon.

**§ 86-4. Disposition of funds.**

Notwithstanding the provisions of MGL c. 140, § 147, or any other provision of law to the contrary, all money received for licenses or from the sale of dog licenses by the Town under the provisions of said MGL c. 140, relating to dogs, shall be paid into the Town treasury of said Town and shall not thereafter be paid over to the County of Barnstable.

**§ 86-5. Licensing official.**

Notwithstanding the provisions of MGL c. 140, § 137, or any other provision of law to the contrary, the registration, numeral listing, description and licensing of dogs, if kept in said Town, shall be conducted by the Town Clerk of said Town.





**Chapter 87****DOMESTIC PARTNERSHIPS**

**[HISTORY: Adopted 5-1-1995 ATM, Art. 36. Amendments noted where applicable.]**

**§ 87-1. Criteria.**

A domestic partnership shall exist between any two (2) persons, regardless of their sex, if the following is true:

- A. The persons are not related by blood closer than would bar marriage in the State of Massachusetts.
- B. Neither person is married or related by marriage.
- C. The persons share the common necessities of life.
- D. The persons are eighteen (18) years old or older.
- E. The persons are competent to enter a contract.
- F. The persons declare that they are each other's sole domestic partner.
- G. The persons are responsible for each other's sole domestic partner.
- H. The persons agree to notify the Town of any change in the status of their domestic partnership.
- I. Neither person has declared that he or she has a different domestic partner.
- J. The persons file a statement of domestic partnership as set forth in § 87-2 of this chapter.

**§ 87-2. Statement of domestic partnership.**

A. Contents.

- (1) Domestic partners may make an official record of their domestic partnership by completing, signing and submitting to the Town Clerk a statement of domestic partnership. Persons submitting a statement of domestic partnership must declare under penalty of perjury;
  - (a) The persons are not related by blood closer than would bar marriage in the State of Massachusetts.
  - (b) Neither person is married or related by marriage.
  - (c) The persons share the common necessities of life.
  - (d) The persons are eighteen (18) years of age or older.
  - (e) The persons are competent to enter a contract.
  - (f) The persons declare that they are each other's sole domestic partner.
  - (g) The persons agree to be responsible for each other's welfare.
  - (h) The persons agree to notify the Town of any change in the status of their domestic partnership.

- (i) Neither person has declared that he or she has a different domestic partner.
  - (2) The domestic partnership statement shall include the date on which the persons became each other's domestic partner and the address or addresses of both partners.
- B. Amendment of domestic partnership statement. Partners may amend the statement at any time in order to change an address by filing a new statement.
- C. Termination of domestic partnership. Any member of a domestic partnership may terminate the domestic partnership by filing a termination statement with the Town Clerk. The person filing the termination statement must declare under penalty of perjury that:
  - (1) The domestic partnership is terminated, and
  - (2) A copy of the termination statement has been mailed to the other domestic partner.
- D. New statements of domestic partnership. No person who has filed an affidavit of domestic partnership may file another statement of domestic partnership until six (6) months after a statement of termination of a previous partnership has been filed with the Town Clerk.

**§ 87-3. Filing of statements.**

- A. Anyone who signs a statement of domestic partnership may not file another statement of domestic partnership until six (6) months after a statement of termination of a previous partnership has been filed with the Town Clerk.
- B. Form of statements. All statements relating to domestic partnership shall be executed as a declaration made under penalty of perjury. The Town Clerk shall provide forms as necessary to interested individuals.
- C. Fees for statements.
  - (1) The Town Clerk shall charge a fee for filing a domestic partnership statement, a termination of domestic partnership statement and for an amendment to a domestic partnership statement. The amount of this fee shall be determined by the Town Clerk.
  - (2) Payment of the above fee entitles the person filing a statement on behalf of the domestic partnership to have two (2) copies of the statement certified by the Town Clerk. Certification of additional copies at the time of filing shall cost an amount per copy to be determined by the Town Clerk. Certification of additional copies at any other time shall cost an amount per copy to be determined by the Town Clerk.

**§ 87-4. Town Clerk's records.**

The Town Clerk shall maintain adequate records of domestic partnership statements, showing which domestic partnerships have been created, terminated or amended.

**§ 87-5. Civil actions.**

Any person defrauded by a false statement contained in a statement may bring a civil action for fraud to recover his or her losses.

**§ 87-6. Forms.**

The following forms<sup>32</sup> shall be sufficient proof of the creation or termination of domestic partnership.

---

**32. Editor's Note: Forms are located at the end of this chapter.**

BREWSTER CODE

**Chapter 89**

**DREDGING AND SOIL REMOVAL**

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I  
(Reserved)<sup>33</sup>

§ 89-1. (Reserved)

§ 89-2. (Reserved)

---

33. Editor's Note: Former Art. I, Dredging of Tidal Waters, adopted 3-7-1966 ATM, Art. 41, was repealed 11-20-1995 FYTM, Art. 11.

## ARTICLE II

**Soil Removal****[Adopted 5-14-1974, ATM, Art. 86]****§ 89-3. Removal of materials from Town. [Amended 5-14-1985 ATM, Art. 59]**

No topsoil, gravel, loam or stone in the Town may be removed to be transported outside the Town of Brewster, except from established pits and stockpiles, unless authorized by a special permit from the Board of Appeals.

**§ 89-4. Replanting.**

No topsoil, subsoil, gravel, loam, sand, stone or other earth in the Town may be removed to be transported either outside the Town or from place to place within the Town of Brewster, nor may any land be filled, unless the entire area of such removal or filling be graded and replanted with soil-improving plants, with a permanent cover crop or by reforestation, so that any scars resulting from such removal shall not remain unplanted for a period of longer than six (6) months, with the exception of the Town disposal area.

**§ 89-5. Violations and penalties.**

The penalty for violation of the provisions of this article shall be as follows:

- A. For the first offense: fifty dollars (\$50.).
- B. For the second offense: one hundred dollars (\$100.).
- C. For each subsequent offense: two hundred dollars (\$200.).



BREWSTER CODE

**Chapter 91**

**(RESERVED)**

**[Former Ch. 91, Environmental Impact Review, adopted 5-9-1988 ATM, Art. 71, as amended, was repealed 11-20-1995 FYTM, Art. 15.]**



EROSION

**Chapter 93**

**EROSION**

**[HISTORY: Adopted 3-3-1953 ATM, Art. 93. Amendments noted where applicable.]**

**§ 93-1. Reimbursement for preventative measures.**

One-half of the Town's share (which at present is equivalent to 1/8 of the total cost) of any riprap, jetty or other work to prevent erosion of the shores of Brewster shall be reimbursed by private contribution, unless such work is on Town property and that no construction shall be undertaken until such contribution has been received by the Town.

BREWSTER CODE

**Chapter 97**

**FIREARMS AND EXPLOSIVES**

**[HISTORY: Adopted 5-10-1976 Annual Town Meeting, Art. 14. Amendments noted where applicable.]**

**§ 97-1. Restricted activities. [Amended 11-13-2017 FYTM, Art. 13]**

No person shall fire or discharge any firearms or explosives of any kind within the limits of any highway, park or other public property, except with the written permission of the Select Board, or on any private property, except with the written consent of the owner or legal occupant thereof; provided, however, that this chapter shall not apply to the lawful defense of life or property nor to any law enforcement officer acting in the discharge of his duties.

**§ 97-2. Violations and penalties.**

Any person violating this chapter shall be punished by a fine of not more than \$200 for each offense.

## HUNTING IN THE PUNKHORN PARKLANDS

### Chapter 98

## HUNTING IN THE PUNKHORN PARKLANDS

**[HISTORY: Adopted by the Town of Brewster 5-14-2022ATM, Art. 18. Amendments noted where applicable.]**

#### **§ 98-1. Prohibitions; exceptions.**

No person shall discharge any gun, including paint ball guns, fowling piece, pistol, or firearm or release an arrow from a bow or hunt or trap or poison or set fire to any material known as fireworks, or other combustible matter, within the Town-owned land known as the Punkhorn Parklands; provided, however, this section shall not apply to any person abating nuisance or in the exercise of duty required by law: provided further that bow hunting only shall only be permitted during a three-week period beginning on the first Monday in December of each year.

BREWSTER CODE

**Chapter 100**

**FLOODING**

**[HISTORY: Adopted 5-12-1975 Annual Town Meeting, Art. 18. Amendments noted where applicable.]**

**§ 100-1. Findings; actions.**

Whereas certain areas of the Town of Brewster are subject to periodic flooding causing serious damage to properties within these areas; and whereas relief is available in the form of federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968; and whereas it is the intent of the Town to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards; and whereas the Town of Brewster has legal authority to adopt land use and control measures to reduce flood losses pursuant to the Constitution and General Laws of the commonwealth<sup>34</sup>; now, therefore, the Town of Brewster hereby votes that:

- A. It will enact and maintain in force for those areas having flood hazards adequate land use and control measures with enforcement provisions consistent with the criteria set forth in § 1910 of the National Flood Insurance Program Regulations.
- B. The Conservation Commission or Selectmen or Planning Board is hereby authorized and directed to:
  - (1) Assist the Flood Insurance Administrator in delineating flood hazard areas on available local maps of sufficient scale to locate building sites for future Town Meeting consideration.
  - (2) Provide such information as the administrator may request concerning present uses and occupancy of the floodplain.
  - (3) Cooperate with federal, local and state agencies and private firms which undertake to study, survey, map and identify flood hazard areas and cooperate with neighboring communities with respect to management of adjoining flood hazard areas in order to prevent aggravation of existing hazards.
  - (4) Submit on the anniversary date of the community's initial eligibility an annual report to the administrator on the progress made during the past year within the community in the development of floodplain management measures.
  - (5) Take any other action reasonable and proper to carry out program objectives of minimizing or eliminating flood damage.

---

34. Editor's Note: The specific regulations regarding flood prevention are included in Ch. 179, Zoning.

**Chapter 106****HANDICAPPED PARKING**

**[HISTORY: Adopted 11-5-2007 Fall Yearly Town Meeting, Art. 12.<sup>35</sup> Amendments noted where applicable.]**

**GENERAL REFERENCES**

Streets and sidewalks — See Ch. 157.

---

**§ 106-1. Reservation of spaces required.**

Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings or for any other place where the public has a right of access as invitees or licensees is required to reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate or placard authorized by MGL c. 90, § 2, or Chapter 632 of the Acts of 1985, as amended.

**§ 106-2. Number of spaces required.**

<b>Total Parking in Lot</b>	<b>Required Minimum Number of Accessible Spaces</b>
16 - 25	1
26 - 40	5% but not less than 2
41 - 100	4% but not less than 3
101 - 200	3% but not less than 4
201 - 500	2% but not less than 6
501 - 1,000	1.5% but not less than 10
1,001 - 2,000	1% but not less than 15
2,001 - 5,000	0.75% but not less than 20
5,001 -	0.5% but not less than 30

**§ 106-3. Identification; location.**

- A. All parking spaces designated as reserved under the provisions of the above section shall continue to be so reserved unless a change in designation is authorized in writing by the Building Inspector and shall be identified by the use of above-grade signs, located at a height no less than five feet but more than eight feet to the top of the sign. The sign shall show the international symbol of accessibility. Van accessible spaces shall include the words "van accessible."

---

35. Editor's Note: This article also repealed former Ch. 106, Handicapped Parking, adopted 5-8-1989 Annual Town Meeting, Art. 27.

- B. Such spaces shall be as near as possible to a building entrance or walkway, shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person and shall be 12 feet wide or shall be two eight-foot wide areas with four feet of cross hatch between them.

**§ 106-4. Violations and penalties.**

It shall be unlawful for any person or persons to have unauthorized vehicles within parking spaces designated for use by disabled veterans or handicapped persons as authorized by the above sections or to leave such a vehicle as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way. The penalty for violation of this section shall be \$100. The vehicle may be removed according to the provisions of MGL c. 266, § 120D. The penalty for failure to establish and maintain handicapped spaces and signs required by the above sections in this chapter shall be \$50 for each day such failure continues. As an alternative to criminal enforcement, this chapter may, in accordance with MGL c. 40, § 21D, be enforced in a noncriminal proceeding by either the Building Commissioner and local inspectors or any member of the Police Department. Any enforcement person taking cognizance of a violation of the chapter may, as an alternative to initiating criminal proceedings, give to the offender a written notice to appear before the Clerk of the Orleans District Court at any time during office hours, but not later than 21 days after the date of the notice, unless the civil fine is sooner paid.

WATER

**Chapter 112**

WATER

**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I  
**Water Conservation**  
[Adopted 11-15-1999 FYTM, Art. 20]

**§ 112-1. Authority.**

This article is adopted by the Town under its police powers to protect public health and welfare and its powers under MGL c. 40, § 21 et seq. and implements the Town's authority to regulate water use pursuant to MGL c. 41, § 69B. This article also implements the Town's authority under MGL c. 40, § 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

**§ 112-2. Purpose.**

The purpose of this article is to protect, preserve and maintain the public health, safety and welfare whenever there is, in force, a state of water supply conservation or state of water supply emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

**§ 112-3. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

PERSON — Any individual, corporation trust, partnership or association, or other entity.

STATE OF WATER SUPPLY EMERGENCY — A state of water supply emergency declared by the Department of Environmental Protection under MGL c. 21G, §§ 15 through 17.

STATE OF WATER SUPPLY CONSERVATION — A state of water supply conservation declared by the Town pursuant to § 112-4 of this article.

WATER USERS or WATER CONSUMERS — All public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

**§ 112-4. Declaration of state of water supply conservation.**

The Town, through its Board of Water Commissioners, may declare a state of water supply conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a state of water conservation shall be given under § 112-6 of this article before it may be enforced.

**§ 112-5. Restricted water uses.**

A. Declaration of a state of water supply conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under § 112-6.

- (1) Odd/even day outdoor watering. Outdoor watering by water users with odd-numbered addresses is restricted to odd-numbered days. Outdoor watering by water users with even-numbered addresses is restricted to even-numbered days. Commercial, condominium and other multiple properties held under common ownership or management will be assigned an odd or even



designation in writing by the Water Department.

- (2) Outdoor watering ban. Outdoor watering is prohibited.
- (3) Outdoor watering hours. Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a state of water supply conservation and public notice thereof.
- (4) Filling swimming pools. Filling of swimming pools is prohibited.
- (5) Automatic sprinkler use. The use of automatic sprinkler systems is prohibited.

**§ 112-6. Public notification of state of water supply conservation: notification of DEP.**

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a state of water supply conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the state of water supply conservation. Any restriction imposed under § 112-5 shall not be effective until such notification is provided. Notification of the state of water supply conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

**§ 112-7. Termination of state of water supply conservation; notice.**

A state of water supply conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a state of water supply conservation shall be given in the same manner required by § 112-6.

**§ 112-8. State of water supply emergency; compliance with DEP orders.**

Upon notification to the public that a declaration of a state of water supply emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.

**§ 112-9. Enforcement; violations and penalties.**

This article shall be enforced by the Superintendent of the Water Department, by any member of the Water Commissioners, or by any member of the Police Department. Any person who violates this article shall receive a written warning which shall include the current restrictions and penalties. Any person who violates this article after receiving a written warning shall be sanctioned by a fine of \$50 and by a fine of \$100 for subsequent violation. Each day of a violation shall constitute a separate offense. Fines shall be recovered by the Town Clerk's office.



**Chapter 115****ILLCIT CONNECTIONS AND DISCHARGES**

**[HISTORY: Adopted by the 11-7-2011 FYTM, Art. 14. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Pollution — See Ch. 135.**

**Sewers — See Ch. 150.**

---

**§ 115-1. Purpose.**

- A. The regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Brewster's water bodies and groundwater and to safeguard the public health, safety, welfare and the environment.
- B. The objectives of this bylaw are:
  - (1) To prevent pollutants from entering the Town of Brewster's municipal separate storm sewer system (MS4);
  - (2) To prevent illicit connections and unauthorized discharges to the MS4;
  - (3) To require removal of all such illicit connections;
  - (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
  - (5) To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

**§ 115-2. Definitions.**

For the purposes of this bylaw, the following terms are defined as follows:

**AUTHORIZED ENFORCEMENT AGENCY** — The Department of Public Works (hereinafter "DPW"), its employees or agents designated to enforce this bylaw.

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

**CLEAN WATER ACT** — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

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

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

**ILLCIT CONNECTION** — A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, and these discharges include 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 this bylaw.

**ILLCIT DISCHARGE** — Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in § 115-7D. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or a surface water discharge permit, or a discharge resulting from fire-fighting activities exempted pursuant to § 115-7D of this bylaw.

**IMPERVIOUS SURFACE** — Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes, without limitation, roads, paved parking lots, sidewalks, and rooftops.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM** — The system of conveyances designed or used for collecting or conveying stormwater, and this system includes 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, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Brewster.

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

**NONSTORMWATER DISCHARGE** — Discharge to the municipal storm drain system not composed entirely of stormwater.

**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.

**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 sewage treatment works or waters of the commonwealth. Pollutants shall include, without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes, except dried leaves;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, soils;
- J. Construction wastes and residues; and
- K. Noxious or offensive matter of any kind.

**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.

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

**STORMWATER** — Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

**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 or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

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

**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, by-product or waste product.

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

### **§ 115-3. Applicability.**

This bylaw applies to any and all flows entering the municipally owned storm drainage system.

### **§ 115-4. Authority.**

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and the regulations of the federal Clean Water Act found at 40 CFR 122.34. Nothing in this bylaw is intended to replace the requirements or authority of any other bylaw, state, federal or superseding authority.

### **§ 115-5. Responsibility for administration.**

The DPW shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the DPW may be delegated in writing by the DPW to employees or agents of the DPW. The Brewster Board of Health, Natural Resources Director or the Building Commissioner may act as an agent of the DPW.

### **§ 115-6. Regulations. [Amended 11-13-2017 FYTM, Art. 13]**

The DPW, through the Select Board and following a public hearing, may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the DPW to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

### **§ 115-7. Prohibited activities.**

A. **Illicit Discharge.** No person shall dump, discharge, cause or allow to be discharged any pollutant, or

nonstormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the commonwealth or abutting property.

- B. Illicit Connection. 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.
- C. Obstruction of the 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 DPW.
- D. Exemptions.
  - (1) Discharge or flow resulting from fire-fighting activities;
  - (2) The following nonstormwater discharges or flows are exempt from the prohibition of nonstormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system.
    - (a) Waterline flushing;
    - (b) Flows from potable water sources;
    - (c) Springs;
    - (d) Natural flows from riparian habitats and wetlands;
    - (e) Diverted stream flow;
    - (f) Rising groundwater;
    - (g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20),<sup>36</sup> or uncontaminated pumped groundwater (e.g., sump pump or crawl space pump), provided that where a pump intake exists inside a structure, the operator seeks a permit from the DPW prior to discharge, and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations to be issued by the DPW;
    - (h) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), or air conditioner condensation;
    - (i) Discharge from landscape irrigation or lawn watering;
    - (j) Water from individual residential vehicle washing, including but not limited to cars, boats and recreational vehicles. It is recommended that washing take place on a pervious surface, such as a lawn or other unpaved area;
    - (k) Discharges from dechlorinated swimming pool water (less than one part per million chlorine), provided that the owner seeks a permit from the DPW prior to discharge, and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations to be issued by the DPW, and provided the water is allowed to stand for one week prior to draining, or tested for chlorine levels with a pool test kit prior to draining, and the pool is drained in such a way as to not cause a nuisance;

---

36. Editor's Note: See 40 CFR 35.2005(b)(20).

- (l) Discharge from street sweeping;
- (m) Dye testing, provided that verbal notification is given to the DPW prior to the time of the test, preferably at least 72 hours prior to the start of the test;
- (n) Nonstormwater discharge permitted under a National Pollutant Discharge Elimination System (NPDES) permit, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver or order and applicable laws and regulations; and
- (o) Discharges for which advanced written approval is received from the DPW as necessary to protect public health, safety, welfare or the environment.

**§ 115-8. Emergency suspension of storm drainage system access.**

- A. The DPW may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents or may present imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the DPW may take all reasonable steps to prevent or minimize harm to the public health, safety, and welfare of the environment.
- B. Any user that denies the authorized enforcement agency reasonable access to the user's premises for the purpose of inspection, monitoring, records examination, or sampling of nonstormwater or stormwater discharges is subject to discharge termination.
- C. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the authorized enforcement agency may take such steps, as deemed necessary, including immediate severance of the sewer or storm drain connection, to prevent or minimize damage to the municipal storm drain system or its receiving stream, or endangerment to any individuals. The authorized enforcement agency may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the authorized enforcement agency that the period of endangerment has passed.

**§ 115-9. Notification of spills.**

Notwithstanding other requirements of local, state or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials at that facility or operation which is resulting or may result in discharge of pollutants to the municipal drainage system or waters of the commonwealth, that person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Brewster Fire and Police Departments, DPW and Board of Health. In the event of a release of nonhazardous material, the reporting person shall notify the DPW no later than the next business day. Written confirmation of all telephone, facsimile or in-person notifications shall be provided to the DPW within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

**§ 115-10. Enforcement; violations and penalties.**

- A. The DPW or an authorized agent of the DPW shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations.
- B. Civil relief. If a person violates the provisions of this bylaw or of the regulations, permits, notices, or orders issued thereunder, the DPW may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or to compel the person to perform abatement or remediation of the violation.
- C. Orders. The DPW or an authorized agent of the DPW may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, and these orders may require:
  - (1) Elimination of illicit connections or discharges to the MS4;
  - (2) Performance of monitoring, analyses, and reporting; and
  - (3) Remediation of contamination in connection therewith.
- D. 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 may, at its option, undertake such work, and the expenses thereof shall be charged to the violator.
- E. Within 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, including administrative costs. The violator or property owner may file a written objection to the amount or basis of costs with the DPW within 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 30 days following a decision of the DPW 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.
- F. Criminal penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder shall be punished by a fine of \$100. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the noncriminal disposition provision set forth in MGL c 40, § 21D for any violation of this bylaw or of any regulations, permit, notice, or order issued under it. The enforcing person shall be any member of the Department of Public Works, or the Police Department.
- H. Entry to perform duties under this bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the DPW, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the DPW deems reasonably necessary.
- I. Appeals. The decisions or orders of the DPW shall be final. Further relief shall be to a court of competent jurisdiction.
- J. Remedies not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies



§ 115-10

ILLICIT CONNECTIONS AND DISCHARGES

available under any applicable federal, state or local law.

**§ 115-11. Severability.**

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw 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 this bylaw.

**§ 115-12. Transitional provisions.**

Residential property owners shall have 120 days from the effective date of the bylaw to comply with its provisions, provided that good cause is shown for the failure to comply with the bylaw during that period.

**Chapter 119****FERTILIZER NUTRIENT CONTROL**

**[HISTORY: Adopted by the 11-17-2014 Fall Yearly Town Meeting, Art. 11. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Flooding — See Ch. 100.

Pollution — See Ch. 135.

Water — See Ch. 112.

Water betterment — See Ch. 171.

Illicit connections and discharges — See Ch. 115.

Wetlands protection — See Ch. 172.

---

**§ 119-1. Findings.**

The Town of Brewster herein makes the following findings:

- A. There is sufficient scientific evidence demonstrating that excessive nutrient enrichment of the region's water resources can have numerous, significant negative impacts.
- B. Public health risks from excessive loading of nutrients to water resources may include direct detrimental effects on drinking water sources by increased concentrations of nitrates that can violate safe drinking water standards.
- C. Degradation of the quality of water resources can have significant negative impacts to the local and regional economy, and the fiscal well-being of the Town.
- D. The Town has significant amounts of glacially deposited coarse, sandy soils that are subject to rapid water infiltration, percolation, and leaching of nutrients.
- E. The Town's soil characteristics mean that agronomic practices of soil fertilization common in other parts of the region, state and country may not always apply in the Town, as these practices vary by soil type.
- F. Scientific literature demonstrates that a significant potential source of nutrient loading to water resources is from inappropriate and/or improper use of turf fertilizer.

**§ 119-2. Purposes.**

It is the overarching goal of the Town of Brewster to provide a regulatory framework that results in the planting and maintenance of minimally managed turf areas. Consistent with this goal, and based on the findings provided in § 119-1, the Town provides this bylaw to achieve the following purposes.

- A. To ensure application of fertilizer shall be performed in a manner consistent with best management practices (BMPs), which from time to time may undergo changes in response to scientific research.
- B. To provide a legal mechanism for enforcement against the inappropriate and/or improper use of fertilizer.
- C. To incorporate, by reference, the University of Massachusetts Extension's Turf Management BMPs

as the primary standard for the content and application practices related to turf fertilizer.

- D. To provide a regulatory tool that will help Brewster to achieve compliance with the total daily maximum loads (TMDL) for the Town's water resources prescribed by the Commonwealth of Massachusetts.
- E. To provide standards that will allow reasonable use of fertilizers for the enhancement and maintenance of turf quality.
- F. To conserve valuable waterways and other resources that increase property values, protect the unique environment vital to our economy, and reduce the financial burden on taxpayers and property owners by regulating the outdoor application of nitrogen on turf.
- G. To help achieve the goals of the Brewster Water Protection DCPC, the Cape-Wide Fertilizer Management DCPC, and the Local Comprehensive Plan.

### **§ 119-3. Authority.**

This bylaw is adopted by the Town of Brewster as implementing regulations pursuant to and as authorized by the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07, and by Section 9 of Chapter 262 of the Acts of 2012.

### **§ 119-4. Applicability.**

- A. This bylaw shall apply to and regulate any and all applications of nitrogen through fertilizer on managed turf areas within the Town of Brewster with the exception of public and private golf courses.
- B. Applications of fertilizer for agriculture and horticulture uses are exempt from the provision of this bylaw as they are regulated by the MDAR fertilizer regulations.
- C. Applications of fertilizer to vegetated areas that do not include managed turf areas are not subject to the provisions of this bylaw as they are regulated by the MDAR fertilizer regulations.

### **§ 119-5. Definitions.**

For the purposes of this chapter, the following terms are defined as provided below:

**AGRICULTURE/AGRICULTURAL USE** — Includes farming in all its branches, generally as the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, floricultural, viticultural or horticultural commodities, and shellfishing, including preparations and delivery to storage or to market or to carriers for transportation to market.

**BEST MANAGEMENT PRACTICES (BMP)** — A sequence of activities designed to limit a nonpoint pollution source. For the purposes of this bylaw, BMP means the "Best Management Practices for Soil and Nutrient Management in Turf Systems," prepared by University of Massachusetts Extension, Center for Agriculture, Turf Program. The version of this document that applies to this bylaw shall be that which was most recent at the time of the adoption of this bylaw or any subsequent versions that are adopted as an amendment to this bylaw through a majority vote at Town Meeting.

**COMBINATION PRODUCTS** — Sometimes known as "weed and feed," any product that, in combination with fertilizer, contains pre- or post-emergence herbicides, insecticides other pesticides or plant growth regulators.

**COMPOST or ORGANIC COMPOST** — The biologically stable, humus-like material derived from

composting or the aerobic, thermophilic decomposition of organic matter.

**ENFORCEMENT AUTHORITY** — The party designated by the Select Board to oversee and enforce the provisions of this bylaw. **[Amended 11-13-2017 FYTM, Art. 13]**

**FERTILIZER** — A substance that enriches the soil with elements essential for plant growth, such as nitrogen, phosphorus, potassium or other substances; fertilizer does not include those nutrients that are normally excluded from fertilizer such as chemicals that are part of horticultural gypsum, dolomite, limestone, lime, Jersey greensand, grass clippings, or compost topdressing.

**FERTILIZER APPLICATOR** — Any person who applies fertilizer to turf and soils.

**HEAVY RAIN** — A rainfall greater than 0.25 inch per hour during a given twenty-four-hour period or a rainfall of greater than one inch total in the next twenty-four-hour period.

**IMPERVIOUS SURFACE** — Any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes concrete, asphalt, paver blocks, gravel, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

**LANDSCAPE PROFESSIONAL** — A person, either as a sole proprietor or as part of a company, who, in exchange for money, goods, services, or other consideration, performs landscaping services. A landscape professional can include turf management staff at a private golf course operation or other private entity.

**MANAGED TURF AREA** — An area of turf that is periodically maintained through mowing, fertilizing, aerating, irrigation or other similar activities designed to maintain or enhance the health, functionality and/or aesthetic appeal of the turf.

**MDAR FERTILIZER REGULATIONS** — The most recent regulations of the "Plant Nutrient Application Requirements for Agricultural Land and Land Not Used for Agricultural Purposes," developed by the Massachusetts Department of Agricultural Resources (MDAR) pursuant to its authority under MGL c. 128, §§ 2(k) and 65(A), as amended by Chapter 262 of the Acts of 2012, 330 CMR 31.00.

**MUNICIPAL APPLICATOR** — A public employee of a town, the county, or the state or federal government (or an employee of a department of and within such public entity) who fertilizes and manages turf located on property owned or controlled by a town, the county, the state or federal government (including publicly owned golf courses and athletic fields) within the scope of their official public employment responsibilities.

**NITROGEN** — An element essential to plant growth. For the purposes of the bylaw, nitrogen may be available as slow-release, controlled-release, timed-release, slowly available, or water-insoluble nitrogen, which means nitrogen in a form that delays its availability for plant uptake and use after application and is not rapidly available to turf and other plants; and/or quick-release, water-soluble nitrogen which means nitrogen in a form that does not delay its availability for turf and other plant uptake and is rapidly available for turf and other plant uptake and use after application.

**NUTRIENT** — Any of the following 17 elements needed for growth of a plant: the three non-mineral elements: carbon, hydrogen, and oxygen; the six macronutrients: nitrogen, phosphorus, potassium, calcium, magnesium, and sulfur; and the eight micronutrients: boron, copper, iron, chloride, manganese, molybdenum, nickel and zinc.

**SATURATED GROUND** — Soil soaked with moisture so that it cannot absorb any more liquid.

**TURF** — Any non-crop land area that is covered by any grass species, excluding meadows, grasslands, flower or vegetable gardens, pasture, hay land, trees, shrubs, turf grown on turf farms or any form of agricultural production or use.

**§ 119-6. Performance standards for fertilizer application.**

All application of fertilizer to turf shall comply with the following standards:

- A. The application of fertilizer containing nitrogen is prohibited between November 15 and April 15 unless specifically permitted by the enforcement authority as set out below. Based on early spring or fall weather conditions, soil temperature and degree of turf emergence from dormancy, or other relevant condition, and using the guidelines of the BMP, the enforcement authority may permit earlier or later application of fertilizer containing nitrogen, in which case such extended period shall be announced by notice or publication. A working group may be established by the Select Board to assist in undertaking the duties referenced in this subsection. **[Amended 11-13-2017 FYTM, Art. 13]**
- B. Nitrogen from any fertilizer application shall not be applied to, or otherwise be deposited on, any impervious surface, including parking lot, driveway, roadway, sidewalk, frozen soil or ice. Any fertilizer applied, spilled, and/or deposited on any impervious surface, either intentionally or accidentally, must be immediately and completely removed and contained and either legally applied to turf or any other legal site or returned to an appropriate container.
- C. Fertilizer shall not be applied within 24 hours before or during a heavy rain event nor shall fertilizer be applied onto saturated ground.
- D. An application of fertilizer should be watered in with no more than 0.25 inch of irrigation or natural rain within the twenty-four-hour period following application. Where irrigation systems are used, the volume and rate of irrigation water applied shall be performed in a manner that reduces runoff to the greatest extent practicable. Where an irrigation system uses sprinkler heads or other similar spray devices, these devices shall direct irrigation water in a manner that reduces runoff to the greatest extent practicable.
- E. Unless the Town's existing laws and regulations, including its Wetland Bylaw or Regulations,<sup>37</sup> contain a stricter standard or other enforcement or approval mechanism such as through the Town's Conservation Commission, which shall control, fertilizer shall not be applied closer than 100 feet to any water body, or within the Zone I of a public drinking water well (as defined in 310 CMR 22.02), unless permission is obtained through the enforcement authority set out in § 119-6A herein allowing such activity.
- F. Fertilizer that contains phosphorus shall not be used unless a soil test taken not more than three years before the proposed fertilizer application indicates that additional phosphorus is needed for growth of that turf, or unless establishing new turf or re-establishing or repairing turf after substantial damage or land disturbance, in which case the application shall be in compliance with the BMP.
- G. A single application of fertilizer that contains nitrogen shall not exceed 1.0 pound of actual nitrogen per 1,000 square feet, shall consist of at least 20% slow-release nitrogen fertilizer and the annual rate shall not exceed 2.0 pounds of actual nitrogen per 1,000 square feet. Single applications shall be done at intervals of no less than four weeks until the annual maximum is reached.
- H. The fertilizer application requirements of this subsection shall apply with the same limitations to combination products as defined by this bylaw.

---

37. Editor's Note: See Ch. 172, Wetlands Protection.

**§ 119-7. Noncriminal disposition; violations and penalties.**

Whoever violates any provision of this regulation may be penalized by a noncriminal disposition process as provided in MGL c. 40, § 21D, and the Town's noncriminal disposition bylaw. If noncriminal disposition is elected, then any person who violates any provision of this regulation shall be subject to a penalty in the amount of \$300 per day for each day of violation, commencing 10 days following day of receipt of written notice from the enforcement authority. A warning in lieu of a fine or other enforcement action for the first offense can be issued at the discretion of the enforcement authority. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

**§ 119-8. Other remedies.**

The enforcement authority may enforce this bylaw or enjoin violations thereof through any lawful process, and the election of one remedy by the enforcement authority shall not preclude enforcement through any other lawful means.

**§ 119-9. Education.**

- A. The Town may rely on Cape Code Cooperative Extension to assist in maintaining a program of fertilizer and turf management education that is based on BMPs.
- B. The Town may rely on Cape Cod Cooperative Extension to assist with or administer an assessment to determine an applicator's proficiency of BMPs.
- C. Fertilizer education may consist of, but is not limited to, collaboration with retailers to post in-store information on Town fertilizer regulations, the BMP requirements; mailings and flyers for the general public concerning Town fertilizer regulations, the BMP requirements; and outreach to landscape professionals and municipal applicators concerning fertilizer-related laws and the BMP requirements.

**§ 119-10. Severability.**

Should any section, part or provision of this bylaw be deemed invalid or unconstitutional, such decision shall not affect the validity of the remaining terms of this bylaw as a whole or any part thereof, other than the section, part or provision held invalid or unconstitutional.

LICENSES AND PERMITS

**Chapter 122**

LICENSES AND PERMITS

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

## ARTICLE I

**Denial, Revocation and Suspension**  
**[Adopted 11-21-1994 FYTM, Art. 7]****§ 122-1. General provisions.**

The Town may deny any application for, may revoke or may suspend any local license or permit, including renewals and transfers, issued by any board, officer or department for any person, corporation or business enterprise who or which has neglected or refused to pay any local taxes, fees, assessments, betterments or any other Town charges; and the Town may deny any application for, may revoke or may suspend any local license or permit for any activity, event or other matter which is the subject of such license or permit if the activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other Town charges.

**§ 122-2. List of delinquency taxes, fees, assessments, betterments and other charges. [Amended 5-1-2017 ATM, Art. 27]**

The Collector of Taxes shall annually, and may periodically, furnish to each department, board, commission, division or official (hereinafter referred to as the "licensing authority") which issues licenses or permits, including renewals and transfers, a list of any person (in any capacity), corporation or business enterprise (hereinafter referred to as the "party") who or which has neglected or refused to pay any local taxes, fees, assessments, betterments or other Town charges if such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

**§ 122-3. Action based on list.**

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on the list furnished to the licensing authority by the Collector of Taxes, and the licensing authority may deny, revoke or suspend any license or permit, including renewals or transfers, for any activity, event or other matter if the activity, event or other matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on the list furnished to the licensing authority by the Collector of Taxes; provided, however, in either case, that written notice is given to the party by the Collector of Taxes, as required by applicable provisions of law, and the party is given a hearing by the licensing authority no earlier than 14 days after the notice.

**§ 122-4. Intervention by Collector of Taxes.**

The Collector of Taxes shall have the right to intervene in any hearing conducted with respect to such license or permit denial, revocation or suspension. The findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or be introduced in any other proceeding at law except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this article shall not be reissued or renewed until the licensing authority receives a certificate, issued by the Collector of Taxes, stating that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other Town charges which are payable to the Town on or before the date the certificate is issued.



**§ 122-5. Payment assessment; failure to comply.**

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating these limitations to the license or the permit, and the validity of the license or permit shall be conditioned upon the party's satisfactory compliance with the payment agreement. Failure to comply with the agreement shall be grounds for the suspension or revocation of the permit or license; provided, however, that the holder of the permit or license shall be given notice and a hearing as required by the applicable provisions of the law.

**§ 122-6. Waiver by Select Board. [Amended 11-13-2017 FYTM, Art. 13]**

The Select Board may waive any denial, suspension or revocation if it finds, after a public hearing, that there is no direct or indirect business interest held by the property owner, its officers or stockholders, if any, or members of the party's immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on the property.

**§ 122-7. Corporations; trusts; burden of proof. [Amended 11-13-2017 FYTM, Art. 13]**

If the party which owes local taxes, fees, assessments, betterments or Town charges is a corporation, any person or entity owning 10% or more of the issued stock of the corporation shall also be deemed to be a delinquent party. If the party which owes local taxes, fees, assessments, betterments or Town charges is a trust, any person or entity holding 10% or more of the beneficial interests of the trust shall also be deemed to be a delinquent party. The burden of proof shall lie with the party claiming to hold less than a ten-percent interest in a corporation or trust or claiming, in a petition addressed to the discretion of the Select Board, that the party's circumstances render it unjust not to waive a denial, suspension or revocation of the license or permit.

**§ 122-8. Exceptions.**

This article shall not apply to the following licenses and permits: open burning, MGL c. 48, § 13; bicycle permits, MGL c. 85, § 11A; sales of articles for charitable purposes, MGL c. 101, § 33; children work permits, MGL c. 149, § 69; clubs, associations dispensing food or beverage licenses, MGL c. 140, § 21E; dog licenses, MGL c. 140, § 137; fishing, hunting, trapping license, MGL c. 131, § 12; marriage licenses, MGL c. 207, § 28; and theatrical events, public exhibition permits, MGL c. 140, § 181; or to take any other action relative thereto.



NOISE

**Chapter 125**

NOISE

**[HISTORY: Adopted 3-7-1966 ATM, Art. 48; amended in its entirety 5-14-1984 ATM, Art. 64. Subsequent amendments noted where applicable.]**

GENERAL REFERENCES

Peace and good order — See Ch. 130.

---

**§ 125-1. Unlawful activity.**

It shall be unlawful for any person or persons being present in or about any building, dwelling, premises, shelter, boat or conveyance or any part thereof, other than that section of any establishment licensed under MGL c. 138, who shall cause or suffer or countenance any unnecessary loud, excessive or unusual noises, including any unnecessary, loud, excessive or unusual noises in the operation of any radio, phonograph or other mechanical sound-making device or instrument or reproducing device or instrument or in the playing of any band, orchestra, musician or group of musicians or the making of loud outcries, exclamation or other loud or boisterous noises or loud and boisterous singing by any person or group of persons or in the use of any device, to amplify the aforesaid noise where the aforesaid noise is plainly audible at a distance of 150 feet from the building, dwelling, premises, shelter, boat or conveyance in which or from which it is produced.

**§ 125-2. Evidence of violation.**

The fact that the noise is plainly audible at a distance of 150 feet from the premises from which it originates shall constitute prima facie evidence of a violation of this chapter.

**§ 125-3. Violations and penalties. [Amended 5-2-2011 ATM, Art. 26]**

Any person shall be deemed in violation of this chapter, who shall make or aid and abet or cause or suffer or countenance or assist in making of the aforesaid and described improper noises, disturbance, breach of the peace or a diversion tending to a breach of the peace and the presence of any person or persons in or about the building, dwelling, premises, shelter, boat or conveyance or any part thereof during a violation of this chapter and shall constitute prima facie evidence that they are a countenancer to such violation. Any person violating this chapter shall be punished by a fine of \$100 for each offense.

BREWSTER CODE

**Chapter 128**

**NUMBERING OF PROPERTY**

**[HISTORY: Adopted 5-13-1975 Annual Town Meeting, Art. 66. Amendments noted where applicable.]**

**§ 128-1. Numbering required; display. [Amended 6-23-1975 STM, Art. 1]**

All buildings in the Town of Brewster on or near the line of a public or private way shall be numbered, and the numbers shall be displayed on the house or in some suitable location so the premises may be identified by emergency vehicles using the public way.

**§ 128-2. Numbering authorities. [Amended 5-9-1994 ATM, Art. 20]**

Numbering will be done by the Fire Department in cooperation with the Police Department. The Planning Board, Deputy Assessors and Building Inspector or persons appointed by them shall serve in an advisory capacity.

**§ 128-3. Methods.**

The method used to number buildings shall be as follows:

- A. On Route 6A, numbers will start at the Dennis line and proceed easterly to the Orleans boundary.
- B. On Setucket Road, numbers will start at the Dennis line.
- C. On Lower Road, numbers will start at the western intersection of Route 6A and continue easterly.
- D. On side streets, numbering will start at Route 6A and then move either north or south as may be applicable.
- E. For a road which forms a loop, joining another road in two (2) points, numbering will start at the point nearest Route 124.
- F. For a dead-end street, numbering will start at its point of intersection with the other road.
- G. Left-hand side of roads will have odd numbers, the right-hand side will bear even numbers.
- H. A number will be assigned approximately every ten (10) feet.
- I. The Fire Department shall make such other consistent rules for methods of house numbering and for the proper administration of this chapter as deemed necessary to provide for public safety. **[Amended 5-9-1994 ATM, Art. 20<sup>38</sup>]**

---

**38. Editor's Note: This Article also repealed former Subsections J through M, which followed this subsection.**

PEACE AND GOOD ORDER

**Chapter 130**

**PEACE AND GOOD ORDER**

**[HISTORY: Art. I, adopted 3-5-1963 Annual Town Meeting, Art 33; Art. II, adopted 5-14-1984 Annual Town Meeting, Art. 65; Art. III, adopted 5-14-1984 Annual Town Meeting, Art. 66; Art. IV, adopted 5-14-1984 Annual Town Meeting, Art. 67. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Noise — See Ch. 125.

ARTICLE I  
**Miscellaneous Provisions**  
**[Adopted 3-5-1963 ATM, Art. 33]**

**§ 130-1. Sound device permits required.**

No person shall, for commercial use, play or use any portable recording device, amplifier, speaker or other instrument for the channeling of music, language or sound to or on a public street or private way or place of outside assembly without a permit therefor issued by the Selectmen.

**§ 130-2. Disorderly conduct. [Amended 5-14-1984 ATM, Art. 64]**

No person shall behave in a rude, indecent or disorderly manner or use profane, indecent or insulting language or shout, scream and/or utter loud outcries without reasonable cause, in any public place or in or near any dwelling place in the Town to the annoyance or disturbance of any person there being or passing or loitering on any sidewalk or street or about doorways or places of business to the annoyance of any person.

**§ 130-3. Obstruction of free passage.**

No person shall willfully or negligently obstruct the free passage of any travelers in any street in this Town.

**§ 130-4. Sounding of car horns.**

The unnecessary sounding of car horns on public or private ways creating a loud noise or disturbance is prohibited.

**§ 130-5. Violations and penalties. [Amended 5-14-1984 ATM, Art. 64]**

Violation of any part of the above article shall be punishable by a fine of not more than \$200 for each offense.

ARTICLE II  
**Loitering**  
[Adopted 5-14-1984 ATM, Art. 65]

**§ 130-6. Prohibited activities.**

No person shall stand or remain in any doorway or upon any stairs, doorstep, porch or other projection from any house or building or upon any wall or fence or near any street or public place after having been requested by the owner or any occupant of the premises or by any police officer to move along.

**§ 130-7. Violations and penalties.**

Any person violating this article shall be punished by a fine of not more than \$200 for each offense.

ARTICLE III

**Nuisances**

**[Amended 5-14-1984 ATM, Art. 66]**

**§ 130-8. Prohibited activities.**

No person shall maintain a nuisance upon his land, where loud noises or noxious odors escape to the annoyance of neighbors or travelers on public or private property.

**§ 130-9. Violations and penalties.**

Any person violating this article shall be punished by a fine of not more than \$50 for each offense. Each day, or portion of a day, that the violation is allowed to continue is considered a separate offense.



ARTICLE IV  
**Indecent Exposure**  
**[Amended 5-14-1984 ATM, Art 67]**

**§ 130-10. Prohibited activities.**

No person shall indecently expose his or her body in such a manner that such person's exposure is visible to persons of the opposite sex or to children.

**§ 130-11. Violations and penalties.**

Any person violating this article shall be punished by a fine of not more than \$200 for each offense.



PEEPING OR SPYING

**Chapter 132**

**PEEPING OR SPYING**

**[HISTORY: Adopted 3-4-1959 ATM, Art. 43; amended in its entirety 5-14-1984 ATM, Art. 60.**

**Amendments noted where applicable.]**

**§ 132-1. Restricted activities.**

No person, except an officer of the law in performance of his duties, shall enter upon the premises of another or upon any public or private property, with the intentions of peeping into the windows of a house or building or of spying in any manner upon the persons therein.

**§ 132-2. Violations and penalties. [Amended 5-2-2011 ATM, Art. 27]**

- A. Any person found violating this chapter shall be subject to arrest without a warrant in accordance with MGL c. 276, § 28.
- B. Any person violating this chapter shall be punished by a fine of \$200 for each offense.

BREWSTER CODE

**Chapter 135**

**POLLUTION AND ENVIRONMENTAL HAZARDS**

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I

**Soap or Detergents**

**[Adopted 3-4-1968 ATM, Art. 38; amended in its entirety 5-2-2011 ATM, Art. 28]**

**§ 135-1. Prohibited activities.**

The use of soap or detergent of any type, or the washing or rinsing of vehicles or boats, is prohibited in the waters along the shorelines of all Town landings.

**§ 135-2. Violations and penalties.**

Any person violating this article shall be punished by a fine of \$100 for each offense.

## ARTICLE II

**Single-Use Plastic Bottles; Municipal Drinking Water Access  
[Adopted 11-18-2019FYTM, Art. 9]****§ 135-3. Purpose; definitions; regulations; exceptions; enforcement.**

- A. Purpose. The purpose of this bylaw is to protect Brewster's beauty, reduce litter, protect the environment for present and future generations, increase the availability of drinking water in public areas, encourage municipal use of reusable and multiple-use containers rather than single-use plastic bottles where their use is for convenience, and increase access to public drinking water.
- B. Definitions.
- MUNICIPAL OR TOWN PERSONNEL — Shall mean persons who are employed, appointed or elected to serve the Town of Brewster, volunteers, interns, or those who have an employment relationship through contract, lease or permit with the Town.
- MUNICIPAL OR TOWN PROPERTY — Shall mean municipal buildings or other real property, other than public ways, under the care, custody, and control of the Town of Brewster.
- SINGLE-USE PLASTIC BOTTLE — Shall mean a formed or molded container comprised predominantly of plastic resin not intended for re-use.
- TOWN — Shall mean Town of Brewster, Massachusetts.
- C. Regulation.
- (1) The Town of Brewster and Town personnel are prohibited from purchasing with Town funds any beverage in a single-use plastic container after the effective date of this bylaw.
- (2) This bylaw does not restrict personal use by Town personnel.
- D. Enforcement. Enforcement of this bylaw shall be the responsibility of the Town Administrator or his/her designee.
- E. Suspension of the bylaw. If the Town Administrator determines that the cost of implementing and enforcing this bylaw has become unreasonable or otherwise impracticable, in his/her sole discretion, then the Town Administrator shall advise the Select Board. The Select Board shall then conduct a public hearing to inform the citizens of such costs to implement the bylaw. Following the public hearing, the Select Board may place an article on the next Town Meeting warrant to propose any modifications or suspension of this bylaw.
- F. Exceptions. Single-use plastic bottled beverages may be used on municipal property:
- (1) In fire, rescue and police operations to provide water or other plastic-bottled beverages to those needing emergency or medical services or Town personnel and others providing such services.
- (2) In given situations to protect the public health, safety, and welfare, and no reasonable alternative to bottled beverages regulated by this bylaw will serve the same purpose.
- (3) Sales occurring subsequent to a declaration of an emergency adversely affecting the availability and/or quality of drinking water to Brewster residents and Town employees or officials, as determined by the Town Administrator, or other duly-authorized Town, commonwealth, or United States official shall be exempt from this bylaw policy until seven days after such declaration has ended.

- G. New leases, permits, and agreements. All new leases, permits, and other agreements entered into by the Town allowing any person or entity to use Town property for purposes that contemplate or would allow the sale or distribution of single-use plastic bottled beverages shall comply with this bylaw. This requirement shall also apply to any such permit renewed, extended, or materially amended after the effective date of this bylaw.
- H. Waivers.
- (1) An entity or individual may request a waiver of this bylaw from the Select Board if they demonstrate that strict application of the requirement would not be feasible, would create an undue hardship or a practical or economic difficulty, or that circumstances otherwise warrant granting of the waiver. Such waiver can only be granted provided that the entity applying can demonstrate that 90% or more of plastic bottles used are recycled.
  - (2) The Select Board's decision to grant a waiver shall be in writing and shall be final.
- I. The Town's commitment to providing public water.
- (1) Recognizing that when the availability of single-use plastic bottled water is restricted, alternatives should be offered, the Town will encourage Town personnel, residents, and visitors to choose reusable containers for personal use.
  - (2) It shall be Town policy to provide access to free tap water in as many public areas as possible, to the extent economically feasible and subject to authorization for same.
  - (3) It shall be Town policy that any Town department undertaking a capital improvement in a public space shall install water bottle-filling stations, water bubblers or other potable water access for public use, if the department finds that installation is proximate and feasible with the scale and scope of the capital improvement, subject to authorization for same.
  - (4) The Town shall create an inventory of interior water bubblers and undertake a study to retrofit units with bottle-filling stations or water bubbler/water bottle-filling units.
  - (5) The Town will install water bottle-filling stations at appropriate exterior Town property sites as demand requires and funding permits.
  - (6) The Town will communicate the location of public water bottle filling stations on its website, local cable television, and/or social media.
  - (7) The Town will educate residents and visitors about the benefits of drinking tap water.
- J. Implementation. Nothing in this bylaw shall be construed to impair a contract, lease or other legally binding agreement to which the Town of Brewster is a party on the effective date of the policy.
- K. Severability. If any provision of this bylaw shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separate and apart from the remaining provisions of this bylaw, which shall remain in full force and effect.
- L. Effective date. This bylaw is effective September 1, 2020.

ARTICLE III  
**Thin-Film Plastic Bags**  
**[Adopted 5-6-2019ATM, Art. 20]**

**§ 135-4. Findings.**

The Town of Brewster makes the following findings:

- A. The production and use of thin-film, single-use plastic bags ("thin-film bags") results in harm to the land, environment and waterways of coastal communities like Brewster, including but not limited to:
  - (1) The deaths of marine and land animals by ingestion and entanglement.
  - (2) Littering Town streets, parks, public spaces and waterways which detracts from the natural beauty of the Town.
  - (3) Creating mechanical and disposal burdens for solid waste collection and recycling through entanglement with equipment.
  - (4) Thin-film bag manufacturing requires nonrenewable fossil fuels.
  - (5) Most thin-film plastic bags are not recycled even when users have access to recycling opportunities.
- B. Thin-film bags are not biodegradable or compostable. Affordable, environmentally responsible alternatives to thin-film bags exist, including reusable shopping bags of cloth or other durable material, and are available from numerous sources and vendors.
- C. Tourism is vital to Brewster's economy and thin-film bag use and litter detracts from the Town's image as an eco-tourism destination.
- D. Thirteen of 15 Barnstable County towns have already instituted thin-film bag bans; as have nearly 90 municipalities across the commonwealth.
- E. Many consumers, as well as Brewster retail establishments, have already stopped using thin-film bags.
- F. Thin-film plastic bag regulations have proven effective in reducing plastic bag consumption and litter and are part of the growing trend toward sustainability.

**§ 135-5. Purpose and intent.**

- A. Brewster is committed to protecting the environment, and the public health, safety and welfare of its citizens.
- B. The purposes of this bylaw are to protect and conserve Brewster's natural and economic resources, enhance the Town's natural beauty, reduce land and marine pollution, advance solid waste reduction, and encourage the use of reusable and recyclable bags within the Town. Therefore, the Town of Brewster will implement this bylaw to phase out the use of thin-film plastic bags by all Brewster business establishments by June 1, 2020.

**§ 135-6. Definitions.**

ESTABLISHMENT — Any business selling goods, articles, food or personal services to the public,



including but not limited to markets, merchandise retailers, food purveyors, public eating establishments, and take out restaurants.

**RECYCLABLE PAPER BAG** — A paper bag with or without handles provided at the checkout stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise from the establishment. The bag:

- A. Is 100% recyclable; and
- B. Contains a minimum of 40% post-consumer recycled paper content.

**REUSABLE BAG** — A bag with stitched handles specifically designed for multiple reuse, and is made of:

- A. Cloth or other machine-washable fabric;
- B. Durable, non-toxic plastic (other than polyethylene or polyvinyl chloride) that is four mils [NOTE: Plastic sheeting is measured in mils; a mil is equal to one one-thousandth of an inch, or 0.001 inch. One mil also equals 0.0254 millimeter; thus a mil is not the same as a millimeter.] or more thick, 100 microns or more thick, or 100 GSM [NOTE: GSM (Grams per Square Meter) is a measure of material durability.] or more; or
- C. Other durable material suitable for reuse.

**THIN-FILM (SINGLE-USE) BAG** — Plastic bags provided at the checkout stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise from the establishment; has integral handles and a thickness of less than 4.0 mils.

#### **§ 135-7. Use and regulation.**

- A. Thin-film (single-use) plastic bags shall not be distributed or sold at any establishment within the Town of Brewster.
- B. Existing stock of thin-film bags shall be phased out by June 1, 2020.
- C. Establishments may only offer reusable bags or recyclable paper bags to customers at the check-out or point of sale.
- D. Establishments may charge and retain a fee for any recyclable paper bag or reusable bag they offer.
- E. Establishments are strongly encouraged to educate their staff to promote reusable bags, and to encourage customers to use reusable bags.
- F. Nothing in this bylaw prohibits customers from using bags or other containers brought by the customer to the establishment; customers are encouraged to bring their own reusable bags.

#### **§ 135-8. Exemptions.**

The following are exempt and not subject to the provisions of this bylaw:

- A. Bags, a maximum size of 11 inches by 17 inches, used by customers inside establishments to:
  - (1) Package bulk items like fruit, nuts, candy or small items;
  - (2) Contain frozen foods, meat or fish; or
  - (3) Contain flowers, plants, or items where dampness may be a problem.

- B. Dry cleaning bags or bags sold in packages containing multiple bags intended for home use, including but not limited to Pay-As-You-Throw bags.

**§ 135-9. When effective.**

- A. This bylaw shall take effect 12 months after adoption and in accord with MGL c. 40, § 32.
- B. The Select Board or its designee may grant a deferment from compliance with this bylaw for a period of not more than six months upon the establishment's showing, in writing, that strict compliance with this bylaw would create an undue hardship or practical difficulty not generally applicable to other establishments in similar circumstances. The decision to grant or deny an exemption shall be at the Select Board's sole discretion, in writing, and the decision will be final.

**§ 135-10. Inspection and enforcement.**

- A. This bylaw may be enforced by any means available in law or in equity, including noncriminal disposition in accordance with § 135-11.
- B. This bylaw shall be enforced by any Town police officer or agent of the Board of Health.
- C. Any enforcing person shall have the right to enter any public areas of an establishment during regular business hours, without a search or inspection warrant, to make reasonable inspection to ascertain compliance with the provisions of this bylaw.

**§ 135-11. Noncriminal disposition; violations and penalties.**

- A. Any establishment that violates or fails to comply with this bylaw shall be subject to the following penalties pursuant to MGL c. 40, § 21D. Each day the violation exists shall constitute a separate violation.
- B. The following penalties apply:
  - (1) First offense: warning.
  - (2) Second offense: \$50.
  - (3) Third and subsequent offenses: \$100.
- C. Subsequent offenses shall be determined as offenses occurring within two years of the date of the first noticed offense.

**§ 135-12. Severability.**

Each section of this bylaw shall be construed as separate to the end that if any section, sentence, clause or phrase shall be held invalid by a court of competent jurisdiction, the remainder of this bylaw shall remain in full force.



BREWSTER CODE

**Chapter 146**

**SECONDHAND ARTICLES, SALE OF**

**[HISTORY: Adopted 10-29-1974 Special Town Meeting, Art. 4. Amendments noted where applicable.]**

**§ 146-1. License required; rules and regulations.**

No person may sell secondhand articles without first obtaining a license from the Selectmen to be exercised in accordance with rules and regulations established by the Selectmen. Such rules and regulations shall be designed to protect the public health and safety and convenience and to restrict such sales to casual and/or occasional occurrence, only in keeping with the character of the neighborhood and with the Zoning Bylaws of the Town.

**§ 146-2. Exceptions.**

Notwithstanding any provision of this chapter, any person may sell up to three secondhand articles without obtaining a license from the Selectmen. The sale of antiques is not to be considered a sale of secondhand articles under this chapter.

**§ 146-3. Violations and penalties.**

The penalty for a violation of this chapter is set forth in MGL c. 140, § 55.

SEWERS

**Chapter 150**

SEWERS

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I  
**General Provisions**  
**[Adopted 5-14-1984 ATM, Art. 117]**

**§ 150-1. Purpose; expiration.**

This Article is adopted under the authority of MGL c. 43B, § 13, for the purpose of protecting ground- and surface water quality during an interim period while the Town further studies its groundwater. It shall expire on July 1, 1987, or such earlier time as the Town Meeting adopts alternative water protection measures.

**§ 150-2. Water quality areas.**

The Town is hereby divided into three water quality areas, as follows:

- A. WQ1: that area between Cape Cod Bay and a line parallel to and 500 feet southerly of the northernmost of Lower Road and Route 6A.
- B. WQ2: any area not WQ1 or WQ3.
- C. WQ3: that area designated "Water Resource District" in the Brewster Zoning Bylaw.<sup>39</sup>

**§ 150-3. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

BASE DATE — The same day of the month 12 months earlier.

DEVELOPMENT AREA — All contiguous property within Brewster which has been in the same ownership at any time subsequent to January 1, 1978.

EQUIVALENT GALLONS OF DISPOSAL — The volume of sanitary sewage estimated to be generated, based on Section 15.02 of 310 CMR 15.00 (Title 5 of the State Environmental Code), with that volume weighted as follows:

- A. If disposal is in area WQ1, the equivalent gallons shall equal 0.3 times the actual estimated gallons.
- B. If disposal is in area WQ2, the equivalent gallons shall equal 1.0 times the actual estimated gallons.
- C. If disposal is in area WQ3, the equivalent gallons shall equal 2.0 times the actual estimated gallons.

NOTICE — Publication twice in a newspaper of general circulation in Brewster of a notice identifying the application and time and place of hearing, with copies of the notice being sent to the Selectmen, Water Commissioners, Conservation Commission and Planning Board.

**§ 150-4. Conditions for expansion of facilities.**

Construction permits for new or expanded sewage disposal facilities shall be granted by the Board of Health only if one or more of the following are true:

- A. The disposal is consistent with a disposal management plan approved by the Board of Health under § 150-5.

---

<sup>39</sup>. Editor's Note: See Ch. 179, Zoning.

- B. If the applicant has owned a building lot for five consecutive years, a permit shall be granted for his personal use.
- C. Authorized increases in disposal will not exceed 1,000 equivalent gallons per day, counting the permit being applied for, plus all others authorized in the same development are subsequent to the base date.
- D. Construction of facilities for disposing less than 40,000 equivalent gallons per day of sanitary sewage has been authorized Town-wide, subsequent to the base date, and this permit, plus all others issued to the same applicant subsequent to the base date, is for less than 50% of the difference between 40,000 equivalent gallons per day and the Town-wide total of equivalent gallons authorized subsequent to the base date.

**§ 150-5. Disposal management plans.**

- A. The owner or owners of any property or set of properties on which more than 1,000 equivalent gallons per day of disposal are planned may apply to the Board of Health for approval of a disposal management plan. The Board of Health shall hold a public hearing on the application following notice at the applicant's expense. The Board shall make its decision within 60 days of that hearing, which may be held jointly with hearings of other agencies.
- B. Disposal management plans shall designate the dates subsequent to which the owner proposes that each lot or development increment will be authorized to exceed the limits of § 150-4. Plans shall normally be approved if one or more of the following are determined to be true:
  - (1) The plan provides for adding, each year, no more than 1,000 equivalent gallons per day of sanitary sewage disposal;
  - (2) The plan provides assurance of water quality protection through tertiary treatment; or
  - (3) The plan provides equivalent assurance of water quality protection through site development substantially less dense than allowed by right under zoning or by other mitigations. Equivalency shall be documented by the applicant through a hydrogeological study consisting of:
    - (a) A water table contour map in the vicinity of the proposed project to determine groundwater flow directions.
    - (b) Projection of levels of nitrogen or other constituents specified by the Board of Health for downgradient groundwater.
    - (c) An evaluation of the probable impact on drinking water (public and private wells) on lakes and ponds and on coastal waters.
- C. A plan shall be deemed equivalent, provided that projected constituent levels in downgradient groundwater at the boundaries of the premises at full development do not exceed half the constituent levels specified by the Department of Environmental Quality Engineering Regulations in Drinking Water Standards of Massachusetts, and any substantial uncertainties are managed through provisions for monitoring or other means.

**§ 150-6. Variances.**

Variances from the requirements of this article may be granted by the Board of Health following a public hearing with notice given at the expense of the applicant but only in circumstances where peculiarities of that case not created by the applicant make compliance a hardship or infeasible and where the purposes of

this chapter will not be compromised by that variance. Granting or denial of a variance shall be in writing and shall contain a statement of the reasons for the action.



ARTICLE II  
**Septic Betterment**  
**[Adopted 11-15-1993 FYTM, Art. 6]**

**§ 150-7. Purpose.**

The Town of Brewster shall have the authority to provide financial assistance to its property owners through a program promoting compliance with the Town's requirements to repair and/or upgrade private septic systems. When an existing septic disposal system constitutes a present or potential threat to human health, safety, welfare or the environment, the Town is authorized to use public moneys to assist property owners to fund improvements or upgrades of their existing system.

**§ 150-8. Borrowing authorized; interest.**

The Town is authorized to borrow and incur debt for the purposes of cleanup, abatement, repair and/or septic system upgrade pursuant to this section. This agreement shall be recorded as a betterment pursuant to MGL c. 80, § 2, and the amount assessed shall be a lien on the property pursuant to MGL c. 80, § 5 and may be apportioned and reapportioned pursuant to MGL c. 80, § 13; provided, however, that such assessment shall bear interest at a rate determined by the Board of Health by agreement with the property owner, but, in no event, shall such interest be less than the rate of interest chargeable to the Town for the financing of such cleanup, abatement, repair and/or upgrade. Any such borrowing shall not be included for the purpose of computation of the levy or borrowing limits otherwise imposed upon the Town by the Massachusetts General Laws.

**§ 150-9. Board of Health to establish regulations.**

The Board of Health is hereby authorized to establish regulations governing the operation of this program after an advertised public hearing. Said Board of Health shall establish guidelines on eligibility and evaluate all applications with reference to said guidelines.

**§ 150-10. Petition required; agreement not a breach of contract.**

- A. The applicant (who must be the property owner or owners) for funding must submit a signed petition and a deed or a certificate of title to the Board of Health by October 15 of each year. The petition shall include the septic system plans and specifications, designed by a licensed civil or sanitary engineer or a registered sanitarian. Said plans shall meet the minimum requirements for subsurface disposal of household wastewater as established by the State Environmental Code (310 CMR 15.00), commonly known as Title 5, or, where stricter, the regulations adopted by the Brewster Board of Health. In addition, the application shall include a disposal works construction permit, issued by the Brewster Board of Health.
- B. An agreement between an owner and the Board of Health pursuant to this section shall not be considered a breach of a limitation or prohibition contained in a note, mortgage or contract on the transfer of an interest in property.

**§ 150-11. Estimate of costs; bids.**

The Board of Health shall obtain construction estimates according to the scope of work outlined in the plans and specifications submitted by the petitioner. The Board of Health shall hold a public hearing on the application after due notice to the petitioner. The Board of Health shall provide an estimate of all costs to be levied against said petitioner, including engineering, legal, construction, administrative, interest plus

2% and other related expenses. Upon receipt of the approval of the estimated costs by the property owner, the Board of Health will seek funding by an Annual Town Meeting. Upon funding approval, the Board of Health shall obtain bids in accordance with the provisions of MGL. c. 30B. Within six months after the construction has been completed, the total costs for installation and maintenance shall be assigned to the petitioner, and the time for payment, not to exceed 15 years, shall be specified. Moneys repaid to the Town for septic betterments shall be deposited into a separate receipts reserved account.

**§ 150-12. Repayment by property owner.**

The total cost of the project shall not exceed the estimate, and the Town shall not be responsible for any additional costs related to upkeep or maintenance; if, through any eventuality, the cost of the project should exceed the estimate, the excess shall be the responsibility of the property owner. Upon the approval of the betterment application and following notice thereof, the property owner may, within 30 days, pay the total cost of the project. Should the property owner not elect such a payment, the Tax Collector shall bill the property owner for 10% of the total cost. With the next real estate tax bill, the Tax Collector shall bill the property owner the apportioned amount of the balance of the total cost, and this balance may be apportioned over a period not exceeding 15 years. At any time during the remainder of the payment period, the property owner may elect to pay in full the balance still remaining. The Town shall have a lien to secure payment in the same manner as it acquires a lien for a betterment assessment under MGL c. 80.



BREWSTER CODE

**Chapter 152**

**SINGLE-USE PLASTIC WATER BOTTLES**

**[HISTORY: Adopted 9-12-2020 Annual Town Meeting, Art. 22. Amendments noted where applicable.]**

**§ 152-1. Sale of single-use plastic water bottles.**

Effective on September 1, 2021, it shall be unlawful to sell non-carbonated, unflavored drinking water in single-use plastic bottles of less than one gallon in the Town of Brewster. Enforcement of this regulation will begin September 1, 2021.

**§ 152-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**SINGLE-USE PLASTIC BOTTLE** — A beverage container made from any type of plastic resin.

**§ 152-3. Exemptions.**

Sales or distribution of non-carbonated, unflavored drinking water in single-use plastic bottles occurring subsequent to a declaration of emergency (by the Emergency Management Director or other duly authorized Town, County, Commonwealth or Federal Official) affecting the availability and/or quality of drinking water to residents of the Town shall be exempt from this bylaw until seven days after the declaration has ended.

**§ 152-4. Enforcement.**

- A. Enforcement of this chapter shall be the responsibility of the Town Manager or his/her designee. The Town Manager shall determine the inspection process to be followed, incorporating the process into other Town duties as appropriate. Any establishment conducting sales in violation of this article shall be subject to a noncriminal disposition fine as specified in MGL c. 40, § 21D. The following penalties apply:
  - (1) First violation: written warning.
  - (2) Second violation: \$150 fine.
  - (3) Third and subsequent violation: \$300 fine.
- B. Each day a violation continues constitutes a separate violation, incurring additional fines. Any such fines collected shall be payable to the Town of Brewster.

## STREETLIGHTING

### Chapter 155

## STREETLIGHTING

**[HISTORY: Adopted 12-10-1979 Special Town Meeting, Art. 27. Amendments noted where applicable.]**

**§ 155-1. Required approval. [Amended 11-20-1995 FYTM, Art. 12]**

Before the Town shall vote to approve the installation of any new streetlight or funds for the maintenance of a new streetlight, the matter shall first be referred to the Police Chief at least 60 days before said Town Meeting for advice and recommendation. The Police Chief shall forward their advice and recommendation, if any, to the Selectmen within seven days of the receipt of the request.

**§ 155-2. Criteria to be considered. [Amended 11-20-1995 FYTM, Art. 12]**

In formulating its advice and recommendation, the Police Chief shall consider the following criteria:

- A. Streetlighting for municipal building parking areas or driveways, or to be installed by the roadside in front of a municipal building where the vehicular and pedestrian safety of employees and the public will be served by streetlighting. For purposes of these standards, a "municipal building" is defined as any building owned or maintained by the Town of Brewster for conducting Town business and for the use of the public in general. These "municipal buildings" are presently listed as Town Hall, Police/Fire Station, Water Department buildings, Department of Public Works buildings and the Community Center.
- B. Streetlighting for any Brewster public school, its driveways, parking areas and entrances/exits to Town roads used as access to the schools.
- C. Streetlighting for sidewalks and crosswalks on main thoroughfares (Rtes. 6A, 124 and 137), where such lights may serve any present or future municipal buildings, as defined in Subsection A.
- D. Streetlighting for major intersections where well-traveled access roads meet or cross main thoroughfares (Rtes. 6A, 124 and 137).
- E. Streetlighting where private and public roads intersect and where there is a history, or obvious danger, of pedestrian or vehicular mishaps which can be directly attributed to a lack of adequate streetlighting.
- F. Streetlighting for public buildings, such as churches, libraries, stores and post offices, where it has been shown that there are general traffic and pedestrian problems because of the buildings' usage.
- G. Streetlighting for public roads where blind or dangerous curves or intersections jeopardize public safety.
- H. Streetlighting for any industrial or commercial area where it is proved that such lighting is needed for public safety.
- I. Streetlighting where it may aid in the protection of municipal buildings and municipal property from vandalism, theft or other damage.

BREWSTER CODE

**Chapter 157**

**STREETS AND SIDEWALKS**

**[HISTORY: Adopted by Town Meeting as indicated in article histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Subdivision rules and regulations — See Ch. 290.**

ARTICLE I  
**Street Names**  
**[Adopted 3-3-1964 ATM, Art. 14]**

**§ 157-1. Erection of signs.**

No street sign shall be erected on any way, public or private, until approval of the name of the street has been obtained from the Planning Board.

**§ 157-2. Duplications.**

In the case of a duplication of existing street names, the Planning Board shall have the authority after a public hearing to eliminate said duplication of names.

ARTICLE II  
**Driveways and Parking Areas**  
**[Adopted 3-2-1965 ATM, Art. 67]**

**§ 157-3. Written permission required.**

Before any private driveway or parking area is connected to a Town road, permission in writing shall be obtained from the Department of Public Works.



## ARTICLE III

**Laying Out of Public Ways****[Adopted 3-6-1967 ATM, Art. 21; amended in its entirety 11-13-2017 FYTM, Art. 13]****§ 157-4. Required plans.**

- A. In the matter of laying out a public way over private property, the Select Board shall require a plan drawn by a registered engineer or registered land surveyor at the petitioner's expense, which shall include all details of the road, names of all owners and abutters, areas to be taken, drainage disposal, easements and any other specifications that the Select Board may require.
- B. If, in the discretion of the Select Board, a subdivision plan, approved by the Brewster Planning Board and duly recorded in the Barnstable County Registry of Deeds, exists, said plan may be used, provided that it complies with the necessary requirements for the layout.
- C. No layout shall be considered by the Select Board if the road does not meet all of the requirements pertaining to road layouts and road construction to the Brewster Planning Board Subdivision Regulations,<sup>40</sup> as from time to time are amended.

**§ 157-5. Required repairs.**

In addition, the Select Board may require certain road repairs if deemed necessary before laying out said road.

**§ 157-6. Acquisition of accepted road.**

If the Select Board decides that said road layout is in the best interests of the Town, relative to convenience and necessity, it shall institute proceedings to acquire the same by gift, purchase or eminent domain.

---

40. Editor's Note: See Ch. 290, Subdivision Rules and Regulations.

ARTICLE IV  
**Scenic Roads**  
[Adopted 5-13-1974 ATM, Art. 96]

**§ 157-7. Roads enumerated.**

The Town accepts the provisions of Ch. 67 of the Acts of 1973, whereby the following named roads shall be designated as scenic roads:

- A. Stony Brook Road.
- B. Satucket Road.
- C. Lower Road.
- D. Paines Creek Road.
- E. Brier Lane.
- F. Slough Road.
- G. Tubman Road.
- H. Robbins Hill Road.
- I. Red Top Road, from Stony Brook Road to Satucket Road.
- J. Great Fields Road.
- K. Breakwater Road.
- L. Point of Rocks Road.
- M. Old North Road.
- N. Cathedral Road.
- O. Foster Road.
- P. Ellis Landing Road.
- Q. Linnell Landing Road.
- R. Crosby Lane.
- S. Millstone Road.<sup>41</sup>
- T. Run Hill Road, from Stony Brook Road as far as Millpond Drive.

---

41. Editor's Note: Freeman's Way, which originally followed this entry, was repealed 11-17-1975 STM, Art. 2.

ARTICLE V  
**Betterment Assessment**  
**[Adopted 5-1-1995 ATM, Art. 24<sup>42</sup>]**

**§ 157-8. Statutory authority.**

The Town shall use the provisions of Chapter 80 of the General Laws, as amended, for the purpose of assessing betterments to the abutters on any private way which may be reconstructed by the Town to meet the requirements of the Subdivision Rules and Regulations of the Brewster Planning Board, as amended,<sup>43</sup> said assessments to be made only after the Town has voted to accept such ways, having followed the procedure for such acceptance as delineated in Chapter 82 of the General Laws.

**§ 157-9. Procedure. [Amended 11-13-2017 FYTM, Art. 13]**

Before the Town shall vote to accept any private way under this article, there shall have been filed with the Selectmen a petition for such acceptance containing the signatures of a majority of owners of the lots abutting said way; the Selectmen shall refer the proposed layout to the Planning Board after first having prepared an estimate of all costs to be levied against said abutters, including engineering, legal, construction, administration and interest. The Planning Board shall hold a hearing on the petition after due notice to the said abutters and shall inform said abutters of the total estimated costs to be borne by aforesaid betterment. Upon receipt of the approval of the estimated cost by a majority of the abutters and approval of his share of the total by each member of the said majority, and upon receipt of a written request by said majority for an article to be inserted in the warrant, the Planning Board shall forward its recommendation, as required under MGL c. 41, § 81I, to the Select Board, who thereafter shall cause said article to be inserted in the warrant for the next Annual Town Meeting. Upon approval of said article by the voters at said Town Meeting, the Select Board shall advertise the construction for public bids, and within six months after the construction has been completed, the total cost shall be apportioned by the Select Board to the owners of lots abutting the way; and the time for payment, not exceeding 20 years, shall be specified; and the total cost of the betterment assessment shall not exceed the estimate. The Tax Collector shall bill the abutters according to the apportionment on the next real estate tax bill and may accept settlements in cash for the full amount of the apportioned share from any abutter within 30 days, or shall bill each abutter within 60 days for his share of the total cost to be divided over a period of years, not exceeding 20, with interest to be computed at the rate as set forth in Chapter 80 of the Massachusetts General Laws. Thereafter, the annual amount of the betterment assessment shall appear on the annual real estate tax bill of the abutters. The Select Board shall act on all private ways proposed to be accepted by the Town under the Betterment Assessment Program strictly in accordance with the provisions of Chapters 41, 80 and 82 of the General Laws of the Commonwealth of Massachusetts.

---

42. Editor's Note: This bylaw rescinded former Art. V, Betterment Assessment, adopted 5-13-1974 ATM, Art. 50.

43. Editor's Note: See Ch. 290, Subdivision Rules and Regulations.

ARTICLE VI

**Line of Sight**

**[Adopted 5-14-1990 ATM, Art. 11]**

**§ 157-10. Interference; exceptions. [Amended 5-1-1995 ATM, Art. 18; 5-2-2011 ATM, Art. 32]**

No fence or other structure, shrubbery, foliage, hedge, tree or the like which, in the opinion of staff review, interferes with the line of sight across or through the intersection of any public or private way in the Town shall be erected, planted, maintained or allowed to exist; provided, however, that this article shall not apply to buildings which are not in violation of the Town's Zoning Bylaw.<sup>44</sup>

---

**44. Editor's Note: See Ch. 179, Zoning.**

## ARTICLE VII

**Private Road Repair and Betterment<sup>45</sup>****[Adopted 5-6-1996 ATM, Art. 17; amended in its entirety 11-13-2023FYTM by Art. 6]****§ 157-11. Repair by Town.**

- A. In the event that a group of property owners, each of whom owns property abutting and having rights on a private road which has been open for public use continuously for at least the last five years, wish the Town of Brewster to finance the repair of their private road, they shall engage a professional engineer licensed to practice in Massachusetts and experienced in road construction and repair who shall develop a proposal for the repair of the private road, including a certified survey plan of the private road to be repaired, or relevant portion thereof. Eligible repairs include, without limitation, any or all of the following: new or additional drainage and stormwater facilities; new berms; driveway aprons; striping; the filling of existing cracks; patching; roadbed repair; and the application of one or more layers of bituminous concrete. As used herein, a private road "open for public use" includes a road open to public invitees whose access is not actively and openly restricted with gates, signage or the like. Further, a private road, which includes a private street or private way within its meaning, is a road that has not been laid out, dedicated, or adjudicated by a Massachusetts court as a public way but has either been laid out under the Subdivision Control Law<sup>46</sup> or is otherwise a matter of record with the Barnstable Registry of Deeds or the Town Clerk. The official record of public roads in the Town of Brewster is kept at the Town Clerk's office, and shall be amended from time to time.
- B. The proposal shall specify the projected useful life of the repaired private way, and in no event shall the projected useful life be less than the financing term, which may be allowed up to 15 years. All costs of preparing the plan, obtaining cost estimates and preparing the petition described below shall be the exclusive responsibility of the petitioners.
- C. The proposal shall include at least three bids from licensed and insured contractors experienced in road construction and repair to complete the work outlined in the survey plan and other proposal documents. Other objective sources to establish costs may be used instead at the discretion of the Town, including current construction costs recognized and maintained by the Massachusetts Department of Transportation. After receipt of the bids, or otherwise substantiating estimated costs to the satisfaction of the Town, the property owners shall prepare a petition to the Select Board for the Town of Brewster to finance the work in an amount certain, including a 10% contingency amount. The petition shall list the properties subject to the petition by tax map and parcel number together with the owners' names of record from the most recent tax list with a space for each owner to place his or her signature. The petition must state that each signature represents an irrevocable agreement by each signatory to repay to the Town of Brewster, through the mechanism of a betterment added to each owner's real estate tax bill, his or her pro rata share of the total amount to be financed plus interest and administrative costs, which administrative costs shall not exceed 4% of the project. The petition shall not be presented to the Select Board, nor shall the Select Board recognize such a petition, unless a majority of the owners shall have agreed to the proposal and its financial commitment by having signed the petition.
- D. The petition, accompanied by the proposal documents, including the cost estimates and survey plan, shall be submitted to the Select Board's Office. The Select Board shall refer every such petition to the Assessor's Office for verification that signatories are the owners of record of the subject properties,

---

45. Editor's Note: Former Art. VII, Private Road Repair, adopted 8-28-1984 STM, Art. 78, as amended, was repealed 11-13-2023FYTM by Art. 6. This article also redesignated former Art. VIII as Art. VII.

46. Editor's Note: See MGL c. 41, §§ 81K through 81GG.

and confirmation that a majority of such owners have signed. The Select Board shall consider all submitted petitions that are passed by the Assessor's Office, and will hold a public hearing on the proposed project, inviting abutters on the private road. If the Select Board determines that the proposed repairs are in the public interest and are within the financial capability of the Town, the Select Board may place the petition on the warrant for any Special or Annual Town Meeting. The Select Board shall thereafter send out proxies to the owners noting scope and cost changes, if any. The proxies must be returned at least 45 days prior to the Town Meeting at which they are to be considered. If the proxies are returned within such time, the Select Board may place the petition on the Town Meeting warrant, provided that a majority of owners have signed said proxy.

- E. Long-term financing may be issued for said project by the Town for up to a fifteen-year term. If the Town Meeting votes to authorize financing for the project, an engineer representing the owners, and preferably the engineer who prepared the original plan and proposal, shall be named "Project Manager." He shall prepare a new request for quotations with the bids to be directed to the Town Manager. The Project Manager and the Town Manager shall select the best bid to do the work. The Project Manager shall advise the Director of Public Works 48 hours in advance of each phase of the project and certify, in writing, to the Director of Public Works that each phase of the work has been completed to the Project Manager's satisfaction. The Director of Public Works shall inspect the completed work and advise the Town Finance Director that the work has been completed according to the endorsed petition, including the survey plan therein, so that payment can be made. After completion of the project, residents can choose to apportion their assessment into equal portions to be paid yearly over a period of up to 15 years.
- F. The petition procedure set out herein shall apply equally to a petition involving a group of private roads within a subdivision provided that where a lot has frontage on, and derives access from, more than one road, the owner of such lot shall be entitled to only one vote. Owners of lots that are assessed as unbuildable and lots that may not be built upon pursuant to a conservation restriction or the equivalent shall not be entitled to vote, and such lots shall not be subject to betterment assessments hereunder.
- G. The Town of Brewster shall incur no liability for any damages of any nature whatsoever arising from the project by virtue of the Town's agreeing to carry out any repair of a private way. The owners who benefit from the repair and are assessed betterments shall be deemed to have indemnified and held the Town harmless against any and all claims. The Town makes no warranty or guarantee concerning the completed betterment project.
- H. Any private way improved under the provisions of this article need not be brought up to full Town road standards. Any private way improved under the provisions of this article shall continue to remain a private way but nonetheless open for public use.
- I. Except as otherwise provided in this article, private road betterments shall be assessed and committed according to MGL c. 80 and Chapter 373 of the Acts of 2006. Betterments shall be recorded and serve as record liens against the subject properties.
- J. Authorization of the private road betterment petition does not relieve the private owners from obtaining all necessary permits and approvals for the road work.
- K. The repairs allowed hereunder shall be considered and are permissible within the meaning of MGL c. 40, § 6N.
- L. The Director of Public Works may, at their discretion, direct Town employees to make minor or temporary repairs on private roads under the purview of maintenance activities or unusual

circumstances. These repairs shall not include construction, reconstruction and/or resurfacing of the ways.





## STRETCH ENERGY CODE

### Chapter 159

## STRETCH ENERGY CODE

**[HISTORY: Adopted 5-6-2019 Annual Town Meeting, Art. 19. Amendments noted where applicable.]**

#### **§ 159-1. Definitions.**

INTERNATIONAL ENERGY CONSERVATION CODE (IECC) — The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the Massachusetts State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

STRETCH ENERGY CODE — Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the Massachusetts Building Code, the Stretch Energy Code is an appendix to the Massachusetts Base Building Code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

#### **§ 159-2. Purpose.**

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the Building Code for new buildings.

#### **§ 159-3. Applicability.**

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 115.AA, as indicated.

#### **§ 159-4. Incorporation of standards by reference.**

The Stretch Energy Code, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Brewster General Bylaws.

#### **§ 159-5. Enforcement; effective date.**

The Stretch Energy Code, enforceable by the Inspector of Buildings or Building Commissioner, shall have a concurrency start date of July 1, 2019, and a sole effective date of January 1, 2020; during the concurrency period only applicants may choose whether to comply with the Stretch Energy Code or the otherwise applicable Base Energy Code.

BREWSTER CODE

**Chapter 160**

**(RESERVED)**

**[Former Ch. 160, Swimming Pools, adopted 6-27-1977 STM, Art. 3, was repealed 5-1-2017 ATM, Art. 24.]**

VEHICLES, UNREGISTERED

**Chapter 168**

VEHICLES, UNREGISTERED

**[HISTORY: Adopted by the Town of Brewster as indicated in article histories. Subsequent amendments noted where applicable.]**

ARTICLE I

**Dilapidated Motor Vehicles**

**[Adopted 3-2-1965 ATM, Art. 15; amended in its entirety 9-21-1981 STM, Art. 14]**

**§ 168-1. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**DILAPIDATED MOTOR VEHICLE** — One which is worn out, cast off or discarded and which is ready for dismantling or destruction, or which has been collected or stored for salvage or for stripping in order to make use of parts thereof. Any parts from such a vehicle shall be considered a "dilapidated motor vehicle" under this article.

**§ 168-2. Restricted keeping of vehicles; removal.**

No unregistered and dilapidated motor vehicle and/or parts thereof may be allowed to stand on the premises unless the operator of the premises is licensed under MGL c. 140, § 57; said unregistered and dilapidated motor vehicle or vehicles and/or parts thereof must be removed permanently within a four-week period after official notification by the Police Department has been made.

**§ 168-3. Violations and penalties.**

Any person who violates this article may be fined a sum of \$50 for each offense. Each day or portion of a day that the violation is allowed to continue after the four-week period shall constitute a separate offense.

ARTICLE II  
**Keeping on Private Premises**  
**[Adopted 5-14-1984 ATM, Art. 58]**

**§ 168-4. Prohibition.**

No person shall have more than one unregistered motor vehicle that can be seen on his premises from a public or private way or from abutting property.

**§ 168-5. Exception.**

This article shall not apply to a licensed new or used car dealer, licensed gasoline service station or a business located in a commercial zone.

**§ 168-6. Violations and penalties.**

Any person who violates this article may be fined a sum of \$50 for each offense. Each day or portion of a day that the violation is allowed to continue shall constitute a separate offense.



**Chapter 171****WATER BETTERMENTS**

**[HISTORY: Adopted 5-1-2006 Annual Town Meeting, Art. 28. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Water Commission — See Ch. 6, Art. III.

Streets and sidewalks betterment assessment — See Ch. 157, Art. V.

Water conservation — See Ch. 112, Art. I.

Subdivision rules and regulations — See Ch. 290.

---

**§ 171-1. Development of plan.**

In the event property owners, who own property on a roadway without Town water, wish the Town of Brewster to finance the installation of a water main, the group shall engage an engineer who is experienced in water main design and construction, who is approved by the Water Department, and who shall survey the road or roads in question to develop a plan for the installation of the water main along the roadway or roadways. The plan shall take into consideration and note existing drainage, berms, driveway aprons, trees, utilities, road edge improvements and other items that must be protected, deconstructed and reconstructed, restored, or otherwise considered in defining the conditions of work for the water main installation project. The project design must meet all best waterworks practices and the most current Brewster Water Department specifications for materials and installation. A preliminary plan shall be submitted to the Water Department for design approval.

**§ 171-2. Responsibilities of petitioners.**

All costs of preparing the water installation plan, obtaining cost estimates, securing and recording easements, and preparing the petition described below shall be the exclusive responsibility of the petitioners. Easements will be required for the lots upon which the main installation will occur. Obtaining the completed easements shall be the exclusive responsibility of the petitioners. The easements must be recorded at the Barnstable County Registry of Deeds prior to the selection of bids as specified by § 171-5. In the event the petitioned water main must cross private land to reach the petitioners' roadway, all additional, needed easements must also be granted.

**§ 171-3. Preparation of petition.**

- A. After the plan has been prepared and the design approved by the Water Department, the property owners' engineer shall secure at least three bids from contractors on the current list of water installers approved by the Brewster Water Department. After receipt of the bids, the property owners shall prepare a petition to the Board of Water Commissioners for the Town of Brewster to finance the work in an amount certain, including a ten-percent contingency amount. The petition shall list the parcels according to their Assessors' map and parcel numbers, furnish the respective record owners' names, and provide a space for each owner to place his or her signature. The petition must state that each signature represents an irrevocable agreement by each signatory to repay to the Town of Brewster, through the mechanism of a betterment added to each owner's real estate tax bill, his or her pro-rata share of the total amount to be financed, plus interest and administrative costs. Town administrative

costs shall not exceed 4% of the project cost.

- B. The petition shall not be presented to the Water Commissioners unless 50% of all the abutters to the road, plus one more abutter, shall have agreed to the project and its financial commitment by having signed it.

**§ 171-4. Submission of petition; action by Water Commissioners.**

- A. The petition, accompanied by the engineer's plan, a map depicting both the entire length of the proposed water main and the segments of roadways involved, and the data supporting the cost estimates, shall be submitted to the Water Department on or before August 31. The Water Commissioners shall refer every such petition to the Assessors' office for verification of signatures and confirmation that more than 50% of abutters have signed. The Water Commissioners shall consider all submitted petitions that pass the Assessors' examination prior to September 30. The Water Commissioners shall determine whether the proposed water main project is in the public interest and whether this water main project is within the financial capability of the Town.
- B. The amount to be charged against each parcel of land receiving such benefit shall include the cost of the pipes and other material and of the labor in laying them and other expenses incidental thereto and shall be ascertained, assessed and certified by the Water Commissioners or the other officers in charge of the supply and distribution of water in such city, town or district.
- C. The Board of Water Commissioners may then place the plan on the warrant for the next Annual Town Meeting. If the Water Commissioners or other Town boards or departments suggest modifications that change the scope of work or costs, the Board of Water Commissioners may, at its option, send the abutters proxies to the abutters noting scope and cost changes, or it may return the project to the petitioners. If proxies are sent out, they must be returned by December 31 in order to qualify the project for consideration at the next Annual Town Meeting.
- D. Provided that more than 50% of the abutters approved the revisions and returned their proxies by December 31, the Board of Water Commissioners may place the project on the Annual Town Meeting Warrant.
- E. The Board of Water Commissioners shall record in the Barnstable County Registry of Deeds a statement which shall specify the ways in which the water mains will be laid, which will designate the land, if any, that does not abut any specified way but which will be assessed for the improvement, and which shall designate the parcel owners liable for the betterment assessments.

**§ 171-5. Action by Town Meeting; Project Manager.**

If the Annual Town Meeting votes to endorse and finance the project, the engineer who did the original plan shall be named "Project Manager." He or she shall prepare a new request for quotations with the bids to be directed to the Water Superintendent. The Project Manager, Water Superintendent, and the Town Administrator shall select the best bid to do the work. The Project Manager shall advise the Water Superintendent 48 hours in advance of each phase of the project and certify, in writing, to the Water Superintendent that each phase of the work has been completed to the Project Manager's satisfaction. A water inspector, approved by the Water Department, must be present and inspect all water work. The final report of the inspector must be presented to and accepted by the Water Superintendent who will then certify to the Town Accountant that the work is completed so that payment can be made. After the acceptance of and payment for the completed project, the Water Department shall take possession and shall assume ownership of the water main and appurtenances for the Town. Once the water main has been accepted by



the Water Department, abutters may apply for a water service connection through the standard Department procedure.

**§ 171-6. Subdivisions with mandatory homeowners' associations.**

For a group of roads within a subdivision in which membership in a neighborhood property owners' association is automatic or mandatory, the same procedure shall be used:

- A. So long as a majority of the owners of the lots abutting the group of roadways to be included in the water main installation project signs the petition and, when they are used, the proxies specified in the preceding sections; and
- B. So long as the water main location and the group of roadways to be included in the water main installation project are owned or controlled, directly or indirectly, by the neighborhood association or its members and all needed easements have been granted.

**§ 171-7. Liability.**

The Town of Brewster shall not be held responsible for nor incur liability of any nature for damage or expense arising from the petitioned project or from this arrangement for financing the installation of water mains along private ways. Abutters, by accepting Town financing, thereby agree to indemnify and hold the Town harmless from such liability and expense or to take any other action relative thereto.

**Chapter 172****WETLANDS PROTECTION**

**[HISTORY: Adopted 12-10-1984 Special Town Meeting, Art 26. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Staff review — See Ch. 83.

Flooding — See Ch. 100.

Dredging and soil removal — See Ch. 89.

Zoning — See Ch. 179.

Erosion — See Ch. 93.

Subdivision rules and regulations — See Ch. 290.

---

**§ 172-1. Purpose. [Amended 10-19-1987 STM, Art. 29]**

The purpose of this chapter is to protect the wetlands, related water resources and adjoining land areas in the Town by prior review and control of activities deemed by the Conservation Commission to have or be likely to have an effect or cumulative effect upon wetland values, including but not limited to the following: public water supply, private water supply, groundwater and groundwater quality, water quality in the numerous ponds of the Town, flood control, erosion and sedimentation control, storm damage prevention, prevention of water pollution, fisheries, shellfish, wildlife and wildlife habitat, aesthetics and historic values (collectively, the "interests protected by this chapter"). This chapter is further intended to provide a means for review and correction of activities performed by any person in violation of any provision contained herein.

**§ 172-2. Applicability. [Amended 10-19-1987 STM, Art. 29]**

- A. Except as permitted by the Conservation Commission or as provided in this chapter, no person shall remove, fill, dredge, alter or build upon or within any of the following resource areas:
- (1) On or within 100 feet of any bank, beach, dune or flat.
  - (2) On or within 100 feet of any freshwater wetland, coastal wetland, vernal pool, marsh, meadow, bog or swamp. **[Amended 11-13-2017 FYTM, Art. 14]**
  - (3) Upon or within 100 feet of any lake, pond, river, stream, estuary or the ocean.
  - (4) Upon any land under said waters.
  - (5) Upon or within 100 feet of any land subject to flooding or inundation by groundwater or surface water.
  - (6) Upon any land subject to flooding or inundation by tidal action or coastal storm flowage.
  - (7) Upon any land within a riverfront area. **[Added 11-13-2017 FYTM, Art. 14]**
- B. Any activity proposed or undertaken outside any area specified above shall be subject to regulation under this chapter if, in the judgment of the Conservation Commission or its agent, said activity may result or has resulted in the removing, filling, altering or building upon any area specified above.

**§ 172-3. Exemptions.**

- A. The permit and application required by this chapter shall not be required for maintaining, repairing or replacing an existing and lawfully located structure or facility which is used in the service of the public to provide electric, gas, water, sanitary sewer, storm drainage, public roadway, telephone, telegraph or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to the commencement of work that the structure or facility will not be, in the opinion of the Conservation Commission, substantially changed or enlarged, and provided that any work done conforms to the performance standards and design specifications in regulations adopted by the Conservation Commission.
- B. The permit and application required by this chapter shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the commonwealth or a political subdivision thereof, provided that adequate notice, oral or written, has been given to the Conservation Commission prior to the commencement of work or within 24 hours after commencement, provided that the Conservation Commission certifies the work as an emergency project, and provided that the work is performed only for the time and place certified by the Conservation Commission for the limited purpose necessary to abate the emergency. Within 21 days of commencement of an emergency project, a permit application shall be filed with the Conservation Commission for review as provided in this chapter.
- C. Other than stated in this section, the exemptions provided in the Wetlands Protection Act and the regulations promulgated thereunder shall not apply.

**§ 172-4. Application for permit; request for determination.**

- A. Application for permit.
  - (1) Written application shall be filed with the Conservation Commission to perform any work which will or which, in the opinion of the Conservation Commission, may affect resource areas within the jurisdiction of this chapter. Upon the petition of any 10 registered voters of the Town the Commission shall require any work commenced within the jurisdiction of this chapter without a permit to be ordered stopped, and shall require a written application as provided in this section. The application shall include such plans as are deemed necessary by the Conservation Commission to describe the proposed activities and their effects on the environment. No work or alteration shall commence without receiving and complying with a permit issued pursuant to this chapter.
  - (2) The application and plans shall contain data as required by this chapter and any regulations adopted pursuant thereto by the Conservation Commission.
  - (3) The Conservation Commission may require application and plans under this chapter in addition to the notice of intent and plans filed pursuant to the Wetlands Protection Act, MGL c. 131, § 40. **[Amended 5-12-1986 ATM, Art. 60]**
  - (4) At the time of application, the applicant shall pay a filing fee specified in the regulations of the Conservation Commission promulgated pursuant to this chapter.
- B. Request for determination. Any person desiring to know whether or not proposed work or an area is subject to this chapter may request a determination, in writing, from the Conservation Commission. Such a request for determination shall contain data and plans as specified by the regulations of the

Conservation Commission promulgated pursuant to this chapter. **[Amended 5-8-1989 ATM, Art. 33]**

**§ 172-5. Notice; hearing.**

- A. Notice. Any person filing an application or a request for determination with the Commission at the same time shall give written notice thereof, by certified mail or hand delivery, to all abutters and abutters to abutters within 300 feet of the lot which is the subject of such application or request for determination, according to the most recent records of the Assessor, and to all other persons as the Conservation Commission shall in writing require. The notice shall enclose a copy of the application or request with plans or shall state where copies may be examined and obtained by abutters. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request. **[Amended 5-12-1986 ATM, Art. 60; 5-8-1989 ATM, Art. 33]**
- B. Hearing.
- (1) The Commission shall conduct a public hearing on any application or request for determination, with written notice, published at the expense of the applicant five working days prior to the hearing in a newspaper of general circulation in the Town. **[Amended 5-12-1986 ATM, Art. 60]**
  - (2) The Commission shall commence the public hearing on any application or request for determination within 21 days from receipt.
  - (3) The Commission shall issue its permit or other action or determination, in writing, within 21 days of the close of the public hearing thereon or within 21 days of the close of any continuances of the prior public hearings.
  - (4) The Commission, in an appropriate case, may combine its hearing under this chapter with the hearing conducted under the Wetlands Protection Act, MGL c. 131, § 40.
  - (5) For reasons announced by the Conservation Commission at the hearing, the Commission shall have authority to continue or postpone the hearing to a date certain announced at the hearing, either for receipt of additional information offered by the applicant or others or for information required of the applicant deemed necessary by the Conservation Commission in its discretion.
  - (6) The Conservation Commission shall take action on the application at the continuance date, provided that the applicant has complied in all respects with the request of the Conservation Commission for further information pursuant to this section, unless further continuances are consented to by the applicant. **[Amended 5-12-1986 ATM, Art. 60]**

**§ 172-6. Coordination with other boards. [Amended 10-19-1987 STM, Art. 29]**

- A. Any person filing a permit application or a request for determination with the Commission shall, if requested in writing by the Conservation Commission or its agent, provide a copy thereof at the same time, by certified mail or hand delivery, to the Select Board, Planning Board, Board of Appeals, Board of Health and Building Inspector, who shall, if requested by the Conservation Commission in writing or by 10 registered voters of the Town, file written comments and recommendation with the Commission. **[Amended 11-13-2017 FYTM, Art. 13]**
- B. The Commission shall not take final action until such Boards and officials have had 14 days from the

receipt of notice to file said written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission.

- C. The coordination sought by this section can be achieved in part through the staff review process. For actions subject to that process, none of the timing limitations of § 172-5 shall commence to run until staff review process has been completed. **[Added 5-14-1990 STM, Art. 12; amended 5-2-2011 ATM, Art. 32]**

**§ 172-7. Action by Commission; permits.**

- A. Action by Commission. if the Commission, after a public hearing, determines that the area which is the subject of the application is likely to be significant to the interests protected by this chapter, the Commission, within 21 days of the close of the hearing or a continuance thereof, shall issue or deny a permit for the work requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those interests, and all work shall be done in accordance with those conditions. If the area is deemed not likely to be significant to the interests protected by this chapter, the Commission shall so inform the applicant that the work does not require a permit.
- B. Permits.
- (1) Permits shall expire three years from the date of issuance. Any permit may be renewed for up to additional three-year periods, provided that a request for an extension is received, in writing, by the Commission 30 days prior to expiration of the permit. **[Amended 5-5-1997 ATM, Art. 26; 11-13-2006 FYTM, Art. 18; 12-3-2018 FYTM, Art. 8]**
  - (2) For good cause, the Commission may revoke or modify a permit issued under this chapter.
  - (3) The Conservation Commission shall issue permits under this section in addition to any order of conditions issued under the Wetlands Protection Act.

**§ 172-8. Promulgation of regulations.**

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this chapter. Public notice shall include publication of all proposed regulations in a newspaper of general circulation in the Town not less than 21 days prior to public hearing. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this chapter. At a minimum, these regulations shall define key terms in this chapter not inconsistent with this chapter.

**§ 172-9. Definitions.**

The following definitions shall apply in the interpretation and implementation of this chapter.

ALTER — Includes, without limitation, the following actions when undertaken in resource areas subject to this chapter:

- A. Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind.
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns or flood retention characteristics.
- C. Drainage or other disturbance of water level or water table.

- D. Dumping, discharging or filling with any material.
- E. Placing of fill or removal of material.
- F. Driving of piles, erection of buildings or structures of any kind.
- G. Placing of obstructions or objects in water.
- H. Destruction of plant life, including cutting of trees.
- I. Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of water.
- J. Any activities, changes or work which pollute in any way any body of water or groundwater.

PERSON — Includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agencies, public or quasi-public corporations or bodies, this municipality and any other legal entity, its legal representatives, agents or assigns.

#### **§ 172-10. Security. [Amended 5-12-1986 ATM, Art. 60]**

As part of a permit issued under this chapter, in addition to any security required by any other Town or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder shall be secured, wholly or in part, by one or more of the methods described below:

- A. By a proper bond or deposit of money or negotiable securities sufficient in the opinion of the Commission.
- B. By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality and members of the public, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

#### **§ 172-11. Enforcement; violations and penalties.**

- A. The Commission, its agents, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this chapter and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary.
- B. The Police Department and the Conservation Commission shall have authority to enforce this chapter, its regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions.
- C. Upon request of the Commission or upon written request of any 10 residents of the commonwealth, the Select Board and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law. **[Amended 11-13-2017 FYTM, Art. 13]**
- D. In the alternative to criminal prosecution, the Commission may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D.
- E. Municipal boards and officers, including any police officer or other officer having police powers,

shall have authority to assist the Conservation Commission in enforcement.

- F. Any person who violates any provision of this chapter, regulations thereunder or permits issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the chapter, regulations or permit violated shall constitute a separate offense.

**§ 172-12. Burden of proof.**

The applicant for a permit shall have the burden of proving by clear and convincing evidence that the work proposed in the application will not harm the interests protected by this chapter. Failure to provide adequate evidence to the Commission supporting a determination that the proposed work will not harm the interests protected by this chapter shall be sufficient cause for the Commission to deny a permit.

**§ 172-13. Relation to Wetlands Protection Act.**

This chapter is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, MGL c. 131, § 40, and regulations thereunder.

**§ 172-14. Severability.**

- A. The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof, nor shall it invalidate any order of conditions which previously have been issued.
- B. If any court of the commonwealth shall invalidate any provision of this chapter or any regulation promulgated thereunder, the Conservation Commission shall present to the next Town Meeting after such invalidation, amendments to this chapter which are designed to comply with any court decision invalidating such provision and shall amend the regulations pursuant to § 172-8 to comply with such decision. **[Amended 5-12-1986 ATM, Art. 60]**

BREWSTER CODE

**Chapter 179**

**ZONING**

**[HISTORY: Adopted 5-14-1979 Annual Town Meeting. Amendments noted where applicable.]**



ARTICLE I  
General Provisions

**§ 179-1. Authority; purpose; amendments; validity. [Amended 11-18-2024 FYTM by Art. 7]**

- A. The Brewster Zoning Bylaw, adopted in 1960, and all subsequent amendments thereto, hereinafter called "this chapter," is adopted and from time to time amended as authorized by MGL c. 40A, as amended, herein called the "Zoning Act," and by Article 89 of the Amendments to the Constitution, the Home Rule Amendment.
- B. In conjunction with the purposes stated in the Zoning Act, this chapter shall provide protection for inland and coastal wetlands, as well as existing and potential watersheds, and shall give direction and effect to the development objectives and recommendations contained in the Brewster Master Plan of 1970, as may be amended from time to time.
- C. Amendments. This chapter may be amended from time to time in accordance with Section 5 of the Zoning Act.
- D. Validity. The invalidity, unconstitutionality or illegality of any provision of this chapter or boundary shown on the Zoning Map shall not have any effect upon the validity, constitutionality or legality of any other provision or boundary.

**§ 179-2. Definitions.**

- A. Words used in the present tense indicate the future; the singular number includes the plural and the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended" or "offered to be used or occupied"; the words "building," "structure," "lot," "land" or "premises" shall be construed as though followed by the words "or any portion thereof," and the word "shall" is always mandatory and not merely directory. **[Amended 5-3-1999 ATM, Art. 29; 11-17-2003 FYTM, Art. 16]**

- B. As used in this chapter, the following terms shall have the meanings indicated:

ABANDONMENT — The visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a building or premises; or the removal of the characteristic equipment or furnishing used in the performance of the nonconforming use, without its replacement by similar equipment or furnishings; or the replacement of the nonconforming use or building by a conforming use or building. When a building is being actively marketed for sale or lease, it is not considered abandoned.<sup>47</sup> **[Amended 5-7-2012 ATM, Art. 23]**

ACCESSORY COMMERCIAL DWELLING UNIT (ACDU) — A housing unit, complete with its own sleeping, cooking and sanitary facilities, that is located within a structure containing a commercial, wholesale or industrial use, or in a separate structure on the same lot as a commercial, wholesale or industrial use. An ACDU shall have no more than two bedrooms and shall have a maximum habitable area of 900 square feet or 40% of the habitable area of the commercial, wholesale or industrial unit, whichever is less. Unenclosed additions constructed to serve an ACDU such as an entry, secondary egress or exterior stairs shall not be included in the maximum habitable area of the ACDU. **[Added 12-3-2018 FYTM, Art. 12]**

ACCESSORY SINGLE-FAMILY DWELLING UNIT (ADU) — A dwelling unit located on the

---

47. Editor's Note: The former definition of "affordable accessory apartment," added 11-18-2002 FYTM, Art. 15, which immediately followed this definition, was repealed 11-5-2007 FYTM, Art. 20.

same lot as the principal single-family dwelling to which it is accessory. An ADU shall be considered an accessory use.[Added 12-3-2018 FYTM, Art. 12;<sup>48</sup> amended 11-13-2023FYTM by Art. 5]

**AFFORDABLE HOUSING** — A dwelling unit, controlled by a use restriction in accordance with § 179-42.1, the Affordable Housing Bylaw, and occupied by individuals falling into one of the following categories:[Added 11-5-2007 FYTM, Art. 20]

- (1) Immediate family members of the record owner of the dwelling unit, for example a son, daughter, mother, father, or grandparent.
- (2) Individuals with low or moderate income levels as provided in the Massachusetts Department of Housing and Community Development (DHCD) regulations and verified by the Brewster Housing Authority or other DHCD approved agency.

**AFFORDABLE MULTIFAMILY DWELLING UNITS (AMDU)** — More than two but no more than four affordable housing units within a building unit. Each affordable housing unit shall have a maximum of two bedrooms and a maximum of 900 square feet of area.[Added 11-5-2007 FYTM, Art. 20]

**AGRICULTURAL USE** — Uses for commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, as those terms are defined in MGL c. 40A, § 3.[Added 5-7-2012 ATM, Art. 23]

**ALTERATION** — Any construction, reconstruction or other action resulting in a change in the structural parts or height, number of stories or exits, size, use or location of a building or other structure.

**AMUSEMENT ARCADE** — A building or part of a building containing four or more video, pinball, or similar player-operated amusement devices, in any combination for commercial use to the general public for a fee.[Added 5-7-2012 ATM, Art. 23]

**AMUSEMENTS, OUTDOOR COMMERCIAL** — The provision of rides, games, or entertainment to the general public for a fee where any portion of the activity takes place outside of a building, including but not limited to miniature golf, merry-go-round, inflatable slides, miniature cars, Ferris wheels, midway-type games, go-carts, carousels, fun houses, bumper cars or boats, water flumes, batting cages. Devices such as these, open to the public, by which persons are conveyed or entertained in an unusual manner for diversion, cannot be located within 500 feet of any residential district.[Added 5-7-2012 ATM, Art. 23]

**ANIMAL HOSPITAL** — A place where animals are given medical or surgical treatment by or under the supervision of a veterinarian and boarding is short-term care incidental to hospital use and care.[Added 11-15-2010 FYTM, Art. 13]

**ANTIQUE SHOP** — Any premises used for the sale or trading of articles of which 80 percent or more are over 50 years old or have collectible value, irrespective of age.[Added 5-7-2012 ATM, Art. 23]

**ART GALLERY** — Floor space devoted to the production, showing or sale of art, including but not limited to paintings, sculptures, handcrafts, and photographs. This definition does not include art museums. An art gallery can also accommodate art classes for no more than 10 students per class.[Added 11-7-2011 FYTM, Art. 13]

---

48. Editor's Note: This article also repealed the former definitions of "affordable accessory commercial dwelling unit (AACDU)" and "affordable accessory single-family dwelling unit (AASDU)," added 11-5-2007 FYTM, Art. 20, which immediately followed this definition.

**ASSISTED LIVING FACILITY** — A combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living. A facility with a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential.**[Added 5-7-2012 ATM, Art. 23]**

**AUTOMATED AND DRIVE-THROUGH FINANCIAL ESTABLISHMENTS/STRUCTURES** — An establishment or structure whose principal business or purpose allows for the deposit or withdrawal of money and whose method of operation includes one or both of the following characteristics:**[Added 11-15-1993 FYTM, Art. 19]**

- (1) Customers are able to carry out transactions while remaining within a motor vehicle.
- (2) Customers can carry out transactions by using automated teller machines, either contained within a freestanding structure or within and/or integral to a principal use.

**BAKERY** — An establishment primarily engaged in the preparation and wholesale and/or retail sale of baked products for consumption off-site. Such use may include incidental food service. A bakery where all products are prepared off-site shall be considered a general retail use.**[Added 11-15-2010 FYTM, Art. 13]**

**BARN** — Any building or structure where a farm animal is sheltered or a portion of a building used for this purpose.**[Added 5-12-1980 ATM, Art. 38]**

**BED-AND-BREAKFAST** — A residence where an owner/occupant in its home provides lodging and a morning meal.**[Added 5-7-2012 ATM, Art. 23<sup>49</sup>]**

**BUILDABLE UPLANDS** — Land in the Town of Brewster which is not a Resource Area under the Brewster Wetlands Bylaw.<sup>50</sup>**[Amended 5-12-1986 ATM, Art. 33]**

**BUILDING, ACCESSORY** — A detached building or structure a) which is used for a purpose which is customarily incidental and subordinate to the use of the principal building, b) which is located on the same lot, and c) which is not a shed as defined in this chapter. **[Amended 11-18-2002 FYTM, Art. 19]**

**BUILDING, ACCESSORY RESIDENTIAL** — A detached residential structure, customarily incidental to the existing principal residential structure and located on the same lot with the principal residential structure to which it is accessory. Such structures include but are not limited to guesthouse, shed, boathouse, playhouse, shelter for domestic pets, pool houses, private swimming pools, tennis courts and detached garages. An accessory residential building may or may not contain bedrooms.**[Added 5-7-2012 ATM, Art. 23]**

**BUILDING AND CONSTRUCTION TRADES SHOP OR GARAGE** — A single structure or up to four separate structures, the combined square footage of which shall not exceed 6,000 square feet, housing up to four building-trade-related businesses, such as construction, electrical, heating or plumbing contracting, but not including excavation or septic installer. All business activities shall be confined to within the structure(s).**[Added 5-7-2007 ATM, Art. 24]**

**BUILDING, PRINCIPAL** — The structure in which the primary use of the lot is conducted, including porches, patios, decks, utility buildings and any other attached projections of the structure. The principal structure shall include a structure, whether portable or fixed, wholly or partly enclosed

---

49. Editor's Note: This article also repealed the former definition of "board," which immediately followed.

50. Editor's Note: See Ch. 172, Wetlands Protection. The former definition of "building," which immediately followed this definition, was repealed 5-7-2007 ATM, Art. 26.

within walls, party walls and roof, built, erected and framed of component structural parts, designed for housing, shelter, enclosure and support of individuals, animals or property of any kind. For purposes of this definition, "roof" shall include an awning or similar covering, whether or not permanent in nature.**[Added 5-7-2007 ATM, Art. 26]**

**BUILDING UNIT** — A single building, or a portion of a single building, having the principal means of ingress and egress, separate and distinct from other portions of the same building.

**CAMP, CHILDREN'S RECREATION** — An establishment for the provision of indoor or outdoor activities for children, including sports, arts and crafts, entertainment, recreation, educational activities, water sports, horseback riding, and associated food service. If incidental to the camp use, camp facilities or structures may be used to provide meeting, accommodations, recreation, or social facilities for a public or private association or group. Can be a day or overnight camp. Can be for profit or nonprofit. To the extent this definition is ever applied to include "child care facilities" as that term is defined in MGL c. 40A, § 3, the exemption provisions of that statute shall prevail.**[Added 5-7-2012 ATM, Art. 23]**

**CEMETERY** — A Town- or privately owned place for the interment of human remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof.**[Added 5-7-2012 ATM, Art. 23]**

**CHURCH OR OTHER RELIGIOUS USE** — Any structure or use entitled to the religious exemption set forth in MGL c. 40A, § 3.**[Added 5-7-2012 ATM, Art. 23]**

**CLINIC, MEDICAL OR DENTAL** — A facility employing more than one doctor or dentist or health care provider providing treatment on an out-patient basis.**[Added 11-15-2010 FYTM, Art. 13]**

**CLUB, COUNTRY, HUNTING, GUN, FISHING, OR GOLF** — Clubs or recreational facilities for which a membership charge may be made and which are open only to bona fide members and their guests.**[Added 5-7-2012 ATM, Art. 23]**

**CLUSTER RESIDENTIAL DEVELOPMENT** — A division of land into lots for use as residential building sites where said lots are arranged into one or more groups having area and yard measurements less than the minimum required in Table 2.**[Amended 8-27-1984 STM, Art. 56]**

**COMMERCIAL VEHICLE** — Any self-propelled or towed vehicle used in commerce to transport passengers (other than the driver) or cargo.**[Added 5-7-2012 ATM, Art. 23]**

**COMMUNICATION TOWER** — A freestanding or guyed vertical structure designed for the purpose of supporting communication antennas, including but not limited to microwave transmitting and/or receiving antennas, microwave reflectors, broadcasting antennas, cellular telephone antennas, pager antennas and cable television antennas. Structures transmitting only visible light are excluded from this definition, and this definition shall not apply to the construction or use of an antenna structure by a federally licensed amateur radio operator.**[Added 5-5-1997 ATM, Art. 75]**

**COMMUNITY FACILITY** — A public or private nonprofit use established primarily for the benefit and service of the population of the community in which it is located.**[Added 5-7-2012 ATM, Art. 23]**

**CONSTRUCTION MATERIALS SALES AND SERVICES** — Establishments or places of business primarily engaged in retail or wholesale transaction, from the premises, of the materials used in the construction of buildings or other structures.**[Added 5-7-2012 ATM, Art. 23]**

**CONVALESCENT HOME** — See "nursing home."**[Amended 5-7-2012 ATM, Art. 23]**

**COTTAGE COLONY** — Any group of two or more rental or condominium cottages on a parcel of

land.[**Amended 5-7-2012 ATM, Art. 23]**

CREMATORY — A location containing properly installed, certified apparatus intended for use in the act of cremation.[**Added 5-7-2012 ATM, Art. 23]**

DEICING MATERIALS STORAGE FACILITY — A facility for the storage of deicing materials that is specifically constructed to prohibit the leaching of the stored material.[**Added 5-7-2012 ATM, Art. 23]**

DRIVEWAY — Any open space, located on a lot, which is not more than 24 feet in width built for access to a garage, or off-street parking or loading space.

DWELLING, MULTIFAMILY — A building containing three or more dwelling units.

DWELLING, ONE FAMILY DETACHED — A building containing a single, separate dwelling unit, designed for use and occupancy by one family, which shall be considered a principal use and principal structure under this chapter. Also referred to herein as a "single-family dwelling" or "single-family residence." [**Added 5-7-2012 ATM, Art. 23; amended 11-13-2023FYTM by Art. 5]**

DWELLING, ONE FAMILY SECURITY — One family dwelling unit for owner occupancy or for occupancy by personnel hired by the owner for the protection of property and safe operation of a permitted use.[**Added 5-7-2012 ATM, Art. 23]**

DWELLING UNIT — One or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation.

EDUCATIONAL USE — Any structure or use entitled to the education exemption set forth in MGL c. 40A § 3.[**Added 5-7-2012 ATM, Art. 23]**

EDUCATIONAL USE - FOR PROFIT — Any building or part thereof, operated by a for-profit entity and designed, constructed or used for education or instruction in any branch of knowledge. Such use shall not include uses entitled to the education exemption set forth in MGL c. 40A, § 3.[**Added 5-7-2012 ATM, Art. 23]**

EQUIPMENT GARAGE, MUNICIPAL — A facility housing heavy equipment owned and operated by the Town of Brewster.[**Added 5-7-2012 ATM, Art. 23]**

ESSENTIAL SERVICES — Services provided by public utility or governmental agencies through erection, construction, alteration or maintenance of underground or overhead gas, electrical, steam or water transmission or distribution systems and collection, communication, supply or disposal systems, but not including generation or production systems. Facilities necessary for the provision of "essential services" include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, utility buildings, cabinets, enclosures and other similar equipment and accessories in connection therewith.[**Amended 11-18-2024FYTM by Art. 7]**

FAMILY — One or more persons, including domestic employees, occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

FARM ANIMAL — Includes sheep, goats, swine, bovines, horses, ponies, donkeys or mules of any age or sex.[**Added 5-12-1980 ATM, Art. 38]**

FARM STAND — A building or structure used for the wholesale and/or retail sales of fresh fruits, vegetables, flowers, herbs, or plants. May also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces, or baked goods, and homemade handicrafts. The area devoted to the sales of these accessory items shall not exceed 50% of the total sales area. No commercially packaged handicrafts or commercially processed or packaged

foodstuffs shall be sold at a farm stand. To the extent this definition is ever applied to include facilities entitled to the agricultural exemption set forth in MGL c. 40A, § 3, the provisions of that statute shall prevail.**[Added 5-7-2012 ATM, Art. 23]**

**FLOOD LINE** — The limits of flooding from a particular body of water caused by a storm with an intensity to be expected once in five years, based on past records, as determined and certified by a registered professional engineer qualified in drainage.

**FLOODPLAIN DISTRICT** — An overlay district which delineates special flood hazard areas designated on the Town of Brewster Flood Insurance Rate Map as established by the National Flood Insurance Program.**[Added 5-13-1985 ATM, Art. 63]**

**FLOOR AREA, NET** — The sum of the living areas on all floors within the perimeter of a building or portion thereof measured from the outside faces of the exterior walls, or dividing walls as applicable, without deduction for interior partitions and the like. It does not include unenclosed decks, porches, entries, or unconditioned storage, cellar, mechanical, garage, or utility areas, or spaces similar to the foregoing, not designed, intended or capable of being used for human habitation or occupancy.**[Amended 11-13-2023 FYTM by Art. 5]**

**FREIGHT TRANSPORTATION SERVICES** — Establishments primarily engaged in undertaking the transportation of goods for compensation, including commercial distribution services, freight forwarding services and freight agencies.**[Added 5-7-2012 ATM, Art. 23]**

**FRONTAGE** — See "lot frontage."**[Added 5-7-2012 ATM, Art. 23]**

**FUNERAL HOME** — A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the storage of caskets, funeral urns, and other related funeral supplies; and (c) the storage of funeral vehicles.**[Added 5-7-2012 ATM, Art. 23]**

**FUR ANIMAL** — Includes mink, sable, ermine, fox and the like.**[Added 5-12-1980 ATM, Art. 38]**

**GIFT SHOP** — Retail stores where items such as art, jewelry, books and notions are sold. Shops accessory to a home occupation, pursuant to § 179-37, shall not be considered gift shops for the purpose of this bylaw.**[Added 11-15-2010 FYTM, Art. 13]**

**GREENHOUSE** — Retail or wholesale business whose principal activity is the selling of plants grown on the site and having outside storage, growing, or display. To the extent this definition is ever applied to include facilities entitled to the agricultural exemption set forth in MGL c. 40A, § 3, the provisions of that statute shall prevail.**[Added 5-7-2012 ATM, Art. 23]**

**HEALTH CARE PROVIDER** — Any person who is licensed or is otherwise registered or certified to engage in the practice of or otherwise performs duties associated with any of the following: medicine, dentistry, optometry, midwifery, osteopathy, podiatry, massage (by a licensed massage therapist), chiropractic, physiotherapy, dental hygiene, psychiatry, or psychology.**[Added 11-15-2010 FYTM, Art. 13]**

**HEIGHT** — The vertical distance from the mean level of the adjacent natural ground to the top of the structure, measured at the highest roof beams of a flat roof or the highest gable or slope of a hip roof.**[Amended 5-14-1990 STM, Art. 5; 5-2-2005 ATM, Art. 29]**

**HISTORICAL ASSOCIATION OR SOCIETY** — A not-for-profit organization dedicated to the research of and collection of information on a specific historical subject of interest. May include a display area for public viewing.**[Added 5-7-2012 ATM, Art. 23]**

**HOME OCCUPATION** — An accessory use to be carried on entirely within a principal building,

and/or accessory building(s), by the residents of the principal building with no more than two nonresident employees, and not in any manner changing the primary residential character of the property.**[Amended 5-4-2009 ATM, Art. 29]**

**HOTEL** — A building or complex of buildings providing transient lodging in 12 or more rooms, food and other related services within which access to the individual units is provided by common interior corridors. The individual units do not have cooking facilities.**[Added 5-7-2012 ATM, Art. 23]**

**INN** — See "lodging house."**[Added 5-7-2012 ATM, Art. 23]**

**JUNK** — Scrap or waste material of any kind or nature collected or accumulated for resale, disposal or storage.**[Added 5-7-2012 ATM, Art. 23]**

**JUNKYARD** — Any privately owned space more than 200 square feet in area outside of a building, used for storage, keeping, processing, salvaging or abandonment of junk.**[Added 5-7-2012 ATM, Art. 23]**

**KENNEL** — An establishment where dogs, cats or other small household pets are boarded for compensation.**[Added 11-15-2010 FYTM, Art. 13]**

**LICENSED SPECIAL EVENT VENUE USE** — A property, not specifically designed or permitted to be used for infrequent events occurring within a twenty-four-hour period such as, but not limited to, art or theatrical exhibitions, concerts, dinners, parties, and weddings, to be attended by the public, including properties not expressly permitted to be rented for such occasions. Applications for five or fewer events per year must receive a license from the Select Board. Applications for greater than five events per year must receive a Special Permit from the Board of Appeals; provided, however, that such venue has first received a license from the Select Board for such event. Special Permits for Special Event Venue Uses shall be renewed annually.**[Added 5-6-2013 ATM, Art. 23; amended 11-13-2017 FYTM, Art. 13; 12-3-2018 FYTM, Art. 11]**

**LOADING SPACE** — An off-street space used for loading or unloading not less than 12 feet in width, 30 feet in length and 14 feet in height and containing not less than 360 square feet, including both access and maneuvering area.

**LODGING HOUSE** — A structure originally designed for single-family use which may be converted to provide rooms (not more than 12) for the use of one or more individuals not living as a single housekeeping unit and may provide a common dining facility. It shall include boardinghouse, tourist homes and rooming houses but does not include motels or hotels.

**LOT** — An area or parcel of land or any part thereof, not including water area, in common ownership, designated on a plan filed with the administrator of this chapter by its owner or owners as a parcel to be used, developed or built upon as a unit under single ownership or control. Any subsequent subdivision of a "lot" into two or more "lots" shall be subject to and conform to all the regulations of the district. Therefore, for purposes of this chapter, a "lot" may or may not have boundaries identical with those recorded in the Barnstable County Registry of Deeds.

**LOT, CORNER** — A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines or, in the case of a curved street, extended lot lines being not more than 135°. <sup>51</sup>

**LOT FRONTAGE** — That part of a lot line abutting a street or way, or continually or contiguously abutting more than one street or way, for the distance required in Table 2, Area Regulations.**[Amended 5-7-2012 ATM, Art. 23]**

---

51. Editor's Note: The former definition of "lot depth," which immediately followed, was repealed 5-7-2012 ATM, Art. 23.

LOT LINE, FRONT — The property line dividing a lot from a street right-of-way. On a corner lot, the owner shall designate one street line as the "front lot line."

LOT LINE, REAR — The lot line opposite from the front lot line.

LOT LINE, SIDE — Any lot line not a front or rear lot line.

LOT, NONCONFORMING — A lot lawfully existing at the effective date of this chapter or any subsequent amendment thereto, which is not in accordance with all provisions of this chapter.

LOT, THROUGH — An interior lot, the front and rear lot lines of which abut streets, or a corner lot two opposite lines of which abut streets.

MAJOR RESIDENTIAL DEVELOPMENT — Either of the following:[**Added 5-14-1990 STM, Art. 10**]

- (1) Land division, whether a subdivision or not, so as to increase the number of buildable lots, unless restricted from residential use, to more than six within any twelve-month period.
- (2) Issuance of building permits for construction of more than eight dwelling units within any twelve-month period.<sup>52</sup>

MANUFACTURING — The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials.[**Added 5-7-2012 ATM, Art. 23**]

MEDICAL MARIJUANA DISPENSARY (MMD) — A non-profit facility or location that has been registered by the Massachusetts Department of Public Health, where medical marijuana is grown, processed, and/or made available to a qualifying patient or a personal caregiver as determined by 105 CMR 725.000.[**Added 5-5-2014 ATM, Art. 22**]

MEMBERSHIP CLUB — A social, sports or fraternal association or organization which is used exclusively by members and their guests, which may contain bar facilities.

MEMBERSHIP ORGANIZATION — An association or organization, including social or sports, which is used exclusively by members and their guests, which may contain bar facilities.[**Added 5-7-2012 ATM, Art. 23**]

MOBILE HOME — A dwelling unit built on a chassis and containing electrical, plumbing and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

MORTUARY ESTABLISHMENT — See "funeral home."[**Added 5-7-2012 ATM, Art. 23**]

MOTEL — A building or complex of buildings providing transient lodging accommodations with separate outside entrances for each unit. The individual units may or may not have cooking facilities.[**Added 5-7-2012 ATM, Art. 23**]

MOVIE THEATER — See "theater, indoor."[**Added 5-7-2012 ATM, Art. 23**]

MOVIE THEATER, DRIVE-IN — An open-air theater where the performance is viewed by all or part of the audience from motor vehicles.[**Added 5-7-2012 ATM, Art. 23**]

MUSEUM — An institution, open to the public, which acquires, conserves, researches, communicates or exhibits objects of lasting interest or value for the purposes of education, study or

---

52. Editor's Note: The definition of "medical center or clinic," which immediately followed this definition, was repealed 11-15-2010 FYTM by Art. 13.



enjoyment.[**Added 5-7-2012 ATM, Art. 23; amended 5-5-2014 ATM, Art. 34**]

**NURSING HOME** — A home for the aged, chronically ill, persons requiring care or incurable persons in which three or more persons, not of the immediate family, are received, kept or provided with food and shelter or care for compensation; including a sanitarium or sanatorium, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.[**Added 5-7-2012 ATM, Art. 23**]

**OFFICE, BUSINESS** — Administrative, executive, professional, or similar organizations, provided that no merchandise or merchandising services are sold on the premises, except such as are incidental or accessory to the principal permitted use.[**Added 5-7-2012 ATM, Art. 23**]

**OFFICE, MEDICAL OR DENTAL** — A facility employing no more than one doctor or dentist providing treatment on an out-patient basis. Offices of health care providers are also included under this definition. A medical or dental office can be considered a home occupation if it meets the requirements of § 179-37 of this bylaw.[**Added 11-15-2010 FYTM, Art. 13**]

**OWNER** — The duly authorized agent, attorney, purchaser, devisee, trustee, lessor or any person having vested or equitable interest in the use, structure or lot in question.

**PARKING LOT OR STRUCTURE, COMMERCIAL** — A lot or a group of lots or a structure, whose purpose is to provide vehicular parking for six or more vehicles for a fee. This definition does not include federal, state or municipal parking lots. The area(s) on a lot whose principal use is not as a parking lot but as a facility for which parking must be provided under the requirements of § 179-22 of the Code of the Town of Brewster shall not be considered a parking facility.[**Added 11-15-2004 FYTM, Art. 16; amended 5-7-2012 ATM, Art. 23<sup>53</sup>**]

**PERSONAL SERVICE ESTABLISHMENT** — An establishment providing nonmedical services, including beauty and barber shops; dry cleaning pick-up stores; shoe repair shops; tanning salons. These uses may also include accessory retail sales of products related to the services provided.[**Added 11-15-2010 FYTM, Art. 13**]

**PLANNED BUSINESS DEVELOPMENT** — The development of a tract of land in single or consolidated ownership for commercial purposes where the uses shall be contained in more than one building and the development shall be served with common parking areas.[**Amended 5-8-1989 ATM, Art. 44**]

**PLANNED RESIDENTIAL DEVELOPMENT** — A mixed use development on a plot of land in single or consolidated ownership, in which a mixture of residential, open space, commercial, recreational and other uses and a variety of building types may be permitted subject to the provisions of § 179-36.[**Amended 5-14-1984 ATM, Art. 99**]

**POULTRY** — Includes domestic fowl, such as chickens, turkeys, ducks and geese.[**Added 5-12-1980 ATM, Art. 38**]

**POWER PLANT** — Any plant facilities and equipment exclusive of wind energy turbines (Brewster Town Code, Chapter 179, Zoning, Article IX, Special Regulations, § 179-40.2) and large-scale ground mounted solar photovoltaic installations (Brewster Town Code, Chapter 179, Zoning Article XIV, Solar Installations) for the purposes of producing, generating, transmitting, delivering or furnishing electricity for the production of power. Further, such power plant uses shall not include electric vehicle (EV) charging stations; small-scale ground-mounted PV installations; roof-mounted PV installations; or small-scale energy storage systems located on and scaled to serve a particular site or building, all of which shall be allowed as accessory structures or uses permitted by right in

---

53. Editor's Note: This article also repealed the former definition of "parking space:" which immediately followed, as amended.

all zoning districts. To the extent this definition is ever applied to include uses or facilities entitled to the public utilities exemption set forth in MGL c. 40A, § 3, the provisions of that statute shall prevail.[Added 5-7-2012 ATM, Art. 23; amended 11-18-2024 FYTM by Art. 7]

RECORDED — Recorded in the Barnstable County Registry of Deeds or registered in the Barnstable County Registry of Land Court.<sup>54</sup>

RECREATION FACILITY, NONPROFIT — Recreation facilities operated by public or nonprofit entities.[Added 5-7-2012 ATM, Art. 23]

RECREATION FACILITY, PRIVATE — Clubs or recreation facilities for which a membership charge is made and which are open only to members and their guests. A private recreational facility may not be open or available to the general public.[Added 5-7-2012 ATM, Art. 23]

REPAIR SERVICES — Establishments primarily engaged in the provision of repair services to individuals, households, and businesses, but excluding automotive repair.[Added 5-7-2012 ATM, Art. 23]

RESTAURANT, FULL-SERVICE — An establishment in which food is prepared and served and customers' orders are taken and served at dining tables and where customers pay after eating. A restaurant that otherwise satisfies the above noted definition may contain one takeout station. None of this type of establishment shall provide drive-through windows or in-car service or service areas.[Added 11-13-2006 FYTM, Art. 24]

RESTAURANT, LIMITED-SERVICE — A limited-service restaurant is an establishment primarily engaged in providing food services where patrons generally order or select items and pay before eating. Examples of such establishments include:[Added 11-13-2006 FYTM, Art. 24]

- (1) Take-out restaurants a) at which orders are taken and food is prepared, b) at which food is sold to customers to be eaten elsewhere off the premises, and c) does not have an in-car, drive-through service or service area. None of this type of establishment shall provide drive-through windows or in-car service or service areas.
- (2) Fast-food restaurants a) at which orders are taken and food is prepared, b) at which food is sold to customers to be eaten on premises or elsewhere off the premises, and c) does not have an in-car, drive-through service or service area; pizza delivery services, non-alcoholic beverage bars, ice cream parlors, sandwich shops, carry-out cookie shops and bagel shops with on-premises baking are all examples of this category. None of this type of establishment shall provide drive-through windows or in-car service or service areas.

RETAIL STORE — A business usually selling one or a combination of two or more of the following: dry goods, apparel and accessories, furniture and home furnishings, small wares, hardware, food for home preparation, pharmaceuticals and medical supplies.[Added 5-7-2012 ATM, Art. 23]

ROW COMMERCIAL — A structure or structures containing more than one commercial unit, each unit divided from others by fire walls, separation walls or other walls, or by being in a separate building so as to be separate and distinct from each other unit. Each unit contained shall be a permitted use and may be separately owned.[Amended 10-17-1988 STM, Art. 24; 5-8-1989 ATM, Art. 45; 11-13-2006 FYTM, Art. 32]

ROW OR TOWN HOUSE — A single dwelling unit which is not above or below another dwelling unit and whose side walls are separated from other dwelling units by a fire wall or walls. Each unit in

---

54. Editor's Note: The former definition of "restaurant," added 5-1-2000 ATM, Art. 21, which immediately followed this definition, was repealed 11-13-2006 FYTM, Art. 24.

the row may be owned by a separate owner.

**SEPTAGE** — The solid and liquid waste material removed from septic tanks, cesspools and sewage holding tanks.[**Added 11-15-1999 FYTM, Art. 22**]

**SEPTAGE TRANSFER** — The process of transferring septage from one wheeled vehicle to another wheeled vehicle for transport to another location or transferring septage from a wheeled vehicle to a holding tank or transferring septage from a holding tank to a wheeled vehicle for further transport.[**Added 11-15-1999 FYTM, Art. 22**]

**SEPTAGE TRANSFER STATION** — An indoor or outdoor facility, of any nature or design whatsoever, designed to perform or be the site of septic transfer.[**Added 11-15-1999 FYTM, Art. 22**]

**SEPTIC TANK PUMPING SERVICE** — A business that removes septage by using wheeled vehicles with pumping or vacuum systems and transports the septage in the same vehicle to a facility which will accept septage for treatment or processing with no intervening transfer to another wheeled vehicle.[**Added 11-15-1999 FYTM, Art. 22; amended 5-7-2012 ATM, Art. 23**]

**SEWAGE TREATMENT FACILITIES** — A facility designed for the collection, removal, treatment, and disposal of waterborne sewage generated within a specific area.[**Added 5-7-2012 ATM, Art. 23**]

**SHED** — A single-story detached building or structure which has a footprint that does not exceed 120 square feet, which is used for a purpose which is customarily incidental and subordinate to the use of the principal building, and which is located on the same lot. A shed may be located as close as 10 feet from any side or rear property line, but shall conform to the front property line setback, as required by the Town of Brewster Zoning Bylaw.[**Added 11-18-2002 FYTM, Art. 19; amended 5-7-2012 ATM, Art. 23**]

**SIGN** — See Article VI, Signs, § 179-19, Definitions.<sup>55</sup>[**Amended 5-14-1990 ATM, Art. 46**]

**SOLID WASTE FACILITY, MUNICIPAL** — A town-owned parcel(s) for the collection and transfer of municipal solid waste, including but not limited to construction and demolition debris, brush, leaves, composting and recycled materials. To the extent this definition is ever applied in a manner inconsistent with the provisions of MGL c. 111, §§ 150A and 150A1/2, and the regulations promulgated thereunder, the provisions of that statute and those regulations shall prevail.[**Added 5-7-2012 ATM, Art. 23**]

**SPECIAL PERMIT** — A permit issued by the special permit granting authority to allow an optional use. A "special permit" can only be issued in cases where the Zoning Bylaw specifically allows one to be issued.[**Added 5-11-1987 ATM, Art. 84**]

**STABLE, COMMERCIAL** — A structure or land use in or on which equines are kept for sale or hire to the public. Breeding, boarding, or training of equines may also be conducted. To the extent this definition is ever applied to include facilities entitled to the agricultural exemption set forth in MGL c. 40A, § 3, the provisions of that statute shall prevail.[**Added 5-3-1999 ATM, Art. 30; amended 5-7-2012 ATM, Art. 23**]

**STREET** — A way which is dedicated or devoted to public use by legal mapping or by any other lawful procedure. A "street" includes all public ways, a way which the Town Clerk certifies is maintained and used as a public way, a way shown on a plan approved and endorsed in accordance with the rules and regulations governing subdivision of land in Brewster, Massachusetts, and a way having in the opinion of the Brewster Planning Board sufficient width, suitable grades and adequate

---

55. Editor's Note: The former definitions of "sign, business," "sign, identification" and "sign, surface area of," which immediately followed this definition were repealed 5-14-1990 STM, Art. 46.

construction to provide for the needs of vehicular traffic in relation to the proposed uses of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.[**Amended 5-7-2012 ATM, Art. 23**]

**STREET, ARTERIAL** — Highways which connect state or larger population centers and form part of the state or federal highway system.

**STREET, COLLECTOR** — Streets which receive traffic from arterial streets and distribute it to subareas or smaller population centers in the region.

**STREET, MINOR** — Streets which primarily serve to provide access to individual land parcels.

**STRUCTURE** — A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall over four feet in height, tent, reviewing stand, platform, bin, fences over six feet high, sign, flagpole, recreational tramway, mast for radio antenna, or the like. The word "structure" shall be construed, where the context requires, as though followed by the words, "or part or parts thereof," consistent with the Massachusetts State Building Code.[**Amended 5-2-2005 ATM, Art. 27; 5-7-2012 ATM, Art. 23**]

**SUBSIDIZED ELDERLY HOUSING** — Housing in which 75% or more of the dwelling units are subsidized by the federal or state government under any program to assist the construction of low- or moderate-income housing as defined in the applicable federal or state statute, whether built or operated by any public agency or any nonprofit or limited dividend organization, with occupancy reserved to persons 62 years of age or older.[**Added 12-10-1979 STM, Art. 37**]

**THEATER, INDOOR** — A structure containing as its primary use audience seating, one or more movie screens, or performance spaces, and a lobby. May or may not have a refreshment stand.[**Added 5-7-2012 ATM, Art. 23**]

**TOURIST HOME** — See "lodging house."[**Added 11-15-2010 FYTM, Art. 13**]

**TRAILER** — Any vehicle or similar structure which is, has been or may be portable and is arranged, intended, designed or used for dwelling, sleeping, eating or business or is a place in which persons may congregate. It includes a mobile home.

**TRAILER, CONSTRUCTION** — A vehicle or similar structure to be used for storage of construction material only during construction of a job on the same lot, three months on a private dwelling.[**Added 5-7-2012 ATM, Art. 23**]

**USE** — The purpose for which a structure or lot is arranged, designed or intended to be used, occupied or maintained.

**USE, ACCESSORY** — A use incidental and subordinate to the principal use of a structure or lot or a use, not the principal use, which is located on the same lot as the principal structure or use. Any use that is not allowed in the underlying district shall not be classified as an accessory use nor permitted as an accessory use.[**Amended 11-17-2003 FYTM, Art. 17**]

**USE, NONCONFORMING** — A use lawfully existing at the time of adoption of this chapter or any subsequent amendment thereto, which does not conform to one or more provisions of this chapter.

**USE, PRINCIPAL** — The main or primary purpose for which a structure or lot is designed, arranged or intended or for which it may be used, occupied or maintained under this chapter. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the "principal use" and permitted under this chapter shall be considered an "accessory use."

**VENDING MACHINE** — Any unattended self-service device that, upon insertion of a bill, coin,

coins, credit/debit cards or token, or by similar means, dispenses anything of value including food, beverage, goods, wares, merchandise, or services.[**Added 5-7-2012 ATM, Art. 23**]

**WATER FILTRATION PLANT** — A facility for the treatment of potable water for use in a municipal water system.[**Added 5-7-2012 ATM, Art. 23**]

**WHOLESALE TRADE** — An establishment or place of business exclusive of farm stands or greenhouses engaged in selling and/or distributing merchandise to retailers, industrial, commercial, institutional or professional business users, or to other wholesalers.[**Added 5-7-2012 ATM, Art. 23**]

**YARD** — A portion of a lot, upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein.[**Amended 11-15-2004 FYTM, Art. 19**]

**YARD, FRONT** — A space extending the full width of the lot between the front line of the nearest building wall or structure and the front lot line.[**Amended 5-2-2005 ATM, Art. 28**]

**YARD, REAR** — A space, unoccupied except by an accessory structure or accessory use as herein permitted extending for the full width of the lot, between the rear line of the building wall or structure and the rear lot line.[**Amended 5-2-2005 ATM, Art. 28**]

**YARD, SIDE** — An unoccupied space extending for the full length of a building between the nearest building wall or structure and the side lot line.[**Amended 5-2-2005 ATM, Art. 28**]

**VARIANCE** — Such departure from the terms of this chapter as the Appeals Board, upon appeal in specific cases, is empowered to authorize under the terms of § 179-52 herein.

ARTICLE II  
Establishment of Districts

**§ 179-3. Districts enumerated.**

- A. The Town of Brewster, Massachusetts, is hereby divided into zoning districts to be designated as follows:

Residential Rural	R-R
Residential Low Density	R-L
Residential Medium Density	R-M
Commercial High Density	C-H
Village Business	V-B
<b>[Added 10-17-1988 STM, Art. 26]</b>	
Industrial	I
Municipal Refuse District	MRD
Wetlands Conservancy	WC
Groundwater Protection District	GPD
<b>[Added 5-9-1994 ATM, Art. 52]</b>	
Floodplain <sup>56</sup>	FPD
<b>[Added 5-13-1985 ATM, Art. 64]</b>	
Personal Wireless Services Communications Facilities Overlay District	PWSCF
<b>[Added 5-5-1997 ATM, Art. 76; amended 5-6-2003 by ATM, Art. 25]</b>	

- B. A portion of the district known as "Municipal Refuse District (MRD)" is to be zoned Residential Rural (R-R), the location and boundaries of said portion being shown on a map entitled "Supplemental Zoning Map" showing MRD District in Brewster, Massachusetts, made for the Town of Brewster, December 1972, Nickerson & Berger, Inc., Civil Engineers, Orleans, Massachusetts, and placed on file with the Town Clerk.
- C. That portion of the C-H Zoning District which is located in the area along Route No. 6A and 400 feet north and 400 feet south of the center line of Route No. 6A and between a line 400 feet west of Bassett Lane and Ellis Landing Road shall now be known as the "Village Business (V-B) District."<sup>57</sup> **[Added 10-17-1988 STM, Art. 26]**

---

56. Editor's Note: The former COPD Corridor Overlay Protection District, added 5-9-1994 ATM, Art. 25, which immediately followed this district, was repealed 5-2-2011 ATM, Art. 31.

57. Editor's Note: Former Subsection D, concerning the Corridor Overlay Protection District, added 5-9-1994 ATM, Art. 25, which immediately followed this subsection, was repealed 5-2-2011 ATM, Art. 31.

**§ 179-4. Zoning Map established. [Amended 10-17-1988 STM, Art. 26; 5-11-1992 ATM, Art. 34; 11-20-2000 FYTM, Art. 25]**

The location and boundaries of the zoning districts are hereby established as shown on the May 1979 Map entitled "Zoning Districts Map of the Town of Brewster, Massachusetts," which is on file in the Town Clerk's office, and which is a part of this chapter.

**§ 179-5. Determination of boundaries.**

Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Districts Map, the following rules apply:

- A. Where a boundary is indicated as a street, railroad, watercourse or other body of water, it shall be construed to be the center line or middle thereof or, where such boundary approximates a Town boundary, then to the limits of the Town boundary.
- B. Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Districts Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Districts Map.
- C. Where a dimensional boundary coincides within 10 feet or less with a lot line, the boundary shall be construed to be the lot line.
- D. Where a boundary is indicated as intersecting the center line of a street, railroad, watercourse or other water body, and unless it is otherwise indicated, it shall be construed to intersect at right angles to the tangent to the curve at the point of intersection.
- E. When a district boundary line divides any lot in one ownership of record at the time such line is adopted, a use that is permitted on one portion of the lot may be extended into the other portion, provided that a special permit is granted by the Board of Appeals.
- F. When a lot in one ownership is situated so that a part of it is in Brewster and part is in an adjacent town, the provisions of this chapter shall be applied to that portion of the lot which lies in Brewster in the same manner as if the entire lot were situated therein; i.e., the entire area and frontage shall be considered in determining conformity to the dimensional requirements herein. The use of the portion of the lot in Brewster shall conform to the provisions herein. **[Added 5-7-2007 ATM, Art. 27]**

**§ 179-6. Wetlands Conservancy District.**

- A. Purpose. Wetlands Conservancy Districts are intended to preserve and maintain the groundwater table on which the inhabitants of this or other municipalities depend for water supply; to protect the purity of coastal and inland waters for the propagation of fish and shellfish and for recreational purposes; to protect the public health and safety; to protect persons and property from the hazards of flood and tidal waters which may result from unsuitable development in swamps, ponds, bogs or marshes along watercourses or in areas subject to floods or extreme high tides; and to conserve the natural character of the environment, wildlife and open space for the education and general welfare of the public.
- B. Locations and boundaries. **[Amended 12-10-1984 STM, Art. 28]**
  - (1) Wetlands Conservancy Districts shall include all bordering vegetated wetlands, freshwater banks, land subject to flooding, land under a freshwater body, land under the ocean, coastal beaches, barrier beaches, rocky intertidal shores, land under salt ponds, fish runs, coastal dunes,

coastal banks, salt marshes and land containing shellfish which are subject to the jurisdiction of the Wetlands Protection Act, MGL c. 131, § 40, as amended.

- (2) Wetlands Conservancy Districts shall also include the following soil types and soil associations, the location and boundaries of which are shown by Overlay Map Sheets 11, 16, 17, 18 and 22 encompassing the Town of Brewster and found in the "Soil Survey of Barnstable County, Massachusetts" issued March 1993 by the United States Department of Agriculture, Soil Conservation Service, which survey is hereby made part of this chapter: Amostown (AmA); Beaches (Bh); Belgrade Silt Loam (BlB); Berryland (BmA); Boxford (BoA) (BoB); Deerfield (DeA); Dune Land (Dn); Freetown (Fm, Ft); Freetown and Swansea (Fs); Hooksan (HoC, HoD, HxC); Ipswich, Pawcatuck and Matunuck (ImA); Maybid (MaA, MbA); Pipestone (PeA); Scitico (ScA); Sudbury (SdA); and Walpole (WvA). Soil descriptions as well as their land uses and limitations are found in this survey. Any parcels of land under this section too small to show on the aforementioned map sheets but containing soil types and associations described in the above survey shall be subject to this chapter. Disturbed areas may be accorded Wetlands Conservancy District status if an on-site investigation determines that the filled area covers a Conservancy District soil or soil association. **[Amended 5-9-1988 ATM, Art. 95; 5-8-1989 ATM, Art 46; 10-15-1990 STM, Art. 4; 11-19-2001 FYTM, Art. 17]**
- C. Prohibited uses. The following uses are prohibited within the Wetlands Conservancy Districts as defined in this chapter:
- (1) Residential or commercial structures.
  - (2) Dumping of filling with refuse, trash, rubbish or debris.
  - (3) Any sewage disposal systems, storage areas, tanks for chemicals or petroleum products, or other potential sources of substantial pollution.
- D. Permitted uses. Except as provided in Subsection E below, buildings, structures and premises in Wetlands Conservancy Districts may be used only for the following purposes, so long as no dredging or filling is involved.
- (1) Fishing and shellfishing, including the raising and cultivation of fish and shellfish.
  - (2) Forestry, grazing and farming, nurseries, truck gardening and harvesting of crops, including but not limited to such crops as cranberries, marsh hay, seaweed, berries and shrub fruits and trees, and work incidental thereto.
  - (3) Conservation of soil, water, plants and wildlife.
  - (4) Outdoor activities, including hiking, swimming, boating, nature study, fishing, trapping and hunting.
  - (5) Drainage works which are part of the local flood and mosquito control conducted by an authorized public agent.
  - (6) Such other agricultural, horticultural, floricultural, religious and educational uses as are exempted from prohibition by MGL c. 40A, § 3.
  - (7) Uses accessory to residential or other primary uses, such as flower or vegetable gardens, lawns, pastures or forestry areas.
  - (8) The building and use of footbridges, constructed or fabricated trails and walks, stairways, docks



and landings. **[Added 11-18-2002 FYTM, Art. 20]**

- (9) Notwithstanding the prohibition against any land filling or dumping of any soil, peat, sod, gravel, rocks or other mineral substances in Subsection E(4) below, land filling or dumping of any gravel, rocks, sand or other mineral substance is permitted for property owners for the sole purpose of repairing or re-nourishing of bay front beaches after storm damages. **[Added 11-13-2006 FYTM, Art. 23]**

E. Uses permitted by a special permit. The Board of Appeals may issue a special permit for the following uses and structures in accordance with the provisions of § 179-51 of this chapter. Before issuing a special permit under this section, the Board of Appeals shall consider whether or not the proposed use will be detrimental to the environmental quality of both the subject and contiguous lands. The Board of Appeals may, as an alternative to a denial of a special permit under this section, impose such conditions as it deems necessary to contribute to the protection and preservation of subject land in accordance with the purposes of this chapter. Before issuing a special permit under this section, the Board of Appeals shall forward a copy of the application for the special permit to the Conservation Commission, and the Conservation Commission shall, within 35 days of receipt of a copy of such application, make recommendations to the Board of Appeals concerning the application for a special permit. The Board of Appeals shall not grant any special permit under this section until the report of the Conservation Commission has been received and considered, or until 35 days from delivery of the application copy for the special permit to the Conservation Commission has elapsed without the receipt or the report from the Conservation Commission. Any report of the Conservation Commission to the Board of Appeals under this section shall be an advisory report only. The following uses shall be permitted by a special permit only:

- (1) Nonresidential buildings or structures to be used only in conjunction with fishing, shellfishing, the growing and harvesting and storage of crops raised on the premises and boathouses.
- (2) Dams, changes in watercourses or other drainage works, only as part of an overall drainage plan constructed or authorized by a public agency as stated in Subsection D above.
- (3) <sup>58</sup>Appropriate municipal uses, such as waterworks, pumping stations and parks.
- (4) Any landfilling or dumping of any soil, loam, peat, sand, gravel, rocks or other mineral substances.
- (5) Any draining, damming, dredging, altering or relocating any watercourse or the removal from Wetlands Conservancy Districts of loam, peat, sod, gravel, rocks or other mineral substances.
- (6) Certain accessory uses related to scientific research or development, as and to the extent mandated in MGL c. 40A, § 9.

F. Emergency action. Any special permit required by § 179-6 of this chapter shall not apply to emergency projects necessary for the protection of health and safety of the citizens of Brewster. "Emergency projects" shall mean any project certified to be an emergency by the Commissioner of the Department of Natural Resources (Department of Environmental Protection) and the Conservation Commission, if this chapter and MGL c. 131, § 40, are both applicable, or by the Conservation Commission alone, if only this chapter is applicable. In no case shall any filling, dredging or altering commence prior to any emergency certification, or extend beyond the time

---

58. Editor's Note: Former Subsection E(3), amended 5-3-1999 ATM by Art. 31, which permitted footbridges, constructed or fabricated trails and walks, docks and landings, was repealed 5-6-2002 ATM by Art. 20. Said Art. 20 also renumbered former Subsection E(4) through (7) as Subsection E(3) through (6).

necessary to abate the emergency. Emergency action may be performed by: **[Amended 5-11-1992 ATM, Art. 39]**

- (1) An administrative agency of the commonwealth or Town.
- (2) A property owner, if emergency approval has or will be granted under the provisions of this Subsection F above and the Building Commissioner deems the action necessary to protect or prevent further damage to an approved and permitted building or structure. Corrective action is to be limited to protection only, and not to complete replacement.

**§ 179-7. Floodplain District. [Added 5-13-1985 ATM, Art. 65; amended 5-11-1992 ATM, Art. 37; 11-17-2003 FYTM, Art. 22; 5-5-2014, ATM, Art. 24; 11-15-2021FYTM by Art. 11]**

The Floodplain District is established as an overlay district. All uses otherwise permitted in the underlying district are allowed, provided that they meet the following additional requirements, as well as those of the Massachusetts State Building Code dealing with construction in floodplains and coastal high hazard areas.

A. Statement of purpose. The purposes of the Floodplain District are to:

- (1) Regulate development in areas subject to coastal storm flowage, particularly high hazard velocity zones, in order to minimize threats to public safety, potential loss of life, personal injury, destruction of property, and environmental damage inevitably resulting from storms, flooding, erosion and relative sea level rise.
- (2) Enable safe access to and from coastal homes and buildings for homeowners and emergency response personnel, such as police, fire and rescue departments or other emergency response officials.
- (3) Reduce or prevent public health emergencies resulting from surface and ground water contamination from inundation of or damage to sewage disposal systems and storage areas for typical household hazardous substances.
- (4) Minimize monetary loss and public health threats resulting from storm damage to public facilities (water and gas mains, electric, telephone lines, streets, bridges, etc.). Avoid the loss of utility services which, if damaged by flooding, would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.
- (5) Eliminate costs associated with the response to and cleanup of flooding conditions.
- (6) Reduce damage to public and private property resulting from flooding waters.

B. Definitions. As used in this section, the following words shall have the meanings specified herein:

**AREA OF SPECIAL FLOOD HAZARD** — The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, X, and VE. [Base Code, Chapter 2, Section 202]

**BASE FLOOD** — The flood having a 1% chance of being equaled or exceeded in any given year.

**COASTAL HIGH HAZARD AREA** — The area subject to high-velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone VE.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [44 CFR Part 59]

DISTRICT — Floodplain District.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be fixed (including, at minimum, the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads) is completed before the effective date of this section.

EXPANSION TO AN EXISTING MANUFACTURED HOMEPARK OR SUBDIVISION — The preparation of additional sites by the construction of facilities for servicing lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads).

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Administers the National Flood Insurance Program (NFIP). FEMA provides a nationwide flood hazard mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which FEMA has delineated both areas of special flood hazard and risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) — An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [44 CFR Part 59; also, Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [44 CFR Part 59]

HISTORIC STRUCTURE — Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior; or
  - (b) Directly by the Secretary of the Interior in states without approved programs. [44 CFR Part 59]

LAND SUBJECT TO COASTAL STORM FLOWAGE — Land subject to inundation caused by coastal storms up to and including the 100-year flood, surge of record, or flood of record, whichever

is greater. The 100-year flood (or base flood as it is also referred to) means the flood having a 1% chance of being equaled or exceeded in any given year. The seaward limit is mean low water.

**LOWEST FLOOR** — The lowest floor of the lowest enclosed areas (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For purposes of the application of this Floodplain District Bylaw, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

**MANUFACTURED HOME PARK OR SUBDIVISION** — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**NATIONAL FLOOD INSURANCE PROGRAM (NFIP)** — Is administered by the Federal Emergency Management Agency (FEMA).

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after June 6, 1985 (the effective date of the first Flood Insurance Rate Map and accompanying regulations). New construction includes work determined to be substantial improvement.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Floodplain District Bylaw.

**ONE HUNDRED YEAR FLOOD** — See "base flood."

**RECREATIONAL VEHICLE** — A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(Note: Recreational vehicles are only allowed in Brewster in licensed camping facilities.)

**SEA-LEVEL RISE BASE FLOOD ELEVATION (SLR-BFE)** — The elevation of surface water resulting from any inundation caused by coastal storms up to and including that predicted to be caused by the 1% annual storm for the Target Year, as defined by the best available coastal flooding model.

**SPECIAL FLOOD HAZARD AREA** — An area having special flood and/or flood-related erosion hazards, and shown on a FIRM as Zone A, AE, VE.

**START OF CONSTRUCTION** — The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction,

rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

**STRUCTURE** — For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed.

**SUBSTANTIAL REPAIR OF A FOUNDATION** — When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

**VARIANCE** — A grant of relief by a community from the terms of a flood plain management regulation. [44 CFR Part 59]

**VIOLATION** — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [44 CFR Part 59]

**ZONES** —

**ZONE A** — The 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local or other data.

**ZONE AE** — The 100-year floodplain where the base flood elevation has been determined.

**ZONE X** — Areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard.

**ZONE VE** — Special flood hazard areas along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action). Base flood elevations have been determined.

C. Floodplain District boundaries and base flood elevation data.

- (1) The Floodplain District includes all special flood hazard areas within the Town of Brewster designated as Zone A, AE, AH, AO, A99, V or VE on the Barnstable County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program dated July 14, 2016. The exact boundaries of the District may be defined by the 1% chance base flood elevations shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner and Conservation Commission.
- (2) Base flood elevation data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres; whichever is the lesser, within unnumbered A zones.
  - (a) Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall cause a qualified professional to provide any existing base flood elevation data, which data shall be reviewed by the Building Commissioner/Zoning Agent for its reasonable utilization toward meeting the elevation or floodproofing requirements as appropriate, of the State Building Code.
  - (b) Pursuant to the Wetlands Protection Act (MGL c. 131, § 40 and 310 CMR 10.00 et seq.), the Brewster Conservation Commission may require any building or other structure, in the event of any substantial repair of the foundation, any substantial improvement, or any restoration of substantial damage, the entire building or structure shall be elevated at least two feet above the SLR-BFE.

D. Use regulations.

- (1) All provisions of the Code of the Town of Brewster, Chapter 179, shall remain applicable within the Floodplain District; provided, however, where the Floodplain District Bylaw imposes additional or conflicting requirements, the more stringent local requirements shall prevail. All development in the Floodplain District, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40, of the Massachusetts General Laws and with the following:
  - (a) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR).
  - (b) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00).
  - (c) Inland Wetlands Restriction, IMP (currently 310 CMR 13.00).
  - (d) Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00).
  - (e) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15.500).
  - (f) Brewster Wetlands Protection Bylaw (currently Chapter 172, Brewster Town Code).
  - (g) Brewster Wetlands Conservancy District (currently Chapter 179, Article II, § 179-6, Brewster Town Code).

- (2) Any departure from the provisions and requirements of the above-referenced state or local regulations may only be granted in accordance with the required variance procedures of these state or local regulations. A variance from this Floodplain Bylaw must meet the requirements set out by state law, and may only be granted if: 1) good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.
- (3) If the state issues a variance to the flood-resistant standards as found in the Massachusetts State Building Code, the Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance and will maintain this record in the community's files.

The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

- E. Recommended uses. The following uses, which present low flood damage potential and are unlikely to cause obstructions to flood flows, are encouraged, provided they are permitted in the underlying district and do not require structures, fill, or the storage of either materials or equipment.
  - (1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
  - (2) Forestry and nursery uses.
  - (3) Outdoor recreational uses, including play areas, nature study, boating, fishing and hunting where otherwise legally permitted.
  - (4) Conservation of water, plants and wildlife.
  - (5) Wildlife management areas, foot, bicycle, and/or horse paths and bridges provided such uses do not affect the natural flow pattern of floodwaters or of any watercourse.
  - (6) Temporary nonresidential structures used in connection with fishing, hunting, bird watching, growing, harvesting, storage, or sale of crops raised on the premises.
  - (7) Buildings and uses lawfully existing prior to the adoption of these provisions.
- F. Use limitations.
  - (1) Man-made alteration of sand dunes within Zone VE that increase potential flood damage is prohibited.
  - (2) All new construction within Zone VE is required to be located landward of the reach of mean high tide.
  - (3) All subdivision proposals shall be reviewed to assure that:

- (a) Such proposals minimize flood damage;
  - (b) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - (c) Adequate drainage is provided to reduce exposure to flood hazards.
- (4) Existing contour intervals of site and elevations of existing structures must be included on plan proposals.
- (5) Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- (6) All recreational vehicles to be placed on a site must be:
- (a) Elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements; or
  - (b) Be on the site for less than 180 consecutive days; or
  - (c) Be fully licensed and highway ready.

G. Administration.

- (1) The Town of Brewster requires a permit for all proposed construction or other development in the Floodplain Overlay District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties. The floodplain permit required hereunder shall be issued by the Conservation Commission in connection with any other permit applications falling under the Conservation Commission's jurisdiction. The Conservation Commission may enact regulations hereunder including the procedures relative to an application for a floodplain permit.
- (2) There shall be established a routing procedure which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Town Engineer and Building Commissioner for comments which will be considered by the appropriate permitting board prior to issuing applicable permits. The proponent must obtain all local, state, and federal permits necessary to carry out the proposed development in the floodplain overlay district and must verify that all necessary permits have been acquired.
- (3) The Building Commissioner shall require the applicant to cause a qualified professional to provide records of elevation and/or floodproofing levels for new construction or substantial improvement within the flood district.

H. Designation of community floodplain administrator. The Town of Brewster hereby designates the position of Building Commissioner to be the official floodplain administrator for the Town.

I. Severability. If any provision of this section should be disapproved by the Attorney General or invalidated by a court of competent jurisdiction, the remainder of the section shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this § 179-7 shall not affect the validity of the remainder of the Town of Brewster's Zoning Bylaw.

J. Abrogation. The provisions found in this Floodplain Overlay District section shall take precedence



over any less restrictive conflicting local laws, ordinances or codes.

- K. Liability. The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.
- L. Requirement to submit new technical data. If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief

99 High St., 6th floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator

MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02110

ARTICLE III  
**Interpretation and Application**

**§ 179-8. Interpretation.**

The provisions of this chapter shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, morals or the general welfare of the Town of Brewster, Massachusetts; and except for the Brewster Zoning Bylaw, dated 1960, and all amendments thereto, the provisions of this chapter are not intended to repeal or in any way impair or interfere with any lawfully adopted bylaw, regulation or rule. Whenever the regulations made under the authority hereof differ from those prescribed by any bylaw or other regulations, that provision which imposes the greater restriction or the higher standard shall govern.

**§ 179-9. Application.**

Except as herein provided, or as specifically exempted by the Zoning Act, the provisions of this chapter shall apply to the erection, construction, reconstruction, alteration or use of buildings and structures or use of land. Except as herein provided, any existing conforming use, structure or lot shall not by any action become nonconforming, and any existing nonconforming use, structure or lot shall not become further nonconforming.

ARTICLE IV  
Use Regulations

**§ 179-10. Applicability of use regulations.**

Except as provided in the Zoning Act or in this chapter, no building, structure or land shall be used except for the purposes permitted in the district as described in this section. Any uses not listed shall be construed to be prohibited.

**§ 179-11. Table of Use Regulations.**

- A. In the following Table of Use Regulations, the uses permitted by right in the district shall be designated by the letter "P." Those uses that may be permitted by special permit in the district, in accordance with § 179-51, shall be designated by the letter "S." Uses designated "-" shall not be permitted in the district.
- B. See the table on accompanying pages which is declared to be a part of this chapter.<sup>59</sup>

**§ 179-12. Uses permitted by right.**

Uses permitted by right or granted special permits shall be subject, in addition to use regulations, to all other provisions of this chapter.

**§ 179-13. Regulations effective in all districts.**

- A. No premises in the Town of Brewster shall be used for the following purposes: residing in (i.e., occupying) any tents, trailers, mobile units, except in commercial trailer parks or camps.
- B. No lot in the Town of Brewster shall be used for residential building purposes unless there is at least 60,000 square feet of contiguous buildable uplands as defined in the Zoning Bylaw or unless the lot existed as a lot on May 1, 1986, and satisfied the May 1, 1986, requirements for a buildable lot. June 30, 1987, shall be set as the effective date for all aspects of this subsection. **[Amended 5-12-1986 ATM, Art. 34; 5-11-1987 ATM, Art. 83]**
- C. No lot in Brewster shall be used for septage transfer, whether septage transfer would be a principal use or an accessory use, nor shall any lot in Brewster be used for a septage transfer station, whether such use would be a principal use or an accessory use. **[Added 11-15-1999 FYTM, Art. 24]**
- D. When two lots are in common ownership, any new structure proposed after the effective date of this bylaw that encroaches on a setback on either lot shall seek a variance from the Board of Appeals. In a case where any new, altered or extended structure proposed after the effective date of this bylaw is proposed to be constructed over a lot line common to both lots, the two lots shall be combined by plan or deed, and such plan or deed shall be recorded at the Barnstable County Registry of Deeds. Copies of the recorded information shall be submitted with any building permit application. **[Added 5-3-2010 ATM, Art. 28]**

**§ 179-14. (Reserved)<sup>60</sup>**

---

59. Editor's Note: Table 1, Use Regulations, is included at the end of this chapter.

60. Editor's Note: Former § 179-14, R-R District moratorium, added 5-13-1985 ATM, Art. 60, last amended 10-19-1992 FYTM, Art. 13, was repealed 5-9-1994 ATM, Art. 23.

ARTICLE V  
**Area and Bulk Regulations**

**§ 179-15. Applicability of regulations.**

The regulations for each district pertaining to minimum lot area, minimum lot frontage, maximum height of buildings, maximum number of stories, minimum front yard depth, minimum side yard width, minimum rear yard depth and minimum residential net floor area shall be as specified in this section and set forth in the Table of Area Regulations and Height and Bulk Regulations and subject to the further provisions of this section. A fence, wall or other enclosure is not regulated except as provided in § 179-17 below.

**§ 179-16. Tables of regulations.**

See tables on accompanying pages, plus attached notes, which are declared to be a part of this chapter.<sup>61</sup>

**§ 179-17. Fences, walls and other enclosures.**

- A. A fence, hedge, wall or other enclosures may be maintained on a corner lot, provided that no structure or vegetation shall be over 3.5 feet in height within the sight triangle.
- B. The "sight triangle" is defined as the area within a triangle formed by two lines measured along the center of the nearest lane of the traveled way of intersecting streets from the point of intersection for a distance of 25 feet and a third line connecting the points on the two legs. The height restrictions shall designate the distance above each point in the plane of the sight triangle.

---

**61. Editor's Note: Table 2, Area Regulations Minimum Required Lots, and Table 3, Height and Bulk Regulations, are located at the end of this chapter.**

## ARTICLE VI

## Signs

**[Amended 5-11-1982 ATM, Art. 82; 5-14-1984 ATM, Art. 107; 5-14-1984 ATM, Art. 108; 5-14-1984 ATM, Art. 109; 5-13-1985 ATM, Art. 70; 1-13-1986 STM, Art. 15; 5-9-1988 ATM, Art. 93; 10-17-1988 STM, Art. 26; 5-14-1990 ATM, Art. 44; 5-13-1991 ATM, Arts. 36 and 37; 5-10-1993 STM, Art. 3; 5-9-1994 STM, Arts. 4 and 5; 5-3-1999 ATM, Art. 28; 11-19-2001 FYTM, Art. 18; 11-18-2002 FYTM, Art. 22; 5-1-2006 ATM, Art. 26; 5-7-2007 ATM, Art. 25; 11-5-2007 FYTM, Art. 15; 5-5-2014 ATM, Art. 21]**

**§ 179-18. Purpose and scope.**

- A. The purpose of this article is to regulate signs in order to facilitate communication, promote the safety of motorists and pedestrians by preventing distractions and obstructions of public ways and walks, prevent visual clutter, and encourage economic development by allowing siting of signage that identifies businesses and other land uses in ways that complement and enhance our community's character.
- B. This article establishes the comprehensive regulations and conditions under which signs are permitted within the Town of Brewster in accordance with the powers set forth in MGL c. 40A and MGL c. 93, § 29. This sign regulation provides a permitting system to govern the placement of advertising and other informational signs both outdoors and in windows within the Town of Brewster.

**§ 179-19. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONED SIGN — A sign for a business or other use that has not been in active use for two or more years.

A-FRAME SIGN — A self-supporting, two-sided, sign.

ANIMATED SIGN — A sign that uses actual movement or the illusion of movement.

AWNING SIGN — A sign attached to or printed upon an awning.

BUILDING OFFICIAL — The Brewster Building Commissioner or Local Inspector.

BUSINESS DIRECTIONAL OR TRAFFIC SAFETY SIGN — A sign marking entrances, exits, parking areas or other operational features of the premises and providing directions for the safe and/or efficient flow of traffic.

BUSINESS "OPEN" FLAG — A flag that alerts the public that a location is open for business.

BUSINESS OPERATION SIGNS — Any on-premises sign indicating whether the business is open or closed and/or the days and hours of operation.

CAUTIONARY SIGNS — Signs warning of prohibited activities such as trespassing, hunting, fishing, or swimming.

CHANGEABLE-COPY SIGN — A sign that is designed so that graphics and/or characters can be changed or rearranged without changing the dimensions of the sign.

CLUSTER SIGN — A sign that provides space for identifying multiple tenants or uses within a single development.

CONSTRUCTION SIGN — A temporary sign identifying a commercial vendor participating in the

construction, alteration or maintenance on the property on which the sign is located.

**DIRECT/EXTERNAL LIGHTING** — Illumination by means of a light source that is external to the sign being lit.

**FLASHING SIGN** — A sign that is illuminated by intermittent or sequential light emission.

**GROUND/FREESTANDING SIGN** — A sign extending from the ground but not attached to any part of a building.

**HOME OCCUPATION SIGNS** — Signs identifying any home occupation as defined by the Brewster Zoning Bylaw.

**HOME PRODUCTS SIGNS** — A sign offering items grown or produced on a residential property for sale to the public, such as fresh flowers and eggs.

**INFORMATIONAL SIGN** — An on-premises sign specific to a public or private nonprofit purpose, such as handicapped accessible, public rest rooms, public phone or tourist and visitor information.

**INTERNAL LIGHTING** — Illumination by means of a concealed light source.

**INTERPRETIVE DISPLAYS** — Boards or exhibits proposed by a Town governmental body or a nonprofit educational organization to convey regulations or explain the significance and public purpose of a program or policy, such as resource protection, at a public or private nonprofit site.

**INTERSECTION ISLAND SIGN** — A sign naming an individual, for-profit organization or not-for-profit organization that volunteers to maintain and/or landscape an intersection island.

**KIOSK** — A freestanding structure with one or more sides upon which information is placed for review and/or distribution.

**LADDER SIGN** — A freestanding sign with two vertical supports and two or more crosspieces serving as individual signs.

**MUNICIPAL PROPERTY** — Any land owned and/or controlled by the Town of Brewster.

**MUNICIPAL SIGNS** — Signs, including those alerting the public to projects funded by the Community Preservation Act, posted by a Town entity required or authorized for a public purpose by law or statute.

**NON-CONFORMING SIGN** — A sign that was erected legally but that does not comply with subsequently enacted regulations.

**OFF-PREMISES SIGN** — Signs placed on property separate from where a business is located.

**ON-PREMISES SIGN** — Signs placed on the same property where a business is located.

**POLITICAL SIGN** — A sign urging voter support or opposition for a particular election issue, political party, or candidate for public office.

**PROJECTING SIGN** — A sign that extends from a wall or roof of a building.

**PROTECTED CONSERVATION LAND SIGNS** — A sign noting that a particular property is owned by a conservation or wildlife protection organization.

**QUARTERBOARD** — A carved and/or painted wooden wall sign fashioned after those traditionally used on sailing vessels.

**REAL ESTATE SIGN** — A sign advertising the sale, rental, or lease of a designated structure or land area for a permitted use on which the signs are located.

**SANDWICH SIGN** — See "A-frame sign."

**SIGN** — An assembly of materials which includes every instance of advertising, text or graphic, erected or maintained in open view primarily for identification or promotion of any commercial enterprise or not-for-profit. This shall include the sign structure, supports, lighting system, and any attachments, flags, ornaments, or other features used to draw the attention of observers and shall further include collection boxes. It shall not include indoor or outdoor displays of merchandise for sale on the premises.

**SIGN HEIGHT** — The distance measured from the highest point of a sign to the grade beneath the sign.

**SUBDIVISION LOT PLAN SIGN** — A sign depicting the lot plan of a subdivision for the purpose of advertising said lots for sale.

**SUBDIVISION SIGN** — A sign placed at the street entrance to a subdivision.

**SUBSIDIARY SIGN** — A small sign attached to another sign.

**TEMPORARY SIGN** — A sign intended for use for 60 or fewer days.

**TOWN AND COMMUNITY EVENT SIGNS** — Signs for events that have been declared by the Select Board, their designee or by vote of Town Meeting. **[Amended 11-13-2017 FYTM, Art. 13]**

**UMBRELLA SIGNS** — Signage on an umbrella that advertises a particular product for sale on the premises.

**VISITOR INFORMATION SIGN** — Signs alerting the public to not-for-profit organizations providing this service.

**WALL SIGN** — A single-faced sign attached parallel to or painted on a vertical exterior wall not projecting more than 12 inches beyond the wall surface to which the sign is attached and not extending beyond the edges of the wall to which the sign is attached.

**WINDOW SIGN** — Any sign placed inside a window within 24 inches of the window glass facing the outside with characters that exceed 2 1/2 inches in height and which is intended to be read from a public way.

**ZIPPER SIGN** — An animated sign with a message in lights that travels across the surface of the sign.

#### **§ 179-20. General requirements.**

- A. Before a sign is erected, altered or moved, it shall conform to all applicable requirements contained in this bylaw, including any Old King's Highway Historic District requirements when applicable, and shall be approved by a Building Official through the issuance of a permit, unless the sign is expressly exempted herein.
- B. A pre-application conference with the Building Department is encouraged in order for the applicant to become acquainted with requirements.
- C. All signs shall be placed so as to not obscure other signs to the greatest extent possible.
- D. No signs shall be located in a road right-of-way nor shall they be located so as to block all or part of a sidewalk, stairway, driveway or parking lot, interfere with snow removal, or impair sight distances for motorists, bicyclists or pedestrians.
- E. If signs are illuminated, it shall be done by a direct, shielded, external light source or by a light source internal to the sign. Light bulbs or tubes (including neon) shall not be visible to the motoring public from a public way.
- F. Non-municipal developments having more than one tenant or use shall provide a master sign plan for

the entire structure or development prior to the issuance of a sign permit by a Building Official.

**§ 179-20.1. Sign area regulations.**

- A. Unless otherwise specified, all signs shall meet the area measurement requirements of this section.
- B. The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign. Structural members not bearing advertising matter shall not be included in the computation of surface area.
- C. For the following uses, accessed directly from a street, right-of-way or parking area, the maximum permitted area of a ground/freestanding sign not otherwise exempted by § 179-20.3 herein shall be as follows:

Use	Size (in square feet) (E = exempt)	Use	Size (in square feet) (E = exempt)
Construction trailer	E	Cemetery	12
Church or other religious use	16	Crematory	16
Educational use, non-profit	16	Essential services	E
Historical association or society	12	Museum	16
Non-profit recreational facility	12	Power plant, water filtration plant, sewage treatment plant	16
Solar array on Town-owned land	8	Town building, police station and fire station, except equipment garage	E
Agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, as those terms are defined in MGL c. 40A, § 3	16	Commercial stable, kennel or veterinary hospital in which all animals are completely enclosed in pens or other structures, unless exempted pursuant to MGL c. 40A, § 3	16



Use	Size (in square feet) (E = exempt)	Use	Size (in square feet) (E = exempt)
Temporary (not to exceed erection or use for a period of 3 months in any one year) greenhouse or stand for retail sale of agricultural or farm products, unless exempted pursuant to MGL c. 40A, § 3	12	Year-round greenhouse or farm stand for wholesale and/or retail sale of agricultural or farm produce, unless exempted pursuant to MGL c. 40A, § 3	12
Amusement arcade	16	Amusements, outdoor commercial	16
Antique shop, art gallery	12	Assisted living facility	12
Automated and drive-through financial establishments / structures	4	Automotive repair, automobile service station and garage, not including a junkyard or open storage of abandoned automobiles or other vehicles	16
Bed-and-breakfast	12		
Boat building or marine construction work and fabrication of marine and fishing supplies	16	Business offices and services	16
Children's recreation camp	12	Commercial parking lot or structure	4
Country, hunting, fishing, gun, tennis or golf club	12	Educational use, for profit	12

<b>Use</b>	<b>Size (in square feet) (E = exempt)</b>	<b>Use</b>	<b>Size (in square feet) (E = exempt)</b>
Establishment selling new automobiles and/or used automobiles and trucks, new automobile tires and other accessories, boats, motorcycles and household trailers.	16	Funeral home or mortuary establishment	16
Gift shop	16	Home occupation	4
Hotel and motel	16	Lodging house	12
Medical/ dental clinic	16	Medical/ dental office	16
Membership organization	12	Movie theater, drive-in	16
Nursing or convalescent home	12	Personal service establishment	16
Planned business development	See § 179-20.1D	Recreation facilities and services, private	16
Repair services	16	Repair services, excluding outside storage of items for repair	16
Restaurant, full-service and lounge	16	Restaurant, limited service	16
Retail store	16	Row commercial	See § 179-20.1D
Septic tank pumping service	16	Theater, indoor	16
Building and construction trades shop or garage	16	Construction materials sales and service	16
Excavations and/or removal of sand, gravel; quarry or other new material	16	Freight transportation service	16

<b>Use</b>	<b>Size (in square feet) (E = exempt)</b>	<b>Use</b>	<b>Size (in square feet) (E = exempt)</b>
Manufacturing	16	Other transportation services, except airports, heliports and all air support facilities	16
Processing and treating of mixed and quarried raw materials, including operations appurtenant to the taking, grading, drying, sorting, crushing, grinding and milling operations	16	Wholesale trade	16
Permitted uses not otherwise identified	8		

- D. Except for uses not otherwise indicated, another sign not to exceed six square feet is permitted, but cannot be combined with the ground/freestanding sign.
- E. Non-municipal developments having more than one tenant or use within a project or premises may construct, with an approved master sign plan, one cluster sign containing the name of the development and/or listings of individual businesses, products or services within the development. Such sign may be 16 square feet or up to three square feet per business, whichever is larger. In addition:
- (1) Each tenant may have signage at the location of its business of up to 16 square feet.
  - (2) Sign area cannot be transferred from one tenant to another.
- F. No one sign shall exceed 16 square feet.
- G. No ground sign may exceed 10 feet in height unless otherwise specified.
- H. Where there are two faces back to back, the total area of the largest single face shall determine the area of the sign.
- I. All signs not otherwise exempt by § 179-20.3 are included within the total signage calculation, and include any sign on a property at any time, including signs taken in or turned off on a daily basis, such as A-frame signs, and window signs.
- J. Exceptions to this bylaw may be allowed by special permit from the Planning Board.

**§ 179-20.2. Construction and maintenance.**

- A. If a Building Official believes that a sign and/or structure regulated by this article is not being kept in good repair, written notice shall be sent, by certified mail, return receipt requested, to the person or persons to whom the permit was issued, and the property owner. If the specified defects in the sign and/or structure have not been corrected or the sign removed within 30 days, the Building Official shall revoke the permit and shall notify the person(s) to whom the permit was issued that the sign is now in violation of this article and must be removed.
- B. Old signs and related hardware/structural supports shall be removed before any new sign is erected, but any related hardware/structural supports may be incorporated into the overall design or structural support of the new sign and approved pursuant to this article.
- C. The Building Official shall have the authority to order the repair, alteration or removal of any sign or structure that constitutes a hazard to public health and safety or which is otherwise not in compliance with this bylaw.
- D. If an immediate public safety concern so requires, the Building Official may take any necessary action, including removal of a sign.

**§ 179-20.3. Exemptions from permit requirements.**

The following signs do not count towards the total permitted signage unless otherwise indicated (See § 179-20.5.) and do not require a permit unless such signage is located in the Old King's Highway Historic District:

- A. Awning signs identifying a product, not a specific business.
- B. Business operation signs.
- C. Cautionary signs.
- D. Construction signs.
- E. Directional or traffic safety signs.
- F. Home occupation signs.
- G. Home products signs.
- H. Intersection island signs.
- I. Municipal.
- J. One "Open" flag.
- K. Open house and yard sale signs if displayed for not more than 48 hours.
- L. Political signs.
- M. Protected conservation land signs.
- N. Quarterboard, residential, non-commercial.
- O. Real estate signs.

- P. Special event flyers measuring not more than two square feet in total area.
- Q. Umbrella signs identifying a product, not a specific business.
- R. Outdoor vending machines: one per premises unless more are allowed by special permit.
- S. Window signs.

**§ 179-20.4. Prohibited signs.**

- A. Animated signs.
- B. Zipper signs.
- C. Flashing signs, not including school crossing signs.

**§ 179-20.5. Additional regulations for specific types of signs.**

- A. A-frame, sandwich signs. Such signs shall not exceed six square feet, or 36 inches by 24 inches in any dimension.
- B. Awning signs. Letters or graphics on an awning that identify a business by name, phone number or services offered shall count towards total signage. Awning sign area shall be computed by measurement of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display.
- C. Business operation signs. Such signs shall not exceed one square foot.
  - (1) Construction signs.
    - (a) No permit is required.
    - (b) One sign is permitted per street frontage.
    - (c) Signs may not exceed nine square feet in area.
    - (d) Signs must be placed on the advertised property or work site.
    - (e) There is no time limit on the duration of construction signs; however, signs shall be removed within seven days of issuance of an occupancy certificate or completion of work.
- D. Directional or traffic safety signs. In addition to other permitted signs, directional, warning or traffic signs necessary for the safety and convenience of customers, employees, visitors and the public are permitted in all areas. Signs shall not exceed one square feet in area.
- E. Home occupation signs. Such signs shall not exceed four square feet. One sign is permitted per dwelling.
- F. Home product signs. Such signs shall not exceed four square feet. One sign is permitted per dwelling.
- G. Informational signs. Such signs shall not exceed one square foot in area.
- H. Interpretive displays and kiosks.
  - (1) For interpretive displays, the maximum area of a single such sign shall not exceed 50 square feet, and the highest point after installation shall not exceed 144 inches.

- (2) For kiosks, the footprint shall not exceed 40 square feet, and the height shall not exceed 10 feet.
  - (3) Signs in viewsheds and on beaches shall be installed angled 20° from the horizontal plane so as to reduce visual obstruction. Interpretive signs or kiosks shall not block or obstruct a scenic view or visual corridor.
- I. Intersection island signs. Any individual, for-profit organization or not-for-profit organization that volunteers to maintain and/or landscape an intersection island is permitted to erect one sign not to exceed one square foot in size, and one foot in height, upon said island. No direct, external, or internal lighting shall be permitted. The sign must be promptly removed when the individual, for-profit or not-for-profit organization ceases to maintain and/or landscape the intersection island. Permission to maintain an intersection island is granted by the Select Board. **[Amended 11-13-2017 FYTM, Art. 13]**
- J. Municipal signs, additional requirements.
- (1) Municipal signs that announce water system information or municipal traffic signs, as approved by the Brewster Police and Brewster Department of Public Works, shall be permitted in a public right-of-way as a matter of right.
  - (2) Permanent municipal signs shall not exceed 30 square feet.
  - (3) Town departments shall have authority over any sign placed on the land and/or buildings under their control, including signs placed by other Brewster municipal entities. Signs may remain in place as needed, at the discretion of the entity with authority over the property. Notice of such signs shall be required to be filed by the Town entity with the Building Official prior to display. Note that this does not apply to the following: election/Town Meeting signage, public safety signage, and Water Department signage.
- K. "Open" flag. One "Open" flag per business establishment shall be allowed and shall not exceed three feet by five feet in size.
- L. Protected conservation land signs. Such signs shall not exceed four square feet.
- M. Real estate signs. One sign of not more than nine square feet shall be allowed per street frontage and waterfront side of the advertised property, shall not be illuminated, shall not be located within the public right-of-way, and shall be removed immediately once the property is off the market, or within seven days of rental, lease or completion of sale. Real estate signs do not require a permit.
- N. Subdivision lot plan signs. These are permitted if not in excess of 20 square feet on any subdivision, provided that no "for sale" signs shall be placed on the individual lots. The sign shall be placed on the subdivision property. Individual lot number signs not in excess of one square foot may be placed on each lot. The sign shall be removed when all lots are sold or after three years, whichever is shorter.
- O. Subdivision signs. Subdivision signs shall not exceed 12 square feet, including any posts or decoration. A sign may be placed at each entrance to the subdivision.
- P. Town and community event signs. Up to one month in advance of and during Town-wide and community events, signs not exceeding 30 square feet may be displayed as a means of publicizing the event.
- Q. Visitor information signs. Not-for-profit organizations providing visitor information to the general public are permitted to erect one sign not exceeding six square feet in size to advise the public of this

service. Visitor information sign will be permitted in Brewster at locations designated by the Select Board. These signs are allowed in addition to any other signs allowed by the Brewster Sign Bylaw at the site. **[Amended 11-13-2017 FYTM, Art. 13]**

- R. "Welcome to Brewster" signs. Welcome signs are permitted at entrances to the Town. Signs shall not exceed 16 square feet and the top of said sign shall be no higher than eight feet above ground level.
- S. Window signs. Window signs are permitted as long as the total area of all such signs does not exceed 25% of all glazing area on which the signs appear.

**§ 179-20.6. Off-premises signs.**

- A. Any business wishing to place a sign on property other than its own, in addition to obtaining all requisite permits from the Massachusetts Outdoor Advertising Board and any other regional, state and local approvals, shall obtain written permission from the property owner and lessee, if applicable, where the sign will be posted and shall provide said written permission to the Building Official with the permit application or notification materials.
- B. An off-premises business sign shall only be posted within a Commercial (C-H), Village Business (V-B) or Industrial (I) District, except for agricultural uses as defined in Article I (Definitions) of this bylaw which may be posted within a residential district.
- C. Entities wishing to place off-premises signage on state-owned property or within state rights-of-way such as Route 6A shall seek permission from the state, in addition to meeting local requirements.
- D. An off-premises sign shall be included in the calculation of total allowable signage for the property or business it is placed upon.
- E. No permanent, commercial sign shall be allowed on any municipal property.
- F. Ladder signs:
  - (1) Ladder signs are permitted at intersections of public ways which service commercial areas, preexisting businesses or Town-owned community facilities as established by the Select Board: **[Amended 11-13-2017 FYTM, Art. 13]**
  - (2) Ladder sign regulations.
    - (a) Signs shall be of a uniform design with a dark green background (dark green glossy, as in Town signs, or equal) and white letters, all in a non-DayGlo paint, and shall be supported by unpainted, treated four-by-four, ground-mounted posts.
    - (b) Signs shall not exceed 21 square feet in area and three feet in width between the support posts nor be more than eight feet in height to the top of the uppermost ladder. No signs shall be mounted below 12 inches from grade.
    - (c) Signs shall be constructed of a series of horizontal panels six inches in height and shall be constructed in a manner that panels may be placed one above the other and be separately removable.
    - (d) The subject matter of a sign shall be generic in nature, such as "drug store," identifying an activity or service, not a specific business name.
    - (e) Each six-by-thirty-six-inch panel can identify several activities depending upon lettering

requirements, and all lettering shall be of uniform character.

- (f) Any ladder signs erected in Brewster will be maintained by the Town in accordance with a ladder sign policy adopted by the Select Board. **[Amended 11-13-2017 FYTM, Art. 13]**
- (g) The lettering on the sign shall be simple block lettering with letters not less than 3 1/2 inches in height.
- (h) The location of all ladder signs shall be selected by the Select Board. **[Amended 11-13-2017 FYTM, Art. 13]**
- (i) There shall be no more than one ladder sign at any intersection.
- (j) Any traffic or directional sign owned and installed by a governmental agency shall be permitted.

**§ 179-20.7. Enforcement; violations and penalties; abandoned signs; appeals.**

**A. Enforcement, permits and penalty.**

- (1) Permits and certificates of appropriateness.
  - (a) All signs regulated by this article require a sign permit issued by the Building Official with exception of § 179-20.3.
  - (b) All signs located within the Old King's Highway Historic District require a certificate of appropriateness from the Historic District Committee.
- (2) Fees for sign permits shall be set by the Select Board. **[Amended 11-13-2017 FYTM, Art. 13]**
- (3) The Building Official is authorized to order the repair or removal of any sign and its supporting structure which the Building Official judges to be dangerous or in disrepair or erected or maintained contrary to this article.
- (4) The Building Official is authorized to issue citations for violations of these regulations by the method provided in MGL c. 40, § 21D.
- (5) Failure to respond to a properly issued citation within 21 days will make the person, trust or other enterprise exhibiting a sign not in compliance with this article, unless afforded protection under Article VIII of this chapter.

**B. Signs not complying with this article.**

- (1) Signs without a valid permit shall be removed within 120 days of passage of this article.
- (2) Pre-existing signs and signs with valid permits:
  - (a) A legally pre-existing non-conforming sign or a sign with a valid permit issued prior to enactment of this article must remain in compliance with the requirements and conditions that enabled the valid permit to be originally issued.
  - (b) Failure of compliance will result in automatic revocation of the prior issued valid permit and require compliance with this article for issuance of a current valid permit.
  - (c) Pre-existing, non-conforming signs that are relocated, replaced, structurally altered or not



kept in a state of good repair shall not be allowed to continue as non-conforming signs and shall require new permits and compliance with this bylaw, unless relocated due to eminent domain taking.

- (d) A lawfully pre-existing non-conforming sign destroyed by natural disaster or accident may be replaced by a sign of the same dimensions, style, and in the same location as the original sign, but must be permitted.

C. Abandoned signs.

- (1) When the Building Official finds that a sign has been abandoned, written notice ordering its removal shall be sent by certified mail, return receipt requested, to the owner of the property on which the sign is located and to the person to whom the permit was issued if not the owner.
- (2) If a sign is not removed within 14 days of the issuance of an order, the Building Official shall remove or arrange for the removal of the sign. The sign shall be stored by the Building Official in a safe location for 30 days, after which time it may be appropriately disposed of. Any costs incurred shall be borne by the sign owner and if unpaid after 30 days, the Town may place a lien on any of the sign owner's property in Town.

- D. Appeals. Any individual aggrieved by a decision of the Building Official may appeal to the Brewster Board of Appeals as provided under MGL c. 40A of the Commonwealth of Massachusetts except that no variances may be granted for off-premises signs.

## ARTICLE VII

**Off-Street Parking and Loading**

**[Amended 12-10-1979 STM, Art. 37; 10-17-1988 STM, Art. 26; 5-8-1989 ATM, Art. 49; 2-18-1999 FYTM, Art. 18; 11-17-2003 FYTM, Art. 25; 11-15-2004 FYTM, Art. 18; 5-2-2011 ATM, Art. 31; 5-6-2013 ATM, Art. 22]**

**§ 179-21. Policy.**

If any structure is constructed, and any use of land established, or any existing use is changed after the effective date of this chapter, off-street parking spaces and loading areas should be provided in accordance with the Planning Board's Policy on Off-Street Parking and Loading ("Policy").

- A. The purpose of this policy is to acknowledge the wide variety of circumstances surrounding each use in Brewster and to provide a starting point for negotiations for parking areas and loading areas between the Planning Board and an applicant.
- B. An existing structure which is enlarged, altered or extended, or an existing use which is extended after the effective date of this chapter, shall use the policy as a guide to provide off-street parking spaces and loading areas, unless the increase in units or measurements amounts to less than 25% of the total square footage on the site existing as of the effective date of this chapter, whether such increase occurs at one time or in successive stages.
- C. The Planning Board will work with the applicant to determine the appropriate number of parking spaces and loading areas to be provided for a specific proposal.

**§ 179-22. General requirements.**

- A. Parking spaces and loading areas being maintained in any district in connection with any existing use on the effective date of this chapter shall not decrease so long as said use remains, unless a corresponding number of parking spaces or loading spaces are constructed elsewhere, such that the total number of parking spaces and loading areas conforms with the policy or is negotiated with the Planning Board based on the policy.
- B. The parking spaces recommended for the uses listed in Table 1 of the policy shall be on the same lot as the use they are intended to serve.
  - (1) When practical difficulties prevent their establishment upon the same lot, they may be established no further than 300 feet from the premises to which they are appurtenant, and such spaces shall be located in the same zoning district as, or a zoning district that allows, the use that the off-site parking spaces are intended to serve.
  - (2) In no case shall the recommended parking space be part of the area used to satisfy any loading recommendations of the Planning Board's policy on off-street parking and loading.
  - (3) Off-street parking for a particular use may be fulfilled by the use of common off-street parking areas so long as the common area is located no further than 100 feet from the use it is intended to serve and that the total off-street parking provided is equal to that which would be determined through negotiations between the Planning Board and the applicant.
  - (4) The loading areas recommended for the uses listed in Table 2 of the policy shall in all cases be on the same lot as the use they are intended to serve.

- (5) The establishment of one or more commercial parking lots or parking structures, as defined in § 179-2B, shall constitute a change of use under § 179-64 of Article XII (Site Plan Review), and shall be allowed only if it is approved under that article. The requirements of § 179-23 shall apply, except the special permit granting authority may allow a permeable surface if good reason is demonstrated.

**§ 179-23. Parking and loading lot standards.**

- A. Any parking space or loading area shall be subject to the following, unless otherwise waived or modified by the Planning Board in accordance with the provisions of Article XII of the Zoning Bylaws, Site Plan Review:

- (1) Parking setbacks shall be as follows:

<b>Zone</b>	<b>Street</b>	<b>Sideline</b>	<b>Rear</b>
All zones	15	5	5

- (2) There shall be no storage of materials, equipment or display of merchandise within the required parking or loading areas.
- (3) Parking spaces and loading areas shall be arranged as not to require or allow backing of automobiles directly onto any street.
- (4) Parking spaces for vehicles shall be laid out to meet the following design criteria:

<b>Angle to the curb</b>	<b>Angle Space Width (in feet)</b>	<b>Space Length (perpendicular to aisle)</b>	<b>Aisle Width (in feet)</b>	<b>Total Width (in feet)</b>
45°	10	20	15	50
60°	10	20	18	56
90°	10	20	24	64

- B. All parking or loading areas containing over 20 spaces shall also be subject to the following, unless waived by the Planning Board in accordance with the provisions of Article XII of the Zoning Bylaws, Site Plan Review:

- (1) The area shall be effectively screened on each side that adjoins or faces the side or rear lot line of a lot situated in an R District. The screening shall consist of either a) a solid (ex. stockade) fence or wall not less than three feet or more than six feet in height or b) ornamental evergreen vegetation of a similar height planted not more than three feet apart on center, all maintained in good condition, and at least two feet from the lot line. The screening required by this subsection shall be set back 15 feet from each street lot line.
- (2) Driveways leading to or from a street or from a single area shall be surfaced with bituminous or cement concrete material or pavers set in concrete for a minimum of 20 feet from the intersection with a paved road and shall be graded and drained so as to dispose of all surface water runoff based upon the rational method using a ten-year design storm. Pervious pavement may also be utilized. The computations used to arrive at the design shall be made available to the Building Department.

- (3) A wheelstop of a solid material including masonry, steel, plastic, rubber or heavy timber, or a concrete curb or berm curb which is backed shall be placed at the edge of surfaced areas, except driveways, in order to protect abutting structures, properties and sidewalks. All wheelstops must be secured in place by a reinforcing bar or similar method to eliminate the wheelstops being moved by vehicles.
- (4) Any fixture used to illuminate any area required by this chapter shall be so arranged as to direct the light away from the street, oncoming vehicles and pedestrians, and away from any adjoining premises used for residential purposes.
- (5) Parking company-owned vehicles: In addition to the recommendations outlined in Table 1 of the policy, one space will be required for each company-owned vehicle kept on the premises, including trailers and heavy machinery. The space provided must be of an adequate size to accommodate the equipment utilizing the space.

ARTICLE VIII  
**Nonconforming Uses, Structures and Lots**

**§ 179-24. Applicability.**

The provisions of this section apply to nonconforming uses, structures and lots so created by the initial enactment of this chapter or by any subsequent amendment.

**§ 179-25. Extensions and alterations.**

- A. As provided in MGL c. 40A, § 6, a nonconforming single- or two-family dwelling may be altered or extended, provided that the Inspector of Buildings determines that doing so does not increase the nonconforming nature of said structure.
- B. Other pre-existing nonconforming structures or uses may be changed, extended or altered on special permit from the Board of Appeals, if the Board of Appeals finds that such change, extension or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming use.
- C. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

**§ 179-26. Residential lots of record.**

- A. One single-family dwelling may be erected on any lot, regardless of a common ownership with that of adjoining land located in the same residential district which, as of May 7, 1973, contained at least 15,000 square feet and had a minimum frontage of 100 feet and complied with the rules and regulations of the Planning Board, if any, in effect at the time of endorsement and provided, further, that the proposed structure is to be located on such lot so as to conform to the minimum requirements of front, rear and side yard setbacks and to all other requirements for such structures in effect at the time of plan endorsement; provided, however, if there are no applicable setbacks, the front yard setback shall be 30 feet and the side and rear yards setbacks shall be 20 feet. **[Amended 5-2-2005 ATM, Art. 26]**
- B. Certain lots are exempted from current dimensional requirements by MGL c. 40A, § 6. In addition, any increase in lot area, width, depth, yard or frontage requirements shall not apply to erection, extension or alteration or moving of a structure on a lot not meeting current dimensional requirements, provided that, as of June 25, 1978, such lot was a legal building lot and had lot area of at least 5,000 square feet and street frontage of at least 50 feet. Any structure proposed to be to be located on such lot shall conform to the setback requirements in effect at the time of the recording or endorsement of the deed or plan creating the lot; provided, however, that if there are no applicable setbacks, the front yard setback shall be 20 feet and the side and rear yards setbacks shall be 10 feet. **[Amended 5-2-2005 ATM, Art. 26]**
- C. Certain lots are exempted from current dimensional requirements by MGL c. 40A, § 6. **[Added 9-22-1986 STM, Art. 34]**
  - (1) In addition, one single-family dwelling may be erected on any lot, regardless of common ownership with that of adjoining land, provided that such lot is:
    - (a) Shown on a plan approved and endorsed in accordance with the Subdivision Control Law and the roads shown on such plan have been installed according to Planning Board

requirements as set forth at the time of approval of such plan and a release from covenant or other security has been obtained; or

- (b) Shown on a plan endorsed "Approval Under the Subdivision Control Law Not Required" and the lot complied with all the applicable provisions of the Zoning Bylaw in effect at the time of endorsement of such plan.
- (2) In either case, the lot must have been created after June 25, 1978, and must be buildable under other applicable nonzoning provisions of the law, and any structure to be located on such lot must conform to the setback requirements in effect at the time of plan endorsement.

D. Preexisting lots of record lacking street frontage. **[Added 10-17-1988 STM, Art. 23]**

- (1) Certain lots of record existed before the effective date of this subsection and now lack any frontage as that term is defined in this chapter. When a lot possesses no frontage, as defined, one single-family dwelling may be constructed on the lot:
  - (a) If it is determined that the lot satisfies the other requirements of this chapter.
  - (b) If the lot possesses at least five acres of area.
  - (c) If the Planning Board determines that physical access to the lot is reasonably guaranteed, that physical access is suitable for the needs of vehicular traffic likely to be generated by the proposed residential use and that physical access is adequate for the installation of all Town or municipal services likely to be needed for the reasonable use of the lot. **[Amended 11-13-2006 FYTM, Art. 28]**
  - (d) If the Planning Board issues a special permit which will authorize construction on the lot despite its lack of cognizable frontage.
- (2) Before the Planning Board can act favorably on an application for a special permit under this subsection:
  - (a) The Fire Chief must certify to the Planning Board that, in his opinion, the way providing access to the lot is physically adequate throughout the year for use by fire apparatus, ambulances and rescue vehicles. **[Amended 11-13-2006 FYTM, Art. 28]**
  - (b) The Police Chief must certify to the Planning Board that, in his opinion, the way providing access to the lot is physically adequate throughout the year for use by police vehicles and inspection vehicles. **[Amended 11-13-2006 FYTM, Art. 28]**
  - (c) The Superintendent of the Department of Public Works must certify to the Planning Board that, in his opinion, the way providing access to the lot is safe and physically adequate for its present and proposed use and is unlikely to deteriorate significantly for at least five years. **[Amended 11-13-2006 FYTM, Art. 28]**
  - (d) The Inspector of Buildings must certify to the Planning Board that, in his opinion, the lot satisfies the other requirements of the Town of Brewster Zoning Bylaw.
  - (e) The Board of Water Commissioners must certify to the Planning Board that the proposed use of the lot, in combination with uses already existing or ongoing, will not likely impact adversely upon the water supply or the quality of the groundwater supply of the Town, and, before making this determination, the Commissioners may require the applicant to prepare and present all necessary groundwater studies.

- (f) The applicant must present to the Planning Board a statement of his or her plans and ability to ensure, free of charge to the Town, the provision of all needed municipal or Town services for the lot and the maintenance of the way providing access to the lot so that the way will not over time significantly deteriorate from its present condition or become impassable because of flooding or snowfall.
- (3) Before the Planning Board grants a special permit, it shall require the applicant and the owner of record to execute and record a covenant running with the land covered by the special permit which shall ensure the proper and continuing maintenance of municipal services and the proper and continuing maintenance of the way in order to provide adequate physical access for the applicant and for the Town vehicles throughout the year. This covenant shall be executed in such a form that it may be specifically enforced. This covenant shall also provide that, in the event that the recipient of the special permit fails to maintain the way and the Town, in order to maintain access and municipal services, expends labor and materials to maintain the way, the Town shall be fully reimbursed for all labor and material costs incurred and for any legal costs incurred either in enforcing the covenant, maintaining the way or maintaining municipal services. Until these costs and expenses are paid, they shall constitute a lien upon the property. **[Amended 11-13-2006 FYTM, Art. 28]**
- (4) The Planning Board shall decide each special permit application upon its individual merits, and the Board's decision for any application shall not prejudice its independent judgment on any subsequent application, despite the proximity of the lots. As a condition for its approval, the Planning Board may impose such conditions, safeguards and limitations as it deems necessary and proper to ensure the safety, convenience and welfare of the inhabitants of the Town, and the Board may require the execution and recording of a covenant which shall run with the land.

#### **§ 179-27. Reduction or increase.**

- A. Nonconforming lots with no structures located thereon may be changed in size or shape without losing exemptions of § 179-26, so long as the change does not increase the actual or potential number of building lots.
- B. Nonconforming lots with conforming or nonconforming structures located thereon may be changed in shape by right without losing exemptions of §§ 179-25, 179-26, and 179-28 through 179-32, inclusive, so long as the change does not increase the actual or potential number of building lots and does not increase the setback nonconformance of any structure. **[Added 5-7-2012 ATM, Art. 27<sup>62</sup>]**
- C. Notwithstanding Subsections A and B above, if such change in size or shape will result in a net change in lot area to either lot or will increase a setback nonconformance of any structure, such change will require a special permit from the Board of Appeals. **[Added 5-7-2012 ATM, Art. 27]**
- D. Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number.

#### **§ 179-28. Change of nonconforming uses.**

- A. Any nonconforming use of a structure may be changed to another nonconforming use, provided that the changed use is not a substantially different use, except as provided in Subsection B below, and approval for the change is granted by a special use permit for an exception by the Board of Appeals.

---

62. Editor's Note: This article also redesignated former Subsection B as Subsection D.

For purposes of this section, a "substantially different use" is a use which, by reason of its normal operation, would cause readily observable difference in patronage, service, sight, noise, employment or similar characteristics from the existing nonconforming use or from any permitted use in the district under question.

- B. Any nonconforming use, which has been once changed to a permitted use, or another nonconforming use, which is not a substantially different use, shall not again be changed to another nonconforming use.

**§ 179-29. Rebuilding and restoration.**

Any nonconforming structure, totally destroyed by fire or other cause, may be rebuilt within one year but shall not be rebuilt to be nonconforming to a greater degree than the original.

**§ 179-30. Abandonment.**

Any nonconforming use of a structure or lot which has been abandoned or not used for a continuous period of two years or more shall not be used again, except for a conforming use.

**§ 179-31. Moving.**

Any nonconforming structure shall not be moved to any other location on the lot, or any other lot, unless every portion of such structure, the use thereof and the lot shall be conforming.

**§ 179-32. Unsafe structures.**

Any structure determined to be unsafe may be restored to a safe condition. Such work on any nonconforming structure shall not place it in greater nonconformity. If the cost to restore any structure shall exceed 50% of its physical replacement value, it shall be reconstructed only as a conforming structure and used only for a conforming use.



ARTICLE IX  
**Special Regulations**

**§ 179-33. General provisions. [Amended 5-14-1984 ATM, Art. 110]**

The regulations which follow shall apply to the particular use or activity, whether it is permitted by right or by special permit as an exception. In addition, the Planning Board, prior to the granting of a special permit, may also impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this chapter, including but not limited to the following: front, side or rear yards greater than the minimum required by this chapter, screening, buffers or planting strips, fences or walls, as specified by the Board; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation or extent of facilities, regulation of number and location of driveways or other traffic features and off-street parking or loading or other special features beyond the minimum required in this chapter.

**§ 179-34. Multifamily dwellings.**

- A. Multifamily structures and accompanying lots shall not comprise more than 35% of the total land area of each C-H District in which they are located.
- B. Multifamily structures shall not occupy more than 25% of the lot on which they are built.
- C. A minimum of 20% of every lot, regardless of size, shall be reserved for green areas. Such areas shall not be paved or hardtop surfaced and shall be used for landscaping and storm drainage only. All standing trees of four inches or more in diameter shall be preserved in these green areas for future growth. Green areas shall be designated on a site plan. A plan for development of the entire tract shall be submitted to the Planning Board for advice, recommendation and approval. This plan shall be prepared by a registered architect and a registered professional engineer. The development plan shall include the following: **[Amended 5-14-1984 ATM, Arts. 111 and 112]**
  - (1) The location and acreage of areas to be devoted to specific uses.
  - (2) Plans showing all roads, parking areas, structure locations, streetlighting and any proposed amenities.
  - (3) Maps to a scale of one inch equals 100 feet, including the tract and surrounding areas within 200 feet.
- D. The developer shall provide, within multifamily developments, including row houses, an internal sewage collection system which shall be of sufficient size and design to collect all sewage from all present and probable structures in the development. The developer shall also provide a communal sewage treatment and disposal system, which must be approved by Title V of the Massachusetts Department of Environmental Quality Engineering Regulations filed May 20, 1977, as amended, and the Brewster Board of Health, which is of sufficient size to dispose of all sewage from all present and probable structures in the development. The developer shall provide within multifamily developments, including row houses, a storm drainage system which shall be of sufficient size and design as will collect, carry off and dispose of all surface water runoff within the development determined by the rational method, for a ten-year design storm, and shall be so constructed as to conform to the regulations of the Town of Brewster and the Commonwealth of Massachusetts. The developer shall provide within multifamily developments, including row houses, a water distribution system which shall be approved by the Brewster Water Department and shall be of sufficient size and design to supply potable water to each of the structures to be erected in the development. This

distribution system must be connected to and served by the public water supply system of the Town.  
**[Amended 5-14-1984 ATM, Art. 113]**

E. Miscellaneous provisions. **[Amended 5-14-1984 ATM, Art. 114]**

- (1) Except for legal access, 50 feet from the roadway, 15 feet from each sideline and 30 feet from the rear line shall be left as undisturbed yard (yard as defined in § 179-2, Definitions, of this chapter, effective May 14, 1979.
- (2) Building and parking areas shall be set back at least 150 feet from any existing roadway and at least 200 feet from any R District boundary line.
- (3) Dwelling and/or attached buildings shall be separated from each other by at least 25 feet.
- (4) Buildings shall have maximum gross floor space area of 30,000 square feet, excluding basement storage area.
- (5) No permits for multifamily dwellings, including row houses, may be issued by the Inspector of Buildings until all site plans are approved by the Planning Board.

**§ 179-35. Cluster Residential Development. [Amended 8-27-1984 STM, Art. 60]**

- A. The cluster residential development is intended to allow flexibility in lot sizes and building arrangements for property owners in meeting the basic intent of the dimensional requirement of Article V, while at the same time maintaining the existing character of the Town. Specifically, the plan of the cluster residential development must be superior to that of a conventional layout in preserving the natural landscape in large open areas; in utilizing the natural features of the land so as to avoid extensive topographical change or development on geographically unsuitable land; in preserving scenic views; in providing for fewer street and driveway openings onto through streets; in the provision for utilities and other public services; and must be at least equal to a conventional plan in all other respects. In addition to the plan filing requirements specified in the Subdivision Rules and Regulations,<sup>63</sup> an applicant for a cluster residential development shall submit a rendering, prepared by a landscape architect, registered in the Commonwealth of Massachusetts, depicting the cluster subdivision, including roads, landscape and appropriate locations of dwellings at full build-out. The rendering shall be considered an integrated element of the applicant's submission and if the plan is approved and a special permit granted, said rendering shall be included in the Planning Board's decision regarding the subdivision plan and special permit. **[Amended 5-1-2000 ATM, Art. 22]**
- B. Any parcel of at least 10 acres in size in the R-R, R-L and R-M Districts may be used for a cluster development and divided into lots, and such lots may be built upon for a single-family residential use under the following alternative frontage and lot area regulations, rather than those otherwise applicable, provided that the Planning Board authorizes such division by special permit. Such special permit shall be granted only upon Planning Board determination that the following requirements have been met and that such alternative development better serves district intent and better serves the neighborhood of the land being developed (Articles II and III) and bylaw purposes (as stated in MGL c. 40A) than would development under otherwise applicable rules:
- (1) Number of dwelling units. The basic number of dwelling units allowed in the development within an R-R, R-L or R-M District shall not exceed the number of units which could be developed with a conventional plan for land in the R-R, R-L or R-M Districts, respectively.

---

63. Editor's Note: See Ch. 290, Subdivision Rules and Regulations.

**[Amended 11-17-2008 FYTM, Art. 19]**

- (2) Documentation. All lots upon which dwellings are to be constructed under § 179-35 shall be on a plan to be recorded which indicates that § 179-35 applies and that no additional building lots are to be created through future land division within the cluster residential development.
- (3) Lot frontage. The minimum frontage of any lot shall be not less than 50 feet, except that the minimum frontage for lots having frontage on an existing street shall not be less than 115 feet, and the average frontage for lots having frontage only on an existing street shall be not less than 135 feet. Minimum frontage shall not be allowed where likely to result in a hazardous concentration of egress points.
- (4) Lot setbacks. The present setbacks for front, side and rear yards, as stated in Table 2 at the end of this chapter, shall be reduced by 1/2 for all setbacks within the subdivision. Setback requirements where the cluster development lots abut adjacent property shall remain the same as required in Table 2. **[Amended 5-1-2000 ATM, Art. 22]**
- (5) Individual lot area. Minimum lot sizes for lots within a cluster residential development shall be no less than 5,000 square feet. **[Amended 5-1-2000 ATM, Art. 22]**
- (6) (Reserved)<sup>64</sup>
- (7) The development shall be served by public water, if available within 500 feet of the development.
- (8) No less than 60% of the land areas within the parcel or parcels subject to § 179-35 shall be set aside as open space more fully described in Subsection B(9). The open space shall include only uplands. It shall not contain any of the wetlands enumerated in Article II, § 179-6B hereof, or be included within the easement of any overhead utility wires, lines or cables, drainage easements. **[Amended 5-1-2000 ATM, Art. 22; 5-7-2001 ATM, Art. 29]**
- (9) Such common land shall be conveyed to the Town, to a nonprofit open space organization or to a corporation or trust owned by the residents of the development, as provided by MGL c. 40A, § 9, and as approved by the Planning Board.
- (10) Such common open land shall be preserved as undisturbed natural landscape in large contiguous areas and shall be permanently restricted for conservation. As appropriate to the site, open space may include woodlands, pasture, walking and riding trails, and similar areas, but shall not include structures such as tennis courts, buildings, swimming pools, or other impervious areas. **[Amended 11-17-2008, FYTM, Art. 19]**

**§ 179-35.1. (Reserved)<sup>65</sup>****§ 179-35.2. Major residential development. [Added 5-14-1990 STM, Art. 10]**

- A. Applicability. Major residential development (see definition)<sup>66</sup> is allowed only on special permit from the Planning Board. Such special permits shall be acted upon in accordance with the following. In addition, smaller developments may, at the owner's option, be considered as if a major residential

---

64. Editor's Note: Former Subsection B(6), Lot shape, was repealed 5-1-2000 ATM, Art. 22.

65. Editor's Note: Former § 179-35.1, Flexible development, added 5-14-1990 STM, Art. 9, was repealed 11-17-2003 FYTM, Art. 6.

66. Editor's Note: See § 179-2.

development and employ the following provisions.

B. Procedures.

- (1) Application for a special permit for major residential development shall include a basic development plan and a substantially different alternative development plan, each either conforming to the requirements for a preliminary subdivision plan or not requiring approval under the Subdivision Control law. Substantial difference would be a conventional plan versus a cluster development (§ 179 35) or two plans of the same type having major differences in the number of lots created, road pattern or open space configuration. **[Amended 11-17-2003 FYTM, Art. 6]**
- (2) Applicants for major residential development shall file with the Planning Board four copies of the following, to have been prepared by an interdisciplinary team, including a registered land surveyor, a professional engineer and a registered architect or landscape architect.
  - (a) The basic and alternative development plans described above, conforming to the information requirements for a preliminary subdivision plan under the Town of Brewster Rules and Regulations for Subdivisions.<sup>67</sup> Such plans shall also indicate proposed topography and the results of deep soil test pits and percolation tests at the rate of one per every five acres, but in no case fewer than five per major residential development. Test pits shall be located to the satisfaction of the Planning Board, following consultation with the Board of Health, so as to indicate the buildability of areas proposed either for development or for reservation.
  - (b) An environmental analysis as required by the Town of Brewster Rules and Regulations for Subdivisions.
  - (c) Any additional information necessary to make the determinations and assessments cited in Subsections E and F below.

C. The Planning Board may authorize flexible development within a major residential development, subject to the following: **[Amended 11-17-2003 FYTM, Art. 6]**

- (1) Lots having reduced area or frontage are not limited in number to six, but may not have frontage on a street other than one created by or substantially improved by the development involved.
- (2) Each lot shall have frontage of at least 50 feet and shall have lot area of at least 1/2 that required under Table 2 of § 179-16.
- (3) The proposed open land, unless conveyed to the Town or its Conservation Commission, shall be covered by a recorded restriction enforceable by the Town, provided that such land shall be kept in an open state suitable for park, playground, conservation area or similar use with only minor coverage by structures or other features precluding vegetative cover.

D. Other forms of residential development. All forms of residential development, including multifamily dwellings under the provisions of § 179-34, cluster residential development under § 179-35, planned residential development under § 179-36 and subsidized elderly housing under § 179-42 may be allowed in a major residential development, if otherwise allowable at that location, subject to the applicable provisions of those sections.

---

67. Editor's Note: See Ch. 290, Subdivision Rules and Regulations.

E. Number of dwelling units.

- (1) The basic number of dwelling units allowed shall equal the number of lots which could reasonably be expected to be developed for single-family use on that parcel under a conventional plan in full conformance with zoning, subdivision regulations, health codes and other applicable requirements, as determined by the Planning Board.
- (2) The Planning Board may approve a major residential development containing as many more than the basic maximum number of dwelling units as the number of units (up to 15% of the basic maximum) for which there is assurance satisfactory to the Brewster Housing Authority that through covenant, repurchase agreement or other means enforceable in the long term by the Town, the unit will be sold or leased at costs and with income eligibility limits meeting the guidelines of state or federal housing programs, such as the MHP Local Initiative Program or Housing Opportunity Program. In no event, however, shall the Planning Board allow an increase to the extent that disposal facilities discharging within a Water Resource District serve more than one bedroom per 10,000 square feet land area in the development in that District.

F. Decision. The Planning Board shall approve or approve with conditions a special permit for major residential development for the basic development plan, provided that the Board determines that the basic plan is at least as beneficial to the Town as the alternative, based upon the considerations below, and that the alternative plan is in fact a good-faith design for beneficial use of the site.

- (1) If the Board determines that the alternative plan is more beneficial to the Town than the basic plan, it shall approve major residential development for that plan, provided that it meets all requirements of the Zoning Bylaw.
- (2) The Board shall disapprove both plans only if it determines that the alternative plan is not a good-faith design or that the more beneficial plan does not conform to the requirements of the Zoning Bylaw.
- (3) In considering whether to approve a special permit for major residential development, the Planning Board shall consider how well the development satisfies the following criteria:
  - (a) Preservation of natural resources, especially in relatively large-scale contiguous areas.
  - (b) Protection of visual character by having open spaces visible from major roads.
  - (c) Reduction in length of publicly maintained road and utility per dwelling unit served.
  - (d) Location of development on sites best suited for such and avoiding environmentally fragile locations.
  - (e) Protection of major street appearance and capacity by avoiding development fronting such streets.
  - (f) Provision of housing meeting needs of year-round residents.

G. Development timing. As a condition of its approval, the Planning Board may require a development schedule limiting the rate of development for the premises, taking into consideration the intent of avoiding large year-to-year variations in Town-wide development rate while allowing development consistent with historic average rates and also taking into consideration the housing needs which the development will serve, the housing cost and feasibility consequences of the limitation and the ability of the Town to timefully provide needed services to the site. In no event shall a development be

limited to fewer than six lots or dwelling units per year or be obliged to spread development out over more than eight years.

**§ 179-36. Planned Residential Development. [Amended 5-11-1981 ATM, Arts. 35 and 36; 5-11-1982 ATM, Arts. 83 and 84; 5-14-1984 ATM, Art. 116]**

- A. The planned residential development (PRD) is intended to provide an alternate pattern of land development to the pattern permitted in the R-M and R-L Residential zones. Specifically, it is intended to encourage the conservation of significant tracts of common open space and the preservation of natural features of the land, while at the same time providing for a greater mixture of housing types.
- B. A planned residential development shall result in:
- (1) Preservation of the natural landscape in large open areas, designed to foster the continuation of existing ecosystems.
  - (2) Efficient allocation, distribution and maintenance of common open space to protect valuable natural environments, outstanding vegetation or scenic spots and critical wildlife habitat.
  - (3) Economic and efficient street, utility and public facility installation, construction and maintenance.
  - (4) Housing and land development harmonious with natural features so as to avoid extensive topographical change necessitating vegetation and tree removal.
  - (5) Preservation of groundwater quality and prevention of pollution of adjacent open bodies of water.
  - (6) Preservation of water views or other scenic views from public ways.
  - (7) Preservation of the existing character of the surrounding neighborhood. **[Added 11-15-1993 FYTM, Art. 17]**
  - (8) Preservation of existing historic resources, where applicable. **[Added 11-15-1993 FYTM, Art. 17]**
- C. In addition, the planned residential development shall comply with the following requirements:
- (1) Minimum required land area for a planned residential development shall be 25 contiguous acres of buildable upland, as defined in this chapter, in single or consolidated ownership at the time of application.
  - (2) A plan for the development of the entire tract and an impact study shall be submitted to the Planning Board for special permit approval. The plan shall be prepared by a registered architect, a professional engineer and a registered land surveyor. The development plan shall include the following:
    - (a) The location and acreages of area to be devoted to specific uses.
    - (b) A thoroughfare plan and a public utility plan.
    - (c) Proposed residential density of development in terms of dwelling units per acre and proposed commercial uses in square footage.

- (d) A separate plan showing the location of buildings, of parks, of open recreation areas and of other open spaces and of any other community uses.
- (e) Maps to a scale of one inch equals 100 feet, including the tract and surrounding area within 100 feet.
- (f) Areas of conservation interest or environmental concern, such as ponds, streams, bogs, marshes, swamps, bay and estuaries and upland areas bordering these wetlands; steep slopes, dunes and areas with high-water tables.
- (g) Photographs and a description of lands located within 100 feet of the proposed site, including existing building type, height, architectural style and density, to assist the Special Permit Granting Authority in evaluating the compatibility between proposed uses/structures of the proposed PRD and existing uses/structures in the surrounding neighborhood. **[Added 11-15-1993 FYTM, Art. 17]**
- (h) Areas of historical interest, located on site or within 100 feet of the proposed site, including a description of the building type, height and style of historic structures. **[Added 11-15-1993 FYTM, Art. 17<sup>68</sup>]**
- (i) An analysis of the consequences of the proposed development shall be included, evaluating the following impacts at a level or detail appropriate to the number of units proposed:
  - [1] Natural environment. A plume study shall be undertaken, the necessary geohydrological services to be performed by a firm acceptable to the Planning Board. The scope of these services shall include:
    - [a] The development of a water table contour map in the vicinity of the proposed project to determine probable groundwater flow directions.
    - [b] Projection of nitrogen levels in downgradient groundwater.
    - [c] The evaluation of the impacts on public and private drinking water, on lakes and ponds and on coastal waters.
    - [d] Copies of the report shall be available to the Cape Cod Commission and the Brewster Water Quality Review Committee. **[Amended 11-15-2010 FYTM, Art. 12]**
  - [2] Public services. The impact of the proposed development on public services shall be undertaken and shall address the following: **[Amended 11-15-1993 FYTM, Art. 17]**
    - [a] The expected impact on the Town of Brewster's school system (through 12th grade), including the number of school children to be generated, and the capacity of the public school system to handle the additional students.
    - [b] The anticipated demand for police and fire services.
    - [c] The estimated daily and peak volume and weight of solid waste to be generated and the increase in school-related waste disposal. Efforts to recycle solid waste shall be noted.

---

68. Editor's Note: This article also provided for the renumbering of former Subsection C(2)(g) to Subsection C(2)(i).

- [d] The need for additional public recreation facilities.
  - [e] The source of water proposed to serve the proposed development, the daily and peak water supply demand and its impact on public water supplies.
  - [3] Economics. There shall be a study of municipal costs and revenues, local business activity and local jobs.
  - [4] Visual environment. There shall be a study of visibility of buildings and parking and visual consistency with existing development of the area.
  - [5] Land. Changes to land topography and the extent of sedimentation and erosion during construction and post-development. **[Added 11-15-1993 FYTM, Art. 17]**
  - [6] Traffic. The expected impact of traffic generated from the proposed development upon the carrying capacity and safety of any adjacent highway or road during peak summer and year-round conditions, including the projected number of motor vehicle trips, road capacities and impacts on traffic congestion and circulation on nearby intersections, and provision of on-site and off-site traffic improvements and mitigation. Traffic flow patterns at the site, including entrances and exits, loading and unloading areas, parking areas and curb cuts on site and within 100 feet of the site, shall be evaluated. Pedestrian and bicycle circulation shall be provided and described. **[Added 11-15-1993 FYTM, Art. 17]**
  - [7] Community character. The style of architecture and landscaping shall be described and its impact on the surrounding community character and aesthetics shall be evaluated. **[Added 11-15-1993 FYTM, Art. 17]**
- (3) The developer shall provide within the planned residential development an internal sewage collection system which shall be of sufficient size and design to collect all sewage from all present and probable structures in the development. The developer shall also provide a communal sewage treatment and disposal system in accordance with Title V of the Massachusetts Department of Environmental Quality Engineering Regulations, filed May 20, 1977, as amended, and which is also of sufficient size to dispose of all sewage from all present and probable structures within the planned residential development. The entire system must also be approved by the Brewster Board of Health.
  - (4) The developer shall also provide within the planned residential development a storm drainage system which shall be of sufficient size and design as will collect, carry off and dispose of all surface water runoff within the development determined by a rational method of a twenty-year storm and shall be so constructed as to conform with the regulations of the Town of Brewster Department of Public Works Construction Standards, with appropriate computations and drainage schedules attached.
  - (5) The developer shall provide within the planned residential development a water distribution system which shall be approved by the Brewster Water Department and shall be of sufficient size and design to supply potable water to each of the structures to be erected in the development. This distribution system must be connected to and served by the public water system of the Town. The developer shall also provide a fire hydrant within 500 feet of each structure.
  - (6) In order to achieve the most beneficial allocation of the required open space, the Planning Board



may request the written advisory opinion of any appropriate Town Board or agent in order to evaluate the areas of conservation interest and environment concern designated in Subsection C(2)(f).

- (7) A trip reduction plan shall be submitted as a condition for issuance of a special permit. The trip reduction plan shall describe traffic impact mitigation strategies designed to reduce traffic generation and may include strategies such as company/homeowner association sponsored carpooling/vanpooling, bicycle and pedestrian incentive measures, variable work-hour or flextime programs for commercial use and inclusion of neighborhood-oriented commercial uses serving residents of the PRD. The applicant shall also propose a means to ensure participation by subsequent owners and tenants of the planned residential development. **[Added 11-15-1993 FYTM, Art. 17<sup>69</sup> ]**
- (8) Uses.
- (a) The following uses only shall be permitted within a planned residential development:
- [1] Single-family attached or detached dwelling.
  - [2] Two-family or multifamily dwelling.
  - [3] Accessory private garage.
  - [4] Private park or recreation area which may include a golf course, swimming pool, tennis court, ice-skating rink and other similar recreational uses subject to the performance standards stated below.
  - [5] Stores with aggregate gross floor area of 2,000 feet or less primarily serving the local retail needs of the residents. The necessary parking spaces to be provided in accordance with the appropriate Zoning Bylaw.
  - [6] Signs in accordance with Article VI.
- (b) No uses shall be permitted within which will produce noise, glare, odor, air pollution, fire hazards or other safety hazards, smoke, fumes substantially detrimental to existing or prospective development of the neighborhood, including abutting properties, as determined by the Brewster Planning Board prior to approval.
- (9) Within a planned residential development, the following percentages of the total land area shall be devoted to the specific uses:
- (a) A minimum of 60% of the total area, of which at least 15 acres shall be buildable upland, shall remain as open space. The open space may be used for recreational purposes by residents of the PRD and may include such areas as woodland, open fields, golf courses, parks, gardens, grassed courts or clothes drying areas. No paved or nonvegetated space may be included as open space, and no building may be erected on such open space.
  - (b) The remaining 40% of the total PRD area for development, including roads, drives and parking lots, may be utilized for residential and commercial purposes. The residential area shall be spread over at least 75% of this 40%. In computing land to be considered as devoted to residential and commercial use, no part of the 60% designated as open space in

---

69. Editor's Note: This article also provided the renumbering of former Subsections C(7), (8), (9), (10), (11), (12), (13), (14), (15) and (16) as Subsections C(8), (9), (10), (11), (12), (13), (14), (15), (16) and (17), respectively.

Subsection C(9)(a) may be included.

- (10) The residential density shall not exceed that which would be permissible under a normal subdivision development in an R-M and R-L District as applicable.
- (11) There shall be no minimum lot size, no minimum percentage of lot coverage and no minimum lot width. However, every single-family dwelling shall be set back at least 20 feet from the street right-of-way and shall have access to a public street, court, walkway or other area dedicated to public use. No structure and no group of structures (such as semidetached dwellings or a row of townhouses) shall be erected within 24 feet of any other structure or group of structures. However, every residential structure shall be set back at least 20 feet from any way within the PRD.
- (12) The proposed location and arrangement of structures shall not be detrimental to existing or prospective adjacent structures and adjacent properties or to existing or prospective development of the neighborhood. To achieve this, a buffer zone of natural vegetation 50 feet minimum in width shall be maintained between the development and any abutting property; a buffer zone of natural vegetation 100 feet wide shall be maintained between the development's recreational facilities (swimming pool, tennis courts, game facilities) and any abutting property.
- (13) To ensure the protection of sensitive environmental areas from pollution, erosion, sedimentation and other adverse effects of construction and development, no buildings shall be allowed within 50 feet of any water body or wetland. Roads and other access structures, such as paths, boardwalks and steps, may be closer to these areas, provided that the Planning Board determines that no adverse effects shall result due to their construction or presence.
- (14) The dimensions and construction of roads, alleys and parking areas within the development, whether or not the dedication of them to the Town is contemplated, shall conform to all applicable regulations of the Town, including in particular the rules and regulations governing the subdivision of land adopted by the Planning Board.
- (15) The maximum permitted height of structures shall be 30 feet. **[Amended 5-14-1990 STM, Art. 7]**
- (16) Open spaces between structures, including those spaces being used as public or private recreational areas, shall be protected by adequate covenants running with the land or by conveyances or dedications.
- (17) Any modification of an approved planned residential development must be approved by the Planning Board. The Planning Board may require a public hearing for the modification of a planned residential development (PRD).

**§ 179-37. Home occupations. [Amended 5-14-1990 ATM, Art. 47; 5-4-2009 ATM, Art. 29]**

- A. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, electrical disturbance or in any other way.
- B. Any such building shall include no feature of design not customary in buildings for residential use.
- C. No more than two nonresidents shall be employed therein.
- D. The use is carried on strictly within the principal building on the premises and/or the accessory

building(s).

- E. The area used for the home occupation shall not exceed 40% of the existing floor area of the principal building and/or the accessory building(s) or 499 square feet, whichever is less.
- F. Items produced elsewhere shall not be brought to the premises for purposes of sale.
- G. Such uses as clinics, barbershops, bakeries, gift or antique shops, beauty parlors, tearooms, tourist homes, animal hospitals, kennels and others of a similar nature shall not be considered to be home occupations.

**§ 179-38. Planned business development or row commercial. [Amended 10-17-1988 STM, Art. 25; 5-8-1989 ATM, Arts. 43 and 50]**

- A. The tract in single or consolidated ownership at the time of application shall be at least three acres in size for a planned business development and a minimum of 40,000 square feet and a maximum of three acres for row commercial. Row commercial or planned business development shall contain a minimum of 25% open green space and a maximum of 25% building coverage. In either case, percentage figures are based on buildable uplands, as defined in Article I, General Provisions, § 179-2B.
- B. Uses in a planned business development shall, and in row commercial development may, be contained in more than one building. Each building shall be separated from another by at least 24 feet and each building shall have a minimum footprint of 500 square feet. **[Amended 11-13-2006 FYTM, Art. 31]**
- C. The building footprint shall not exceed 25% of the buildable upland of the land involved.
- D. Planned business developments or row commercials shall be served by one common parking area and by common exit and entrance areas.
- E. Reduction in parking space requirements shall not exceed more than 10% of those required under normal applications of requirements of the C, V-B or I Districts but shall not allow any reduction in the number of loading areas required.
- F. The design and construction of any ways for motor vehicles within the planned business development or row commercial shall be subject to the Land Subdivision Regulations of the Town of Brewster.<sup>70</sup>
- G. The planned business development or row commercial shall be served by public water and public sewerage if available within 500 feet or by communal supply and disposal systems approved by the Massachusetts Department of Environmental Quality Engineering and the Brewster Board of Health.

**§ 179-38.1. Medical marijuana dispensaries. [Added 5-5-2014 ATM, Art. 22]**

- A. A medical marijuana dispensary (MMD) shall conform to 105 CMR 725.000: Implementation of an Act for the Humanitarian Medical Use of Marijuana, in addition to any requirements outlined herein.
- B. The special permit granting authority shall be the Planning Board.
- C. A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or lease of the premises as a MMD. A special permit may be transferred only with the

---

70. Editor's Note: See Ch. 290, Subdivision Rules and Regulations.

approval of the special permit granting authority in the form of a modification to the special permit.

**§ 179-38.2. Recreational marijuana establishments. [Added 3-12-2018 STM, Art. 1]**

- A. Recreational Marijuana Establishments (RME) shall conform to 935 CMR 500.000: Adult Use of Marijuana, and shall only be permitted pursuant to this Section and the requirements stated herein.
- B. The special permit granting authority for RMEs shall be the Planning Board.
- C. A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or lease of the premises for an RME, as licensed by the Massachusetts licensing authority. Any new license for an existing RME location or transfer of an existing license to a new owner of an RME shall require a new special permit pursuant to § 179-51 and site plan review pursuant to § 179-64 of the Brewster zoning bylaws.

**§ 179-38.3. Recreational marijuana establishments applicability of regulations. [Added 3-12-2018 STM, Art. 1]**

- A. The cultivation, production, processing, manufacturing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana is prohibited unless licensed by all applicable Massachusetts licensing authorities and permitted as a RME under this section.
- B. Pursuant to MGL c. 94G, § 3(a)(2), the number of recreational Marijuana Retailers shall be limited to one establishment in Brewster which is fewer than 20% of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under MGL c. 138 § 15 (package store licenses). Any Medical Marijuana Dispensary, licensed or registered not later than July 1, 2017, engaged in retail sale of marijuana or marijuana products, shall be exempt from this limitation for purposes of converting from a Medical Marijuana Dispensary to a recreational Marijuana Retailer.
- C. The number of any type of RMEs, except recreational Marijuana Retailers, shall be limited to not more than two of the same type of RME in Brewster.
- D. On-site consumption of recreational marijuana products at RMEs shall be prohibited unless permitted by a local ballot initiative process, as allowed by MGL c. 94G, § 3(b).
- E. RMEs are commercial uses and shall be located in stand-alone structures, not connected to any other building or use.
- F. Hours of operation for recreational Marijuana Retailers shall not exceed the Alcoholic Beverages Control Commission (ABCC) maximum hours of operation for liquor licenses not to be drunk on premises pursuant to MGL c. 138, § 15 but may be limited by conditions of the special permit.

**§ 179-38.4. Recreational marijuana establishments definitions. [Added 3-12-2018 STM, Art. 1]**

Any term not specifically defined herein shall have the meaning as defined in MGL c. 94G, § 1 and the Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use Marijuana.

- A. "Recreational Marijuana Establishment" shall mean a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in MGL c. 94G, § 1 or the Cannabis Control Commission Regulations 935 CMR 500.00.

- B. Marijuana retailer. An entity licensed by the Cannabis Control Commission to purchase and deliver recreational marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer recreational marijuana and marijuana products to marijuana establishments and to consumers, as defined in MGL c. 94G, § 1 and the Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use Marijuana.
- C. "Medical marijuana dispensary". An entity registered by the Department of Public Health or the Cannabis Control Commission that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers medical use marijuana, products containing medical use marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

**§ 179-38.5. Recreational marijuana establishments general requirements. [Added 3-12-2018 STM, Art. 1]**

- A. No RME shall be located within 500 feet, as measured from each lot line of the subject lot, of the following pre-existing uses: a K-12 educational use; childcare center; public park; playground; or children's camp.
- B. Applicants for an RME shall provide the licensing agent's approved security plan to the Police Chief and Fire Chief prior to the granting of a Special Permit.
- C. An approved Host Community Agreement shall be required prior to the granting of a Special Permit for a RME.

**§ 179-39. Sand and gravel operations general provisions. [Amended 11-17-2008 FYTM, Art. 18]**

- A. Lawful sand and gravel operations in existence on the effective date of this bylaw may continue on those parcels of land where there are ongoing operations. After this bylaw section becomes effective, sand and gravel operations shall not be extended horizontally or vertically without a special permit consistent with this bylaw and section.
- B. Except where such activity is clearly incidental to the development of a site for a building or street or cranberry bog or repair of existing septic system or where the activity is approved coincident to the construction of a subdivision of land approved by the Planning Board pursuant to MGL c. 41, § 81U, no sand, gravel, loam or minerals shall be moved from any area where the amount moved is 2,000 cubic yards or more within any one-year period unless authorized by a special permit by the Planning Board. No new ponds or enlargements to existing ponds shall be allowed in Zone II areas.
- C. After the effective date of this section, no preexisting sand and gravel operations shall involve excavations below a place of 10 vertical feet above the historical high groundwater level at the site nor within the setbacks prescribed in this section. Special permits for sand and gravel operations within the Water Quality Protection District may be issued for unworked areas, either on lots being worked or on lots abutting lots being worked, on the effective date of this section. The elimination of lot lines after that date shall not increase the area available for special permit and shall not affect the application of § 179-39 through § 179-39.6.
- D. Notwithstanding language to the contrary found within § 179-52 of the Zoning Bylaw, no variance for a use or activity not otherwise permitted shall be granted by the Board of Appeals within Zone I or Zone II of the Groundwater Protection District.

**§ 179-39.1. Sand and gravel operations definitions. [Added 11-17-2008 FYTM, Art. 18]**

BOARD — Shall mean the Planning Board.

EARTH — Shall include but not be limited to soil, sand, clay, gravel and rock.

SAND AND GRAVEL OPERATIONS — Shall mean commercial mining, stripping, quarrying, filling, digging or blasting of earth originating from Brewster and its transportation on or off the site into or out of Brewster.

**§ 179-39.2. Sand and gravel operations procedures; application information. [Added 11-17-2008 FYTM, Art. 18]**

- A. Each application for a special permit for sand and gravel operations shall be subject to the procedures as required by § 179-51 of the Zoning Bylaw, as amended.
- B. Each application for a special permit for sand and gravel operations shall be accompanied by plans prepared by a licensed professional engineer, licensed land surveyor or other accepted professional, broken down into three phases, showing the premises in sufficient detail to describe the proposed operation and including the following:
  - (1) Existing conditions plan:
    - (a) Current site plan - property and street lines, names and addresses of applicants, property owners and abutters drawn to a twenty-foot or forty-foot scale;
    - (b) Locus plan - The applicants' entire property holdings within a two-mile radius must be shown on a plan drawn to a two-hundred-foot scale;
    - (c) Existing topography of the site in two-foot contours showing all man-made features/structures, property lines, fences/stonewalls, vegetative cover and the topography by five-foot contours 100 feet beyond the limits of the property where the excavation is to take place;
    - (d) Elevation of the seasonal high groundwater table and the historical high groundwater table and locations of monitoring wells, existing or to be installed, by the applicant.
  - (2) Active operational plan:
    - (a) Location and manner in which all material is to be stored; specific details about where debris, including but not limited to trees stumps, shall be disposed;
    - (b) A plan showing the proposed stage-by-stage progress of mining over the term of the special permit, recognizing that the maximum area of any single stage shall not exceed five acres. Each movement into a new stage shall be contingent on revegetation of at least a portion of the previous stage in such a way that no more than five acres of bare sand shall be open to weather at any given time;
    - (c) Estimated quantity of material to be removed and topsoil to be replaced and the method to be used during each anticipated phase of the operation, verified by a registered Massachusetts land surveyor or professional civil engineer;
    - (d) A road map shall be provided indicating the access and egress of traffic. Not more than one entrance and one exit shall be provided to any area of operation;

- (e) The plan should show the property has restricted access.
- (3) Closure plan: Closure plan, showing the following information in two-foot contours drawn to a twenty-foot or forty-foot scale:
  - (a) Final topography, grades and elevations;
  - (b) Location, types and amounts of vegetation to be planted;
  - (c) Drainage plans, swales and berms as may be applicable;
  - (d) Location of any structures that are to remain;
  - (e) Reclamation plan as outlined in § 179-39.4O. **[Amended 5-4-2009 ATM, Art. 30]**

**§ 179-39.3. Sand and gravel operations permit limitations. [Added 11-17-2008 FYTM, Art. 18]**

- A. Each special permit for sand and gravel operations shall be issued for a period of no more than five years. Special permits may be renewed for additional periods of five years in the same manner.
- B. Where the request covers a parcel of land larger than five (5) acres a special permit may be granted for the entire parcel but the special permit shall define the intended progress of mining in stages not to exceed five contiguous acres. The special permit shall explicitly specify the order in which each stage shall be mined and that progress into the next successive stage shall be contingent on the revegetation of the current stage so that under no circumstances shall more than five acres be open and unvegetated at any one time.

**§ 179-39.4. Sand and gravel operations conditions and restrictions. [Added 11-17-2008 FYTM, Art. 18]**

Each special permit shall be subject to, but not limited to, conditions and/or restrictions related to the following, unless as determined by the normal super-majority vote of the Board that such conditions or controls are not necessary:

- A. All vegetation and soil suitable for cover material shall be stockpiled or windrowed and retained for future use in the reclamation of the affected area;
- B. Border buffer strips in which natural vegetation and soil are undisturbed shall be required to be left for a width of at least 100 feet from the side line of any road open to public use, except for designated access to the sand and gravel operation and for a width of at least 50 feet from all abutting property lines unless written consent of the abutting property owner has been received by the Board;
- C. The preservation of trees, bushes and other vegetation and the erecting of a six-foot-high landscaped berm or fencing may be required within 200 feet of a residential property line to muffle objectionable noise or vibration;
- D. The depth of any excavation shall be limited to a plane that is at least 10 vertical feet above the historical high groundwater level for that location, unless the purpose is to create a pond or cranberry bog. The Board may require the installation of monitoring wells in addition to those proposed by the applicant and require a sampling and reporting schedule different and more stringent than that proposed by the applicant;
- E. No mining or excavation activity shall induce flooding, erosion, or siltation on any adjacent property;

- F. Provisions of the special permit may be maintained during operations for the control of noise, dust and/or erosion caused by wind or water which would affect the adjacent properties or traffic along a roadway;
- G. Only uses allowed in the special permit shall take place on the subject premises. No other coincidental land uses shall be permitted to coincide with the primary use for more than 30 days per year (consecutive or not) unless specifically authorized by the special permit;
- H. No earth or other materials foreign to the subject premises, including but not limited to boulders, asphalt, cement, road construction debris, demolition debris and tree stumps shall be brought onto and deposited or buried on the subject premises during the period of the special permit except topsoil and living plant material for reclamation use, unless specifically authorized by an existing registration or by the special permit or by written consent of the Board of Health or its agent. In this connection, debris is not included in the definition of "earth" above;
- I. The special permit grantee shall, to the satisfaction of the Board, stake or mark all phase areas where work and restoration have been completed, the phase area currently being worked, and any phase areas for which subsequent work is planned. The GPS coordinates of these bounds and all bounds on the premises shall be recorded and this information shall be filed with the special permit granting authority. These boundary markers shall be maintained at all times during the time period of original and any renewed special permits;
- J. Records showing the amount of earth removed shall be provided to the Planning Board on each one-year anniversary date of the granting of the special permit by a registered Massachusetts professional engineer or civil engineer on a certified current site plan with contours and elevations;
- K. Times of earthmoving or related operations may be restricted to those stipulated in the special permit, which will vary in accordance with the proposed site and existing and/or future surrounding land uses. Included among related operations are the starting of engines either for vehicles or machinery, loading and unloading of trucks, and preparations for commencing work;
- L. The applicant and/or property owner shall agree by acceptance of the special permit to allow the Planning Board, the Board of Health or their representative(s) free access to the site to conduct inspections to determine compliance with the conditions of the special permit at any time without prior notice;
- M. The applicant for a special permit shall advance sufficient funds to reimburse the Town of Brewster as the Planning Board estimates necessary for professional evaluation services. Unexpended funds will be refunded to the applicant. During the term of the special permit, the Planning Board may demand additional funds at its sole discretion to monitor operations on site should these services become necessary;
- N. The Board must be notified of any transfer of ownership or legal interest or change in contractual interest in the subject property, including the sand and gravel operator deriving income resulting from such work on said property, within 10 days of such transfer or change. Failure to do so will render the special permit null and void from the date of transfer or change in contractual interest; **[Amended 5-4-2009 ATM, Art. 30]**
- O. The reclamation plan of the altered land shall be performed in the following manner:
  - (1) The slope of the finished banks shall at a minimum meet OSHA standards 2008 edition.
  - (2) At least four inches of topsoil shall be placed or remain over the subsoil.



- (3) The area shall be graded and seeded or planted to prevent erosion and to conceal the scars of earth removal. Seeding, planting, fertilizing and watering shall be done to the best professional standards.
- (4) The Board may allow a portion of a specific stage to be reclaimed at a later specific date for purposes of starting work in an adjacent stage or for purposes of interior roadways if seasonal or weather factors make immediate revegetation impractical; however, these areas must be shown on the submitted site plans. The restriction to no more than five unvegetated acres shall be observed.

**§ 179-39.5. Sand and gravel operations security for mining operations. [Added 11-17-2008 FYTM, Art. 18]**

- A. To ensure compliance with the conditions of the special permit the applicant shall be required to post a cash deposit or surety bond, in a form acceptable to the Town Treasurer, in an amount sufficient to meet 115% of the estimated cost of the required reclamation work. The Treasurer shall not accept the deposit or the bond until the amount of the estimate has been approved by the Town of Brewster's Department of Public Works. Within six months of the completion of the operation, or following the expiration or withdrawal of the special permit, and considering season and/or weather conditions, the land shall be reclaimed in accordance with the conditions of the special permit. Failure to comply with this section and the conditions of the special permit shall result in forfeiture of the security to the Town of Brewster. Said deposit or bond shall not be released until all conditions of the special permit and ground cover vegetation is established in the sole opinion of the Board.
- B. The holder of the special permit shall not allow motor cross, motorcycles or all-terrain vehicles or other recreational types of motorized vehicles to operate on the premises. The Planning Board may require additional restrictions if this activity occurs.

**§ 179-39.6. Sand and gravel operations special permit renewal. [Added 11-17-2008 FYTM, Art. 18]**

Any special permit issued may only be renewed thereafter with a public hearing legally advertised in accordance with MGL c. 40A, § 9; however, applications for renewal must be made 120 days or more before expiration of the current valid special permit. Renewal, if granted, shall date from the day the current special permit. Renewal shall not be granted if work and restoration under the current special permit fails any of the conditions imposed by the Board in the originally issued special permit. Renewal may be denied if the applicant has a history of violations.

**§ 179-40. Manufacturing.**

- A. All resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke, vapor, electromagnetic transmission or radioactive emission shall be completely and effectively confined within the building or so regulated as to prevent any nuisance or hazard to the public health or safety.
- B. The proposed use shall not emit any smoke of a shade darker than No. 2 of the Ringelmann Smoke Chart as published by the United States Bureau of Mines; no air particle concentration shall exceed 0.3 grains per cubic foot.
- C. All inflammable or radioactive materials shall be stored underground; the discharge of wastes shall be into a public sewer or a private on-lot system subject to the written approval of the Massachusetts Department of Environmental Quality Engineering.
- D. Vibration shall not exceed the safe range of Table 7, United States Bureau of Mines, Bulletin No.

442; there shall be no unusual or objectionable odor; and no direct or sky-reflected glare shall be permitted.

- E. All materials shall be stored within a completely enclosed building or within an outside area completely enclosed by a fence and gates of suitable material and height to provide sufficient screening. **[Amended 11-15-2010 FYTM, Art. 10]**
- F. No retail sales will be permitted to the public from manufacturing units in the Industrial Zone, except for those products manufactured or processed in these units. **[Added 12-8-1980 STM, Art. 20]**

**§ 179-40.1. Personal wireless services and communications facilities. [Added 5-5-1997 ATM, Art. 77; amended 5-6-2003 ATM, Art. 25]**

- A. Purpose and intent. It is the express purpose of this section to minimize the visual and environmental impacts of personal wireless services and communication facilities, hereinafter referred to as "PWSCFs," to further the conservation and preservation of developed, natural, and undeveloped areas, wildlife, flora, and habitats for endangered species; the preservation of coastal resources; protection of the natural resources of the Town; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural, archaeological, architectural and recreational values.
- B. Consistency with federal law. This section is intended to be consistent with state and federal law and, in particular, the Telecommunications Act of 1996, 47 U.S.C.A. §§ 151 et seq., in that:
  - (1) They do not prohibit or have the effect of prohibiting the provision of PWSCF services;
  - (2) They are not intended to be used to unreasonably discriminate among providers of functionally equivalent services; and
  - (3) They do not regulate wireless telecommunications services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC's regulations concerning such emissions. [47 U.S.C. § 332(c)(7)(B)].
- C. Definitions and word usage. As used in this section, the following terms shall have the meanings indicated below. The word "shall" or "will" indicates mandatory requirements. Terms and words not defined herein but defined in the Brewster Town Code, Chapter 179, Zoning, or in the Commonwealth of Massachusetts State Building Code shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meanings given in the then most current edition of the Webster's Unabridged Dictionary.

ACT — The Telecommunications Act of 1996, 47 U.S.C.A. §§ 151 et seq.

ADEQUATE CAPACITY — Capacity is considered to be "adequate" if the grade of service is p.05 or better for at least 50% of the days in a preceding month, prior to the date of application, as measured using direct traffic measurement of the telecommunications facility in question, where the call blocking is due to frequency contention at the antenna(s).

ADEQUATE COVERAGE — For traditional cellular service or PCS service, coverage is considered to be "adequate" within those areas surrounding a base station where the predicted or measured median field strength of the transmitted signal is greater than -90dBm. It is acceptable for there to be holes within the area of adequate coverage where the signal is less than -90dBm, as long as the signal regains its strength to greater than -90dBm further away from the base station. For the limited purpose

of determining whether the use of a repeater is necessary or desirable, there shall be deemed not to be adequate coverage within said holes. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain strength of greater than -90dBm. For services other than traditional cellular or PCS service, the SPGA will determine what is adequate coverage from time to time based on the evidence presented, which may include but shall not be limited to then-current industry standards and government standards or materials.

**COLLOCATION** — The use of a single mount on the ground by more than one carrier (vertical collocation) and/or several mounts on an existing building or structure by more than one carrier.

**COMMUNICATIONS FACILITY** — Any facility which supports or contains communications equipment, antenna, wiring or equipment for the purpose of broadcasting or receiving radio frequency waves and/or generating or detecting electromagnetic radiation, including but not limited to buildings, microwave transmitting and/or receiving antennas, microwave reflectors, broadcasting antennas and cable television antennas. Structures supporting equipment transmitting only visible light or used to support the equipment of a federally licensed amateur radio operator are excluded from this definition.

**EQUIPMENT SHELTER** — An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

**FALL ZONE** — The area on the ground within a prescribed radius from the base of PWSCF. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material and, in the case of towers, shall not be less than a radius equal in distance to the height of the tower.

**FEDERAL COMMUNICATION COMMISSION (FCC)** — The government agency responsible for regulating telecommunications in the United States.

**LICENSED CARRIER** — A company authorized by the FCC to construct and operate a commercial mobile radio services system.

**PERSONAL WIRELESS SERVICES** — The three types of services defined by the FCC in the Act as personal wireless services:

- (1) Commercial mobile radio services;
- (2) Unlicensed wireless services; and
- (3) Common carrier wireless exchange access services.

**PERSONAL WIRELESS SERVICES FACILITY** — Any facility used or to be used for the provision of personal wireless services, including, but not limited to, buildings, antennas, telecommunications equipment, communications towers, monopoles or other support structures, constructed, installed or operated, or to be constructed, installed or operated, for the purpose of providing personal wireless services.

**REPEATER** — A low-power receiver/relay transmitter generally of less than 20 watts' output designed to provide service to areas which are not able to receive adequate coverage directly from a base station.

**SITE, PWSCF** — The land that is, or will be, temporarily or permanently altered during the construction and use of any PWSCF, including the fall zone. The applicant shall offer proof of ownership of the tower site or control of said site via an existing, lawful easement, lease, license or land use agreement.

**SPECIAL PERMIT GRANTING AUTHORITY (SPGA)** — The Brewster Planning Board shall be the special permit granting authority for purposes of this section.

**TOWER** — A support structure proposed to support PWSCF antenna(s) and associated equipment, including but not limited to the following:

- (1) **MONOPOLE TOWER** — The type of mount that is self-supporting with a single shaft of wood, steel, fiberglass, or concrete, and a platform (or racks) for panel antennas arrayed at the top.
- (2) **GUYED TOWER** — A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
- (3) **LATTICE TOWER** — A type of mount that is self-supporting with multiple legs and cross bracing of structural steel.

D. **Personal Wireless Services and Communications Facilities Overlay District.** There is hereby established a Personal Wireless Services and Communications Facilities Overlay District within the Town of Brewster. This district consists of the following parcels of property shown on the Personal Wireless Services and Communications Facilities Overlay District Zoning Map on file with the Brewster Building Department, the Brewster Planning Department and the Brewster Town Clerk. **[Amended 11-17-2003 FYTM, Art. 23]**

- (1) Map 44, Parcels: 8, 9, 10, 13, 15, 16, 17, 18, 18-1, 19, 19-1, 19-2, 19-3, 21, 22-1, 22-2, 23, 24, 25, 27, 28, 29, 30, 30-1, 33, 34, 34-1, 34-2, 35, 37.
- (2) Map 45, Parcels: 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22-23, 22-24, 23, 24-21, 24-22, 24-28, 25, 26, 27, 28, 30, 31, 32, 32-1, 33, 33-1, 34, 35-1, 35-2, 36, 37, 39, 39-1, 40, 41, 42, 43, 44, 45, 45-1, 46, 58-1, 59, 66, 67, 68, 69, 70-1, 70-2, 71, 72, 76, 77, 78, 79, 80-1, 80-2.
- (3) Map 46, Parcels: 1, 2, 3, 4, 5, 6, 9, 12-1, 12-2, 12-3, 14-1, 14-2, 31, 32, 33, 34, 34-1, 35, 39, 40, 41, 41-2, 55, 56, 57, 58, 81.
- (4) Map 47, Parcels: 24, 25, 26, 27, 28, 29, 32-1, 32-2, 32-3, 33, 35, 36, 37, 38, 42, 43, 46, 47, 48, 50, 51, 52, 58, 64, 90, 91.
- (5) Map 52, Parcels: 1, 2-1, 2-2, 3, 6, 17, 18, 24, 26, 27, 29, 30-1, 30-2, 70, 94.
- (6) Map 53, Parcels: 3, 6-1, 6-4, 6-6.
- (7) The Industrial (I) District: All parcels located within said District within the Town of Brewster.
- (8) The Municipal Refuse District (MRD): All parcels located within said District within the Town of Brewster.
- (9) All Town-owned properties: All parcels currently owned by the Town of Brewster, and any future property acquisitions, provided there are no legal restrictions or restrictions on the title to prevent or prohibit such development.

E. **Use, siting and dimensional regulations.**

- (1) **Use regulations.** All PWSCFs shall require a building permit and in all cases may be permitted only as follows:
  - (a) All PWSCFs under 35 feet in height shall be allowed as a matter of right in all districts.

- (b) Municipal PWSCFs are exempt from this section.
  - (c) Any proposed PWSCF towers and ground-mounted PWSCFs in excess of 35 feet in height shall only be allowed in the Personal Wireless Services and Communication Facilities Overlay District, as identified in § 179-40.1D, and only upon:
    - [1] Referral to the Cape Cod Commission for mandatory review;
    - [2] Prefiling review under staff review in accordance with § 179-40.1F(2) hereunder; **[Amended 5-2-2011 ATM, Art. 32]**
    - [3] Application and issuance of a special permit by the Special Permit Granting Authority in accordance with Subsections G and H, and in accordance with Subsection L, Rules and regulations, hereunder; **[Amended 5-3-2004 ATM, Art. 25]**
    - [4] Application and issuance of a building permit from the Building Commissioner;
    - [5] Proof of ownership of or control over the PWSCF site via an existing, lawful easement, lease, license or land use agreement; and
    - [6] Any other required local, state and federal approvals.
  - (d) PWSCFs may collocate on any existing structure, including buildings, guyed tower, lattice tower, monopole tower, electric utility transmission tower, fire tower or water tower located in any zoning district, and only upon:
    - [1] Prefiling review and approval under staff review in accordance with § 179-40.1F(2) hereunder; **[Amended 5-2-2011 ATM, Art. 32]**
    - [2] Application and issuance of a special permit by the Special Permit Granting Authority in accordance with Subsections G and H, and in accordance with Subsection L, Rules and regulations, hereunder; **[Amended 5-3-2004 ATM, Art. 25]**
    - [3] Application and issuance of a building permit from the Building Commissioner;
    - [4] Proof of ownership of or control over the tower site via an existing, lawful easement, lease, license or land use agreement; and
    - [5] Any other required local, state and federal approvals.
  - (e) Teleports, as defined in this article, are allowed only within the Industrial (I) District, as located within the PWSCF Overlay District, Town of Brewster.
- (2) Siting regulations.
- (a) PWSCFs shall be located on preexisting structures, including but not limited to buildings, existing guyed towers, lattice towers, monopole towers, utility transmission towers, fire towers, water towers and related facilities, unless the applicant demonstrates that there are no feasible preexisting structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more PWSCFs. Such installations shall preserve the character and integrity of those preexisting structures.
  - (b) New facilities or structures shall be considered only upon a finding by the SPGA that existing or approved facilities or structures cannot accommodate the PWSCF proposed. The applicant shall have the burden of proving there are no feasible existing structures

upon which to locate.

- (c) If the applicant demonstrates that it is not feasible to locate on an existing structure, PWSCFs shall be designed so as to be camouflaged to the greatest extent possible and in accordance with any design standards regulations promulgated hereunder by the Planning Board.
  - (d) PWSCFs shall be located so as to provide adequate coverage and adequate capacity with the least number of PWSCFs which is technically and economically feasible.
  - (e) The use of repeater(s) to assure adequate coverage, or to fill holes within areas of otherwise adequate coverage, shall be encouraged.
  - (f) To the extent lawful and feasible, all service providers shall collocate on a single tower. Towers shall be designed to structurally accommodate the maximum number of foreseeable users (within a ten-year period) technically practicable. The applicant is required to document all collocation tenants and provide a tower design indicating types and locations of all facilities.
- (3) Dimensional requirements. Except as otherwise provided herein or in any subsequent regulations passed by the Planning Board, the height of PWSCFs shall be as follows:
- (a) Height: new PWSCF towers. PWSCF Towers may be allowed by special permit from the SPGA in the Personal Wireless Services and Communication Facilities Overlay District, as identified in § 179-40.1D, and may be constructed to a height of up to 200 feet AGL, provided such towers are designed to accommodate a minimum of six licensed carriers; up to 150 feet AGL if proposed to accommodate a minimum of four licensed carriers; up to 135 feet AGL if proposed to accommodate a minimum of three licensed carriers; up to 120 feet AGL if proposed to accommodate a minimum of two licensed carriers; and up to 105 feet above natural ground elevation if proposed to accommodate a minimum of one licensed carrier. Monopoles are the preferred type of mount for such structures. Such structures shall comply with all applicable siting and dimensional requirements set forth in § 179-40.1E(2) and (3) and all applicable performance standards regulations set forth in any regulations promulgated by the Planning Board.
  - (b) Height: ground-mounted facilities. Proposed ground-mounted PWSCFs may be allowed by special permit from the SPGA in the Personal Wireless Services and Communication Facilities Overlay District, as identified in § 179-40.1D, provided they shall not project higher than 10 feet above the average building height within 300 feet or, if there are no buildings within 300 feet, ground-mounted PWSCFs shall not project higher than 10 feet above the average tree canopy height, measured from ground level. If there are no buildings within 300 feet of the proposed site of the PWSCF, all ground-mounted PWSCFs shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on site.
  - (c) Height: side- and roof-mounted facilities. Side- and roof-mounted PWSCFs shall not project more than 10 feet above the height of an existing building nor project more than 10 feet above the height limit of the zoning district in which the PWSCF is located. PWSCFs may locate on the side or roof of a building that is legally nonconforming with respect to height, provided that the PWSCF does not project above the existing building height.
  - (d) Height: facilities proposed to be mounted on existing structures. New antennas for

PWSCFs to be located on any of the following structures existing on the effective date of this section shall be exempt from the height restrictions of this section, provided there is no increase in height of the existing structure as a result of the installation of the PWSCF:

- [1] Guyed towers;
- [2] Lattice towers;
- [3] Monopoles;
- [4] Fire towers; or
- [5] Water towers.

- (e) Height: facilities proposed to be mounted on existing utility structures. New antennas located on any of the following existing structures as of the effective date of this section shall be exempt from the height restrictions of this section, provided there is no more than a twenty-foot increase in the height of the existing structure as a result of the installation of the PWSCF, and further provided that no such structure shall be permitted to exceed 200 feet in total height above ground elevation:

- [1] Electric transmission and distribution towers;
- [2] Telephone poles;
- [3] Similar existing utility structures.

- (4) Setbacks. All PWSCF and their equipment shelters shall comply with the building setback provisions of the underlying zoning district in which the facility is located. In addition, the following setbacks shall be observed:

- (a) The layout of any tower site shall be such that, in the event the tower shall fall, it shall fall within the confines of the tower site.
- (b) To ensure public safety, the minimum distance from the perimeter of the PWSCF, including any guy wire, anchor or brace to any property line, road or structure, business or institutional use, or public recreational area shall be the height of the PWSCF, including any antennas or appurtenances, plus 50 feet.
- (c) Towers and monopoles shall provide a minimum setback equal to the height of the structure plus 100 feet from any residential zoning district.
- (d) In the event that an existing structure is proposed as a mount for a PWSCF, a fall zone shall not be required, but the setback provisions of the underlying zoning district shall apply.

F. Application procedures.

- (1) Special permit granting authority (SPGA).

- (a) The special permit granting authority for PWSCFs shall be the Brewster Planning Board.
- (b) The SPGA shall not approve any application that does not comply with all the requirements of this section. The Board does, however, have the right to waive any part of this section without the requirement of a variance, when it makes a specific finding that

such a waiver would not be detrimental to the public interest, cause the Town any expense, or be inconsistent with the intent and purpose of this section.

- (c) The SPGA shall act in accordance with the standards and requirements set forth herein and in accordance with the Massachusetts General Laws.
  - (d) The SPGA shall open the public hearing on the application within 65 days of the filing of an application for special permit and shall issue a decision within 90 days following the date of the close of the public hearing.
- (2) Preapplication staff review meeting. Prior to filing a special permit application with the SPGA, and after mandatory review by the Cape Cod Commission, if required, the applicant shall request a meeting for staff review for purposes of discussing the proposed PWSCF in general terms and reviewing the relevant local approvals required. Staff review shall take place with the applicant under this section within 30 days following a written request submitted to the Town Planner, or a designee. If the staff review meeting fails to take place on a project within said thirty-day period, the applicant may proceed with a special permit application under this section without need for a preapplication meeting. The applicant shall prepare sufficient preliminary architectural and engineering drawings to inform staff of the location of the proposed facility, as well as its scale and overall design. Staff shall issue a statement containing any written recommendations or proposed alterations it recommends be made to the proposal to better conform to the provisions of any Town bylaw and which better serve the public interest. A written copy of the staff review statement must be included in the application to the SPGA. **[Amended 5-2-2011 ATM, Art. 32]**

G. Approval criteria; required findings and denials.

- (1) Approval criteria. In reviewing all applications for special permits, the SPGA shall utilize as approval criteria all applicable use, siting, dimensional, and setback requirements set forth in § 179-40.1E, and any applicable regulations promulgated by the Planning Board pursuant to § 179-40.1J herein.
- (2) Required findings for issuance of special permit. The SPGA shall make the following applicable findings, with appropriate reasoning, in writing, prior to the granting of any special permit:
  - (a) The applicant is not already providing adequate coverage and/or adequate capacity to the Town of Brewster; and
  - (b) The applicant is not able to use or modify for use any existing structure or PWSCF located within or outside the Town, either with or without the use of repeaters, to provide adequate coverage and/or adequate capacity to the Town of Brewster; and
  - (c) The applicant has endeavored to provide adequate coverage and adequate capacity to the Town of Brewster within the least number of PWSCFs which is technically and economically feasible; and
  - (d) The applicant has agreed to rent or lease any available space on the proposed PWSCF tower, under the terms of a fair-market lease, with reasonable conditions and without discrimination to other licensed providers; and
  - (e) The proposed PWSCF will not have an undue adverse impact on historic resources, seethe views, natural resources, and/or residential property values; and



- (f) The applicant has agreed to implement all reasonable measures to mitigate the potential adverse safety, environmental, and aesthetic impacts of the PWSCF; and
  - (g) The proposed PWSCF shall comply with current FCC standards regarding emissions of electromagnetic radiation; and
  - (h) The applicant has agreed to any maintenance and monitoring requirements set forth in any regulations promulgated by the Planning Board; and
  - (i) The proposed PWSCF shall be camouflaged and screened to the greatest extent possible to minimize adverse visual impacts; and
  - (j) The applicant meets the criteria set forth in § 179-40.1E and all performance standards and siting priority requirements contained in any regulations promulgated by the Planning Board pursuant to § 179-40.1J, to the maximum extent practically and economically feasible.
- (3) Denials.
- (a) The SPGA may deny a special permit if it finds:
    - [1] That adequate coverage for the Town of Brewster can be provided by any existing or proposed PWSCF located within or outside the Town of Brewster, with or without the use of repeaters, or can reasonably be provided by modification or adjustments to said sites; or
    - [2] That the Town of Brewster already has adequate coverage from this provider; or
    - [3] That the applicant failed to meet any application filing requirements set forth in regulations promulgated by the Planning Board; or
    - [4] That the application fails to meet applicable use, siting, dimensional, and setback requirements set forth in § 179-40.1E, or any applicable regulations promulgated by the Planning Board pursuant to § 179-40.1J.
  - (b) Any decision by the SPGA to deny an application for special permit under this section shall be in conformance with Section 332 of the Act [47 U.S.c. § 332(c)(7)(B)(iii)] in that it shall be in writing and supported by substantial evidence contained in the record.

#### H. Terms of special permit.

- (1) Pursuant to the provisions of Massachusetts General Laws, Chapter 40A, Section 9, a special permit shall lapse 24 months following the issuance thereof if construction of, or a substantial use of, the PWSCF has not sooner commenced (excluding such time required to pursue or await the determination of an appeal taken under General Laws, Chapter 40A, Section 17).
- (2) A special permit issued for any PWSCF over 35 feet in height shall be valid for 15 years, unless previously abandoned or discontinued.
- (3) At the end of that time period, the PWSCF shall be removed by the carrier or a new special permit shall be required.
- (4) Any permit issued by the SPGA for a PWSCF shall be valid for the applicant only; it may not be reassigned, leased or sold.

- I. Severability. The provisions of this section are severable from each other, and the invalidity of any provisions or sections shall not invalidate any other provision or section thereof.
- J. Amendments. This section may be amended from time to time in accordance with Section 5 of Chapter 40A of Massachusetts General Laws.
- K. Validity. The invalidity, unconstitutionality or illegality of any provision of this section or any boundary described herein shall not have any effect upon the validity, constitutionality or legality of any other provision or boundary.
- L. Rules and regulations. After public notice and public hearing, the SPGA shall, if it deems necessary, promulgate rules and regulations to effectuate the purpose of this section, including but not limited to performance standard regulations relative to design, environmental, safety, access and utility standards, reconstruction or replacement of existing towers, and modifications to existing PWSCFs, and regulations governing monitoring and maintenance, abandonment and discontinuance of use, and indemnification, insurance and fee requirements. Public notice shall include publication of all proposed regulations in a newspaper of general circulation in the Town not less than 21 days prior to public hearing. Failure by the SPGA to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this section.

**§ 179-40.2. Wind energy turbines. [Added 11-5-2007 FYTM, Art. 16]**

- A. Purpose and intent. It is the express purpose of this section to accommodate wind energy turbines (WET) in appropriate locations, while minimizing any visual, safety and environmental impacts. This section enables the review of WETs by the Town's Planning Board in keeping with the Town's existing bylaws. This section is intended to be used in conjunction with other regulations adopted by the Town, including historic district regulations, staff review, and local bylaws designed to encourage appropriate land use, environmental protection, adequate infrastructure development, and the preservation of historical, cultural, archaeological, architectural and recreational values. The scale of the proposed WET will determine the review and permitting process required by the Town of Brewster. **[Amended 5-2-2011 ATM, Art. 32]**
- B. Consistency with federal law. This section is intended to be consistent with state and federal law and, in particular the regulations of the Federal Communications Commission and Federal Aviation Administration.
- C. Definitions and word usage. As used in this section, the following terms shall have the meanings indicated below. The word "shall" or "will" indicates mandatory requirements. Terms and words not defined herein but defined in the Brewster Town Code, Chapter 179, Zoning, or in the Commonwealth of Massachusetts State Building Code shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meanings given in the then most current edition of the Webster's Unabridged Dictionary.

**BLADE** — Extensions from the hub of a WET which are designed to catch the wind and turn the rotor to generate electricity.

**EQUIPMENT SHELTER** — An enclosed structure, cabinet, shed or box at the base of the mount, or close to the base of the mount, where batteries, electrical equipment and other appurtenant nonhazardous components or materials may be housed.

**FALL ZONE** — The area on the ground within a prescribed radius from the base of a WET. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) and, in the case of towers, shall not be less than a radius equal in distance to the total height of the WET.

The area within the fall zone shall be under the legal care, custody and control of the WET applicant. Applicants who own contiguous parcels of land that will be included within the fall zone must file ANR applications to relocate any property lines within the fall zone.

FEDERAL AERONAUTICAL ADMINISTRATION (FAA) — The governmental agency responsible for regulating airways in the United States

FEDERAL COMMUNICATIONS COMMISSION (FCC) — The government agency responsible for regulating telecommunications in the United States.

HUB — The center of the rotor to which the blades are attached.

HUB HEIGHT — The height as measured from the natural grade of the land below the WET to the center of the hub.

LARGE-SCALE WIND ENERGY TURBINE (LWET) — Wind energy system consisting of a wind turbine, a tower, and associated control or conversion electronics, whose total height is more than 130 feet above natural grade. LWETs shall have a rated capacity of more than 60 KW and be intended primarily to produce energy for sale to the grid, for consumption off-site.

MEDIUM-SCALE WIND ENERGY TURBINE (MWET) — Wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, whose total height is between 75 feet and 130 feet above natural grade. MWETs shall have a rated capacity in excess of 60 KW, be intended primarily to produce energy for on-site power consumption and reduce the need to purchase utility power from the grid, and have the ability to sell power back to the grid.

NACELLE — The frame and housing at the top of the tower which protects the gear box and generator from weather and helps control the mechanical noise level.

ROTOR — A WET's blades and the hub to which they are attached.

ROTOR DIAMETER — The diameter of a WET's rotor measured as twice the length of the largest blade (or equal to the diameter of the swept area).

SHADOW/FLICKER — Shadows cast from WETs which generally occur in close proximity to the WET, although this will vary depending on the time of year, latitude and turbine height. Flicker effects can occur when the sun shines through the rotor blades at certain times of day and results in the temporary blocking of the sun's rays with each pass of a rotor blade.

SITE, WET — The land that is, or will be, temporarily or permanently altered during the construction and use of any WET, including the fall zone. The applicant shall offer proof of ownership of the site or control of said site via an existing, lawful easement, lease, license or land use agreement.

SMALL-SCALE WIND ENERGY TURBINE (SWET) — Wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, whose total height is between zero and 75 feet above natural grade. SWETs shall have a rated capacity of not more than 60 KW, be intended primarily to produce energy for on-site power consumption and reduce the need to purchase utility power from the grid, and have the ability to sell power back to the grid.

SPECIAL PERMIT GRANTING AUTHORITY (SPGA) — The Brewster Planning Board shall be the special permit granting authority for purposes of this section.

TOTAL HEIGHT — Combined height as measured from the natural grade at the base of the tower to the tip of the rotor blade when extended vertically 90° from the horizontal plane of the ground.

TOWER —

(1) A structure supporting WET generators and associated equipment, including but not limited to

the following:

- (a) Monopole tower. The type of mount that is self-supporting with a single shaft of wood, steel, fiberglass, or concrete, and a platform (or racks) for nacelle and blades arrayed at the top.
  - (b) Guyed tower. A monopole or lattice tower that is tied to the ground and supported by diagonal cables attached to concrete and steel anchors embedded in the ground.
  - (c) Lattice tower. A self-supporting mount constructed of structural steel with multiple legs and cross bracing of structural steel.
- (2) Guyed and lattice towers may be utilized for SWET and MWET installations. Only monopole towers shall be utilized with LWET installations.

**TOWER HEIGHT** — The height as measured from the natural grade of the land below the WET to the top of the tower.

**WIND ENERGY TURBINE (WET)** — Any structure or facility used for the converting of wind energy to electric power, including, but not limited to, towers, blades, motors, transmission wires, buildings, monopoles or other support structures, constructed, installed or operated, or to be constructed, installed or operated.

**WIND MONITORING OR METEOROLOGICAL (TEST OR MET) TOWERS** — Towers which support mechanical devices such as anemometers and their support structures which elevate them to the height desired above the natural grade to measure wind speed, variability and direction in order to determine wind-to-electrical-energy conversion capabilities at a specific site. Such towers shall not exceed 175 feet in total height and shall carry aircraft warning lights. The owners shall file FAA Form 7460 and receive FAA approval before erecting an MET tower, and shall remove the MET tower after 18 months restoring the site to its original condition.

D. Use, site and dimensional regulations.

- (1) Use regulations. All WET or MET towers shall require a building permit and may be permitted as follows:
- (a) MET towers. MET towers shall be permitted in all zone districts subject to the issuance of a special permit and a building permit. Provided these towers are only used to measure the wind regime at a site, a building permit may be issued for the construction of a tower subject to the following conditions:
    - [1] The tower shall be removed after a period of 18 months;
    - [2] The site shall be restored to its original condition following removal of the tower;
    - [3] The tower shall not be erected until the applicants file FAA Form 7460;
    - [4] The tower shall have a fall zone and conform to setback requirements; and
    - [5] The tower shall carry aircraft warning lights and shall be painted with alternating red and white sections.
  - (b) WET facilities. The permitting process for WET facilities shall be dictated by the size and scale of the proposal. SWETs of less than 75 feet total height may be permitted in any district, provided they meet all the building code requirements. MWETs of 75 to 130 feet

in total height shall only be permitted by special permit. LWETs of greater than 130 feet in total height shall require a special permit and shall only be erected on land located within the districts described in Subsection H.

- (2) Site control. The applicant seeking to install a WET facility or a MET tower shall submit documentation of his legal right to use the proposed site when applying for a special permit. Documentation should include proof of control over the setback and clear areas required by this section.
- (3) Setback.
  - (a) All WET facilities and their associated equipment shall comply with the building setback provisions of the zoning district in which the facility is located.
  - (b) In reviewing a special permit application for a WET facility, the SPGA may reduce the required setback for accessory buildings/structures if the applicant can produce sufficient evidence to the SPGA that no potential exists for damage or damage claims from any other party.
  - (c) The following setbacks shall be observed for LWET facilities:
    - [1] In order to ensure public safety, the minimum distance from the base of any tower to any property line, road (except for roads used exclusively for servicing the LWET), habitable dwelling, business, institution, or public recreational area shall be equal to the fall zone.
    - [2] The fall zone for LWET facilities must be kept free of all habitable structures during the operational life of the facility. Fall zone areas shall be measured from the base of the tower.

E. Small-scale wind energy turbines (SWET).

- (1) The Building Commissioner is hereby established as the permit granting authority for SWET facilities. A permit may be issued for the erection of a SWET in any designated district or in connection with any permitted use in a designated commercial or residential district, provided that the below conditions are met.
- (2) Stand-alone SWETs may not be placed on lots of less than 40,000 square feet; however, a SWET which will be attached to an existing structure and will not exceed the building height restriction in the zoning district in which it will be located, may be located on a lot smaller than 40,000 square feet at the discretion of the Building Commissioner.
- (3) No portion of a SWET shall be located within a wetland area.
- (4) Total height of a SWET shall be limited to less than 75 feet from natural grade to top of extended rotor blade.
- (5) All portions of a SWET support structure must meet the setback requirements for the zone where the land is located. A SWET must be setback from all habitable structures on abutting properties by an area equal to or exceeding the distance of the fall zone. Said setback shall not be required when the abutting owner(s) grants an easement to the applicant. In a case where the applicant is also the owner of the abutting property, refer to definition of "fall zone" and requirements to expunge lot lines.

- (6) The noise level at the lot line may not exceed 10 dB(A) over the ambient sound level and must comply with the existing Town of Brewster Noise Bylaw.<sup>71</sup>
- (7) Climbing access to the tower structure shall be limited by a) placing fixed climbing apparatus no lower than 10 feet from the ground, and b) placing a six-foot fence or shielding around the SWET.
- (8) Building permit applications for SWET shall be accompanied by standard drawings of all structures, including the tower, base, footing, guy wires, guy anchors, and any additional equipment or housings. Also included shall be a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to all federal, state and local codes.
- (9) No SWET shall be installed until evidence has been supplied to the Town that the utility company has approved the applicant's proposal to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this utility certification.

F. Medium-scale wind energy turbine (MWET).

- (1) The construction of a MWET is subject to the issuance of a special permit pursuant to § 179-51. The proposed MWET must comply with all the requirements of this section, the Zoning Bylaws, and the wind energy conversion turbine special permit regulations adopted by the Brewster Planning Board.

G. Large-Scale Wind Energy Turbine (LWET).

- (1) The construction of a LWET may only be permitted in the Large-Scale Wind Energy Conversion Turbine Overlay District, subject to issuance of a special permit pursuant to § 179-51. The proposed LWET must comply with all the requirements of this section, the Zoning Bylaws, and the wind energy conversion turbine special permit regulations adopted by the Brewster Planning Board.

H. Large-Scale Wind Energy Turbine Overlay District. There is hereby established a Large-Scale Wind Energy Turbine Overlay District within the Town of Brewster. This district consists of the following parcels of property shown on the Large-Scale Wind Energy Turbine Overlay District Zoning Map on file with the Brewster Building Department, the Brewster Planning Department and the Brewster Town Clerk.

- (1) Map 44, Parcels: 8, 9, 10, 13, 15, 16, 17, 18, 18-1, 19, 19-1, 19-2, 19-3, 21, 22-1, 22-2, 23, 24, 25, 27, 28, 29, 30, 30-1, 33, 34, 34-1, 34-2, 35, 37.
- (2) Map 45, Parcels: 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22-23, 22-24, 23, 24-21, 24-22, 24-28, 25, 26, 27, 28, 30, 31, 32, 32-1, 33, 33-1, 34, 35-1, 35-2, 37, 39, 39-1, 40, 41, 42, 43, 44, 45, 45-1, 46, 58-1, 59, 66, 67, 68, 69, 70-1, 70-2, 71, 72, 76, 77, 78, 79, 80-1, 80-2.32, 33, 34, 34-1, 35, 39, 40, 41, 41-2, 55, 56, 57, 58, 81.
- (3) Map 46, Parcels: 1, 2, 3, 4, 5, 6, 9, 12-1, 12-2, 12-3, 14-1, 14-2, 31, 32, 33, 34, 34-1, 35, 39, 40, 41, 41-2, 55, 56, 57, 58, 81.
- (4) Map 47, Parcels: 24, 25, 26, 27, 28, 29, 32-1, 32-2, 32-3, 33, 35, 36, 37, 38, 42, 43, 46, 47, 48, 50, 51, 52, 58, 64, 90, 91.

---

71. Editor's Note: See Ch. 125, Noise.

- (5) Map 52, Parcels: 1, 2-1, 2-2, 3, 6, 17, 18, 24, 26, 27, 29, 30-1, 30-2, 70, 94.
- (6) Map 53, Parcels: 3, 6-1, 6-4, 6-6.
- (7) The Industrial (I) District: All parcels located within said District within the Town of Brewster.
- (8) The Municipal Refuse District (MRD): All parcels located within said district within the Town of Brewster.
- (9) All Town-owned properties: All parcels currently owned by the Town of Brewster, and any future property acquisitions, provided there are no legal restrictions or restrictions on the title to prevent or prohibit such development.

I. Special permit application procedures for medium- and large-scale wind energy turbines.

- (1) Special permit granting authority (SPGA).
  - (a) The SPGA shall not approve any application that does not comply with all the requirements of this section and the special permit regulations for wind energy conversion turbines adopted by the Brewster Planning Board. The Board does, however, have the right to waive any part of this section without the requirement of a variance, when it makes a specific finding that such a waiver would not be detrimental to the public interest, cause the Town any expense, or be inconsistent with the intent and purpose of this section.
  - (b) The SPGA shall act in accordance with the standards and requirements set forth herein and in accordance with the Massachusetts General Laws.
  - (c) The SPGA shall open the public hearing on the application within 65 days of the filing of an application for a special permit and shall issue a decision within 90 days following the date of the close of the public hearing.
- (2) Preapplication staff review meeting. Prior to filing a special permit application with the SPGA, and after review by the Cape Cod Commission, if required, the applicant shall request a meeting for staff review for purposes of discussing the proposed WET in general terms and reviewing the relevant local approvals required. Staff review shall take place with the applicant under this section within 30 days following a written request submitted to the Town Planner or a designee. If the staff review meeting fails to take place on a project within said thirty-day period, the applicant may proceed with a special permit application under this section without need for a preapplication meeting. The applicant shall prepare sufficient preliminary architectural and engineering drawings to inform staff of the location of the proposed facility, as well as its scale and overall design. Staff shall issue a statement containing any written recommendations or proposed alterations it recommends be made to the proposal to better conform to the provisions of any Town bylaw or to better serve the public interest. A written copy of the staff review statement must be included in the application to the SPGA. **[Amended 5-2-2011 ATM, Art. 32]**

J. Approval criteria; required findings and denials.

- (1) Approval criteria. In reviewing all applications for special permits, the SPGA shall utilize as approval criteria all applicable use, siting, dimensional, and setback requirements set forth in § 179-51 and any applicable regulations promulgated by the SPGA pursuant to this section.
- (2) Required findings for issuance of special permit. The SPGA shall make the following applicable

findings, with appropriate reasoning, in writing, prior to the granting of any special permit:

- (a) The proposed WET will not have an undue adverse impact on historic resources, scenic views, natural resources, and/or residential property values;
  - (b) The applicant has agreed to implement all reasonable measures to mitigate the potential adverse safety, environmental, and aesthetic impacts of the WET;
  - (c) The proposed WET shall comply with current FCC and FAA standards regarding flight and air navigation hazard identification and prevention;
  - (d) The applicant has agreed to any maintenance and monitoring requirements set forth in any regulations promulgated by the SPGA;
  - (e) The proposed WET shall be sited or camouflaged or screened to the greatest extent possible to minimize adverse visual impacts; and
  - (f) The applicant meets the criteria set forth in Subsection D as well as all performance standards and requirements contained in any regulations promulgated by SPGA pursuant to this section. The SPGA reserves the right to require the applicant to set aside fees in accordance with MGL c. 40A.
- (3) Denials.
- (a) The SPGA may deny a special permit if it finds:
    - [1] That the applicant failed to meet any application or filing requirements set forth in regulations promulgated by the SPGA; or
    - [2] That the application fails to meet applicable use, siting, dimensional, and setback requirements set forth in this section, or any applicable regulations promulgated by the SPGA pursuant to this section.
  - (b) Any decision by the SPGA to deny an application for special permit under this section shall be in conformance with MGL c. 40A.

K. Terms of special permits.

- (1) A special permit shall lapse 24 months following the issuance thereof if construction of or substantial use of the WET has not commenced (excluding any appeal periods).
- (2) A special permit issued for any MWET shall be valid for 15 years, unless previously abandoned or discontinued. A special permit issued for any LWET shall be valid for 25 years, unless previously abandoned or discontinued. **[Amended 5-3-2010 ATM, Art. 29]**
- (3) At the end of the initial time period, the MWET or LWET shall be removed or a new special permit shall be required. Any special permit extension beyond the original fifteen-year term for a MWET or the original twenty-five year term for a LWET shall terminate within 10 years or upon the manufacturer's estimated useful life for the model and type of said WET or WET component equipment. A special permit may be extended for up to a maximum of 10 years, provided the applicant provides an inspection and certification by a licensed structural engineer. **[Amended 5-3-2010 ATM, Art. 29]**
- (4) Any permit issued by the SPGA for an MWET or LWET shall only be valid for the applicant or



the applicant's financier pursuant to a step-in or default provision; it may not be otherwise assigned, leased or sold. **[Amended 5-3-2010 ATM, Art. 29]**

- L. Severability. The provisions of this section are severable from each other, and the invalidity of any provisions or sections shall not invalidate any other provision or section thereof.
- M. Amendments. This section may be amended from time to time in accordance with Section 5 of Chapter 40A of Massachusetts General Laws.
- N. Validity. The invalidity, unconstitutionality or illegality of any provision of this section or any boundary described herein shall not have any effect upon the validity, constitutionality or legality of any other provision or boundary.
- O. Rules and regulations. After public notice and public hearing, the SPGA shall, if it deems necessary, promulgate rules and regulations to effectuate the purpose of this section. Public notice shall include publication of all proposed regulations in a newspaper of general circulation in the Town not less than 21 days prior to public hearing. Failure by the SPGA to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this section.

#### **§ 179-41. Environmental performance standards.**

Any use permitted by right or special permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance, glare, liquid or solid, refuse or wastes; or conditions conducive to the breeding of insects, rodents or other substance, conditions or element in an amount as to affect adversely the surrounding environment.

#### **§ 179-42. Subsidized elderly housing. [Added 12-10-1979 STM, Art. 37]**

The Planning Board may grant a special permit for construction and occupancy of subsidized elderly housing in accordance with the following:

##### **A. Application.**

- (1) Application for a special permit for subsidized elderly housing shall include materials indicating subsidies committed or sought; the proposed form of tenure (rental or condominium); occupant selection system; a schedule indicating, by year, the number of dwelling units and the improvements proposed to be constructed, schematic floor plans, architectural elevations and cross sections as necessary to clarify the proposal; and a site plan indicating the information required at § 179-34, Multifamily dwellings, also indicating existing and proposed topography, areas of existing trees or other vegetation to be retained and wetlands, if any. In addition, it is advisable for the applicant to submit material relating this proposal to the criteria of § 179-42F below.
- (2) Following approval of the special permit and prior to the issuance of a building permit, site plan approval must be granted by the Planning Board. Application for such approval shall, in addition to further detailing all of the above, locate lighting, solid waste facilities and erosion control proposals; and shall include description of methods proposed for securing site improvements in the event that partial occupancy is proposed prior to their completion. Site plan approval shall be granted, provided that the Planning Board determines that the further detailing

of the design has been consistent with both the stipulations of the special permit and with the design guidelines of § 179-42E.

- B. Number limitation. The provisions of this section shall not be used to increase the Town-wide number of subsidized dwelling units by more than 125 dwelling units in excess of that number which is consistent with local needs as defined in MGL c. 40B, § 20.
- C. Dimensional requirements. Minimum required lot area, regardless of district, shall be 10 contiguous acres in single or consolidated ownership at the time of application, at least 75% of which must be buildable upland as defined in this chapter. The average density for the entire lot shall not exceed eight dwelling units per acre. Other district area, height and bulk regulations of Article V for the location in question must be complied with.
- D. Multifamily rules. All provisions of § 179-34, Multifamily dwellings, shall apply to such development, except that Subsection A(1) above shall apply not only in C-H District but also in all other districts where subsidized housing is allowed, and except that actions designated for the Board of Appeals shall be taken by the Planning Board.
- E. Design.
  - (1) To minimize departure from single-family residential scale, there shall be no more than four dwelling units served from a single entrance. No exterior building wall shall extend for more than 100 feet without a horizontal offset of six or more feet, and no building shall exceed 200 feet in length. Parking areas shall not contain more than 24 parking spaces each, with parking areas of 12 or more spaces separated from each other by 50 feet or more.
  - (2) To avoid lighting impacts, outdoor lighting fixtures shall be mounted no higher than 15 feet, oriented and shielded to avoid glare on adjoining premises and plantings or other screening used to block headlight glare from drives and parking lots onto adjoining premises.
  - (3) To avoid traffic concern, any egress serving 24 or more dwelling units shall have at least 250 feet visibility in each travel direction.
  - (4) The design of building form, building location, egress points, grading and other elements of development shall:
    - (a) Protect pedestrian and vehicular safety within the site and egressing from it.
    - (b) Minimize visual intrusion of parking areas as viewed from public ways or abutting premises.
    - (c) Minimize the volume of earth cut and fill.
    - (d) Minimize the number of removed trees four inches in diameter and larger.
    - (e) Control soil erosion.
    - (f) Avoid more than a 10% increase in peak hour stormwater flow increase from the site.
    - (g) Control headlight glare.
- F. Decision. A special permit for subsidized elderly housing shall be granted only if the Planning Board determines that the proposal would have beneficial effects which overbalance any adverse impacts on the neighborhood or the Town considering the following:

- (1) Municipal costs and revenues.
- (2) Effect on the range of available housing choices.
- (3) Service to current Brewster residents.
- (4) Service to identified housing needs.
- (5) Support for local business activity and jobs.
- (6) Impacts on the natural environment, especially on ground- and surface water quality and level.
- (7) Impacts on traffic safety and congestion, adequacy of water service and need for other public services.
- (8) Impacts on the visual environment through preservation or displacement of visual assets and consistency with existing development in the area.

**§ 179-42.1. Affordable housing. [Added 11-18-2002 FYTM, Art. 16; amended 11-5-2007 FYTM, Art. 19]**

- A. For the purposes of encouraging affordable housing, as defined in Article I, § 179-2B, this section shall control, subject to the following general conditions and standards.
- B. General conditions.
  - (1) Affordable housing units created pursuant to this section shall be use-restricted for as long as they shall exist in accordance with any special conditions allowed herein. Said restrictions and/or conditions shall be noted on the occupancy permit and recorded at the Barnstable County Registry of Deeds. Proof of such recording shall be submitted to the Zoning Enforcement Official prior to occupancy.
  - (2) Affordable housing units shall only be leased to and/or used by families/individuals meeting one of the categories of qualified persons as defined in § 179-2B, "affordable housing." Affordable housing units' maximum rents shall be governed by the Massachusetts Department of Housing and Community Development regulations, and shall not exceed the maximum rent under the then current guidelines.
  - (3) Affordable housing units shall only be occupied as year-round residential domiciles. Leases for affordable housing units shall be for a minimum term of 12 months.
  - (4) (Reserved)<sup>72</sup>
  - (5) To the extent permitted by law, current employees of the Town of Brewster and residents of the Town of Brewster shall receive preference in the selection of tenants for affordable housing units.
  - (6) (Reserved)
  - (7) Record title holders of property upon which an affordable housing unit is situated, or will be situated, shall be solely responsible for submitting all of the information required under this section to the Zoning Enforcement Official.

---

72. Editor's Note: Former Subsection B(4), regarding occupancy restrictions on affordable housing units, was repealed 12-3-2018 FYTM, Art. 12.

- (8) Failure to comply with any provision contained in § 179-42.1 shall constitute a violation under the Zoning Bylaws and shall be subject to fines and penalties enumerated in § 179-49, except that each day a violation is found to exist shall constitute a separate offense. Any fines rendered as a result of a violation of § 179-42.1 shall be deposited in the Brewster Affordable Housing Fund account for future expenditure towards affordable housing projects and/or programs.

C. Standards.

- (1) (Reserved)<sup>73</sup>
- (2) (Reserved)<sup>74</sup>
- (3) Affordable multifamily dwelling units (AMDU).
- (a) (Reserved)

**§ 179-42.2. Accessory single-family dwelling units (ADUs). [Added 12-3-2018 FYTM, Art. 12; amended 11-13-2023FYTM by Art. 5]**

The purposes of this ADU section are to promote the creation of year-round rental dwelling units in the Town; to increase housing choice and the diversity of housing types in the Town; and to preserve the community, especially by facilitating housing that allows seniors, working people and young adults to remain and live in Brewster; all while supporting the existing desirable character of Brewster's residential neighborhoods and districts. Accessory single-family dwelling units shall be permitted subject to the following standards:

- A. An ADU may be located within, connected to or adjoining a single-family dwelling, or in a detached, accessory residential building to a single-family dwelling, subject to all standards of this section. An ADU shall maintain a separate entrance(s), either directly from the outside or through an entry or shared corridor sufficient to meet the requirements of the State Building Code for safe egress. Also see the "Definitions" section of this chapter, § 179-2.
- B. There shall be no more than one ADU per lot.
- C. An ADU shall have no more than two bedrooms and no more than 1,000 square feet of net floor area.
- D. A minimum of one parking space for the ADU shall be provided in addition to the parking spaces for the principal dwelling.
- E. A detached, accessory residential building in which an ADU is located shall not otherwise contain bedrooms not associated with the ADU.
- F. An ADU shall be subject to and comply with all other provisions of this chapter, as applicable, including without limitation the building height, coverage and setback requirements for the underlying lot, either as set out in Table 2, Area Regulations, Table 3, Height and Bulk Regulations,<sup>75</sup> or as otherwise may be permitted in Article VIII of this chapter. To the extent there is conflict between the provisions in this section and other provisions in this chapter, the provisions in this section shall control.

73. Editor's Note: Former Subsection C(1), Affordable accessory single family dwelling units (AADU), was repealed 12-3-2018 FYTM, Art. 12.

74. Editor's Note: Former Subsection C(2), Affordable accessory commercial dwelling units (AACDU), was repealed 12-3-2018 FYTM, Art. 12.

75. Editor's Note: Said tables are included as attachments to this chapter.

- G. There shall be no minimum lot size required to construct and maintain an ADU. However, a special permit, pursuant to the applicable standards in § 179-51 herein, and Table 1, Use Regulations,<sup>76</sup> shall be required from the Planning Board for an ADU on a lot less than 15,000 square feet.
- H. Either the principal dwelling or the ADU shall be occupied by the owner of the property on a year-round basis, except for bona fide temporary absences, and the other dwelling unit shall be used for year-round dwelling purposes, leased or occupied for continuous periods of not less than 12 months at a time. Notwithstanding the foregoing, an owner who does not so occupy the property on a year-round basis may apply for a special permit from the Planning Board, pursuant to the applicable standards in § 179-51 herein, to authorize an ADU on the property and the use of whichever dwelling unit(s) said owner does not intend to occupy, either the principal dwelling, the ADU, or both, for year-round dwelling purposes, to be leased or occupied for continuous periods of not less than 12 months at a time. Pursuant to its special permit authority under § 179-51 of this chapter, the Planning Board may consider and require, among other things, safeguards to ensure that privacy to abutting properties is reasonably maintained and that there are appropriate management and facilities in place to serve the dwelling units.
- I. An ADU shall be used and designed consistent with the single-family residential nature of the underlying property. An ADU shall not be used as an accommodations-type use, such as a lodging house. There shall be no subletting, renting of rooms, or boarding of lodgers in an ADU on a short-term basis, and no short-term rental use shall be permitted on a lot containing an ADU.
- J. An ADU shall be subject to all applicable state and local laws and regulations, including without limitation the State Building Code and related certificate of occupancy requirements; state plumbing, electrical, and fire codes; Title 5, 310 CMR 15.00, and the State Sanitary Code, 105 CMR 410.00, and corresponding local Board of Health regulations; and state and local wetlands laws and regulations.
- K. An ADU shall not be severed in use or ownership from the principal dwelling to which it is accessory, including but not limited to subjecting the underlying lot or any portion thereof to the condominium form of ownership.
- L. The owner of a property with an ADU shall be required to file a written affidavit with the Building Department certifying compliance with the standards of this section, including the use and occupancy standards. The Building Department shall establish, administer, and maintain, and may amend from time to time, the affidavit process and forms referenced herein.
- M. The Building Commissioner is authorized to establish an administrative permitting and/or registration process for ADUs, in addition to other permits or approvals that might be required, to assist in documenting ADUs in the Town for informational or zoning compliance purposes.
- N. Without limiting other enforcement remedies or actions available under this chapter, including fines, the Building Commissioner is authorized to order that the cooking facilities and supporting utilities and fixtures within an ADU be removed in order to abate a violation of this section.

### **§ 179-42.3. Accessory commercial dwelling units (ACDUs). [Added 12-3-2018 FYTM, Art. 12]**

Accessory single-family dwelling units shall be permitted subject to the following standards:

- A. An ACDU may be located within or adjacent to a commercial building, or in a building on the same

---

76. Editor's Note: Said table is included as an attachment to this chapter.

lot as a commercial use, subject to the Definitions of § 179-2; the requirements of Table 1, Use Regulations, and Table 2, Area Regulations/Minimum Required Lots; and all standards of this section.

- B. An ACDU may be located in a Commercial High Density or Village Business District.
- C. An ACDU may be located within a Zone II (Zone of Contribution to a Public Drinking Water Well), in the watershed of the Herring River, or the watershed to Pleasant Bay, subject to approval of a Special Permit by the Zoning Board of Appeals. All ADU's within these areas shall be required to install advanced nitrogen treatment septic systems, if deemed necessary.
- D. All construction in connection with an ACDU shall conform to building setbacks for a commercial building in the Zoning District where it is located.
- E. The property owner shall be required to file a notarized affidavit with the Building Department annually, stating that the ACDU will be, and/or has been, leased for a period of not less than 12 months.
- F. No more than 20 building permits shall be issued for the combined total of ADUs and ACDUs in a single calendar year.
- G. There shall be no renting of rooms or boarding of lodgers in an ACDU.
- H. An ACDU shall conform to all applicable State and local laws regulating new construction or new residential use including the State Building Code and applicable plumbing, electrical, fire, health and conservation regulations and bylaws. A Certificate of Occupancy shall be required for any ACDU.

ARTICLE X  
**Administration and Enforcement**

**§ 179-43. Enforcement. [Amended 11-13-2006 FYTM, Art. 30]**

This chapter shall be enforced by the Building Commissioner, assisted by a Zoning Agent appointed by the Selectmen. Buildings, structures or signs may not be erected, substantially altered, moved or changed in use, and land may not be changed in principal use without certification by the Building Commissioner that such action is in compliance with then-applicable zoning, or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state or local law. Issuance of a building permit or certificate of use and occupancy, where required under the Commonwealth of Massachusetts State Building Code, may serve as such certification.

**§ 179-44. Action by Zoning Agent. [Amended 11-13-2006 FYTM, Art. 30]**

Materials submitted in application for such certification shall, upon receipt, be forwarded by the Building Commissioner to the Zoning Agent, who within three weeks of receipt by him shall determine whether the proposal is eligible to proceed, requires a special permit or is not in compliance with this chapter. The Zoning Agent shall also take such action as may be necessary to secure full compliance with the provisions of this chapter and of permits and variances issued hereunder, including notification of noncompliance and request for legal action through the Building Commissioner and Selectmen to Town Counsel.

**§ 179-45. Previously approved permits.**

The status of previously approved permits shall be determined in this article.

**§ 179-46. Establishment of fees.**

Fees shall be established by the Selectmen.

**§ 179-47. Conformance to subsequent amendments.**

Construction or operations under a building or special permit shall conform to any subsequent amendment of this chapter unless the use or construction is commenced within a period of six months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

**§ 179-48. Notice of violation and order. [Amended 11-13-2006 FYTM, Art. 30]**

The Building Commissioner or Zoning Agent shall serve a notice of violation and order to any owner or person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change in use, increase in intensity of use or extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this chapter and such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner who has been served with a notice and ceases any work or other activity shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare.

**§ 179-49. Violations and penalties. [Amended 1-13-1986 STM, Art. 15; 11-17-2003 FYTM, Art. 20; 5-3-2004 ATM, Art. 23]**

- A. Any person, trust or other enterprise who violates or refuses to comply with any of the provisions of this chapter, any of the conditions under which a permit is issued or any decision rendered by the Board of Appeals may be fined by the Inspector of Buildings a sum of up to \$300 for each offense, unless otherwise noted in this chapter. Failure to respond to a properly issued citation within 21 days will make the person, trust or other enterprise not in compliance with the pertinent Zoning Bylaw, unless afforded protection under Article VIII of this chapter, and subject to the following penalty:
- (1) First offense: warning.
  - (2) Second offense: fine of \$100.
  - (3) Third offense: fine of \$200.
  - (4) Fourth and subsequent: fine of \$300.
- B. Any Zoning Bylaw of the Town of Brewster enforceable by the Inspector of Buildings or his designee may, as an alternative to initiating criminal proceedings, be enforced by the Inspector of Buildings or his designee by the method provided in MGL c. 40, § 21D.
- C. For zoning violations of building permits, special permits, variances, certificates of occupancy, orders, bylaws, and statutes, or the conditions of any other permit or certificate issued under this chapter, the Building Commissioner may impose fines and institute enforcement actions, either criminal or civil, either legal or equitable or both. Each day the violation continues shall be a separate offense. **[Added 11-13-2006 FYTM, Art. 26]**

#### **§ 179-50. Board of Appeals.**

- A. Membership. There shall be a Board of Appeals of five members and four associate members. **[Amended 8-27-1984 STM, Art. 67]**
- B. Appointment. Members of the Board in office at the effective date of this chapter shall continue in office. Hereafter, as terms or vacancies occur, the Select Board shall make appointments pursuant to the Zoning Act. **[Amended 11-13-2017 FYTM, Art. 13]**
- C. Powers. The Board shall have those powers granted under the Zoning Act.
- D. Adoption of rules. The Board shall adopt rules to govern its proceedings pursuant to the Zoning Act.
- E. Appeals. Appeals to the Board shall be taken in accordance with the rules of the Board.

#### **§ 179-51. Special permits.**

- A. Certain uses, structures or conditions are designated as permitted on special permit in § 179-11, Table of Use Regulations, and elsewhere in this chapter. Upon application duly made to the Board of Appeals or other designated Special Permit Granting Authority (SPGA), in appropriate cases and subject to appropriate conditions and safeguards, such special permits and no others may be granted. If an applicant needs a special permit from the Planning Board acting under either Article IX, Special Regulations, § 179-40.1, Personal Wireless Services and Communication Facilities Bylaw, or Article XII, Site Plan Review, and another special permit from the Board of Appeals, the applicant may file a single, combined, special permit application with the Planning Board, and in those instances, the Planning Board is authorized to grant all special permit relief in one proceeding and decision. The applicant shall comply with all requirements, and the Planning Board shall apply the appropriate criteria, including the criteria of § 179-51, to the various components of such an application.



**[Amended 5-11-1992 ATM, Art. 33; 11-15-1993 FYTM, Art. 16; 5-3-1999 ATM, Art. 32; 5-3-2004 ATM, Art. 22; 11-13-2006 FYTM, Art. 21; 5-5-2008 ATM, Art. 21; 5-2-2011 ATM, Art. 32; 5-2-2011 ATM, Art. 31]**

- (1) Applications. Written application shall be made to the SPGA for such permit containing a statement of the proposed use or uses, a site plan showing the proposed site development and, in the case of a multifamily development, plans in accordance with § 179-34 and such other related information concerning the proposed use of the premises as the SPGA shall require.
- (2) Hearing action. Within 65 days of the receipt of such application, the SPGA shall hold a public hearing. The notice of the time and place of such hearing and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing. The SPGA shall send notice by mail, postage prepaid, to all parties in interest as specified in MGL c. 40A § 11. At the hearing, any party whether entitled to notice thereof or not may appear in person or by agent or by attorney. Thereafter, the SPGA shall grant the permit, grant the permit upon specific conditions, or deny the permit within 90 days of the date of said hearing. The SPGA shall cause to be made a detailed record of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and setting forth clearly the reason or reasons for its decisions and of its official actions, copies of all of which shall be immediately filed in the office of the Town Clerk and shall be a public record, and notice of decisions shall be mailed forthwith to the parties in interest as designated above, to the Planning Board and to every person present at the hearing who requests that notice be sent to him and states the address to which such notice is to be sent. Upon the granting of a limited or conditional zoning variance or special permit, the SPGA shall issue to the landowner a notice, certified by the Chairman or Clerk, containing the name and address of the landowner, identifying the land affected and stating that a limited or conditional variance or special permit has been granted, which is set forth in the decision of the SPGA on file in the office of the Town Clerk of the Town in which the land is located. No such variance or permit shall take effect until such notice is recorded in the Barnstable County Registry of Deeds. The fee for recording such notice shall be paid by the owner, and the notice shall be indexed in the grantor index under the name of the owner of record.
- (3) Conditions. Special use permits shall be granted upon the concurring vote of four or more members of the Board of Appeals or by the concurring vote of five or more members of the Planning Board and only after the following considerations, where applicable: written reports from the Inspector of Buildings and the Zoning Agent with regard to the specific site as an appropriate location for the use or structure; written reports from the Brewster Board of Health and, where applicable, the Massachusetts Department of Environmental Quality Engineering with regard to the adequacy of public sewerage and water systems; written reports from the Planning Board with regards to any roads or subdivision of land within any multifamily development; written reports from the Police and Fire Departments with the regard to the safety and convenience of travel on ways within and adjacent to any multifamily development and with regard to any possible adverse effect on the neighborhood; written reports from the Town Engineer with regard to the proper construction of ways and drainage within any multifamily development; written reports from the Architectural Advisory Committee with regard to their findings relative to any multifamily development; and, after consideration, that there are adequate and appropriate facilities to ensure the proper operation of the proposed use (structure, condition or development). The SPGA shall authorize such special permit only when it finds that, in view of these considerations and subject to the special regulations stated in Article XI,

such permit is consistent with the intent of this chapter and generally in conformity with the Brewster Master Plan, as last revised.

- (4) Expirations. Construction or operations under a special permit shall conform to any subsequent amendment of this chapter unless the use or construction is commenced within a period of six months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- (5) Findings.
  - (a) No special permit shall be granted unless the SPGA finds that the proposed uses are in harmony with the purpose and intent of this chapter and will not be detrimental or injurious to the neighborhood in which it is to take place, or to the public, and that all requirements, standards and conditions for the granting of the special permit have been satisfied. No special permit shall be granted unless the SPGA determines that the proposed use will not be detrimental to the surrounding neighborhood and Town in light of each of the following conditions:
    - [1] The proposed use is consistent with the purpose and intent of the Town of Brewster's Comprehensive Plan.
    - [2] The location, type, character and size of the use/ building, or other structure in connection therewith, will be in harmony with the visual character of the neighborhood, including views and vistas and, where applicable, the historic character of the neighborhood.
    - [3] The site is suitable for the proposed use.
    - [4] Adequate access will be provided for the purpose of fire protection, police protection and other emergency equipment.
    - [5] The streets serving the proposed use are adequate (width, grade, construction, overall safety and design capacity) to carry all prospective traffic and adequate provision is made for entering and leaving the proposed site such that no undue hazard to traffic congestion will be created.
    - [6] The proposed use/development has incorporated applicable trip reduction measures, where possible, in order to minimize vehicular trips to and from the site. These include company sponsored carpooling/vanpooling, bicycle and pedestrian incentives and/or variable work-hour or flextime programs.
    - [7] Adequate parking and loading facilities are provided in accordance with § 179-22.
    - [8] The site will be suitably landscaped to protect the character of the neighborhood and adjacent property.
    - [9] The proposed use has an adequate method of sewage disposal, source of water and drainage.
    - [10] Adequate utilities and other public services will be provided.
    - [11] The proposed use will not result in the degradation of groundwater quality or coastal water quality off site.

[12] The location and design of buildings, roads, parking and loading areas will not cause avoidable damage to wildlife habitats or corridors or to any plant species listed as endangered, threatened or of special concern by the Massachusetts Natural Heritage and Endangered Species Program.

[13] The proposed use complies with all applicable provisions of this Zoning Bylaw.

- (b) It shall be the responsibility of the applicant, at the time an application for the special permit is made, to provide plans and reports which describe the proposed development's conformance with the required findings of this section. Any data, plans and reports submitted in support of an application may be used to identify additional conditions and stipulations of approval of a special permit.
  - (c) The SPGA shall also make such further findings as may otherwise be required by this chapter and may attach such conditions or safeguards or limitations on the grant of the special permit as it finds to be appropriate and reasonable to protect the surrounding neighborhood and town.
- (6) Referral.
- (a) The SPGA shall refer all special permit applications to the Board of Health and, where applicable, to the Building and Zoning Commissioner, Massachusetts Department of Environmental Protection, Conservation Commission, Planning Board, Police and Fire Departments, Department of Public Works and Brewster Historic District Committee for written comments and recommendations before taking action on said special permit application. In addition to the above noted Boards, the SPGA may refer a special permit application to any other board/committee/department for comments and recommendations if it so desires before taking final action on said special permit application. A public hearing on said referral shall not be required.
  - (b) Any such board/committee/department to which applications are referred for comment shall make its recommendations and send copies thereof to the SPGA and the applicant within 35 days of receipt of the referral request by the SPGA, or there shall be deemed no opposition or desire to comment. The SPGA shall not act upon said special permit until either comments from each referred board/committee/department have been received or said 35 days have elapsed, whichever is sooner. Applications referred to more than one board or agency may be reviewed jointly by said boards or agencies.
- B. Not counting the period of an appeal, special permits shall lapse 24 months after they are available to the applicant unless 1) a substantial use of the special permit has begun 2) construction has started and has proceeded as reasonably practical, or 3) the special permit holder demonstrates to the special permit granting authority good cause for not complying with 1) or 2). Special permits may specify a date or dates by which events must occur or construction must be completed in order for the special permit holder to avoid the lapse of that special permit. **[Amended 11-13-2006 FYTM, Art. 27]**

#### **§ 179-52. Variances.**

- A. The Board of Appeals may hear and decide appeals or petitions for variances from the terms of this chapter, including variances for use, with respect to particular land or structures. Such variance shall be granted only in cases where the Board of Appeals finds all of the following:
  - (1) A literal enforcement of the provisions of this chapter would involve a substantial hardship,

financial or otherwise, to the petitioner or appellant.

- (2) The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located.
- (3) Desirable relief may be granted:
  - (a) Without substantial detriment to the public good.
  - (b) Without nullifying or substantially derogating from the intent or purpose of this chapter.
- B. In authorizing a variance, the Board may impose conditions, safeguards and limitations, both of time and use, including the continued existence of any particular structures but excluding any conditions, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner. **[Amended 11-13-1989 STM, Art. 31]**

ARTICLE XI  
**Water Quality Protection District**  
**[Added 5-9-1994 ATM, Art. 51<sup>77</sup>]**

**§ 179-53. Purpose. [Amended 11-17-2008 FYTM, Art. 17<sup>78</sup>]**

The purposes of this Water Quality Protection Bylaw are:

- A. To promote the health, safety and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions and businesses of the Town of Brewster;
- B. To preserve and protect all existing and potential sources of drinking water supplies within Brewster's borders;
- C. To identify uses that should be prohibited or allowed only by special permit and to establish performance standards that must be met for all uses within a Zone I, Zone II and/or the District of Critical Planning Concern ("DCPC"). **[Amended 11-15-2021FYTM by Art. 10]**
- D. To protect groundwater and surface water resources from viral, pathogenic, phosphorus and nitrogen contamination and pollution from stormwater runoff;
- E. To complement the commonwealth's Department of Environmental Protection regulations governing groundwater protection and the commonwealth's efforts to protect surface and coastal waters;
- F. To protect other sensitive water resource areas, including those land areas that contribute recharge to private drinking water supply wells;
- G. To conserve the natural resources of the Town; and
- H. To prevent temporary and permanent contamination of the water resources of the Town.

**§ 179-54. Scope of authority; overlay district. [Amended 11-17-2008 FYTM, Art. 17; 10-19-2009 FYTM, Art. 18]**

This bylaw establishes regulations governing land uses and structures and their potential impact upon the Town's water resources. The provisions of Article XI are superimposed over all zoning districts and all land within the Town of Brewster and shall function as an overlay district. Where this article establishes rules, regulations, requirements, standards or provisions that are stricter than the underlying zoning districts, including those uses and structures found in Table 1 of the Zoning Bylaw, the provisions of this article shall control. In addition, this article establishes specific requirements for land uses and activities within those portions of the Town of Brewster mapped and identified on the Zoning Map as the District of Critical Planning Concern ("DCPC"), entitled "Brewster Water Protection District," as adopted by the Barnstable County Assembly of Delegates pursuant to the Cape Cod Commission Act, which includes "Zone I" and "Zone II" and the "Groundwater Protection District" and the "Pleasant Bay Watershed."

**§ 179-55. Definitions. [Amended 11-17-2008 FYTM, Art. 17]**

As used in this article, the following terms shall have the following meanings indicated:

---

77. Editor's Note: This article also repealed former Art. XI, Water Resource District, added 5-11-1982 ATM, Art. 88, as amended.

78. Editor's Note: This article also changed the title of Art. XI from Groundwater Protection District to Water Quality Protection District.

**AQUIFER** — Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

**BEST MANAGEMENT PRACTICES** — Any structural or nonstructural mechanism designed to minimize the impact of non-point source pollution on receiving waters or resources, including, but not limited to: detention ponds, construction or installation of vegetative swales and buffers, street cleaning, reduced road salting, and public education programs. **[Amended 11-15-2021FYT by Art. 10]**

**BUILDER'S ACRE** — A unit of land measure equal to 40,000 square feet, which is considered a building acre in accordance with standard real estate practices.

**COMMERCIAL FERTILIZERS** — Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed by its manufacturer to have value, in promoting plant growth. Commercial fertilizers do not include unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum.

**EARTH REMOVAL** — The removal or relocation of geologic materials, such as topsoil, sand, gravel, metallic ores or bedrock. Mining activities are considered earth removal, whether the disturbed natural materials are removed from the site or reworked on the site.

**DEP** — The Massachusetts Department of Environmental Protection.

**DEVELOPMENT** — The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mine, excavation, landfill, or land disturbance; and/or any change in use, or alteration or extension of the use, of land.

**DISCHARGE** — The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of toxic or hazardous material or waste upon or into any land or water so that such hazardous waste or any constituent thereof may enter the land or waters of Brewster. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site leaching structure or sewage disposal system.

**HAZARDOUS OR TOXIC MATERIALS** — Any substance or mixture of physical, chemical or any infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Brewster. Hazardous or toxic materials include, without limitation, organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, solvents and thinners and products such as pesticides, herbicides in quantities greater than normal household use; and all substances defined as hazardous or toxic under MGL c. 21C and MGL c. 21E, using the Massachusetts Oil and Hazardous Substance List (310 CMR 40.0000), and 310 CMR 30.000.

**HAZARDOUS MATERIAL OR WASTE, HOUSEHOLD QUANTITY OF** — Any or all of the following:

- A. Two hundred seventy-five gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator; and
- B. Twenty-five gallons (or the dry weight equivalent) or less of other hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator; and
- C. A quantity of hazardous waste at the very small quantity generator level as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR 30.353.

**HISTORICAL HIGH GROUNDWATER TABLE ELEVATION** — A groundwater elevation determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.

**IMPERVIOUS SURFACE** — Material or structure on, above or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

**LANDFILL** — A facility established in accordance with a valid site assignment for the purposes of disposing of solid waste into or on the land, pursuant to 310 CMR 19.006.

**LOT** — As per § 179-2, Definitions.

**MINING** — The removal or relocation of geologic materials, such as topsoil, sand, gravel, metallic ores or bedrock whether the disturbed natural materials are removed from the site or reworked on the site. **[Amended 11-15-2021FYTM by Art. 10]**

**NITROGEN MANAGEMENT** — The process of ensuring that nitrogen generated by land uses does not exceed established capacities of the resources receiving nitrogen inputs.

**NONSANITARY WASTEWATER** — Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage, including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

**OPEN DUMP** — A facility which is operated or maintained in violation of the Resource Conservation and Recovery Act [42 U.S.c. § 4004(a)(b)], or the regulations and criteria for solid waste disposal.

**PETROLEUM PRODUCT** — Petroleum or petroleum byproduct, including, but not limited to: fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas, including, but not limited to, liquefied natural gas, propane or butane.

**POTENTIAL DRINKING WATER SOURCES** — Areas that could provide significant potable water in the future.

**PROCESS WASTEWATER** — All wastewater disposed of on site other than sanitary wastewater.

**RECHARGE AREAS** — Areas that collect precipitation or surface water and carry it or have it pumped to aquifers. Recharge areas may include areas designated as Zone I, Zone II or Zone III.

**SEPTAGE** — The liquid, solid, and semisolid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material that is a hazardous waste, pursuant to 310 CMR 30.000.

**SLUDGE** — The solid, semisolid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the headworks of a facility.

**STORMWATER MANAGEMENT** — The process of ensuring that the magnitude and frequency of stormwater runoff does not increase the hazards associated with flooding and that water quality is not compromised by untreated stormwater flow.

**SUBDIVISION** — The division or redivision of a lot, tract, or parcel of land into two or more lots, tracts, or parcels in accordance with MGL c. 41 § 81L.

**TIGHT TANK** — Any and all containers or devices with regard to or used for wastewater disposal as defined and regulated by the State Sanitary Code, 310 CMR 15.260.

**TREATMENT WORKS** — Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

**VERY SMALL QUANTITY GENERATOR** — Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

**WASTE OIL RETENTION FACILITY** — A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL c. 21, § 52A.

**WATER QUALITY REVIEW COMMITTEE (WQRC)** — Committee to be appointed by the Select Board to include seven members; one member each from the Select Board, Board of Health, Planning Board, Conservation Commission, and Water Commissions, the Brewster Building Commissioner and the Brewster Health Agent. At the initial appointment, to occur no later than three weeks after the effective date of this bylaw, members other than the Building Commissioner and the Health Agent shall be appointed for one-, two- and three-year terms and thereafter all members shall be appointed for three-year terms. The Building Commissioner and Health Agent shall serve as members of the WQRC while they are employed in their respective positions. **[Amended 11-18-2013 FYTM, Art. 10; 11-13-2017 FYTM, Art. 13; 11-15-2021FYTM by Art. 10]**

**ZONE I** — The immediate land area around a well. It is defined as a four-hundred-foot protective radius for wells greater than 100,000 gpd and a radius of 100 to 400 feet for wells less than 100,000 gpd, depending upon the pumping rate. The Zone I must be owned by the water supplier or controlled through a conservation restriction. Only water supplier activities are allowed in the Zone I.

**ZONE II** — The DEP-approved area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated as defined in 310 CMR 22.00. The Zone II includes the Zone I.

**ZONE III** — The land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. Zone III boundaries are determined by identifying the topographic surface water drainage divides. The surface water drainage area commonly coincides with the groundwater drainage; however, in areas where they are not coincident, the Zone III encompasses both the surface and groundwater drainage area.

**§ 179-56. Use regulations. [Amended 11-17-2008 FYTM, Art. 17]**

A. Provided that all necessary permits, orders, or approvals as required by local, county, state, or federal law are also obtained, the following uses and activities shall not independently trigger the need for a special permit and shall be allowed as long as the uses and activities comply with applicable performance standards established in § 179-57. **[Amended 11-15-2021FYTM by Art. 10]**

- (1) (Reserved)
- (2) (Reserved)
- (3) Retail/wholesale sales/office/commercial uses with a lot size below 40,000 square feet and building area less than 5,000 square feet that store or handle hazardous materials or wastes in amounts that do not exceed household quantities;
- (4) Construction activities: The activities of constructing, repairing, or maintaining any building or structure, provided that all contractors, subcontractors, laborers, and their employees follow all local, county, state and federal laws when using, handling, storing, or producing any hazardous materials or wastes;
- (5) Household use: the use of hazardous materials or wastes in amounts that do not exceed



household quantities;

- (6) Municipal use: the municipal use of hazardous materials and any materials stored and used for the sole purpose of water supply treatment or as required by law; and
  - (7) Storage of oil(s): the storage of oil(s) used for heating fuel, provided that the container used for such storage shall be located within an enclosed structure that is sufficient to preclude leakage of oil to the external environment and to afford routine access for visual inspection and shall be sheltered to prevent the intrusion of precipitation;
  - (8) Conservation of soil, water, plants, and wildlife;
  - (9) Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
  - (10) Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
  - (11) Use and development of single-family residential dwelling units;
  - (12) Use of land pursuant to an approved definitive subdivision plan, special permit, or variance;
  - (13) Farming, gardening, nursery, conservation, forestry, harvesting, and grazing;
  - (14) Construction, maintenance, repair, and enlargement of drinking-water-supply-related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels;
  - (15) Underground storage tanks related to permitted activities.
- B. Prohibited uses within the Town of Brewster. The following uses are prohibited throughout and within the Town of Brewster:
- (1) (Reserved)
  - (2) Landfills receiving only wastewater and/or septage (wastewater residuals "monofils") as defined in 310 CMR 32.05, approved by the DEP pursuant to MGL c. 21, §§ 26 through 53; MGL c. 111, § 17; MGL c. 83, §§ 6 and 7, and regulations promulgated thereunder.
  - (3) Storage of sludge and septage, as defined in 310 CMR 32.05, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.
  - (4) Storage of deicing chemicals, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads, unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
  - (5) Storage of animal manure, unless such storage is covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
  - (6) Earth removal not consistent with § 179-39 of the Brewster Zoning Bylaw.
  - (7) Facilities that generate, treat, store or dispose of hazardous waste subject to MGL c. 21C and 310 CMR 30.000, except for the following:
    - (a) Very small quantity generators of Class A regulated recyclable material as defined under 310 CMR 30.000.

- (b) Household hazardous waste centers and collection events under 310 CMR 30.390.
  - (c) Waste oil retention facilities required by MGL c. 21, § 52A.
  - (d) Water remediation treatment works approved by the Department of Environmental Protection (DEP) designed in accordance with 314 CMR 5.00 for the treatment of contaminated groundwater or surface waters and operated in compliance with MGL c. 21E and 310 CMR 40.0000.
- (8) Automobile graveyards and junkyards, as defined in MGL c. 140B, § 1.
- (9) Storage of dry hazardous materials, as defined in MGL c. 21E, unless in a freestanding container within a building or above ground with adequate secondary containment adequate to contain a spill the size of the container's total storage capacity.
- (10) Storage of fertilizers unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- (11) (Reserved)<sup>79</sup>
- (12) Any commercial floor drainage system which discharges to the ground without a DEP permit or authorization. **[Amended 11-15-2021FYTM by Art. 10]**
- C. Prohibited uses within Zones I and Zones II of the Groundwater Protection District. The following uses, which may be allowed in other areas of the Town of Brewster, are prohibited in Zones I and II of the Groundwater Protection District. Notwithstanding language to the contrary found within § 179-52 of the Zoning Bylaw, no variance for a use or activity not otherwise permitted shall be granted by the Board of Appeals within Zones I or Zones II of the Groundwater Protection District.
- (1) Storage of liquid petroleum and/or liquid hazardous products (as defined in MGL c. 21E), except the following: normal household use, outdoor maintenance and heating of a structure; fuel storage facilities as licensed by the Town; waste oil retention facilities required by statute, rule or regulation; emergency generators required by statute, rule or regulation.
  - (2) Petroleum, fuel oil, and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas.
  - (3) Treatment works that are subject to 314 CMR 5.00 (not Title 5 septic systems), including privately owned sewage treatment facilities, except for the following:
    - (a) The replacement or repair of an existing treatment works that will not result in a system capacity greater than the system capacity of the existing treatment works;
    - (b) The replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a system capacity greater than the system capacity of the existing system(s);
    - (c) Treatment works approved by DEP designed for the treatment of contaminated groundwater; and

---

79. Editor's Note: Former Subsection B(11), regarding land uses that create more than 15% or 2,500 square feet of impervious surface, was repealed 11-15-2021FYTM by Art. 10.

- (d) Sewage treatment facilities in those areas with existing water quality problems when it has been demonstrated to DEP and the Planning Board's satisfaction that these problems are attributable to current septic problems and that there will be a net improvement in water quality.
  - (4) Stockpiling and disposal of snow or ice removed from highways and streets located outside of a Zone II that contains sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.
  - (5) Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material within 10 vertical feet of historical high groundwater table elevation, as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.
  - (6) Industrial and commercial uses which discharge process wastewater on site.
  - (7) Facilities or works for the treatment or disposal of nonsanitary wastewater that are subject to 314 CMR 5.00, or that discharge to the ground nonsanitary wastewater, including industrial and commercial process waste water, except the following:
    - (a) The replacement or repair of an existing system/treatment works that will not result in a design capacity greater than the design capacity of the existing system/treatment works;
    - (b) Treatment works approved by the Department of Environmental Protection designed for the treatment of contaminated groundwater and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
    - (c) Publicly owned treatment works.
  - (8) Storage of commercial fertilizers, as defined herein and in MGL c. 128, § 64.
  - (9) Gasoline stations, automotive service stations or car washes or motor vehicle or commercial boat storage or repair. For the purposes of this chapter, "commercial" is defined as any activity involving the sale of goods or services carried out with the intent of earning a profit.
  - (10) Dry-cleaning establishments.
- D. Uses/structures allowed by special permit.
- (1) Unless otherwise exempted or prohibited elsewhere by this article and as otherwise permitted in the underlying zoning district, the following uses and activities shall require a special permit from the Planning Board. Where the use or activity requires a special permit from another special permit granting authority, the provisions of this article shall nevertheless apply, although the Planning Board and the other special permit granting authority may hold a combined public hearing pursuant to MGL c. 40A, § 9 in lieu of separate public hearings:
    - (a) (Reserved)
    - (b) The application for the construction of 10 or more dwelling units, whether on one or more contiguous lots, tracts, or parcels, or whether contained within one or more structures;
    - (c) The application for a nonresidential use of 40,000 square feet or greater in lot size or 5,000 square feet or greater of gross floor area; **[Amended 11-15-2021FYTM by Art. 10]**

- (2) Provided that the following uses and/or structures are permitted by the underlying zoning district and other relevant regulations, a special permit may be issued by the Planning Board for the following uses and/or structures, provided that the Planning Board may impose conditions upon the use or structure, consistent with the authority provided in MGL c. 40 § 9, such that the use or structure will not, in the Planning Board's sole judgment, be inconsistent with the purpose and intent of this bylaw. Notwithstanding the powers hereby conveyed by this article and MGL c. 40A, § 9 to the Planning Board and in recognition of the expertise found within the members of the Water Quality Review Committee, the Planning Board shall, in accordance with the procedures of MGL c. 40A, § 11, cause all applications for a special permit pursuant to this article to be submitted to the Water Quality Review Committee for the Committee's comments and recommendations as provided by MGL c. 40A, § 11. The Planning Board shall include in its decision an explanation regarding any substantive deviation from the Committee's recommendation regarding the approval, denial or conditional approval of the special permit application.
- (a) The application of fertilizers for nondomestic or nonagricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition and sedimentation and shall conform to Chapter 119 of the Brewster Town Code, Fertilizer Nutrient Control. **[Amended 11-18-2019FYTM, Art. 6]**
  - (b) The construction of dams or other water control devices, ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses, or drainage improvements.
  - (c) (Reserved)<sup>80</sup>
  - (d) Any use which involves on-site wastewater disposal facilities having over 10,000 gallons per day capacity or disposal of process waste from operations other than personal hygiene and food for residents, patrons and employees.
  - (e) Commercial boat and motor vehicle storage, service or repair. For the purposes of this Chapter, "commercial" is defined as any activity involving the sale of goods or services carried out with the intent of earning a profit.
  - (f) Storage of home heating fuels in approved containers in amounts greater than 275 gallons or in the aggregate, greater than 275 gallons.
  - (g) Treatment works that are subject to 314 CMR 5.00, including privately owned sewage treatment facilities, and:
    - [1] The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works.
    - [2] The replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s).
    - [3] Treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater.

---

80. Editor's Note: Former Subsection D(2), regarding uses that create more than 15% or 2,500 square feet of impervious surface, was repealed 11-15-2021FYTM by Art. 10.

- [4] Sewage treatment facilities in those areas with existing water quality problems when it has been demonstrated to the Department of Environmental Protection's and the special permit granting authority's satisfaction both that these problems are attributable to current septic problems and that there will be a net improvement in water quality.

**§ 179-57. Performance standards. [Amended 11-17-2008 FYTM, Art. 17; 10-19-2009 FYTM, Art. 18]**

To preserve the natural land surface providing high-quality recharge to the groundwater, to limit sewage flow and fertilizer application to amounts which will be adequately diluted by natural recharge and to prevent the discharge or leakage of toxic or hazardous substances into the surface and groundwater resources, all new, altered or expended uses within Zone I, Zone II and/or the DCPC area shall meet the following performance standards, in addition to those requirements imposed by this article or the Planning Board:

- A. No new, altered or expanded uses within Zone I, Zone II and/or the DCPC area shall exceed a five-parts-per-million (ppm) nitrogen loading standard based on the methodology contained in the Brewster Board of Health Nitrogen Loading Regulation. The overall concentration of nitrate nitrogen resulting from domestic wastewater disposal, road runoff, fertilizer application, and other nitrogen sources, when diluted by rainwater recharge on the lot, shall not exceed five parts per million (5 ppm). The policies and procedures in the Brewster Board of Health Nitrogen Loading Regulation will be used to confirm compliance with the 5 mg/L standard. The regulation requires the use of a nitrogen loading spreadsheet developed by the Board of Health to calculate the nitrogen concentration for a subject property based on the proposed land uses. The Board of Health or the Health Agent, or their designee, will review the proposed project and the nitrogen loading spreadsheet calculations for compliance with the health regulation and the performance standards in this bylaw. **[Amended 11-18-2019FYTM, Art. 6; 11-15-2021FYTM by Art. 10]**
- B. All toxic or hazardous materials shall be stored in product-tight containers, protected from corrosion, accidental damage or vandalism and shall be used and handled in such a way as to prevent spillage with provisions for spill containment and cleanup procedures. In addition, commercial enterprises shall be required to maintain a product inventory and reconcile said inventory with purchase, use, sales and disposal records at sufficient intervals to detect product loss. Subsurface fuel and chemical storage facilities in compliance with local regulations and Massachusetts fire prevention regulations shall be deemed to be in compliance with this standard.
- C. No toxic or hazardous materials shall be present in waste disposed on the site. Waste composed in part or entirely of toxic or hazardous materials shall be retained in product-tight containers for removal and disposal by a licensed scavenger service or as directed by the Board of Health.
- D. Contaminant levels in groundwater resulting from disposal of any substance from operations, other than personal hygiene and food for residents, patrons and employees or from wastewater treatment and disposal systems greater than 10,000 gallons per day capacity, shall not exceed those levels specified in the Drinking Water Regulations of Massachusetts, 310 CMR 22.00, after allowing for dilution by natural recharge on the premises. If higher, background levels of individual constituents in the groundwater shall not be exceeded.
- E. All new, altered or expanded uses shall comply with the requirements of the Stormwater Management Bylaw (Chapter 272) to collect, treat and manage stormwater. **[Amended 11-15-2021FYTM by Art. 10]**

F. (Reserved)<sup>81</sup>

G. Sand and gravel removal operations shall be limited to a plane that is at least 10 feet above the historical high groundwater level for that location. Land area exposed at any one time shall be limited to no more than five contiguous acres in surface area and land disturbed by sand and gravel removal operations shall be returned to a natural vegetative state within one year of completion of operations.

H. Monitoring of regulated substances in groundwater monitoring wells. If required by the Planning Board, groundwater monitoring well(s) shall be provided at the expense of the applicant in a manner, number, and location approved by the Planning Board. Except for existing wells found by the Planning Board to be adequate for this provision, the required well(s) shall be installed by a water well contractor. Samples shall be analyzed and analytical reports that describe the quantity of any hazardous material or waste present in each monitoring well shall be prepared by a Massachusetts certified laboratory.

**§ 179-58. Prohibited uses within Pleasant Bay Watershed. [Amended 11-17-2008 FYTM, Art. 17]**

(Reserved)

**§ 179-58.1. Uses/structures allowed by special permit within the Pleasant Bay Watershed. [Added 11-17-2008 FYTM, Art. 17]**

(Reserved)

**§ 179-58.2. Performance standards within Pleasant Bay Watershed. [Added 11-17-2008 FYTM, Art. 17]**

(Reserved)

**§ 179-59. Prohibited uses within the watersheds of surface water bodies other than Pleasant Bay. [Amended 11-17-2008 FYTM, Art. 17]**

(Reserved)

**§ 179-59.1. Uses/structures allowed by special permit within watersheds of surface water bodies other than Pleasant Bay. [Added 11-17-2008 FYTM, Art. 17]**

(Reserved)

**§ 179-59.2. Performance standards within watersheds of surface water bodies other than Pleasant Bay. [Added 11-17-2008 FYTM, Art. 17]**

(Reserved)

**§ 179-60. (Reserved) [Amended 11-17-2008 FYTM, Art. 17]**

**§ 179-61. Water quality review.**

A. Water Quality Review Committee. There is hereby established a Water Quality Review Committee

---

81. Editor's Note: Former Subsection F, regarding performance standards for stormwater management, was repealed 11-15-2021FYTM by Art. 10.

(WQRC), comprising one representative each appointed from time to time by and from the Select Board, Board of Health, Planning Board, Conservation Commission, Water Commission, Comprehensive Water Planning Committee, Health Director and Building Commissioner. **[Amended 11-18-2013 FYTM, Art. 10; 11-13-2017 FYTM, Art. 13]**

B. Certificate of water quality compliance.

- (1) A certificate of water quality compliance shall be obtained by the owner of the premises from the WQRC or, for special permit uses, from the SPGA:
  - (a) For erection of any new principal structure other than a single-family dwelling or for change in occupancy requiring a certificate of use and occupancy under the State Building Code.
  - (b) For occupancy of any premises not requiring a Certificate of use and occupancy but involving the storage, handling or transportation of toxic or hazardous wastes.
- (2) No building permit or certificate of use and occupancy shall be issued by the Building Commissioner unless a certificate of water quality compliance, if required, has been applied for or obtained.

C. Requirements. A certificate of water quality compliance shall be granted only as follows: **[Amended 11-18-2019FYTM, Art. 6]**

- (1) For new construction or additions or new activities not involving structures, only if in full compliance with all requirements of § 179-57, Performance standards.
- (2) For change in occupancy or operation on previously developed premises, only if the requirements of § 179-57B, C and D are met, and the requirements of all other subsections of § 179-57 are either met or, if previously exceeded, there will be no further increase in noncompliance.

D. Submittals. In applying for a certificate of water quality compliance or a special permit, two paper sets and one electronic copy of application materials shall be submitted to the Building Commissioner, who shall forward them to each member of the WQRC. In the case of uses requiring a special permit under § 179-56D, one set shall also be submitted to the SPGA along with any other application materials. All information necessary to demonstrate compliance must be submitted, including but not limited to the following: **[Amended 11-18-2019FYTM, Art. 6; 11-15-2021FYTM by Art. 10]**

- (1) A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures to protect from vandalism, corrosion and leakage and to provide for control of spills.
- (2) A description of potentially toxic or hazardous materials to be generated, indicating storage and disposal method.
- (3) Evidence of approval by the Massachusetts Department of Environmental Protection of any industrial waste treatment or disposal system or any wastewater treatment system over 15,000 gallons per day capacity, accompanied by analysis by a professional engineer in sanitary or civil engineering registered in the Commonwealth of Massachusetts certifying compliance with § 179-57D.

- E. Action. For uses not requiring a special permit under § 179-56D, the WQRC shall act within 21 days of application, approving it by issuing a certificate of compliance if a majority determine that the applicant has adequately demonstrated compliance with the requirements of the Water Quality Protection District, and rejecting the application otherwise. For uses requiring a special permit under § 179-56D, the WQRC shall make recommendations to the SPGA within 35 days of receipt of the application, as provided in MGL c. 40A, § 11. **[Amended 11-18-2019FYTM, Art. 6]**
- F. Certificate review.
- (1) Each three years the WQRC shall review compliance with this article and the certificate of water quality compliance. Upon request, certificate holders shall submit the following:
    - (a) Description of any changes from the originally submitted materials.
    - (b) Description of any maintenance, repair, replacement, or expansion of the existing sewage disposal system, sewage pumping, or certified inspections completed from the date of the issuance of the last certificate renewal. The certificate holder shall self-certify that the sewage disposal system has been properly maintained and is in proper operating condition. **[Amended 11-15-2021FYTM by Art. 10]**
    - (c) Results from analysis of leachate or wastewaters as may be required by the Board of Health.
    - (d) Documentation on the operation and maintenance of stormwater facilities permitted under the Stormwater Management Bylaw (Chapter 272). **[Added 11-15-2021FYTM by Art. 10]**
  - (2) Evidence of noncompliance shall be reported to the Building Commissioner for enforcement action who shall have the authority to enforce the provisions of this bylaw. **[Amended 11-15-2021FYTM by Art. 10]**

#### **§ 179-62. Enforcement.**

- A. Inspection. These provisions shall be enforced by the Building Commissioner. The Building Commissioner or agent of the Board of Health may enter upon the premises at any reasonable time to inspect for compliance with the provisions of this article. Evidence of compliance with approved waste disposal plans may be required by the enforcing officers. All records pertaining to waste disposal and removal shall be retained.
- B. Violations. Written notice of any violations shall be provided to the holder of the certificate of water quality compliance, specifying a time for compliance, including cleanup of any spilled materials which is reasonable in relation to the public health hazard involved and the difficulty of compliance, but in no event shall more than 30 days be allowed for either compliance or finalization of a plan for longer term compliance, approved by the WQRc.



## ARTICLE XII

## Site Plan Review

[Added 5-2-2011 ATM, Art. 30<sup>82</sup>; 10-29-2012 FYTM, Art. 12; 11-13-2017 FYTM, Art. 12]

**§ 179-63. Purpose.**

The purpose of this article is the protection of public health, safety and welfare through the preservation of the Town's historic and cultural character for the residents and visitors of the Town of Brewster. The site plan review process assures that the development site functions in a logical fashion with minimal impacts. The adoption of these standards (§ 179-64) ensures that future development will not degrade the existing character of the Town and surroundings and will maintain or enhance transportation flow and help preserve the Town's character and cultural assets for the residents and visitors of the Town of Brewster.

**§ 179-64. Applicability. [Amended 11-18-2024FYTM by Art. 7]**

In addition to any other permits required, the following development activities shall require a Site Plan Review from the Planning Board:

- A. Any use or development referred for site plan review under Chapter 83 of the Brewster Code ("Staff Review").
- B. The establishment of any new commercial, industrial, mixed-use or multifamily use.
- C. For existing commercial, industrial, or multifamily uses, any increase of floor area by more than 500 square feet through either a new principal building, a new accessory building, or an addition to a preexisting building.
- D. A change of use of an existing structure or lot from its current use to any other commercial, industrial, or multifamily use specified in the Table of Uses, § 179-11.<sup>83</sup>
- E. An increase in lot coverage by 10% or more associated with any existing commercial, industrial, or multifamily use.

**§ 179-65. Regulations.**

- A. If the site plan meets the requirements of this article, the Planning Board shall approve it. Such approval may include reasonable conditions to ensure the site plan standards (§ 179-66) are satisfied. The Planning Board cannot deny approval of a site plan for a use which is allowed by right (not by special permit) in the district but may impose reasonable conditions on the proposed use. The Planning Board may not impose conditions, the implementation of which would be contrary to any requirement of this bylaw or require a variance from it or any other applicable bylaw.
- B. If the project proponent needs a special permit from the Board of Appeals acting under Article VIII, Nonconforming Uses, Structures and Lots, § 179-28, Change of nonconforming uses, Subsection A, the proponent may file a single, combined special permit application with the Planning Board, and in those instances, the Planning Board is authorized to grant all special permit relief in one proceeding. The proponent shall comply with all pertinent requirements, and the Planning Board shall apply the appropriate criteria to the different components of such an application.

---

82. Editor's Note: This article also repealed former Art. XII, Corridor Overlay Protection District, added 5-9-1994 ATM, Art. 24, as amended.

83. Editor's Note: Table 1, Use Regulations, is included as an attachment to this chapter.

**§ 179-66. Site Plan Review standards.**

The purpose of these standards is to improve roadway safety and internal site circulation, aesthetics and retention of historic character. All uses requiring a Site Plan Review under this article shall meet the following standards:

**A. Transportation standards.**

- (1) Proposed uses shall not degrade the existing levels of service of surrounding roads and intersections below level of service (LOS) C, defined by the Transportation Research Board's Highway Capacity Manual, based on summer peak-hour traffic volumes. The proponent shall demonstrate that the proposed use shall maintain level of service (LOS) c. If the existing level of service is presently below LOS C, or if the LOS with the new use would fall below LOS C, the Planning Board may require a traffic study that would identify ways to improve LOS or mitigate impacts to the satisfaction of the Board.
- (2) Driveways shall be designed to provide exiting motorists with safe sight distance. Sight distance at all driveways shall meet American Association of State Highway and Transportation Officials standards as well as those set forth in Brewster's Sight Line Bylaw (Chapter 157, Article VI, of the Town Code).
- (3) All new commercial development where the project is expected to increase traffic by 20 or more daily trips, (see § 179-11, Table 1, Use Regulations)<sup>84</sup> shall prepare a trip reduction plan. The trip reduction plan shall describe traffic impact mitigation strategies designed to reduce traffic generation and may include strategies such as company-sponsored carpooling/vanpooling, bicycle and pedestrian incentive measures, and/or variable work hour or flextime programs.

**B. Access standards.**

- (1) The number of curb cuts on Route 6A, Route 124, Route 137, Underpass Road and Tubman Road shall be minimized. To the extent feasible, access to businesses shall be provided through one of the following means:
  - (a) Access through a common driveway serving adjacent lots or premises;
  - (b) Access through an existing side or rear street; or
  - (c) Access through a cul-de-sac or loop road shared by adjacent lots or premises.
- (2) The Planning Board may allow reduced setback requirements to accommodate joint driveways in cases where it is deemed advantageous to the Town.
- (3) Existing businesses are encouraged to consolidate existing access points, especially in cases where separate parcels are assembled under one purpose, plan, entity or usage.
- (4) Businesses shall be permitted one access driveway by right. Two driveways shall be permitted only when deemed necessary by the Planning Board and shall be clearly marked "entrance" and "exit."
- (5) Internal circulation shall be provided, to the greatest extent possible, among adjoining premises to encourage internal property-to-property pedestrian, bicycle and vehicular movements. Site circulation shall have clarity from the driver's perspective, aided by simple patterns and use of

---

84. Editor's Note: Said table is included as an attachment to this chapter.

planting islands or other devices in larger circulation areas.

- (6) All necessary curb cut permits shall be obtained prior to issuance of a Certificate of Occupancy by the Building Department.
- (7) Pedestrian and bicycle circulation shall be provided for between the principal building and the street and, where appropriate, adjacent development.
- (8) Driveway locations shall provide the maximum practicable separation between access locations, using shared access where feasible.
- (9) All access drives shall be separated by at least 120 feet in the C-H District and V-B District, as measured between the center line of each access drive at the street line. This standard may only be modified in cases where the Planning Board believes it is in the best interest of the Town to do so.

C. (Reserved)

D. Parking design standards.

- (1) The Town of Brewster recognizes that reliance on rigid parking and loading lot standards precludes the development of parking lots that are sensitive to the Town's historic and rural character. Yet, it also recognizes that some standards for parking and loading lot design are required, provided that they can be administered with flexibility given the individual requirements of development proposals and the parcels on which they are proposed.
- (2) Through provisions of its special permit, the Planning Board is authorized to relax any and all of numerical standards established by § 179-22, Parking and loading requirement tables, and by § 179-23, Parking and loading lot standards, if the Planning Board finds that:
  - (a) Such relaxation will not conflict with the minimum standards established by this article or the purpose of this article; and
  - (b) It will result in a development that is at least as beneficial to the Town of Brewster as the development without a relaxation of the numerical standards.
- (3) The following guidelines are set forth to assist the applicant and the Planning Board:
  - (a) Loading and unloading areas shall be provided of a sufficient size to accommodate the numbers and types of vehicles likely to use the premises, given the nature of the development proposed. Loading and unloading areas shall be located and designed to allow vehicles to safely maneuver to and from a public right-of-way and to prevent obstruction or interference with a public right-of-way, parking space or parking aisle.
  - (b) Loading areas shall be provided to the rear of the lot, wherever possible.
  - (c) Parking areas shall be located to the side or rear of the structure. No parking is permitted in the required front yard setback for the structure.
  - (d) To the extent possible, parking areas shall be shared with adjacent businesses and should be situated to the side and rear of the lot (frontage on Route 6A shall be considered the "front" of the lot).
  - (e) In cases where shared parking is provided, the Planning Board may permit a reduction in

necessary spaces since complementary uses may require less total parking area than each use individually.

- (f) Bicycle users shall be accommodated by provision of on-site bicycle parking storage and bicycle and walking paths.
- (g) Drainage facilities shall be designed and constructed for parking areas in such a way as to contain and treat stormwater runoff on the premises, as well as comply with design standards referred to in § 179-57 of the Zoning Bylaw.

E. Landscaping, design and appearance standards.

- (1) A year-round landscaped buffer strip shall be provided adjacent to any public road to visually screen parking and other uses from the road, where feasible, and without interfering with vehicular or pedestrian safety. The screened buffer shall be appropriate to the site and planted with a combination of grass, medium-height shrubs, evergreen varieties preferred, and shade trees along the road frontage. Applicants are expected to review Brewster's Sight Line Bylaw, Chapter 157, Article VI, of the Town Code, prior to designing parking lot landscaping plans.
- (2) At least 25% of the required front yard area shall be vegetated.
- (3) A landscaped buffer strip of approximately ten-foot depth shall be provided adjacent to adjoining uses, excluding areas providing shared access and parking. The buffer strip shall be planted with a combination of grass, medium-height shrubs (evergreen varieties preferred) and shade trees.
- (4) Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using plantings, a wall or tight fence complemented with plantings or through some other means deemed acceptable to the permit granting authority.
- (5) Shrubs and trees which die shall be replaced within one growing season. All landscaped areas shall be maintained, as approved.
- (6) Buildings and architectural design shall be compatible with the character and scale of the adjacent roadway and surrounding neighborhood.
- (7) Structures shall be sited so as to allow separations between buildings, particularly to encourage open space in the site and reduce building massing.
- (8) The use of bituminous paving shall be minimized.
- (9) Old, well-established trees shall be protected by siting buildings and parking around or within the existing landscape.
- (10) Building design shall adhere to the guidelines of the Brewster Historic District Committee in locations subject to review by the Committee.

F. Environmental protection requirements.

- (1) Stormwater management. All development shall be designed so that resulting stormwater patterns resemble, as nearly as possible, preexisting conditions of volume, velocity, quality and location of runoff. Any increase over predevelopment runoff peak rate shall be authorized only if staff review determines that any potential problems with capacity, downstream erosion or

siltation will be prevented through on- or off-site improvements or compensatory actions and that the public interest is better served by allowing the increase than by denying it.

- (2) No land altering activity, including clearing, grading, excavating or construction is permitted until all the required permits have been obtained.
- (3) Erosion control.
  - (a) Any area of bare earth exposed through building or site development or demolition must be permanently stabilized through replanting, paving or other means of eliminating wind or water erosion. Such stabilization must be completed prior to building occupancy or, where no building is committed, within 60 days of exposure, or a performance bond must be posted in an amount sufficient to assure completion of such work.
  - (b) Existing grade shall be changed minimally, typically departing from existing grade by no more than six feet and resulting in a balance on site between cut and fill, except for basement and cellar excavations.
  - (c) All construction must comply with the following. An erosion control plan shall be submitted for every development which will expose more than 60,000 square feet of bare earth during development through either removal or filling on the same parcel or on contiguous parcels in the same ownership and for developments exposing 20,000 to 60,000 square feet of bare earth where staff review deems such plan to be necessitated by slopes in excess of ten-percent highly erodible soils or other unusual conditions. Such plan shall have sufficient information on existing and proposed topography, vegetation and control measures to allow determination of compliance.
    - [1] Stripping of vegetation, regrading or other development shall be done in a way which will minimize soil erosion.
    - [2] Whenever practical, trees and other natural vegetation shall be retained, protected and supplemented.
    - [3] The disturbed area shall be kept to a minimum.
    - [4] Where necessary, temporary vegetation and/or mulching shall be used to protect areas exposed during development.
    - [5] Sediment basins (debris basins, desilting basins or silt traps) shall be installed and maintained where necessary to remove from runoff waters any sediment from land undergoing development.
    - [6] The angle of graded slopes and fills shall be no greater than two horizontal to one vertical. Slopes left exposed must immediately be planted or otherwise provided with permanent ground cover or other means sufficient to restrain erosion.
    - [7] A ground cover sufficient to restrain erosion must be planted or otherwise provided within 30 working days, season permitting, on any portion of the tract upon which further active construction is not being undertaken.
    - [8] The development plan shall be fitted to the topography and soils so as to minimize erosion potential.

G. Plants and animals.

- (1) New development and redevelopment proposals located in a mapped Natural Heritage and Endangered Species Program (NHESP) area are required to file with the Natural Heritage Program and provide the written determination from the NHESP prior to receiving Site Plan approval.
- (2) Specimen plants and trees, especially trees exceeding 12 inches in diameter, shall be preserved or relocated when possible. Applicants shall be required to submit signed documentation from the Conservation Commission or its agent that the project has been reviewed by the Conservation Commission with respect to these considerations. The Conservation Commission or its agent may determine that the proposed site either contains no such habitats or species or that all feasible efforts to avoid, minimize or compensate for damage have been reflected in the proposal.

H. Lighting.

- (1) Lighting shall be downward casting and full shielded so as to not illuminate areas off the property. A photometric lighting plan shall be required for all new development. The Planning Board may determine whether a photometric plan is required for redevelopment. Light poles shall be no higher than necessary to provide safe levels of nighttime illumination.
- (2) No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing reflected from the sky.

- I. Noise. Where exterior noise levels after construction are expected to exceed 100 decibels at the source for more than 15 minutes at a time, continually on a regular or sporadic basis, the applicant shall be required to show the Planning Board the means by which this impact shall be mitigated. The Board shall have the authority to require greater degrees of mitigation if the Board is not satisfied that the resultant noise level will have a minimal effect on surrounding neighborhoods or wildlife habitats.

**§ 179-67. Waivers; severability.**

- A. Waivers. When in the opinion of the Planning Board the requirements of § 179-66, Site Plan Review standards, do not substantially change the relationship of the structure to the site and to abutting properties and structures, the Planning Board may determine, without a public hearing, that Site Plan Review for special permit approval is not required. Upon receipt of written request, such a determination may be made by an affirmative vote of a majority of the Planning Board present, and in no event fewer than four members.
- B. Severability. The provisions of this article are severable from each other, and the invalidity of any provisions or sections shall not invalidate any other provision or section thereof.

**§ 179-68. (Reserved)**

ARTICLE XIII  
**Natural Resource Protection Design**  
[Added 10-19-2009 FYTM, Art. 17<sup>85</sup>]

**§ 179-69. Purpose**

The primary purpose of this article is to protect water resources and preserve the open space of Brewster as identified on the map submitted with the application for the designation of the District of Critical Planning Concern (DCPC). This article, therefore, is intended to foster compact development patterns using flexible regulations for density and lot dimensions and to promote and encourage creativity in neighborhood design. The Town wishes to encourage the use of natural resource protection design ("NRPD") because NRPD results in the protection of water resources and the preservation of contiguous open space and important environmental resources, while allowing design flexibility. NRPD reduces development impacts on surface water and groundwater, forests, farmland, wildlife habitats, large tracts of contiguous open space, environmentally sensitive areas, steep slopes, scenic views and historically and culturally significant areas. NRPD also helps to reduce areas of impervious surface when compared to traditional grid subdivisions. To encourage this type of development, NRPD is allowed by right, subject only to the requirements of the regulations governing the subdivision of land.<sup>86</sup> NRPD that does not require approval as a subdivision is allowed by right subject to endorsement by the Planning Board.

**§ 179-70. Applicability.**

- A. A NRPD may be proposed anywhere in the area known as the "DCPC" in Brewster, as designated on July 16, 2008, when that area has an underlying residential designation.
- B. Subsection A above applies only to subdivisions of land as defined in MGL c. 41, § 81L, and not to construction of homes or businesses on individual lots that existed prior to the effective date of this bylaw. If subdivision approval is not required and an approval not required (ANR) plan is filed because a new roadway is not proposed, an applicant may apply for a NRPD under this article. If the proposed NRPD also involves one or more common driveways, density bonuses, and/or any other use that requires a special permit, the proceedings for all such special permits shall occur in one consolidated special permit proceeding before the Planning Board. It should be noted that a special permit will be required for any other type of subdivision or for any plan for a NRPD that does not conform to the requirements herein. Maximum density allowances for all non-NRPD projects requiring a special permit shall be consistent with the allowable residential densities calculated for NRPD projects in § 179-72.2.

**§ 179-71. Development impact statement and natural resource analysis.**

In order to enable the Planning Board to determine whether or not a proposed NRPD (or development by special permit that deviates from the requirements for NRPD) satisfies the purposes and standards of this article, an applicant must present sufficient information on the environmental and open space resources for the Board to make such determination. The required information shall be provided in the form of a development impact statement, including a "natural resource analysis" as described in Subsection B(3) of § 290-10 of the Subdivision Rules and Regulations. In the case of a NRPD that is not a subdivision (i.e., an ANR), the applicant shall not be required to submit a full development impact statement. However, the

---

85. Editor's Note: This article also redesignated former Art. XIII, Amendments and Validity, as Art. XIV, and former §§ 179-69 and 179-70 as §§ 179-76 and 179-77, respectively.

86. Editor's Note: See Ch. 290, Subdivision Rules and Regulations.

Planning Board may require the submission of all or part of a natural resource analysis as described in the subdivision regulations.

**§ 179-71.1. Natural resource analysis and findings.**

- A. Prior to filing an application, an applicant is encouraged to meet with the Planning Board to discuss the natural resources on the site. At such a meeting, the Planning Board shall indicate to the applicant which land is likely to have the most conservation value and be most important to preserve based on the statement of purpose in § 179-69 and where development may be most appropriately located. The Planning Board shall consult with the Conservation Administrator to determine the land areas with the most conservation value.
- B. In the case of a proposed plan that deviates from the requirements of this article, and if the Planning Board determines that the land with the greatest conservation value cannot be protected except by the use of a NRPD plan, the Planning Board shall deny the special permit for the deviation and require that the applicant submit a plan that complies with the requirements for a NRPD.
- C. The Planning Board, in consultation with the Conservation Commission and Open Space Committee, shall study the natural resource analysis, may conduct field visits, and shall recommend which land should be preserved and where development may be located. The Planning Board shall make written findings supporting this determination (the "natural resource findings"). The Planning Board shall deny any application that does not include sufficient information to make natural resource findings or that does not preserve land that the Planning Board determines should be preserved from development as a result of the natural resource analysis and findings.
- D. The Planning Board's natural resource findings shall be incorporated into its decision to approve, approve with conditions, or deny an application. The natural resource findings shall show land to be permanently preserved by a conservation restriction, as well as recommended uses, ownership, and management guidelines for such land. The natural resource findings shall also indicate preferred locations for development if the plan is denied based upon such findings.

**§ 179-71.2. Minimum preserved open space.**

The plan shall show that at least the percentages of the total acreage listed below will be preserved by conservation restriction, based upon the natural resource findings.

- A. RR District: minimum of 80%.
- B. RL District: minimum of 65%.
- C. RM District: minimum of 65%.

**§ 179-72. Allowable residential units.**

The maximum number of residential units in a NRPD is calculated by a formula based upon the net acreage of the property. This formula is intended to take into account site-specific development limitations that make some land less developable than other land. This calculation involves two steps, calculating the net acreage and dividing by the base allowed density, or number of acres required per dwelling unit.

**§ 179-72.1. Net acreage calculation.**

The factors named below are included in this section for net acreage calculation purposes only and do not



convey or imply any regulatory constraints on development siting that are not contained in other applicable provisions of law, including this zoning bylaw. To determine net acreage, subtract the following from the total (gross) acreage of the site:

- A. Half of the acreage of land with slopes of 20% or greater (2,000 square feet or more of contiguous sloped area at least 10 feet in width);
- B. The total acreage of lakes, ponds, FEMA one-hundred-year floodplains, and all coastal and/or freshwater wetlands as defined in MGL c. 131, § 40, as delineated by an accredited wetlands specialist and approved by the Brewster Conservation Commission through an abbreviated notice of resource area delineation (ANRAD); and
- C. Land subject to easements or restrictions prohibiting development.

Applicants shall use the Field Data Form found in Appendix G of the Massachusetts DEP Handbook "Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act" (1995) (the "Handbook"). The complete form shall be submitted, including all methods of determination, i.e., vegetation, soil, and any other indicators, as provided for on the form. If detailed vegetative assessments are not required by the Handbook for a particular site, the reasons must be noted on the Field Data Form. At the Planning Board's discretion, any of the information described above may be taken from current geographic information systems data available from the Massachusetts Department of Environmental Protection, MassGIS, and other credible sources, including delineations registered by the use of global positioning systems. The Conservation Commission may request more detailed information for potentially more sensitive areas.

#### **§ 179-72.2. Unit count calculation.**

To determine the base maximum number of allowable residential dwelling units on the site, divide the net acreage by five in the RR District, or by three in the RL and RM Districts. Fractional units of less than .5 shall be rounded down and .5 or more shall be rounded up.

#### **§ 179-72.3. Density bonuses.**

The unit count determined in § 179-72.2 above may be increased through density bonuses designed to advance important goals of the DCPC. Density bonuses are given by special permit at the discretion of the Planning Board based upon the expected public benefit. Bonus amounts refer to percentages of a unit, unless otherwise stated. Resulting fractional units, if any, shall be rounded up or down as in § 179-72.2.

- A. If the applicant provides shared, on-site wastewater denitrification treatment: one unit.

- B. For every unit outside the proposed project, currently using a Title 5 system or cesspool, that is connected to the project's wastewater treatment facility: bonus of 25%.
- C. If the applicant provides a minimum of three low impact development components, including but not limited to: bioretention, rain gardens, xeriscapes, vegetated swales, pervious pavement, green roofs: a maximum bonus of 25%.
- D. If the applicant preserves as permanent open space more than the minimum required percentage: a maximum bonus of 10% per additional 5% of the parcel preserved as open space.
- E. If the applicant provides an area of three acres or more for agricultural use, including community gardens: a maximum bonus of 10%. Up to 1/2 of the area provided may be contained within the required open space. For a community garden, the applicant will also install Town water.
- F. Solar panel or wind turbine installation: a maximum of 10% per installation.
- G. If the applicant allows deeded public access to the open space portion of the property and the Planning Board finds that such public access provides a significant recreational benefit to the Town (such as access to an important natural area or a trail system): a maximum bonus of 10%. Any bonus granted for public access to open space land shall not compromise the conservation value of such open space land, based upon the natural resource findings of the Planning Board.

#### **§ 179-72.4. Maximum density bonus.**

The density bonuses allowed in § 179-72.3 above may result in a total unit count increase not exceeding the number of units permitted under any other type of subdivision in residential districts outside the DCPC area. Density bonuses may only be used if the resulting development complies with Title 5 of the State Environmental Code as determined by the Board of Health.

#### **§ 179-72.5. Lots in more than one district.**

For lots in more than one zoning district, the allowable unit count (excluding bonuses) and required open space for each district shall be computed separately first. These totals shall be added together and the allowable maximum bonus for the entire development shall be calculated based upon this combined total number of units. The permitted location of the units and protected open space shall be wherever the Planning Board determines best fits the characteristics of the land, based upon the natural resource analysis and findings.

#### **§ 179-73. Types of residential development.**

The allowable residential units may be developed as single-family or two-family dwellings, provided that applicable special permit review requirements for the zoning district are satisfied and that the number of dwelling units does not exceed the allowable unit count in §§ 179-72.2 and 179-72.3 above. The subdivision approval and special permit requirements shall be fulfilled concurrently in one proceeding to the extent practical. Any NRPD application involving two-family dwellings shall include a site plan that shows the location, layout, height, and setbacks of such dwellings.

#### **§ 179-74. Dimensional and design requirements.**

##### **§ 179-74.1. Minimum lot sizes in NRPDs.**

The limiting factor on lot size in NRPDs is the need for adequate water supply and sewage disposal.

Therefore, there is no required minimum lot size for zoning purposes. This does not affect the powers of the Board of Health to require minimum lot area for the disposal of sewage and the protection of water supply.

**§ 179-74.2. Setbacks, road frontage and road requirements.**

The minimum setback shall be 10 feet from any property line except that, when the lot line is the exterior line of the subdivision, the setback shall be 25 feet. There shall be no numerical requirements for road frontage in NRPD, provided that each lot has legal and adequate vehicular access to a public way or a way approved under the Subdivision Rules and Regulations<sup>87</sup> across its own frontage or via a shared driveway. All dwellings must comply with applicable Board of Health requirements. The Planning Board may modify the applicable road construction requirements for new roads within NRPD as provided in the regulations governing the subdivision of land, if it finds that such modifications will be consistent with the purposes of Article XIII and the DCPC purposes and goals.

**§ 179-74.3. Arrangement of lots.**

A. Lots shall be located and arranged in a manner that protects:

- (1) Ponds and other surface waters;
- (2) Access to ponds and other surface waters;
- (3) Groundwater;
- (4) Views from designated scenic roads;
- (5) Wildlife habitat and corridors;
- (6) Farmland;
- (7) Open fields;
- (8) Large intact forest areas;
- (9) Contiguous undeveloped land;
- (10) Existing protected open space areas;
- (11) Steep slopes;
- (12) Other sensitive environmental resources, while facilitating pedestrian circulation. Generally, residential lots shall be located the minimum feasible distance from existing public roadways. The Planning Board shall take into consideration the natural resource analysis and findings in approving the arrangement of lots.

B. Lot, roadway, and driveway layouts, land alterations, and placement of structures shall follow any design guidelines for NRPD which may be adopted by the Planning Board through its Subdivision Rules and Regulations.<sup>88</sup>

---

<sup>87</sup>. Editor's Note: See Ch. 290, Subdivision rules and regulations.

<sup>88</sup>. Editor's Note: See Ch. 290, Subdivision Rules and Regulations.

**§ 179-75. Permanent open space.**

Open space set aside in a NRPD or as a condition of any special permit approval shall be permanently preserved from development as required by this section. The Planning Board shall not require such open space land to be accessible to the public, unless a density bonus is allowed under § 179-72.3. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land, based upon the natural resource findings of the Planning Board. Such open space shall remain in a natural and undisturbed state unless otherwise stated by the Planning Board.

**§ 179-75.1. Permanent preservation of open space land.**

All land required to be set aside as open space in connection with any NRPD shall be so noted on any approved plans as a separate lot(s) and shall be protected by a permanent conservation restriction, to be held by the Town of Brewster Conservation Commission, the Commonwealth of Massachusetts, or a nonprofit conservation organization qualified to hold conservation restrictions under MGL c. 184, § 31, and also qualified to hold tax-deductible conservation easements under Section 170(h) of the Internal Revenue Code. The restriction shall specify the permitted uses of the restricted land which may otherwise constitute development. The restriction may permit, but the Planning Board may not require, public access or access by residents of the development to the protected open space land. In addition, the boundaries between the permanent open space and the developed parcels shall be clearly marked with concrete bounds and appropriately distinguished iron pipes no shorter than three feet to prevent encroachment into or disturbance of the open space area.

**A. Ownership of open space land.**

- (1) At the developer's option and subject to approval by the Planning Board, all areas to be protected as permanent open space shall be:
  - (a) Conveyed to the Town to be placed under the care, custody and control of the Conservation Commission, and be accepted by it for a park or open space use. Land conveyed to the Town will be open for public use;
  - (b) Conveyed to a nonprofit organization, the principal purpose of which is the conservation or preservation of open space, with a conservation restriction as specified in 4.6.2 below. Such organization shall be acceptable to the Board as a bona fide conservation organization; or
  - (c) Conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development (i.e., "homeowners' association"). The documents which form said association are subject to approval by the Planning Board. If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyance of the lots or residential units. The developer is responsible for the maintenance of the open space and other facilities to be held in common until such time as the homeowners' association is capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining the open space. The Planning Board shall require the applicant to provide documentation that the homeowners' association is an automatic (mandatory) association that has been established prior to the conveyance of any lots within the subdivision.

Ongoing maintenance standards shall be established as a condition of development approval to ensure that the open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials.

- B. Permanent restriction. In any case where open space is not conveyed to the Town, a permanent conservation or agricultural preservation restriction approved by the Conservation Commission, and Select Board, conforming to the standards of and approved by the Massachusetts Executive Office of Energy and Environmental Affairs (EOEEA), Division of Conservation Services and enforceable by the Town or holder of the conservation restriction, shall be recorded to ensure that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadways except as permitted in the conservation restriction. Restrictions shall provide for periodic inspection of the open space by the Town. Such restriction shall be submitted to the Planning Board prior to endorsement of the plan and covenant for the project and recorded at the Registry of Deeds/Land Court prior to endorsement of the definitive subdivision plan. The Planning Board may require a management plan that describes how existing woods, fields, meadows or other natural areas shall be maintained in accordance with good conservation practices. **[Amended 11-13-2017 FYTM, Art. 13]**
- C. Encumbrances. All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances. Certification of said condition by a qualified title examiner shall be provided to the Planning Board at the time of conveyance.

## ARTICLE XIV

**Large-Scale Ground-Mounted Solar Photovoltaic Installations**  
**[Added 11-7-2011 FYTM, Art. 16<sup>89</sup>]****§ 179-75.2. Purpose.**

- A. The purpose of this bylaw is to provide standards for new large-scale ground-mounted solar photovoltaic installations, including the placement, design, construction, operation, monitoring, modification and removal of such installations, and thereby, to address public safety, and to minimize impacts on scenic, natural and historic resources.
- B. The provisions set forth in this article shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations on private property and Town-owned land.

**§ 179-75.3. Applicability.**

This article applies to large-scale ground-mounted solar photovoltaic installations proposed after the effective date of this article. For the purposes of this article, a large-scale ground-mounted solar photovoltaic installation is any solar photovoltaic array with a rated nameplate capacity of 250 kW (DC) or more. This article also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

**§ 179-75.4. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**AS-OF-RIGHT SITING** — Development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development shall be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited but can be reasonably regulated by the Building Commissioner.

**BUILDING PERMIT** — A construction permit issued by the Building Commissioner; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing ground-mounted large-scale solar photovoltaic installations.

**DESIGNATED LOCATION** — The zoning districts designated by Town Meeting, in accordance with MGL c. 40A, § 5, where ground-mounted large-scale solar photovoltaic installations may be sited. Said locations are shown on a Zoning Map pursuant to MGL c. 40A, § 4.

**LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION** — A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted and has a minimum nameplate capacity of 250 kW (DC) or more.

**ON-SITE SOLAR PHOTOVOLTAIC INSTALLATION** — A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

**RATED NAMEPLATE CAPACITY** — The maximum rated output of electric power production of the photovoltaic system in direct current (DC).

**SOLAR PHOTOVOLTAIC ARRAY** — An arrangement of solar photovoltaic panels.

**SPECIAL PERMIT GRANTING AUTHORITY** — For applications requiring a special permit, the special

---

**89. Editor's Note:** This article also provided for the redesignation of former Article XIV as Article XV.

permit granting authority is the Planning Board.

STAFF REVIEW — A review by Town staff pursuant to Chapter 83 of the Code of the Town of Brewster.

ZONING ENFORCEMENT AGENT — The Building Commissioner.

**§ 179-75.5. General requirements for all large-scale ground-mounted solar power generation installations.**

The following requirements are common to all solar photovoltaic installations to be sited in designated locations:

- A. Compliance with laws, ordinances and regulations. The construction and operation of all large-scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.
- B. Building permit and building inspection. No large-scale solar photovoltaic installation shall be constructed, installed or modified as provided in this article without first obtaining a building permit.
- C. Fees. The application for a building permit for a large-scale solar photovoltaic installation must be accompanied by the fee required for a building permit.
- D. Staff review and site plan review. Large-scale ground-mounted solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo staff review pursuant to the regulations in Chapter 83 of the Brewster Town Code. They shall also undergo site plan review by the Planning Board, prior to construction, installation or modification as provided in this section, following the requirements in § 179-75.5D(1) and (2).
  - (1) General. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.
  - (2) Required documents.
    - (a) Pursuant to the plan review process, the project proponent shall provide the following documents:
      - [1] A site plan showing:
        - [a] Property lines and physical features, including roads, for the project site;
        - [b] Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
        - [c] Solar photovoltaic installation blueprints or drawings, signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts, showing the proposed layout of the system and any potential shading from nearby structures;
        - [d] One- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National-Electrical-Code-compliant disconnects and overcurrent devices;

- [e] Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
  - [f] Name, address, and contact information for proposed system installer;
  - [g] Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
  - [h] The name, contact information and signature of any agents representing the project proponent; and
- [2] A rendering or photo simulation showing the proposed project at completion;
  - [3] Documentation of actual or prospective access and control of the project site (see also Subsection E);
  - [4] An operation and maintenance plan (see also Subsection F);
  - [5] A utility connection plan (see also Subsection I(3), and an acknowledgment of application from the electric utility;
  - [6] Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a Zoning Map with the parcel(s) identified is suitable for this purpose); and
  - [7] Proof of liability insurance.

(b) The Planning Board may waive documentary requirements as it deems appropriate.

- E. Site control. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.
- F. Operation and maintenance plan. The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, stormwater controls, and general procedures for operational maintenance of the installation.
- G. Utility notification. No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner's or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- H. Dimension and density requirements.
  - (1) Setbacks. For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:
    - (a) Front yard. The front yard depth shall be not less than 25 feet in the Industrial (I) and Municipal Refuse (MRD) Districts and not less than 50 feet in other districts.
    - (b) Side yard. Each side yard shall have a depth not less than 15 feet in the Industrial (I) and Municipal Refuse (MRD) Districts and not less than 50 feet in other districts.



- (c) Rear yard. The rear yard depth shall be not less than 25 feet in the Industrial (I) and Municipal Refuse (MRD) Districts and not less than 50 feet in other districts.
- (2) Appurtenant structures. All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall, in the case of special permits, be subject to reasonable conditions concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including, but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

I. Design standards.

- (1) Lighting. Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.
- (2) Signage. Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Article VI of this bylaw. A sign consistent with Article VI shall be required to identify the owner and provide a twenty-four-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.
- (3) Utility connections. Utility connections from solar photovoltaic installations shall be underground, but the Planning Board, after considering the soil conditions, shape, and topography of the site and any requirements of the utility provider, may permit connections above the ground. Electrical transformers for utility interconnections may be above the ground if required by the utility provider.
- (4) Screening. The solar arrays should be screened from roads and from adjacent residential lots by a minimum five-foot-tall evergreen screen. The Planning Board may alter or waive this requirement if such screening would have a detrimental impact on the operation and performance of the array.
- (5) Security. Appropriate measures shall be taken to prevent the solar arrays from being damaged or tampered with by individuals trying to access the area of the installation. The method of securing the site shall be subject to the approval of the Planning Board.

J. Safety and environmental standards.

- (1) Emergency services. The large-scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- (2) Land clearing, soil erosion and habitat impacts. All attempts should be made to locate a large-scale ground-mounted solar photovoltaic installation in an area that requires little or no clearing of natural vegetation. Clearing of natural vegetation shall be limited to what is necessary for the

construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

K. Monitoring and maintenance.

- (1) Solar photovoltaic installation conditions. The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained at a level acceptable to the Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access roads, unless they have been accepted as public ways.
- (2) Modifications. All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.

L. Decommissioning.

- (1) Removal requirements. Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations due to the installation reaching the end of its useful life. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
  - (a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
  - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
  - (c) Stabilization or revegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

## ARTICLE XV

**Bay Property Overlay District****[Amended 5-9-1994 ATM, Art. 24; 11-18-2024FYTM by Art. 7]****§ 179-76. Purpose and intent.**

- A. The Town acquired the former Cape Cod Sea Camps property along Cape Cod Bay in 2021 ("Bay Property") for purposes of habitat and watershed protection, open space, conservation, passive and active recreation, community housing, and general municipal uses, including a potential community center;
- B. Prior to acquisition, the Bay Property was used for more than 100 years as a private camp, primarily as a seasonal children's recreational camp for both day and overnight campers;
- C. The Bay Property was also regularly rented and used during the camp's shoulder season by community groups for various social, cultural, educational and recreational activities;
- D. The Bay Property is currently improved with buildings, trails and drives, utilities, infrastructure and various recreational amenities; and also hosts various natural resource areas like a pond, field and forest areas, and a beach;
- E. The Bay Property is directly adjacent to the Town-owned, so-called "Spruce Hill Property" to the east, which is held for open space and conservation purposes but also contains an area with buildings and related improvements along Route 6A, reserved for general municipal use;
- F. Following the Bay Property acquisition, the Town undertook a comprehensive, community-led planning effort, including public workshops, surveys and monthly meetings of the Bay Property Planning Committee, to help envision, create consensus for and prioritize future uses for the Bay Property;
- G. This planning effort, which also included the building on the Spruce Hill Property, resulted in the preparation of a comprehensive plan for re-use ("Bay Property Comprehensive Plan"), which was adopted by Town Meeting in Spring 2024. The guiding principles for said Comprehensive Plan established through this community engagement process were as follows:
  - (1) Expand opportunities for community use with a focus on wellness, recreation, arts and education;
  - (2) Foster awareness of the sensitive ecologies and demonstrate sustainability;
  - (3) Protect and conserve important natural habitat;
  - (4) Contribute to the Town's affordable housing goals;
  - (5) Build upon Brewster's historic, small-town, and socially inclusive character;
  - (6) Build partnerships for activities and stewardship;
  - (7) Re-use buildings and amenities where feasible;
  - (8) Plan for long-term needs of the Town;
  - (9) Balance cost with revenue generation;

- H. In the period following the Town's acquisition, the Town has continually used the Bay Property in a campus-like manner for a variety of general municipal uses, including without limitation a public swimming pool, a beach, and community events;
- I. The establishment and implementation of Comprehensive Plans for the Town's re-use of the former Cape Cod Sea Camps properties, including the Bay Property, is a strategy identified in the Town's overall Local Comprehensive Plan;
- J. The Bay Property Comprehensive Plan includes an area designated "Future Municipal Uses" where any of the purposes for which the Town acquired the Property may be pursued, including community housing;
- K. Beyond the zoning considerations, implementation of the Bay Property Comprehensive Plan, including any proposed development activities, will require further community input, potential revisions of said Comprehensive Plan to specifically address the reserved "Future Municipal Use" area, various regulatory and other approvals, and funding decisions;
- L. Future decision making will involve, as applicable: Brewster residents; the Select Board; other Town officials, boards and committees; Town staff; and Town Meeting;
- M. In furtherance of the foregoing, this article creates an overlay district to govern the implementation of the approved Bay Property Comprehensive Plan which: recognizes the types of uses and development allowed in the District; establishes clear expectations and processes to permit and implement such use and development under the Zoning Bylaw; removes unnecessary barriers to achieving the community's vision for the Property; allows flexibility in determining the best uses for the Property as the community and Town's needs change over time; and provides the opportunity to preserve the existing character, layout and arrangement of the site. As such, this article is to be construed as permissive or enabling in spirit, to the extent necessary to achieve the purposes and goals of the Bay Property Comprehensive Plan and the purposes set out above.

**§ 179-77. Scope of authority; Overlay District.**

- A. This article establishes an overlay district and implementing provisions that apply only within said district to serve and advance the purposes and interests described in this article. Said overlay district shall be referred to as the Bay Property Overlay District (or "BPOD") and encompasses the area shown on the map entitled "Proposed Bay Property Overlay District Map, September 2024" on file with the Town Clerk and incorporated herein. The BPOD is comprised of the entire property formerly operated as the Cape Cod Sea Camps on Cape Cod Bay, now owned by the Town, as well as a portion of the Town-owned "Spruce Hill" property to the east, abutting Route 6A, containing the buildings and related improvements thereon.
- B. The provisions of this article are superimposed over all land within said overlay district, including the underlying zoning districts affecting such land. Where this article establishes rules, regulations, requirements, standards or provisions for the overlay district that differ from or are more specific than the general provisions of the Zoning Bylaw, including those uses and structures found in Table 1 of this chapter,<sup>90</sup> the provisions of this article shall control. Unless otherwise modified herein, the provisions of the Zoning Bylaw shall apply in the normal course.

---

90. Editor's Note: Said table is included as an attachment to this chapter.

**§ 179-78. Applicability.**

The provisions of this article apply to land within the BPOD that the Town of Brewster owns, controls in any manner, or otherwise maintains a legal interest.

**§ 179-79. Use regulations.**

In furtherance of the purposes of this article, the following use and development shall be principal uses permitted by right in the BPOD and shall be subject to and have the benefit of the provisions contained in this article.

**A. Permitted uses.**

- (1) General municipal uses (municipal uses not otherwise specified in Table 1 of this chapter).<sup>91</sup>
- (2) Nonprofit educational organization uses.
- (3) Other nonprofit community organizations/uses not expressly subject to or with the benefit of MGL c. 40A, § 3, the so-called "Dover Amendment," including but not limited to qualified conservation organizations or land trusts.
- (4) Essential services.
- (5) Wastewater treatment facility - sanitary sewage (as defined in 314 CMR 12).
- (6) Agricultural uses (as defined in MGL c. 128, § 1A, and c. 40A, § 3).
- (7) Gift shop.
- (8) Museum.
- (9) Indoor or outdoor recreational facilities and meeting, convention or assembly spaces.
- (10) Lodging house/inn; bed-and-breakfast.
- (11) Dwelling units shall be allowed, including in new buildings or within or by re-use of any existing building or alteration, addition or replacement thereof. There shall be no limitation on or requirement for a specific tenancy, including but not limited to seasonal or short-term use; housing types or forms; or the number of units allowed in total within the BPOD or within a particular building.
- (12) Arts and entertainment uses, including art galleries/studios, "maker spaces" and other craftsperson or artisan uses, performing arts uses, and theaters.
- (13) Full- or limited-service restaurant use, including vending machines, food trucks and other concessions.

**B. Use and development accessory to the above uses, including retail uses related and incidental thereto, shall be permitted by right.****§ 179-80. Implementing provisions; performance standards.****A. Principal permitted uses proposed under this article shall undergo "staff review" as set out under**

---

**91. Editor's Note: Said table is included as an attachment to this chapter.**

Chapter 83 of the Brewster Code, for the purpose of providing comments and recommendations to the Building Commissioner. Should such proposed use and development also trigger site plan review under Article XII of this chapter, the site plan review standards set out under § 179-66 therein shall apply only to the extent deemed relevant and shall be met only to the extent deemed practicable by the Planning Board.

- B. The adequacy of parking areas, drives, and loading areas (and related dimensional requirements) for said permitted uses shall be assessed through site plan review, if applicable, and through Chapter 83 staff review.
- C. The Area and Bulk Regulations, Tables 2 and 3, respectively, of this chapter,<sup>92</sup> specifically the minimum lot, yard setback and building coverage requirements therein, shall not apply to the permitted uses within the BPOD. Site plan review, if applicable, and Chapter 83 staff review shall assess the appropriateness of the proposed settings, placement and density of buildings and structures.
- D. In lieu of reviewing individual buildings or projects, site plan review or Chapter 83 staff review may also assess said permitted uses within the BPOD through the submission and review of comprehensive implementing plans prepared for housing, traffic and circulation, stormwater, landscaping, facilities and infrastructure, or other land use matters.
- E. No lotting for separate principal uses or structures shall be required, but is allowed, for the permitted uses within the BPOD. If separate lots are created, the minimum lot requirements of said Table 2 shall not apply, including that there is no minimum requirement for lot frontage, but in any event safe and adequate, practical and legal access to said lot for its intended use and development shall be required.

---

92. Editor's Note: Said tables are included as attachments to this chapter.



**Chapter 272****STORMWATER MANAGEMENT**

**[HISTORY: Adopted 11-15-2021FYTM by Art. 9. Amendments noted where applicable.]**

**§ 272-1. Purpose and objectives.**

- A. The purpose of this bylaw is to protect, maintain, and enhance public health, safety, environment, and general welfare of the Town by preventing or diminishing adverse effects of construction-site and post-construction stormwater runoff. Proper management of stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the health, safety, environment, and general welfare of the public, protect water and aquatic resources, protect and enhance wildlife habitat, and promote groundwater recharge to protect surface and groundwater drinking supplies. This bylaw seeks to meet that purpose through the following objectives:

Establish minimum stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

Encourage the use of nonstructural stormwater management, better site design, and low-impact development practices such as preserving natural resources and open space, reducing impervious surface area, and increasing infiltration;

Establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater best management practices to ensure that they continue to function as designed and pose no threat to public safety;

Establish provisions to ensure there is an adequate funding mechanism, including surety, for the proper review, inspection, and long-term maintenance of stormwater facilities implemented as part of this bylaw;

Establish the Town of Brewster's legal authority to ensure compliance with the provisions of this bylaw through permitting, inspection, monitoring, and enforcement; and

Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements and with the General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts (MS4 Permit), issued by the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection.

**§ 272-2. Definitions.**

The following definitions shall apply in the interpretation and implementation of this bylaw. Additional definitions may be adopted by separate regulation.

**ALTERATION OF DRAINAGE CHARACTERISTICS** — 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 or 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.

**APPLICANT** — Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the commonwealth or the federal government, to the extent permitted by law, requesting a stormwater permit.



**BEST MANAGEMENT PRACTICE (BMP)** — Schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to Waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**CLEAN WATER ACT** — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

**CLEARING** — Any activity that removes the vegetative surface cover.

**COMMON PLAN OF DEVELOPMENT** — A "larger common plan of development or sale" is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

**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.

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

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

**IMPERVIOUS SURFACE** — Any surface that prevents or significantly impedes the infiltration of water into the underlying soil. This can include but is not limited to: roads, driveways, parking areas and other areas created using nonporous material; buildings, rooftops, structures, solar panels, artificial turf, and compacted gravel or soil.

**INFILTRATION** — The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

**LAND DISTURBANCE ACTIVITY** — Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters; involves clearing, grading, or excavating, including grubbing; or results in an alteration of drainage characteristics.

**LOW-IMPACT DEVELOPMENT (LID)** — Site planning and design strategies that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat.

**MS4 PERMIT** — General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM** — The system of conveyances designed or used for collecting or conveying stormwater, including 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, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Brewster.

**NEW DEVELOPMENT** — Any construction activities or land alteration on an area that has not previously been developed to include impervious surface.

**OPERATION AND MAINTENANCE PLAN** — A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

**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.

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

**RECORD** — Recorded in the Barnstable County Registry of Deeds; if registered land is affected, filed with the recorder of the Land Court of Massachusetts.

**REDEVELOPMENT** — Development, rehabilitation, expansion, demolition, construction, land alteration, or phased projects that disturb the ground surface, including impervious surfaces, on previously developed sites.

**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** — The areal extent of construction and land disturbance activities, including but not limited to the creation of new impervious surface and improvement of existing impervious surface.

**STORMWATER AUTHORITY** — The Town of Brewster Planning Board or its authorized agent(s), acting pursuant to this bylaw to administer, implement, and enforce this bylaw and to adopt regulations pursuant to it.

**STORMWATER PERMIT** — A permit issued by the Stormwater Authority, after review of an application, plans, calculations, and other supporting documents, in accordance with the provisions of this bylaw.

**TOTAL MAXIMUM DAILY LOAD (TMDL)** — A regulatory plan (authorized by the Clean Water Act) that identifies the amount of a pollutant that a water body can assimilate without exceeding its water quality standard for that pollutant.

**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, groundwater, and waters of the United States as defined under the Federal Clean Water Act as hereafter amended.

### **§ 272-3. Authority.**

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Massachusetts home rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

### **§ 272-4. Administration.**

- A. The Stormwater Authority shall administer, implement, and enforce this bylaw. Any powers granted to or duties imposed upon the Stormwater Authority may be delegated in writing by the Stormwater Authority to its employees or agents.
- B. The Brewster Planning Board shall be the Stormwater Authority. For projects that fall within the jurisdiction of the Brewster Wetlands Protection Bylaw (Brewster General Bylaw Chapter 172), the Conservation Commission shall be the authority to implement and enforce this bylaw. The

Stormwater Authority may designate an agent to enforce this bylaw.

- C. This bylaw is not intended to interfere with, abrogate, or annul any other Town of Brewster bylaw, rule or regulation, statute, or other provision of law. The requirements of this bylaw should be considered minimum requirements, and where any provision of this bylaw imposes restrictions different from those imposed by any other bylaw, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

#### **§ 272-5. Applicability.**

A stormwater permit shall be required for any of the following, except for an activity exempted under § 272-6 of this bylaw:

- A. Any land disturbance activity that will disturb 10,000 square feet or more, or smaller land disturbance activities that are part of a larger common plan of alteration or development that will disturb 10,000 square feet or more;
- B. Any new development or redevelopment that will result in a net increase in impervious surface area by 500 square feet or more, or smaller activities that are part of a larger common plan of alteration or development that will result in a net increase in impervious surface area by 500 square feet or more; or
- C. Any land disturbance activity, new development, or redevelopment that, over a two-year period, will result in a cumulative land disturbance of more than 10,000 square feet and/or a cumulative net increase in impervious surface area of more than 500 square feet to land that is part of a larger parcel held in common ownership or control at any time since said date. For the purposes of this section, ownership by related or jointly controlled persons or entities shall be considered common ownership. In such cases, the new activity is prohibited until either:
- (1) All activities that previously disturbed land and/or increased impervious surface area as described in this section are brought into full compliance with the requirements and standards of this bylaw; or
  - (2) The application for permit under this bylaw for the new activity includes bringing the land previously disturbed and/or the impervious surface area previously increased into full compliance with the requirements and standards of this bylaw. If the involved land is not currently held in common ownership, all owners of the involved land must jointly apply for the permit.
- D. A development or alteration of land shall not be segmented or phased in a manner to avoid compliance with this bylaw.

#### **§ 272-6. Exemptions.**

The following activities are exempt from the requirements of this bylaw, provided that such activities utilize the best practical measures to avoid any negative impacts on stormwater quality, runoff rate, and volume.

- A. Any work or projects for which all necessary approvals and permits, including building permits, have been issued before the effective date of this bylaw.
- B. Maintenance and improvement of land in agricultural or aquacultural use, as defined by the

Massachusetts Wetlands Protection Act regulation 310 CMR 10.04.

- C. Maintenance of existing landscaping, gardens, or lawn areas associated with a residential dwelling conducted in such a way as to not cause a nuisance.
- D. Construction of fencing that will not substantially alter existing terrain or drainage patterns.
- E. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain, ground cover, or drainage patterns or result in discharge of sediment or other pollutants to the MS4 or to a watercourse or waters of the commonwealth.
- F. Emergency repairs to existing utilities (gas, water, electric, telephone, drainage, etc.) or emergency repairs to any stormwater management facility that poses a threat to public health or safety, as determined by the Stormwater Authority.
- G. Maintenance or resurfacing (not including reconstruction) of an existing public or private way, parking area, or driveway, provided that such activity does not increase impervious surface area and that resurfacing does not disturb the pavement subbase.

**§ 272-7. Stormwater management regulations.**

- A. The Stormwater Authority shall promulgate and periodically amend Stormwater Management Regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), delegation of authority, procedures, and administration of this bylaw. Failure of the Stormwater Authority to issue such regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this bylaw.
- B. The Stormwater Authority may establish a minor stormwater permit for specific activities.
  - (1) The purpose of the minor stormwater permit is to simplify the permitting process under this bylaw by waiving certain submission requirements, provided a set of predetermined eligibility criteria and performance standards are met.
  - (2) The eligibility criteria, performance standards, and submission requirements for minor stormwater permits shall be outlined in the Stormwater Management Regulations promulgated in accordance with this bylaw.
  - (3) The Stormwater Authority may allow minor stormwater permits to be approved by one or more agents of the Stormwater Authority rather than by a majority of Stormwater Authority members.
- C. The Stormwater Authority may establish criteria, procedures, and standards for off-site compliance with post-construction stormwater management performance standards established in the Stormwater Management Regulations promulgated under this bylaw.

**§ 272-8. Performance standards.**

- A. Performance standards shall be defined as part of the Stormwater Management Regulations promulgated under this bylaw.
- B. Unless specifically altered by this bylaw or its regulations, the Stormwater Authority will use the latest accepted versions of the Massachusetts Stormwater Management Regulations as contained in the Massachusetts Wetlands Protection Act Regulations at 310 CMR 10.05(6)(k) and the Massachusetts Stormwater Handbook as issued by the Massachusetts Department of Environmental

Protection for criteria, policy, standards, stormwater systems design and engineering, compliance documentation requirements, and general information for the execution of the provisions of this bylaw.

- C. Unless specifically altered in this bylaw and its regulations, the Stormwater Authority shall presume that stormwater management practices designed, constructed, and maintained in accordance with the Massachusetts Stormwater Management Handbook meet the performance standards of this bylaw. For requirements that are inconsistent between the Massachusetts Stormwater Management Handbook and the MS4 permit, the Stormwater Authority will enforce the more stringent of the requirements.

**§ 272-9. Procedures.**

- A. A stormwater permit must be obtained prior to the commencement of any construction or land disturbance activity for which such a permit is required. An applicant seeking a permit shall file an appropriate application with the Stormwater Authority in a form and containing information as specified in this bylaw and in regulations adopted by the Stormwater Authority.
- B. Each application must be accompanied by the appropriate application fee as established by the Stormwater Authority. Applicants shall pay the application fee before the review process commences. The Stormwater Authority, or its designated agent, is authorized to retain a registered professional engineer (PE) or other professional consultant to advise the Stormwater Authority on any or all aspects of the application and/or the project's compliance with conditions of a stormwater permit. The Stormwater Authority may require the applicant to pay reasonable costs to be incurred by the Stormwater Authority for the employment of outside consultants pursuant to Stormwater Authority regulations as authorized by MGL c.44, § 53G.
- C. To obtain a stormwater permit, the applicant must show that site design, construction-site stormwater management, and post-construction stormwater management will meet the standards established by the Stormwater Authority in its regulations, which shall be at least as stringent as the relevant requirements of the MS4 Permit and the Massachusetts Stormwater Handbook.
- D. The stormwater permit shall include measures to ensure adequate long-term operation and maintenance of stormwater management design features and BMPs.
- E. The Stormwater Authority may impose requirements, including but not limited to the following:
- (1) A requirement that funds for future operation and maintenance be set aside in a dedicated fund or escrow account;
  - (2) A permanent permit condition requiring compliance with an operation and maintenance plan;
  - (3) A permanent permit condition requiring that the property owner submit an annual report or certification regarding operation and maintenance;
  - (4) A requirement to record the operation and maintenance plan (or notice thereof);
  - (5) A requirement that a legal instrument be put in place establishing responsibility for operation and maintenance of a stormwater BMP serving more than one lot.

**§ 272-10. Consent to entry onto property.**

By signing the permit application, the applicant consents to the entry of members of the Stormwater

Authority or its authorized agents on the property while the application is under review to verify the information in the application, and at any time after a stormwater permit is issued to inspect for compliance with stormwater permit conditions.

**§ 272-11. Inspection and site supervision.**

The Stormwater Authority or its designated agent shall make inspections to verify and document compliance with the stormwater permit.

**§ 272-12. Surety.**

The Stormwater Authority may require the applicant to post surety before the start of land disturbance or construction activity. The form of the surety shall be approved by the Stormwater Authority and be in an amount deemed sufficient by the Stormwater Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Stormwater Authority may release part of the surety as each phase is completed in compliance with the permit.

Funds held pursuant to this section shall be deposited in a separate account pursuant to MGL c. 44, § 53G 1/2. Surety shall be in the form of a surety bond, irrevocable letter of credit, or cash. All interest shall be held within said account; surety shall be released upon satisfaction of all permit requirements; upon satisfaction of all permit requirements, applicant shall request, in writing, to the Town Treasurer, that the funds be released, the funds shall not be released until the Stormwater Authority certifies, in writing, that all requirements of the permit have been met. If the permittee defaults on any obligations imposed by the permit, the Stormwater Authority may (after notification of the permittee) inform the holder of the security (and the municipal treasurer if the treasurer is not holding the funds) of the default, in which event the Town shall be entitled to the security funds to complete the outstanding permit requirements.

**§ 272-13. Waivers.**

- A. The Stormwater Authority, or its authorized agent, may waive strict compliance with any requirement of this bylaw if it finds that:
  - (1) Application of some of the requirements is unnecessary or impracticable because of the size or character of the development activity or because of the natural conditions at the site;
  - (2) The project is consistent with the purposes and intent of this bylaw; and
  - (3) The project provides substantially the same level of protection to the public health, safety, environment, and general welfare of the Town as required by this bylaw.
- B. Any person seeking a waiver shall submit a written waiver request. Such a request shall be accompanied by an explanation or documentation supporting the waiver request.
- C. Waiver requests, except those for activities eligible for minor stormwater permits, shall be discussed and voted on at a public meeting for the project.
- D. Waiver requests for minor stormwater permits may be approved by one or more agents of the Stormwater Authority rather than by majority of Stormwater Authority members.
- E. If in the opinion of the Stormwater Authority or its authorized agent, additional time or information is required for review of a waiver request, the Stormwater Authority may continue a meeting to a date announced at the meeting. In the event the applicant objects to a continuance or postponement, or fails to provide requested information, the waiver request shall be denied.

**§ 272-14. Enforcement.**

The Stormwater Authority or its authorized agent shall enforce this bylaw, and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations.

**A. Criminal and civil relief.**

- (1) Any person who violates the provisions of this bylaw, or any associated regulations, permit, or order issued thereunder, may be subject to criminal penalties and prosecution in a court of competent jurisdiction and/or a fine of not more than \$300 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- (2) The Stormwater Authority 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.

**B. Orders.**

- (1) The Stormwater Authority's authorized agent may issue a written order to enforce the provisions of this bylaw or any associated regulations or permit. Violations include, without limitation, failure to obtain a stormwater permit for an activity subject to this bylaw, or failure to follow the requirements of a stormwater permit, or any other authorization issued pursuant to this bylaw or regulations issued hereunder. The written order may require the violator to remediate the noncompliance and/or any adverse impact caused by it, including without limitation:
  - (a) A requirement to cease and desist from the land-disturbing activity until there is compliance with this bylaw and provisions of the stormwater permit or other authorization;
  - (b) Maintenance, installation, or performance of additional erosion and sediment control measures;
  - (c) Monitoring, analyses, and reporting;
  - (d) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
  - (e) Construction, reconstruction, repair, or maintenance of stormwater BMPs or any other aspect of the post-construction stormwater management system;
  - (f) Remediation of adverse impacts resulting from improper construction or operation of the post-construction stormwater management system; and/or
  - (g) A requirement to eliminate discharges, directly or indirectly, into the MS4, a watercourse, or into the waters of the commonwealth.
- (2) Any order under this section may be appealed to the Stormwater Authority within five (5) days of the date of said order. All appeals shall be heard and decided within thirty (30) days. The decision of the Stormwater Authority shall be final.
- (3) If the Stormwater Authority or its authorized 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 provide that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of

Brewster may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

- (4) Within 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, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Stormwater Authority within 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 30 days following a decision of the Stormwater Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction affirming or reducing the costs, the costs shall constitute a municipal charge for purposes of MGL c. 40, § 58, and a lien may be imposed on the property for the amount of the unpaid charge, pursuant to MGL c. 40, § 58. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57 on the 31st day after the costs first become due.
- C. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, in which case designated agents of the Stormwater Authority shall be the enforcing persons. The penalty for the first violation shall be a warning. The penalty for the second violation shall be \$100. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Entry to perform duties under this bylaw. To the extent permitted by local, state or federal law, or if authorized by the owner or other party in control of the property, the Stormwater Authority, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Stormwater Authority deems reasonably necessary.
- E. Appeals. The decisions or orders of the Stormwater Authority shall be final. Further relief shall be appealed to a court of competent jurisdiction.
- F. Remedies not exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state, or local law.

#### **§ 272-15. Severability.**

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw 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 this bylaw.

### **Select Board Regulations**



SELECT BOARD REGULATIONS

**Chapter SR**

**SELECT BOARD REGULATIONS**

**[Division 2, Select Board Regulations, was deleted from the Code book at the request of the Town of Brewster. Current Select Board regulations are on file in the office of the Town Clerk.]**

**Board of Health Regulations**

BREWSTER CODE

**Chapter BOH**

**BOARD OF HEALTH REGULATIONS**

**[Division 3, Board of Health Regulations, was deleted from the Code book at the request of the Town of Brewster. Current Board of Health regulations are on file in the office of the Town Clerk.]**

**Miscellaneous**

## SUBDIVISION RULES AND REGULATIONS

### Chapter 290

## SUBDIVISION RULES AND REGULATIONS

**[HISTORY: Adopted by the Planning Board of the Town of Brewster effective 5-1-1985; amended in its entirety 5-27-2009. Subsequent amendments noted where applicable.]**

### GENERAL REFERENCES

Staff review — See Ch. 83.

Streets and sidewalks — See Ch. 157.

Numbering of property — See Ch. 128.

Wetlands protection — See Ch. 172.

Sewers — See Ch. 150.

Zoning — See Ch. 179.

Streetlighting — See Ch. 155.

ARTICLE I  
**General Provisions**

**§ 290-1. Purpose.**

- A. These subdivision regulations have been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of Brewster by regulating the laying out and construction of ways in subdivisions providing access to the lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions, and in proper cases, parks and open areas. The powers of the Planning Board under the Subdivision Control Law and these regulations shall be exercised with due regard for:
- (1) The provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel;
  - (2) Lessening congestion in such ways and in the adjacent public ways;
  - (3) Reducing danger to life and limb in the operation of motor vehicles;
  - (4) Securing safety in the case of fire, flood, panic and other emergencies;
  - (5) Insuring compliance with the applicable zoning ordinances or bylaws;
  - (6) Securing adequate provision for water, sewerage, drainage, underground utility service, fire, police, and other requirements where necessary in a subdivision;
  - (7) Protecting, promoting and enhancing the natural beauty and amenities of Brewster;
  - (8) Coordinating the ways in a subdivision with each other and with the public ways in the Town and with the ways in neighboring subdivisions.
- B. In fulfilling the purpose of this law, the Planning Board shall have the power to review the impact of the proposed land division and road layout on the Town of Brewster as well as abutting communities. Further, the Planning Board shall have the power to negotiate with applicants filing under this statute, utilizing the provisions of MGL c. 41, § 81R to ensure the protection of the Town's natural and built environment.

**§ 290-2. Authority.**

Under the authority vested in the Planning Board of the Town of Brewster by MGL c. 41, § 81Q, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Brewster. These rules and regulations shall supersede and replace any previously adopted Subdivision Control Law rules and regulations and may be amended in accordance with the provisions of MGL c. 41, § 81Q.

**§ 290-3. Definitions.**

For the purpose of these rules and regulations, the terms and words in the following list shall have the stated meanings. In addition, unless a contrary intention clearly appears, the other terms and words defined in the Massachusetts Subdivision Control Law shall have the meanings given therein.

**ABUTTER** — An owner of land as listed in the most recent real property tax list, certified by the Board of Assessors, whose real property is adjacent to, directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of a proposed subdivision of land as shown on

the definitive plan.

**APPLICANT** — Either the owner of the land stated in the application for subdivision or all the owners where title is held jointly, in common or in tenancy by the entirety, including corporations. An agent, representative or his assigns may act for the owner, provided that written evidence of such fact is submitted. Evidence in the form of a list of their officers and designated authority to sign legal documents shall be required for a corporation.

**BOARD** — The Planning Board of the Town of Brewster.

**DEFINITIVE PLAN** — A proposed plan for subdivisions of land submitted pursuant to MGL c. 41 and these rules and regulations for approval of the Board.

**EASEMENT** — A right acquired from the owner of the property, by public authority or other person to use or control property for a utility or other designated purpose.

**ENGINEER** — Any person who has been registered or otherwise legally authorized by the Commonwealth of Massachusetts to perform professional engineering service, whose background is civil engineering.

**ENVIRONMENTAL AND COMMUNITY IMPACT ANALYSIS** — A comprehensive, technical analysis and report by the applicant which may be required to be submitted to the Board pursuant to these rules and regulations.

**GENERAL LAWS** — The General Laws of the Commonwealth of Massachusetts.

**LEVEL OF SERVICE (LOS)** — A term which traffic engineers use to define the various operating conditions that occur on a roadway or intersection when accommodating various traffic volumes. Although LOS is a qualitative measure of traffic flow, it is an acceptable measurement for determining overall impact of development on roadway networks. LOS "A" is associated with relatively free-flow and average overall traffic speed in excess of 30 miles per hour. LOS "B" represents stable flow with minor delays and speeds of 25 miles per hour or greater. LOS "C" corresponds to the design capacity of a road system and indicates stable flow with delays, and speeds of 20 miles per hour or more. LOS "D," "E," and "F" correspond to decreasing abilities to travel greater than 15 miles per hour and correspond to the over-capacity of the road system.

**LOT** — An area of land under single ownership, with definite boundaries, used, or available for use, as the site of one or more buildings.

**PRELIMINARY PLAN** — A proposed plan for subdivision of land submitted pursuant to MGL, c. 41 and these rules and regulations for the information of and analysis by the Board and other regulatory agencies of the Town of Brewster.

**STREETS, ROADS AND WAYS** —

- A. **ARTERIAL STREET OR ROAD** — A major street or road whose primary function is the carrying of traffic between neighborhoods, between towns or between regions. This definition includes routes and streets.
- B. **CARTWAYS** — As shown on the Brewster Town Map, cartways are shown only for the implementation of the house numbering system to provide identification to existing houses on rights-of-way. A cartway does not have status as an approved or accepted way or street.
- C. **CIRCLE** — A way that has two different accesses and egresses.
- D. **COURT** — An area which provides access to land used for residential purposes.
- E. **MAJOR STREET OR ROAD** — Any street or road, other than a minor street or road. It shall include

the terms "collector" (road or street) and "arterial" (road or street).

- (1) **ARTERIAL STREET OR ROAD** — A major street or road whose primary function is the carrying of traffic between neighborhoods, between towns or between regions. This definition includes routes and streets.
- (2) **COLLECTOR STREET OR ROAD** — A major street or road which carries traffic between a system of minor streets or road circulation system of the Town of Brewster and neighboring towns.
- F. **MINOR STREET OR ROAD** — A street or road whose primary purpose is to provide access to the abutting dwelling units, not in excess of 50. This definition includes drives and lanes.
- G. **PATH** — A private driveway used for access to land used for residential purposes.
- H. **SQUARE** — An area which provides access to commercial business.
- I. **WAY** — A passage, path, road or street over land.

**SUBDIVISION** — The division of a tract of land into two or more lots and shall include resubdivision, and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the Subdivision Control Law if, at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective in the city or town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or bylaw, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least 20 feet. Conveyances or other instruments adding to, taking away from, or changing the size and shape of lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the city or town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision.

**SUBDIVISION CONTROL LAW** — Refers to MGL c. 41, §§ 81K to 81GG, titled "The Subdivision Control Law."

**SURVEYOR, LAND** — Any person who has been registered or otherwise legally authorized by the Commonwealth of Massachusetts to perform land surveying services.

**TOWN ENGINEER** — The Superintendent of Public Works.

**TRIP GENERATION** — Trip generation rates for land uses will be taken from the most recent update of Trip Generation, Institute of Transportation Engineers, Washington, D.C.

**UTILITIES** — Gas, electric, water, drainage, cable television, telephone, sewer, steam distribution and related and ancillary services.

ARTICLE II  
**Approval of Subdivision**

**§ 290-4. Plans not requiring approval.**

- A. Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land, and who believes that his plan does not require approval under the Subdivision Control Law, may submit his plan and the appropriate Application Form A to the Board accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file, by delivery or by registered or certified mail, a notice with the Town Clerk stating the date of submission for such determination, accompanied by a copy of said application.
- B. If the Board determines that the plan does not require approval, it shall, without a public hearing and within 21 days of submission, endorse on a plan the words "Planning Board Approval Under Subdivision Control Law Not Required." Said plan shall be returned to the applicant, and the Board shall notify the Town Clerk of its action.
- C. A plan not requiring approval shall be prepared by a registered land surveyor and shall be clearly and legibly drawn to the requirements of the recording rules adopted by Registry of Deeds in Massachusetts. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire plan. All information supplied by engineers, builders, surveyors, etc., shall be in digital format. A plan not requiring approval shall contain the following information:
- (1) Property boundaries, North arrow, date and scale.
  - (2) Name of the record owner, name of the registered land surveyor, and the Barnstable Registry of Deeds book and page reference of conveyance to record owner.
  - (3) Area of each lot in square feet and acres.
  - (4) Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line; monuments or references necessary to establish these lines on the ground.
  - (5) Where practical, boundary lines of contiguous and adjacent land and the names of the owners thereof, as determined from the most recent tax list.
  - (6) Location of all permanent monuments properly identified.
  - (7) Location, names and present widths of non-public (private) ways abutting the property.
  - (8) Suitable space to record the endorsement of the Board that approval is not required with the date and the signatures of the members of the Board.
  - (9) Zoning classification and location of any zoning district boundaries that may lie within the locus of the plan.
  - (10) In the case of the creation of a new lot, the remaining land area and frontage of the land in the ownership of the applicant shall be shown.
  - (11) Location of all existing buildings, including setback and side and rear yard designations.
  - (12) Location and area of any wetlands on the lots being created by the plan (including the lot being created by the remaining land). In lieu of delineating the wetlands on the remaining land, the

applicant may provide written certification from the land surveyor or engineer who prepared the plan that the remaining parcel of land contains the minimum upland area required under the Zoning Bylaws.<sup>93</sup>

- D. If the Board determines that the plan does require approval under the Subdivision Control Law, it shall, within 21 days of submission of said plan, so inform the applicant and return the plan. The Board also shall notify the Town Clerk of its determination. If the Board fails to act upon the plan within the prescribed 21 days, it shall be deemed to have determined that approval under the Subdivision Control Law is not required.
- E. In acting on such a plan, the Board must ask if the way on which this plan of land is located is adequate to handle all the traffic generated from all sources and also if the design and construction of this way are in reasonable compliance with the standards shown in Article IV of these rules and regulations. A negative answer to either question will justify disapproval.

#### **§ 290-5. Submission of definitive plan required.**

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the Town, or proceed with the improvement or sale of lots in a subdivision or the construction of ways or the installation of municipal services therein, unless and until a definitive plan of such subdivision has been submitted to and approved by the Board as hereinafter provided.

#### **§ 290-6. Required Board review.**

- A. Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision or elsewhere in the Town without the review of the Board.
- B. When conducting such review the Board will take note of the provision of adequate ways furnishing access to each site for such building in the same manner as otherwise required for lots within a subdivision, and the Table of Area Regulations of the Zoning Chapter shall apply. Ways within the subdivision must be in accordance with Article IV of these rules and regulations, and those ways used for access to the subdivision must be in reasonable compliance with these same standards.

#### **§ 290-7. (Reserved)**

#### **§ 290-8. Adequate access.**

- A. Plans shall be endorsed as not requiring approval under the Subdivision Control Law, and subdivision plans shall be approved, only if each building lot to be created by such plans has adequate access as intended under the Subdivision Control Law, MGL c. 41, §§ 81K through 81GG.
- B. Standards of adequacy.
  - (1) Ways which qualify as access only because of having been in existence when the Subdivision Control Law became effective in the Town shall normally be considered to provide adequate access to proposed lots said not to constitute a subdivision only if having a paved width of at least 16 feet at all points, at least 150 feet of stopping sight distance, drainage assuring uninterrupted access and other design and construction features which, in the judgment of the Board, similarly provide for basic movement and safety. Other ways will be determined to

---

93. Editor's Note: See Ch. 179, Zoning.



provide adequate access only if in physical reality they are of sufficient width and suitable to accommodate motor vehicle traffic and to provide access for fire-fighting equipment and other emergency vehicles.

- (2) Ways shall normally be considered to provide adequate access to proposed subdivisions only if they provide connection to a state-numbered highway via roads which, with no more than minor exceptions, continuously meet the standards of Article IV, except for right-of-way width.
  - (3) Ways within subdivisions shall be considered to provide adequate access only if they comply fully with these regulations.
- C. Waiver. The Board may waive strict compliance with these access requirements upon its determination that the way in question will still provide adequate width, grades and construction to serve potential uses of land abutting on or served by the way in question. In reaching such determination, the Board shall consult with the Department of Public Works, Police Chief or Fire Chief.

## ARTICLE III

**Plan Submission and Approval Procedure****§ 290-9. Preliminary plans.**

- A. A preliminary plan of a subdivision may be submitted by the applicant for discussion and action by the Board. The submission of such a preliminary plan will enable the applicant, the Board, other municipal agencies and owners of property abutting the subdivision to discuss and clarify any problems of such subdivision before a definitive plan is prepared. Therefore, it is strongly recommended that a preliminary plan be filed in every case. A properly executed Application Form B shall be filed with the preliminary plan submitted to the Board. The plan shall be submitted by delivery at a meeting of the Board or by delivery or registered or certified mail to the Board, in care of the Town Clerk.
- B. Contents.
- (1) The preliminary plan may be drawn on paper 24 inches by 36 inches in size at a scale of not less than one inch equals 100 feet, and two prints will be filed with the Clerk of the Board. Said preliminary plan shall be identified as a preliminary plan and shall show sufficient information about the subdivision to form a clear basis for discussion and for the preparation of Subsections (1) to (7), inclusive, of the contents of the definitive plan (§ 290-10C), plus the legend and title "Preliminary Plan," name of the engineer and/or land surveyor responsible for the plan, proposed system of drainage, approximate area and dimensions, all existing utilities on adjacent properties and topography of land in a general manner. The Board may require topography for the entire property from United States Geological Survey maps or on-site survey. During discussion of the preliminary plan, the complete information required for the definitive plan (§ 290-10C) will be developed.
  - (2) Names and addresses of abutters will not be required for discussion of a preliminary plan.
  - (3) The proposed names of streets should be contained in a letter submitted to the Board for review and approval by the Department of Public Works and Police Department.
  - (4) The Board shall be advised at this time what waivers, if any, will be requested from the Planning Board Rules and Regulations for Subdivisions.
- C. Action by Board.
- (1) The Board may give such preliminary plan its approval, with or without modification. Such approval does not constitute approval of a subdivision but does facilitate the procedure in securing final approval of the definitive plan.
  - (2) The Board may also disapprove the plan. Disapproval shall be accompanied by a detailed statement of reasons for the action.
  - (3) Notice of its action must be given by the Board to the applicant and Town Clerk within 45 days of the date of submission.
- D. Preliminary plan content for subdivisions containing 10 or more lots. The preliminary plan shall show the following:
- (1) Subdivision name, boundaries, north arrow, date, scale, legend and title "Preliminary Plan."

- (2) Names and addresses of the record owner and the applicant and the name or names of the engineer or land surveyor.
  - (3) Names and addresses of all abutters as determined from the most recent tax list and such others to whom notices are to be sent.
  - (4) Existing and proposed lines of streets, easements, and any public areas within the subdivision, in a general manner.
  - (5) The proposed system of drainage, including the location of all wetlands, water bodies, streams, open drains and ditches, natural or man-made, and flowage rights, public and private, adjacent to (and to be affected by the drainage from the subdivision) or within the proposed subdivision in a general manner.
  - (6) A general description of the type of sewage disposal and water distribution system proposed.
  - (7) Approximate boundary lines of proposed lots with approximate areas (in square feet and acres) and dimensions.
  - (8) Names, approximate locations and widths of adjacent streets.
  - (9) The existing topography of the land at two-foot intervals based on field survey and referenced to United States Geological Survey (USGS) datum. Existing topography is to be indicated by dashed lines with elevations shown.
  - (10) The proposed topography of the land at two-foot intervals. The proposed topography is to be indicated by solid lines with proposed elevations shown enclosed in blocks.
  - (11) Other existing site features (regardless of proposed construction), including water bodies, wetlands, buildings, stone walls, rock outcroppings, and trees 12 inches in diameter or the perimeter of heavily wooded areas.
  - (12) Zoning classification of the area and any zoning district boundaries that may lie within the locus of the plan.
  - (13) If the preliminary plan does not include all of the contiguous land owned by the applicant in the area, a plan, in a general manner, should be submitted of the overall proposed development. If the developer does not agree to provide future development plans to the Board, the Board shall assume that the remaining land will be developed to the maximum amount allowed under zoning.
  - (14) Soil association types of the locus based on U.S. Conservation Service Soils Mapping of the Town of Brewster, if available.
- E. Approval and disapproval. The Board shall act upon the preliminary plan and its accompanying materials in accordance with MGL c. 41. Approval, if given, does not constitute approval of a subdivision, but does facilitate the procedure in securing approval of the definitive plan. Any plan submitted by the applicant to the Board in advance of the definitive plan which does not conform to the requirements hereof pertaining to a preliminary plan shall not be considered to be a preliminary plan, nor shall such plan afford protection under the Subdivision Control Law.

#### **§ 290-10. Definitive plans.**

- A. Any person who submits a definitive plan of a subdivision to the Board for approval shall file with

the Clerk of the Board the following:

- (1) An original reproducible drawing of the definitive plan (includes all plans, maps and cross sections required by § 290-10C) and 16 prints thereof.
  - (2) A properly executed Application Form C.
  - (3) Evidence that the definitive plan conforms to the approved preliminary plan or that the definitive plan includes the modifications required by the Board's action on the preliminary plan.
  - (4) A filing fee in accordance with the fee schedule.
  - (5) A separate locus plan of the subdivision at a scale of one inch equals 800 feet, indicating the position within the Massachusetts Coordinate System as specified in Chapter 47 of the Acts of 1941 and showing the right-of-way lines of all proposed streets in the subdivision and their location in relation to two or more existing streets, or portions thereof, shown and readily identifiable as to locus on the Town Map and to such accuracy that the Town Map may be placed over the location plan for purposes of actual transfer.
  - (6) A certified list of all abutters with addresses as they appear in the most recent tax list, plus a sketch of land.
  - (7) A statement of the applicant's choice of methods of satisfying the performance guarantee required under § 290-10L below along with the properly executed covenant if that is the method of choice.
- B. Developments of 10 or more lots. For developments creating frontage potentially allowing creation of 10 or more lots or in other cases where the Board deems it appropriate, a comparative environmental analysis, as outlined in this section shall be submitted. For proposals for the subdivision of 10 or more lots the Board may require the applicant's submission of all or part of the following additional information and analyses:
- (1) Any submission of a residential subdivision creating 10 or more lots from a single or multiple parcels which was/were held in common ownership as of January 1, 1997, and all nonresidential subdivisions, shall be accompanied by four copies of an environmental and community impact analysis. The environmental and community impact analysis shall clearly and methodically assess the relationship of the proposed development to the natural and man-made environment of Brewster. This report shall be prepared by an interdisciplinary team of professionals qualified, experienced, and, where applicable, licensed, in such fields as registered professional engineers, traffic engineers, architects, landscape architects, land-use planners, hydrogeologists, hydrologists, biologists and other environmental professionals. It is intended that the report be a guide to the Planning Board in its deliberations and will build into the Board's decisionmaking process an appropriate and careful consideration of the environmental and community impacts of the proposed development.
  - (2) For each of the components of the environmental and community impact analysis listed under Subsection D below, each of the following concerns must be separately addressed:
    - (a) The environmental and community impacts of the proposed development: all primary and secondary environmental and community impacts, both beneficial and adverse, anticipated as a result of the proposed development. This section shall include all impacts resulting from the construction phase as well as those resulting from the project's completion.

- (b) Adverse impacts which cannot be avoided should the proposed development be implemented: The report shall describe the kinds and magnitudes of adverse impacts which cannot be reduced in severity or which can be reduced in severity, but not eliminated.
  - (c) Alternatives to the proposed development: The report shall develop, describe, and objectively weigh alternatives to the proposed development which are allowed by the Zoning Bylaw.
  - (d) Measures to be used to minimize adverse environmental and community impacts: corrective and protective measures which will be taken, as part of the project, to minimize adverse impacts shall be described in detail.
- (3) The Board, as part of a review for a preliminary subdivision plan, submitted in accordance with the requirements of § 290-9, may specify which of the following topics shall be evaluated, and the level of detail required for each topic, in the environmental and community impact analysis and submitted with the definitive plan. If no preliminary subdivision plan is submitted, the environmental and community impact analysis shall evaluate all of the following topics:
- (a) Natural environment.
    - [1] Air and noise pollution: the impact on local air quality and noise from the proposed development (including traffic generated from the development), both during and after construction, shall be evaluated. For larger developments (over 25 dwelling units), the Board may require detailed technical reports of such impacts.
    - [2] Water pollution: The impact of stormwater runoff on adjacent and downstream surface water bodies and subsurface groundwater shall be evaluated. Dangers of flooding as a result of increased downstream runoff, especially peak runoff, shall also be considered, as well as the impact of the proposed project on water table levels.
    - [3] Land: compatibility of the proposed development with existing soils; the impact of the removal of any soils or other materials from the site; and the potential dangers and impacts of erosion and sedimentation caused by the proposed development.
    - [4] Plants and wildlife: the impact that the proposed project may have on wildlife habitat and on any rare or endangered plant or animal species known to exist in the area. Applicants shall consult with appropriate state agencies to determine the location and type of any endangered plant or wildlife species on the subdivision property.
    - [5] Water supply: the average and peak daily demand and the impact of such demands on groundwater aquifers.
    - [6] Sewage disposal: the average and peak daily disposal and the impact of such disposal on groundwater.
  - (b) Man-made environment.
    - [1] Existing neighborhood land use: compatibility with adjacent or nearby existing land use, or approved private development plans, if known, for adjacent or nearby land use changes to occur during the life of the proposed development. If not compatible, reasons therefor shall be detailed. Consultation with the Board is strongly recommended.

- [2] Zoning: compatibility of proposed development with the purposes of the Zoning Bylaw and the zoning district.
- (c) Public service.
  - [1] Schools: the expected impact on the school system (both elementary and secondary levels), the projected number of students; projected school bus routing changes and projections of future school building needs resulting from the proposed project.
  - [2] Public safety.
    - [a] Police: the expected impact on police services, time and manpower needed to protect the proposed development and service improvements necessitated by the proposed development.
    - [b] Fire: expected fire protection needs; on-site fire-fighting capabilities; on-site alarm or other warning devices; fire flow water needs, source and delivery system and other needs shall be presented. Fire Department service improvements necessitated as a result of the proposed project shall also be discussed.
  - [3] Recreation: on-site recreation provisions shall be detailed and off-site recreation demands shall be estimated. Provisions for public open space, either dedicated to the Town or available to its residents shall be described. Open space available primarily or exclusively for residents or employees shall also be described.
  - [4] Solid waste disposal: analysis of the projected volume and type of solid waste to be generated by the proposed development and methods of removal.
  - [5] Water: projected impact on Town water system capacity and infrastructure.
  - [6] Roadway: Projected need, responsibility and costs to the Town of roadway maintenance shall be analyzed. Impacts of construction equipment on area roadways shall also be discussed.
- (d) Aesthetics.
  - [1] Lighting: The type, design, location, functions and intensity of all exterior lighting facilities shall be described. Attention given to safety, privacy, security, and daytime and nighttime effects shall be detailed.
  - [2] Landscaping: Provisions for landscaping shall be described, including type, location and function of all plantings and materials.
  - [3] Visual: Attention given to views into the site and from the site shall be described; included shall be long-distance views as well as views to and from adjacent properties.
- (e) Planning: Analyze the compatibility of the proposed development and its alternatives with the goals and objectives of the most recent open space plan and other pertinent planning studies.
- (f) Traffic impacts.

- [1] In determining the impact of vehicular traffic generated from a development, the use trip generation rates and levels of service as defined in § 290-3 unless the applicant demonstrates to the Board that given the nature of the proposed project or applicable road systems, other standards are appropriate. The applicant shall provide an analysis of development impact which, at a minimum, includes the following:
  - [a] The existing LOS of relevant road systems including quantitative and qualitative measurements of operational factors, including speed, travel delay, freedom to maneuver and safety;
  - [b] The expected change in the condition of relevant road systems as a result of the proposed development;
  - [c] The comparison on a per-acre basis of the total vehicular traffic generation from the proposed development with:
    - [i] The existing and potential vehicular traffic generation from all other development accessing relevant road systems; and
    - [ii] The vehicular traffic generation which would be expected to produce a LOS below LOS "C."
- [2] The Board may withhold approval of a definitive subdivision plan or may choose to refer the plan to the Cape Cod Commission as a limited discretionary referral if, after weighing all the pertinent facts and evidence the Board finds that:
  - [a] The existing condition of the road system, at the point(s) where said development may access the road system, is below level of service (LOS) "C"; or
  - [b] The vehicular traffic contribution from the proposed development, when added to the existing and potential vehicular traffic that currently or may in the future access the road system, will generate vehicular traffic flows that decrease the road system(s) below LOS "C". However, the Board shall not withhold approval under this section if the applicant provides measures for the reduction of vehicular traffic flow or an improved LOS designation. It shall be the responsibility of the applicant to demonstrate to the Board that the proposed mitigating measures will work as designed.
- (g) Cost/benefit analysis: This municipal cost/benefit analysis should follow standard and usual procedures for measuring both the benefits to be derived and costs to be incurred by the Town of Brewster as a result of the proposed development.
- (h) Environmental analysis for nonresidential subdivisions: A comparative environmental analysis shall be submitted for nonresidential subdivisions and for other cases where the Board determines it appropriate in light of special circumstances. The scope of such analysis, including development alternatives to be compared and consequences to be studied, shall be as agreed to by the Board but will normally be required to include at least one major alternative to the plan proposed, with as much of the following information as determined by the Planning Board to be necessary for plan evaluation. The traffic analysis shall be consistent with Traffic Impact Guidelines, January 15, 1990, appended hereto.<sup>94</sup> The analysis shall indicate differences among alternatives regarding;

- [1] Impact upon ground- and surface water quality and level including estimated phosphate and nitrate loading on groundwater and surface water from sewage disposal systems, lawn fertilizer and other activities within the development. For subdivisions located in whole or in part within Water Resource Districts established in the Zoning Bylaw,<sup>95</sup> this shall include analysis of open and closed drainage system alternatives, examining effects upon the basic water and upon future contaminant levels.
  - [2] Material effects upon significant wildlife habitats, outstanding botanical features and scenic or historic environs.
  - [3] Capability of soils, vegetative cover and proposed erosion control efforts to support proposed development without danger of erosion, silting or other instability.
  - [4] Relationship to the requirements of MGL c. 131, §§ 40 and 40A (the Wetlands Protection Act).
  - [5] Impact upon the existing water supply system and well capacity of the Town.
  - [6] Ability of streets providing access to the subdivision to safely provide such access, including measurement of sight distances at each intersection with proposed streets, impact of development traffic on the traffic level of service, gap acceptance analysis and analysis of hazards owing to limited sight distances, alignment or other characteristics of access roads.
  - [7] Measures to be taken to assure compliance with the environmental controls of Article III, Development Standards, of the Development Plan Review Bylaw.<sup>96</sup>
- C. Contents. The definitive plan shall be prepared by an engineer and/or land surveyor and shall be clearly and legibly drawn on Mylar. The scale shall not exceed one inch equals 100 feet. Sheet size shall be 24 inches by 36 inches. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The preliminary as well as the definitive plans shall contain the following information:
- (1) The subdivision name (subject to Board review), boundaries, North arrow, date of submission and scale.
  - (2) The names and addresses of record owner and applicant.
  - (3) The names and addresses of all abutters as they appear in the most recent tax list.
  - (4) The existing and proposed lines of streets, lots, rights-of-way, easements and public or common areas within the subdivision. The proposed names of streets shall be contained in a letter submitted to the Board for review and approval by the Department of Public Works and Police Department. All street names must include suffixes, such as way, lane, road, street, etc. The purpose of easements shall be indicated and deed references for such easements provided. If the principal access to the subdivision is over a private way, not owned by the applicant, it is the responsibility of the applicant to provide evidence to the Board of the legal right of the applicant/owner to use this access and so note on the plan.

---

94. Editor's Note: See § 290-40.

95. Editor's Note: See Ch. 179, Zoning.

96. Editor's Note: See Ch. 83, Development Plan Review.



- (5) The location, name and present widths of streets (layouts and travel surface) bounding, approaching and within 800 feet of the subdivision.
  - (6) The location of natural waterways and water bodies within and adjacent to the subdivision.
  - (7) The major site features, such as existing stone walls, fences, buildings and wetlands. The definition of the wetlands must be shown as well as the area in square feet and acres.
  - (8) Sufficient data, including length, bearings, radii and central angle, to determine the exact location, direction and length of every street and way line, lot line and boundary line and to establish these lines on the ground.
  - (9) Any zoning boundary passing through the parcel(s) shall be shown on the plan as well as each zoning classification and the Brewster Tax Map and lot number.
  - (10) The boundary lines, areas in square feet, and dimensions of all proposed lots, with all lots designated numerically.
  - (11) The location of all permanent monuments and benchmarks and each bound, properly identified as to whether existing or proposed.
  - (12) The name of the engineer and/or land surveyor who prepared the plan. Certificates and seals of the engineer and/or land surveyor that they actually prepared the plan and an additional certificate by the land surveyor that all surveying conforms to the Technical Standards for Property Surveys of the American Congress on Surveying and Mapping shall appear on the plan.
  - (13) Suitable space to record the action of the Board and the signatures of the members of the Board and date on each sheet of the plan.
  - (14) Profiles of the right-of-way lines of proposed streets at a horizontal scale of one inch equals 40 feet and a vertical scale of one inch equals four feet or such other scale acceptable by the Board. Profiles shall also indicate the location of any intersecting public or private ways and the location and size of existing and proposed catch basins, water mains, and their appurtenances. The Board shall require two copies of the profiles. Total length of all streets to be paved within the subdivision or adjacent land will be provided on the profile by the applicant.
  - (15) The applicant will show house numbers on the plan as assigned by the Brewster Fire Department.
  - (16) The type of development as defined in the Zoning Chapter (Ch. 179) shall be noted on the plan.
  - (17) Any requests for waivers of the Board rules and regulations shall be contained in a letter accompanying the definitive plan.
  - (18) Subdivisions of 50 lots or more shall require at least two means of access.
- D. Review by Town Boards and Commissions. At the time of the filing of the definitive plan, a copy shall be given to the following Boards and Commissions:
- (1) The Board of Health shall, within 45 days after the submission of the plan, report to the Board in writing its approval or disapproval of said plan and that septic permits will be issued only if each system can perform to the requirements of Title 5 and/or other applicable regulations.

- (2) The Board will require a letter of review from the Superintendent of Public Works, the Chiefs of the Fire and Police Departments, the Building Commissioner and the Superintendent of the Water Department. The Board must reply in writing, explaining its reasons, if it acts contrary to their recommendations.
  - (3) The Conservation Commission shall receive a copy of this plan for its consideration regarding proximity to ponds and wetlands. A written report to the Board would ensure an opportunity for discussion of any issues at the public hearing.
- E. Utility approval. Where the developed property includes a utility right-of-way, evidence of local electric company approval must be submitted, when required.
- F. Drainage and septage. The approval of any type of development of a parcel of land of 15 acres or larger shall be preceded by soil analysis tests. Initially, at least four test borings must be made to a level five feet below the water table. The cores of these test borings and the direction of water flow shall be used to evaluate the general character of the land and establish whether further tests and/or groundwater monitoring will be required by the Board of Health for septage systems or by the Department of Public Works for approval of drainage systems. Some test borings may be required on any size tract if the Board or Board of Health believe it necessary for evaluation before approval.
- G. Public hearings. Before approval, modification and approval, or disapproval of the definitive plan is given, a public hearing shall be held by the Board; notice of the time and place and the subject matter, sufficient for identification, shall be given by the Board by advertisement in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication being not less than 14 days before the day of such hearing and by mailing a copy of such advertisement to the applicant and to all abutters as appearing on the most recent tax list.
- H. Approval, modification or disapproval. After the required public hearing but within the period specified in the Subdivision Control Law of submission of the definitive plan, final action shall be taken by a majority of the Board after receipt of bond or covenant.
- I. Certificate of approval. The action of the Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by delivery or by registered or certified mail to the applicant. If the Board modifies or disapproves such plan, it shall state in vote the reason for its action. Final approval, if granted, shall be endorsed on the original drawing of the definitive plan by the signatures of a majority of the Board, but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk and said Clerk has notified the Board that no appeal has been filed, or if appeal has been taken, not until the entry of a final decree of the court sustaining the approval of such plan. After the definitive plan has been approved and endorsed, the Board shall retain a copy for its files.
- J. Recording of plan. Within 10 days after the definitive plan, as approved and endorsed, has been recorded at the Barnstable County Registry of Deeds and, in the case of registered land, with the recorder of the Land Court, the applicant shall furnish the Board with a copy of each plan, reproduced by the Registry of Deeds, on which shall be inscribed the plan book and page number where this plan is recorded.
- K. Road layout. Approval of the definitive plan does not constitute the laying out or acceptance by the Town of streets within a subdivision. However, all roads in the subdivision shall be so constructed as to conform to the Town's requirements for laying out and accepting of roads, and the developer will provide, before final acceptance of the subdivision, an as-built plan of the road layout.

- L. Performance guarantee. Before endorsement of the Board's approval of a definitive plan of a subdivision, the applicant shall secure the completion of the required improvements specified in Article V for all of the lots in the subdivision as follows:
- (1) Approval with bonds or surety. The applicant shall either file a surety company performance bond or a deposit of money or negotiable securities in an amount determined by the Board to be sufficient to cover 150% of the cost of all or any part of the improvements specified in Article V. In case of negotiable securities, the value required shall be increased by 100% greater than a bond. Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by Town Counsel and as to the sureties by the Town Treasurer and shall be contingent on completion of such improvements within two years of the date of endorsement of the plan.
  - (2) Approval with covenant. The applicant shall file with the Board, and properly record along with the endorsed plan, a properly executed covenant, running with the land, whereby such ways and services shall be provided to serve any lot before such lot may be built upon or conveyed other than by mortgage deed. Such covenant shall be executed on the form provided by the Board and shall be contingent upon the commencement of required improvements within two years of the date of endorsement of the plan. At the discretion of the Board, a time extension may be granted.
- M. Alternate method of guaranteeing performance. After the Board has released one or more lots from a covenant or performance guarantee, but not more than 50% of the lots, and following the recording of a mortgage or mortgages on a lot or lots in the subdivision given as security for advances to the subdivider by a lender, the Board may release one or more of the remaining lots from the guarantee without receipt of a bond. An agreement shall be delivered to the Board, which agreement shall be with the Board and executed by the applicant and the lender. This agreement shall provide for the retention by the lender of sufficient funds otherwise due the applicant to secure the construction of ways and installation of utilities. Said agreement shall provide for a schedule of disbursements which may be made to the applicant upon completion of various stages of the work and shall further provide that in the event the work is not completed within the time set forth by the applicant, any funds remaining undisbursed shall be available for completion of work by the Town.
- N. Release of performance guarantee. Upon the completion of improvements required under Article V, a security for the performance of which was given by bond, deposit or upon the performance guarantee with respect to any lot, the applicant shall send by certified mail, facsimile, or delivered in person to the Town Clerk and to the Board each a written statement that said construction or installation in connection with which such bond or deposit has been given has been completed in accordance with requirements contained under Article V. Such statement shall contain the address of the project in question. If the Board determines that said construction or installation has not been completed, it shall specify to the applicant in writing the details wherein said construction and installation fails to comply with the requirements contained under Article V. Upon failure of the Board to act on such application within 45 days after the receipt of the statement by the Town Clerk, all obligations under the bond shall cease and terminate by operation of law, and any deposit shall be returned. In the event that said forty-five-day period expires without such specifications, or without the release and return of the bond or return of the deposit as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded. No performance guarantee shall be released by the Board until, in addition to the requirements noted above, the applicant or the applicant's agent have submitted to the Board two copies of an as-built plan of the subdivision and subdivision roads and the definitive plan(s) as approved and endorsed by the Board in digital format.
- O. Status reports. The applicant shall report the status of the construction, installation and completion of the subdivision to the Board every six months from the date the definitive plan is endorsed to the final

completion of the subdivision. Such status report may be made at a regularly scheduled Board meeting and shall be made in writing.

ARTICLE IV  
**Design and Construction Standards**

**§ 290-11. Streets and underground utilities.**

- A. At least one street in the new subdivision will connect with a road which will provide access to the new subdivision, and said road shall meet the requirements of MGL c. 41 § 81M, in the opinion of the Board.
- B. Location.
- (1) All streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide safe vehicular travel. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision. No traveled way in the subdivision may be located closer to a property line of the subdivision than 25 feet (except where a cul-de-sac is planned for future extension).
  - (2) Provision satisfactory to the Board shall be made for the proper projection of streets or for access to adjoining property which has not been subdivided. Any street in a new subdivision that abuts vacant land, if terminated, shall provide turnarounds as provided in Table 2,<sup>97</sup> with easements of 45 feet in length and 40 feet in width extending to the boundary of the subdivision with the vacant land, such that streets can be extended into further subdivision. Any street in a new subdivision that abuts an existing subdivision shall connect with the existing Town roads in the older subdivision, or with the existing private road (with the written permission of the owners on the private road), if proper rights-of-way are granted by the older subdivision.
  - (3) Reserve strips prohibiting access from streets or adjoining property shall not be permitted, except where, in the opinion of the Board, such strips shall be in the public interest.
  - (4) In case access to a subdivision crosses land in another municipality, the Board may require certification from appropriate authorities that such access is in accordance with requirements of such municipality and that a legally adequate performance bond has been duly posted or that such access is adequately improved to handle prospective traffic.
- C. Alignment, grade, cul-de-sac and intersections. These shall be in accordance with the standards in Table 2.<sup>98</sup>
- D. Cul-de-sac (turnarounds). These shall be completely paved. A center island, with bituminous curbing, will require written approval from the Fire Department.
- E. Bridges. They shall be designed in accordance with the standards of the Massachusetts Highway Department.
- F. Retaining walls. They shall be installed where deemed necessary by the Board, as advised by the Town Engineer, and shall comply with specifications set forth in Standard Specifications for Highways and Bridges, as amended.
- G. Half streets. A half street, one that is a portion of a proposed street running astride a common boundary line, said portion being within a subdivision under consideration, shall be prohibited.

---

97. Editor's Note: Table 2 is included at the end of this chapter.

98. Editor's Note: Table 2 is included at the end of this chapter.

- H. Two streets serving the same lot(s). Streets should be laid out in such a way as to avoid the situation where two parallel streets are providing frontage to the same lot or lots, except where essential to overcome separation of residential development from major streets or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet shall be provided along the rear lot lines abutting such a major street or other disadvantageous use. There shall be no right of access across such easement.
- I. Multiple intersections. Multiple intersections involving a junction of more than two streets shall be prohibited.
- J. Utility installation. All utilities shall be installed underground and will conform to requirements of the utility companies and the Town of Brewster. The applicant shall employ at his own expense an engineer to set all lines and grades in a manner satisfactory to the Board, as advised by the Town Engineer.
- K. Streetlights. The applicant shall install and operate at his own expense a streetlight at the intersection of the subdivision street and the Town road. The light shall be a sodium vapor lamp with size and location to be established by the Police Chief.
- L. Street construction. The applicant shall notify the Board in writing of the appointment of the following:
  - (1) A land surveyor, employed at the applicant's expense to set lines and grades in accordance with the definitive plan.
  - (2) A project manager (who must be a professional engineer), employed at the developer's expense, to serve as a contact person for all Town departments and boards and who shall also be able to certify as to the contractor's compliance with Planning Board rules and regulations as regards road construction. He shall also file written status reports as per § 290-10O of the Planning Board Rules and Regulations.
  - (3) The subgrade shall be classified as follows:
    - (a) Poor: subgrade soils which become quite soft and plastic when wet. Included are those soils having appreciable amounts of clay and silt and fine sand where frost penetration into the subgrade is expected.
    - (b) Medium: subgrade soils which retain a moderate degree of firmness when saturated. Included are such soils as fine sands where frost is not a problem, silty sands and sandy gravels with some silts and clays.
    - (c) Good to excellent: Subgrade soils which retain a substantial amount of their load-supporting capacity when saturated shall be classified as good. Included are clean sands and gravels free of detrimental amounts of plastic silts and clays. Subgrade soils unaffected by moisture or frost shall be classified as excellent. Included are clean and sharp sands and gravels, particularly those that are well graded.
  - (4) All unsuitable material (i.e., poor, below the subgrade) shall be removed to a minimum depth of 30 inches and shall be replaced by permeable soil (medium and coarse sands and gravels) and capped by a six-inch layer (compacted depth) of hardening topped by a four-inch layer (compacted depth) of processed stone (i.e. rock, crusher run, bluestone) or other material approved by the Massachusetts Department of Public Works Standard Specifications for Highways, Bridges and Waterways (1973, as amended), Section 170.

- (5) Before the base course is spread, the subgrade shall be shaped to a true line and grade conformance to the proposed cross section of the road. In all instances a six-inch layer of hardening (compacted depth) shall be installed prior to placement of the required base courses. Subgrades shall be compacted to the depth as indicated in Table 3 to 95% of the maximum dry density determined by AASHTO 180, Method D. All subgrades shall be prepared in accordance with the standards in AASHTO Section 150 (Embankments).
- (6) The pavement structure shall be constructed in accordance with applicable sections of the Massachusetts Standard Specifications for Highways, Bridges and Waterways.
  - (a) Base course. The base course shall be either bituminous concrete in accordance with Section 420, Class I, Bituminous Concrete Base Course, Type I-1, or granular in accordance with Section 405, Gravel Base Course, or Section 410, Crushed Stone Base Course. It shall be laid to a depth indicated in Table 3.<sup>99</sup>
  - (b) Binder course. The binder course shall be bituminous concrete in accordance with Section 460, Class 1, Bituminous Concrete Pavement, Type I-2 (binder course mix). It shall be laid to a depth indicated in Table 3.
  - (c) Surface course. The surface course shall be bituminous concrete in accordance with Section 460, Class I, Bituminous Concrete Pavement, Type I-1 (top course mix). It shall be laid to a depth indicated in Table 3.

#### **§ 290-12. Shoulders.**

- A. In any development, stabilized loamed and seeded shoulders shall be constructed along the roadway, at its outer edges, in accordance with Table 1.<sup>100</sup>
- B. Such shoulders shall consist of a four-inch layer of good quality loam, placed at the edge of the pavement surface, on top of the subgrade, rolled and compacted to a transverse grade of 2% meeting that of the finished pavement and seeded with a good quality ground cover applied in sufficient quantity to assure adequate coverage.

#### **§ 290-13. Curbing and berms.**

- A. Curbing shall be standard granite, precast concrete or bituminous concrete at the election of the applicant.
- B. Machine bituminous concrete berms shall be provided, for drainage purposes, at least 1.5 feet in width, sloping toward the street at a rate of from three to five inches per foot, and laid on top of the base coat. Where the quantity of runoff cannot be accommodated by this shallow gutter and adjoining private property is affected, standard granite or precast concrete curb may be required.

#### **§ 290-14. Sidewalks.**

- A. Sidewalks shall have a finished grade of 2.0% sloping toward the roadway. When unusual physical land characteristics or topographic conditions require, the Board may approve the placement of a sidewalk at a greater distance from the roadway or at a higher or lower elevation in relation thereto, provided that such variation is indicated on the definitive plan.

---

99. Editor's Note: Table 3 is included at the end of this chapter.

100. Editor's Note: Table 1 is included at the end of this chapter.

- B. In constructing all sidewalks, the material shall be removed for the full width of the sidewalk to a subgrade at least 10 inches below the approved finished grade, and also all soft spots and other undesirable material below such subgrade shall be replaced with good binding material and rolled with a two-ton roller or equivalent. Unless the applicant elects to install concrete sidewalks, built according to specifications of Massachusetts Executive Office of Transportation, the excavated area shall be filled with at least eight inches of select gravel containing some binding material and compressed and rolled to a surface slope of 2%. Sidewalks shall then be paved to a thickness of three inches with bituminous concrete pavement, applied in two one- to one-and-one-half-inch courses.

**§ 290-15. Planting strips.**

- A. The finished grade of such planting strips shall be 2% sloping toward the roadway. Where unusual physical land characteristics or topographic conditions exist, the Board may approve the construction of a planting strip at a slope greater than 2%, provided that the finished slope will not project above or below a plane sloped two horizontal to one vertical, upward or downward, from the edge of the roadway.
- B. No trees or other obstructions shall be placed or retained within the planting strip so as to be closer than four feet from the edge of the roadway.
- C. The top four inches of planting strips shall consist of good quality loam, screened, raked and rolled with at least a one-hundred-pound roller to grade. The loam shall be planted with quality ground cover applied in sufficient quantity to assure adequate coverage, rolled when the loam is moist.

**§ 290-16. Side slopes.**

- A. The area in back of the sidewalk, or where no sidewalk is constructed, in back of the required planting strip, shall be graded to a point where it coincides with the finished grade of abutting lots in such a manner that no projection thereof within the right-of-way lines of the street will project above a plane sloped two horizontal to one vertical from the edge of the sidewalk or grass lot, or be below a plane sloped two horizontal to one vertical downward.
- B. The top four inches of side slopes shall consist of good quality loam, screened, raked and rolled with at least a one-hundred-pound roller to grade. The loam shall be seeded with quality ground cover applied in sufficient quantity to assure adequate coverage, rolled when the loam is moist.

**§ 290-17. Street name signs.**

Signs shall conform to standards outlined by the Department of Public Works and the Fire Department.

**§ 290-18. Monuments and markers.**

- A. Granite or concrete monuments 30 inches in length dressed to five inches at the top with a three-eighths-inch drill hole in the center and not less than five inches square at the bottom shall be set to finished grade as shown on plans.
- B. No permanent monuments shall be installed until all construction which could destroy or disturb the monuments is completed.

**§ 290-19. Drainage.**

- A. The construction of a drainage system, including methods of construction and quality of materials



used, shall be in conformity with the definitive plan, and the details shall conform to the details of the Massachusetts Highway Department specifications and standards and typical roadway construction details unless specifically excepted by the Board.

- B. There shall be a drainage basin every 300 feet on continuous grades.
- C. The quantity of stormwater carried by drains normally shall be determined by the Rational Formula Method, unless an engineer shows evidence that another approach is more appropriate in a specific case. However, in no event shall the protection provided be for a lower design storm than specified below. The design storm shall be 25 years in normal cases involving developments, 10 years for industrial subdivisions and 100 years for bridge openings.
- D. The engineer shall provide a plan for stormwater runoff based on the method outlined above, which shall be attached to the road profiles. Additionally, a topographic plan showing the areas of drainage contribution both on and abutting the development shall be furnished.

#### **§ 290-20. Water.**

Community-type systems or the joint use of wells shall be subject to the standards of the Massachusetts Department of Public Health, the Brewster Board of Health and the Brewster Water Department.

#### **§ 290-21. Easements.**

- A. Easements for utilities within street layout, across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least 12 feet wide for electricity and telephone and 25 feet wide for drainage, sewerage and water. These easements shall be granted by the developer for present or future installation and be specifically reserved by deed restriction.
- B. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, the Board shall require that there be provided stormwater easements or drainage rights-of-way of adequate width to conform substantially to the lines of such watercourse, drainageway, channel or stream and to provide for construction or other necessary purpose.

#### **§ 290-22. (Reserved)**

#### **§ 290-23. Multifamily dwellings, clusters, planned residential developments and subsidized elderly housing.**

All regulations set forth in the Town of Brewster Zoning, as amended, Article IX, Special Regulations, shall apply. In the absence of explicit detail of any standard or design regarding roads, utilities, water service, drainage or street signs in the aforesaid Article IX of the Brewster Zoning Bylaw, the appropriate requirements of the Brewster Planning Board rules and regulations shall apply.

#### **§ 290-24. Protection of natural features.**

Due regard shall be shown for all natural features, such as large trees, watercourses, scenic vistas, historic properties and similar community assets, which, if preserved, will add attractiveness and value to the subdivision.

- A. Topsoil. Topsoil removed during construction shall be redistributed so as to provide at least four inches of cover to all areas of the subdivision and shall be stabilized by seeding and planting. At no time shall topsoil be removed from the site or tract without written permission from the Board.

- B. Trees. To the fullest extent possible, existing trees shall be preserved by the developer. Special consideration shall be given in the layout of lots and the position of dwellings on the lots to ensure that existing trees shall be preserved, during the process of grading lots and roads. Where there is a question as to the desirability of removing a group of trees in order to allow for use of the land for a lot or lots, and these trees which serve to add interest and variety to the proposed subdivision, the Board may, after proper investigation, withhold approval of such lot or lots.
- C. Floodplains. Proposed subdivisions shall comply with the state floodplain regulations and any acts in amendment thereof in addition thereto or in substitution therefor. Written notice to the Brewster Conservation Commission will be given by the developer if any portion of the proposed subdivision involves wetlands.
- D. Removal, filling or dredging of certain areas on coastal waters. Proposed subdivisions shall comply with the Wetlands Protection Act, and any acts in amendment or in addition thereto or in substitution therefor. Filling of any lands within a proposed subdivision should be brought to the attention of the Board at the time of the preliminary plan.

**§ 290-25. Time limitation.**

The construction of the roads and the installation of municipal services required under these rules and regulations shall be completed within two years from the date of endorsement of the plan. At the discretion of the Board, an extension may be granted. Failure to so complete the construction of roads and the installation of municipal services within the specified two-year period shall be deemed by the Board to be grounds for rescission of its approval of the plan, under the provision of MGL c. 41, § 81W.

ARTICLE V  
**Required Improvements**

**§ 290-26. General requirements.**

All streets, underground utilities, shoulders, curbing, sidewalks, planting strips, side slopes, street name signs, monuments and markers, drainage systems, water systems, sewerage systems (communal) and easements shall be obtained and installed by the subdivider. The acquisition and installation of these improvements shall be in accordance with Article IV of these regulations. No building permits will be issued for construction of a new building within the proposed subdivision, be it residential or industrial, until all essential services, including, where available or required, water, electric, drainage, gas, telephone, cable television, sewerage, street signs and monuments and markers are installed and paving completed, inspected and approved by the Town Engineer; further, that the underground utilities be so installed such that once the paving is complete and approved, it shall thereafter remain undisturbed except where permission is granted by the Board, as advised by the Town Engineer.

**§ 290-27. Roadways.**

Roadways shall be constructed for the full length and width. The center line of such roadways shall coincide with the center line of the street's rights-of-way, unless a minor variance is specifically approved by the Board.

**§ 290-28. Berms and curbing.**

Berms and curbings shall be required on both sides of all roads in all developments. (See Table 1.<sup>101</sup>)

**§ 290-29. Planting strips.**

Planting strips shall be provided on each side of the roadway, between the roadway and the sidewalk, where sidewalks are required. See § 290-15.

**§ 290-30. Street name signs.**

Each street intersection shall be marked with the street name and the name of the intersected street and shall be of reflective construction. Painted signs are prohibited. Signs will be erected at the inside curb edges. See § 290-17.

**§ 290-31. Monuments.**

Monuments shall be installed at all street intersections, at all points of change in direction or curvature of streets and at other points as shown on the definitive plan and where, in the opinion of the Board, permanent monuments are necessary. See § 290-18.

**§ 290-31.1. Guardrails and barriers.**

Guardrails and barriers may be required when, in the opinion of the Board, they are necessary for the safety of vehicular traffic.

---

<sup>101</sup>.Editor's Note: Table 1 is included at the end of this chapter.

**§ 290-32. Water.**

See § 290-20.

- A. If a public water system is located within 500 feet of the entrance to the subdivision, the applicant shall connect all lots to the public water system. If a public water system is not located within 500 feet, the applicant may install private on-lot or communal water systems, as approved by the Board of Health.
- B. The water system shall be designed, installed and inspected in accordance with all requirements of the Brewster Water Department and, upon completion, shall become the property of the Water Department.

**§ 290-33. Sewerage.**

- A. If a public sewerage system is located within 400 feet of the subdivision, the applicant shall connect all lots to the public sewerage system.
- B. If a public sewerage system is planned to be installed within 400 feet of the subdivision within three years of the date of submission of the definitive plan as indicated by prior Town Meeting action, the applicant shall install, at his cost, in the street and to every lot, sewerage laterals which can be connected later to the public sewerage system. In order for the applicant to design and install properly such laterals, the Town shall be responsible for providing the applicant, at the applicant's expense, with the necessary plan, specifications and design standards of the proposed public sewerage system.

**§ 290-34. Final cleanup and maintenance of streets.**

- A. The entire area must be cleaned up at the time of the Town Engineer's inspection, so as to leave a neat and orderly appearance free from debris. All catch basins shall be properly cleaned out.
- B. The subdivider shall be responsible for maintaining in good repair all roads in a subdivision for a period of two years after release of performance bond, after inspection by the Town Engineer, or until the roads are accepted by the Town Meeting, whichever time is shorter. To assure such responsibility, the subdivider shall guarantee the maintenance of the roads and the drainage and water distribution systems in a subdivision in a condition which meets all the requirements of these rules and regulations to the satisfaction of the Board, by posting with the Town a maintenance bond consisting of either a bond with two or more sureties approved by the Board or by a surety company bond issued by a company authorized to do business in the commonwealth, either or both to be in a penal sum as required by the Board to secure maintenance as herein provided, or by a deposit of money or negotiable securities sufficient in amount, in the opinion of the Board, to secure the aforesaid maintenance.

ARTICLE VI  
**Administration**

**§ 290-35. Inspection and control.**

- A. The following inspections of the required improvements will be made by the Town Engineer, who will be accompanied by a member of the Board. (Subdivision Road Construction Inspection Form shall be used during each inspection.) These inspections may be in addition to any other inspection the Board may make or cause to be made. All sampling and testing of materials shall be performed by qualified personnel acceptable to the Town and shall be at the applicant's expense. At the discretion of the Town Engineer or the applicant's engineer, additional sampling may be required.
- (1) Inspection No. 1. An inspection will be made of the work upon completion of all clearing, grubbing, and excavation and all work incidental thereto as may be required in Article V. No fill shall have been placed at the time of this inspection.
  - (2) Inspection No. 2.
    - (a) An inspection will be made of the completed drainage system (without backfill) as required herein or on the definitive plan.
    - (b) At the same time, or such other time as the work may be available, an inspection will be made of the completed utilities (without backfill) as required on the definitive plan. The inspection of the required utilities will be made by the agency responsible for the particular service as well as by the applicant's engineer. The Town Engineer shall also be notified so that he or she may inspect the utilities prior to backfill. Each agency so involved will notify the Town Engineer of the approval of such work.
    - (c) Backfill of any portion of the drainage system or utilities shall not be made until after receipt of notification of approval or acceptance by the Town Engineer or agency responsible.
    - (d) The inspection of the construction of the ways shall include the inspection of the backfilling and compaction of all utility trenches as may be installed by utility companies and such work shall be performed in the manner as required by these rules and regulations. It shall be the applicant's responsibility to insure compliance with these requirements. If, in the opinion of the Board, the backfilling and compaction of utility trenches and the patching of the pavement, if required, has not been performed in accordance with these rules and regulations, the Board may not release the bond or covenant applicable until such work has been performed to the satisfaction of the Board.
  - (3) Inspection No. 3. An inspection will be made of the compacted fill as specified in Article V, and as may be required to bring the roadways to their proposed grades. The applicant shall notify the Town and the Town Engineer as to the source of gravel for fill as soon as such information is known, so that samples may be taken and analyzed by the Town and the Town Engineer. The applicant is hereby advised not to proceed with the filling operation until the Town and the Town Engineer notify the applicant that the gravel proposed for the fill is acceptable. If the applicant proceeds with the fill prior to such notice, this act shall be at the applicant's own risk. The applicant shall not use a gravel source other than the one designated without prior notice to the Board and the Town Engineer. The applicant's engineer or the Town Engineer may also require compaction tests.

- (4) Inspection No. 4. An inspection will be made of the first layer of compacted roadway foundation (stone dust, gravel, processed stone, or reclaimed asphalt). A gravel sample or samples may be taken at the option of the Town Engineer, in the same manner as prescribed for Inspection No. 3. Compaction tests may also be required by the applicant's engineer or the Town Engineer.
  - (5) Inspection No. 5. An inspection will be made of the final layer of compacted roadway foundation (processed stone) prior to the application of the concrete penetration and gravel sample may be taken by the Town Engineer. Compaction tests may also be required by the applicant's Engineer or the Town Engineer.
  - (6) Inspection No. 6. An inspection of the binder course (bituminous concrete) will be made during placement and following completion. If required, samples of the mix shall be taken by the applicant's engineer or the Town Engineer for the purposes of performing extraction tests, compaction tests, or pavement thickness tests. Core drill samples may be required at the applicant's expense. Certified paving slips indicating bituminous concrete quantities shall be submitted to the applicant's engineer who will tabulate the quantities, check the correlation with the anticipated qualities, and then forward the slips and a report to the Town Engineer.
  - (7) Inspection No. 7. An inspection of the finish course (bituminous concrete) before, during, and following the placement of the mix shall be performed. A tack coat shall be applied to the binder course of mix prior to placement of the top coat where required by the applicant's Engineer or the Town Engineer. The requirements regarding sampling, testing, and quantity slips indicated in Subsection A(6) above for binder course shall also apply to the top course.
  - (8) Inspection No. 8. An inspection will be made of all work as required on sidewalks, berms, topsoil, hydroseeding, open space, side slopes, monuments, bounds, and roadway signs.
  - (9) Inspection No. 9. A final inspection will be made of all subsequent work as required herein or on the definitive plan, which shall include the final cleanup. An as-built plan shall be filed following this inspection. The Town Engineer may choose to conduct an additional inspection to check site improvements against the as-built plan.
- B. Unless the approval of the work completed, including approval of materials used, to each of the above points has been given in writing, no further work shall be done.
- C. All inspection shall be requested by the applicant at least 48 hours in advance by notice to the respective individual listed above in Subsection A.
- D. No inspections shall be made during the period between December 15 and the following April 1, except at the discretion of the Superintendent of Public Works.
- E. For performance of the aforementioned inspection by the Superintendent of Public Works, the developer shall reimburse the Town by the payment of an inspection fee as shown in the fee schedule.
- F. The Town Engineer will submit a completed certified report to the Board for each way in a subdivision. If the applicant submits a request for full or partial release from the covenant or guarantee, the Board may request a report from the Town Engineer prior to completion of the subdivision road(s).

#### **§ 290-36. Submission of as-built plans.**

Prior to approval and acceptance of a subdivision and/or development, as-built plans showing the location, bounds, street signs, grades and other significant information regarding utilities shall be prepared by the

applicant and turned over to the Department of Public Works and the Water Department following the final approval of the improvements as hereinbefore provided.

**§ 290-37. Variations and waivers.**

Minor variations may be permitted when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

**§ 290-38. Forms and procedures.**

The following forms and procedures are available from the Planning Board Clerk:

- A. Form A: application for endorsement of plan believed not to require approval.
- B. Form B: application for approval of a preliminary plan.
- C. Form C: application for approval of a definitive plan.
- D. Form D: certified list of abutters with sketch of land.
- E. Special permit procedure for cluster subdivisions, planned residential developments, subsidized elderly housing and multifamily housing. This procedure outlines provisions for a preapplication hearing and includes a form for a special permit hearing.
- F. Typical roadway construction detail. This applies to all new roadway construction.

**§ 290-39. Fees.**

- A. Filing fees for subdivisions of land, inspections and hearings are shown in the following schedule which supersedes any and all fees or charges shown elsewhere in these rules and regulations. All fees are payable with the application except as noted.
  - (1) Approval not required plan: filing fee of \$300.
  - (2) Preliminary subdivision plan: filing fee of \$1,500, plus \$100 per lot.
  - (3) Definitive subdivision plan: filing fee of \$3,500, plus \$500 per each buildable lot. For a multifamily residential development a filing fee of \$3,500, plus \$500 per unit.
  - (4) Flexible development: filing fee of \$500 up to two lots, plus \$200 per each additional buildable lot.
  - (5) Special permit hearing.
    - (a) Cluster subdivision: filing fee of \$1,000, plus \$100 per buildable lot.
    - (b) Dirt road access: filing fee of \$500.
    - (c) Planned residential development: filing fee of \$1,000, plus \$100 per dwelling unit.
    - (d) Major residential development: filing fee of \$1,000, plus \$100 per lot/dwelling.
    - (e) Multifamily dwellings/subsidized elderly housing: filing fee of \$1,000 plus \$100 per dwelling unit.

- (f) Corridor Overlay Protection District (special permit): filing fees for change of use or addition of up to 1,000 square feet: \$400; over 1,000 square feet or a new proposal (i.e., structure): \$1,000, plus \$100 per structure. (per Brewster Zoning Bylaw, Chapter 179, Article XII).
- (g) Wind energy turbine: filing fee for a medium-scale turbine of \$100; for a large-scale turbine: \$1,000.
- (h) Sand and gravel: filing fee of \$100.
- (6) Early release from covenant, per subdivision, per application: filing fee of \$250.
- (7) Covenant extension, review and/or hearing: \$500.
- (8) Modification hearing for a definitive subdivision, preliminary subdivision or multifamily residential development: filing fee of \$3,000, plus \$100 per each additional buildable lot/unit.
- (9) Modification hearing for special permits: 50% of original hearing fee.
- (10) Inspections: The road construction inspection charge for grid subdivisions, planned residential and cluster developments, multifamily dwellings and subsidized elderly housing is based on the length of the roadways, measured along the center line of the profile. This charge is \$0.75 per foot of roadway and is payable in full when the first inspection is requested (inspection required at each application for lot release request, along with the engineer's report). If the project does not pass inspection, a charge of \$0.75 per foot of roadway is payable for each additional inspection. There is a minimum fee of \$50 for any inspection.
- (11) Road maintenance bond formula:  $\$1.50 \times 2 \times \text{the length}$ .

B. Other fees charged:

- (1) Town of Brewster Zoning Bylaw books: \$25.
- (2) Subdivision Rules and Regulations book: \$10.
- (3) Betterments/road repairs: \$200 per application.
- (4) Road name change: \$200 per application.
- (5) Informal review: \$50 per application.
- (6) Abutter notification fee: \$1.50 for each abutter. The full cost of noticing abutters will not be assigned until certified abutters list is received.

C. Before a hearing can be scheduled for a regular Wednesday meeting of the Board, all plans, applications and the appropriate filing fees must be filed with the Board Clerk by Thursday of the previous week. If an advertised public hearing is required, additional time must be allowed.

**§ 290-40. Traffic impact guidelines.**

- A. Applicability. These guidelines are intended as guidance for all development approval decisions made by Brewster agencies or officials to the extent that traffic impacts are within legitimate public jurisdiction. Examples include recommendation for rezoning to commercial or village business, special permit decisions, comprehensive permits under Chapter 774 of the Acts of 1969, subdivision plan approvals and development plan review.



## B. Submittals.

- (1) Proposals should have full traffic impact analyses submitted for them if they meet any one of the following:
  - (a) Trip generation exceeding 1,000 average daily trips or 100 peak-hour trips.
  - (b) Average daily movements onto and off of the premises from any existing street exceeding 10% of the projected no-build traffic volume on the street at that point, if totaling more than 200 movements.
- (2) All other proposals shall submit a short traffic impact analysis, unless the deciding agency requires a full analysis because of special circumstances.
- (3) The following describes the contents of full and short analyses:
  - (a) Analytic methods and sources used in all studies shall be as outlined in Guidelines for EIR/EIS Traffic Impact Assessment, EOEA and EOTC, July, 1989, unless an alternative is specifically authorized by the deciding agency or is required by the following.
  - (b) Study horizon shall normally be five years in the future, with background traffic growth of 4% per year. In addition to the build analysis, studies shall include both an alternative of expectable site development as currently allowed by right and a baseline assuming no site development. The study area shall include all substantially impacted street segments and intersections, generally those where project traffic adds 5% or more to projected baseline daily volumes.
  - (c) For projects required to prepare a traffic analysis under MEPA, an analysis shall be submitted meeting the full scope required in Guidelines for EIR/EIS Traffic Impact Assessment, EOEA and EOTC, July, 1989, unless a reduced scope has been authorized by MEPA.
  - (d) Sufficient information shall be provided to demonstrate whether or not a full traffic impact analysis will be required.
  - (e) Graphic presentation shall be provided showing study area average daily and peak-hour traffic volume under the baseline, alternative and build conditions.
  - (f) Sight distance measurements shall be provided for each point of egress.
  - (g) Any mitigating measures proposed shall be described.
  - (h) For full analyses, capacity and peak-hour level of service analysis shall be submitted for all street segments and intersections in the study area and gap acceptance analysis for each point of egress from the development.
  - (i) For full analyses, narrative discussion of the following shall be provided:
    - [1] Travel safety characteristics of any streets substantially impacted by allowing the build alternative, considering such things as sight distance limitations, width limitations, horizontal or vertical alignment deficiencies and surface conditions.
    - [2] Streetside safety of any streets substantially impacted, considering such things as the amount and type of development along such streets, presence of sidewalks, vehicle

speeds and any outstanding limitations in sight distance or road configuration.

[3] Impact on pedestrian safety and convenience.

[4] Noise impacts on residential premises.

C. Standards. The following are the standards which proposals should normally meet, unless there are peculiar circumstances justifying departure.

- (1) The peak-hour level of service under build conditions should not be reduced by more than one level relative to baseline conditions at any location or by as much as a half level at more than a quarter of the locations analyzed, unless the alternative conditions would be worse, after considering mitigations likely to be employed. In no event should level of service on any study area street segment or intersection approach fall below level of service "D."
- (2) Average daily traffic volumes should not be increased by more than 1/3 above the no-build level on any street.
- (3) Stopping sight distances at points of egress should meet American Association of State Highway and Transportation Officials standards, assuming wet pavement and vehicle speeds as observed, not as posted. These are representative values.

<b>Observed Speed (miles per hour)</b>	<b>Sight Distance (feet)</b>
25	150
30	200
35	250
40	325
45	400

D. Procedure.

- (1) Applicants for projects to which this policy is applicable are encouraged to contact the Board early in project design regarding the scoping of any traffic studies, including consideration of the study area boundary, the definition of the alternative where involved and the type of mitigation measures, if any, which are likely to prove appropriate.
- (2) Impact studies should be submitted at the time of application for a special permit, subdivision plan approval or development plan review to allow review prior to the public hearing or meeting at which the proposal will be presented.
- (3) Decisions by agencies and officials will continue to be based upon bylaws, regulations and statutes, as adopted, and based upon the criteria and standards which those laws establish, with these policies providing guidance regarding implementation of those adopted criteria and standards.

**Appendix**

**Chapter A295****GENERAL LAWS AND SPECIAL ACTS****§ A295-1. General Law Acceptances.**

<b>Accepted/Voted</b>	<b>Reference</b>	<b>Subject</b>
3-3-1890		Park Commission
3-4-1867	Ch. 179, Acts of 1863	Weights and measures
3-5-1888	MGL c. 50, § 21	
3-5-1888	MGL c. 27, §§ 74 through 77	Park Commission
3-5-1894	Ch. 431, Acts of 1888	Superintendent of Schools
3-6-1899		Revoke acceptance of MGL c. 27, §§ 74 to 77
3-7-1870	Acts of 1869	Impounding cattle
3-7-1892		Not to abolish Park Commission
3-1-1909	Acts of 1908	Fire protection
11-5-1912	Ch. 503, Acts of 1912	Pensioning laborers
11-4-1913	Ch. 807, Acts of 1913	Workmen's compensation
11-3-1914	Ch. 217, Acts of 1914	Laborer's vacations
11-3-1914	Ch. 688, Acts of 1914	Saturday half-holiday
11-3-1914	Ch. 790, Acts of 1914	Abolition of party enrollment primaries
3-1-1915	Ch. 807, Acts of 1913	Workmen's compensation
3-3-1919	Ch. 423, Acts of 1909	Sunday sales
11-4-1919	Ch. 311G, Acts of 1919	Continuation schools
1-17-1925	MGL c. 50, § 1	Official ballots
3-3-1930	Ch. 128, Acts of 1915	Shellfish grants
3-2-1937	MGL c. 48, § 59A	Fire Department mutual aid
11-8-1938	Ch. 169, Acts of 1938	Promoting recreational advantages
11-5-1946	MGL c. 32, §§ 1 through 28	Contributory retirement system
3-4-1947	MGL c. 41, §§ 81A through 81J	Planning Board elected
3-7-1950	MGL c. 40, § 13	Municipal Building insurance fund
3-6-1951	MGL c. 40, § 6A	Town advertising
3-3-1953	MGL c. 41, § 38A	Collection of accounts
3-2-1954	MGL c. 41, § 38A	Collection of accounts

<b>Accepted/Voted</b>	<b>Reference</b>	<b>Subject</b>
3-2-1954	MGL c. 41, § 97A	Police Department established
3-8-1955	MGL c. 41, § 38A	Collector of accounts
3-6-1956	MGL c. 41, § 38A	Collector of accounts
3-5-1957	MGL c. 41, § 38A	Collector of accounts
3-5-1957	MGL c. 85, § 11A	Registration of bicycles
3-5-1957	Ch. 401, Acts of 1957	Civil defense
3-4-1958	MGL c. 48, §§ 42, 43, 44	Fire Department established
3-8-1960	MGL c. 40, § 8C	Conservation Commission established
3-5-1962	MGL c. 32B	Insurance
3-2-1964		Treasurer/Collector one position
3-2-1964		Selectmen act as Board of Public Works
3-3-1969	MGL c. 40, § 6A	Town advertising
7-31-1969	MGL c. 40A, § 20	Land use variances
5-21-1970	MGL c. 71, §§ 16--16I	Regional School District
3-1-1971	MGL c. 91, § 29	Indemnification of Department of Public Works for work performed
3-3-1971	MGL c. 40, § 6C	Snow and ice removal
3-6-1972	MGL c. 91, § 29	Indemnification of Department of Public Works for work performed
1-22-1973	MGL c. 40, § 8D	Establishment of Historical Commission
3-5-1973 of off-duty police officers	MGL c. 44, § 53C	Establishment of a revolving fund for payment
3-5-1973	MGL c. 41, § 111H	Police overtime
3-5-1973	MGL c. 40, §§ 42G, 42H and 42I	Levy of special assessments to meet cost of water main extensions
5-7-1973	MGL c. 40, § 65	Storm weather clothing
10-1-1973	MGL c. 90, § 20C	Establishment of parking regulations
10-1-1973	MGL c. 40, §§ 42A through 42F	Transfer of overdue and unpaid bills for water service to Collector of Taxes, same penalties as for unpaid taxes

<b>Accepted/Voted</b>	<b>Reference</b>	<b>Subject</b>
1-7-1974	MGL c. 41, §§ 81A through 81J	Planning Board expanded to members
5-14-1974	MGL c. 40, § 8B	Establishment of Council on Aging
5-14-1974	MGL c. 80	Betterment assessment procedure
5-20-1974	MGL c. 41, §§ 126 through 132	Grant of tenure to police officers who have served five years or more
5-19-1975	MGL c. 32B, § 9A	Retiree 50% health insurance premium
5-19-1975	MGL c. 41, §§ 126 through 132	Tenure for certain appointed positions
6-23-1975	MGL c. 40, § 8G	Police Department mutual aid
5-10-1976	MGL c. 41, § 81E	Adoption of Official Town Map
5-10-1976	MGL c. 40D	Industrial Financing Authority established
5-10-1976	MGL c. 41, § 6L	Lease and/or rental of work clothes
5-15-1976	MGL c. 40, § 47	Adoption of Town Seal
5-7-1977	MGL c. 114, § 16	Protection of cemeteries
1-9-1978	MGL c. 40, § 22D	Removal of vehicles parked in violation of law
9-18-1979	Ch. 521, Acts of 1979	Labeling of factory-built chimneys
5-12-1980	MGL c. 91, § 29	Indemnification of Department of Public Works for work performed
5-12-1980	MGL c. 32B, § 7A	Additional rate of payment by town of employees insurance
5-18-1981	MGL c. 32B	Distribution of balance of group insurance dividend
5-11-1981	MGL c. 71, § 71E	Appropriations for and expenditure of receipts from adult education and continuing education programs
5-18-1981	MGL c. 258, § 13	Indemnifying of municipal officials
9-21-1981	MGL c. 90, § 20A 1/2	Enforcement of parking regulations

<b>Accepted/Voted</b>	<b>Reference</b>	<b>Subject</b>
9-21-1981	MGL c. 40, § 4G	Advertisements for bids or contract proposals
5-10-1982	MGL c. 148, § 26C	Automatic smoke or heat detectors
5-10-1982	MGL c. 32B, § 17	Insurance
5-10-1982	MGL c. 91, § 29	Indemnification of Department of Public Works for work performed
5-9-1983	MGL c. 59, § 5, Clause 37A	Tax abatement for the blind
5-9-1983	MGL c. 59, § 5, Clause 17C	Tax abatement for widows
9-26-1983	Ch. 597, Acts of 1982	Veterans' motor vehicle excise tax exemption
1-17-1984	MGL c. 40, § 21D	Noncriminal disposition of violations
5-14-1984	MGL c. 91, § 29	Indemnification of Department of Public Works for work performed
5-14-1984	MGL c. 59, § 5, Clause 41B	Tax abatement for elderly
8-27-1984	Ch. 55, Acts of 1984	Single payment of tax bills of \$25 or less
1-13-1986	Ch. 188, § 13, Acts of 1985	Increase teacher compensation
5-12-1986	Chs. 516 and 524, Acts of 1950	Liability for damages by Massachusetts Department of Public Works
5-12-1986	MGL c. 129, § 15	Appointment of Inspector of Animals
5-12-1986	MGL c. 64G, § 3A	Local room occupancy excise (2%)
9-22-1986	Ch. 640, Acts of 1985	Denial, revocation or suspension of license or permit for failure to pay taxes
5-11-1987	MGL c. 59, § 5, Clause 41C	Senior citizens tax exemption
5-11-1987	MGL c. 59, § 5, Clause 17D	Tax exemptions for surviving spouses or minors
5-11-1987	MGL c. 138, § 17B	Grant of additional licenses for sale of alcoholic beverages
10-19-1987	MGL c. 64G, § 3A	Room occupancy excise tax raised to 4%

<b>Accepted/Voted</b>	<b>Reference</b>	<b>Subject</b>
6-13-1988	MGL c. 59, § 57B	Method of real estate and personal property tax collection
3-21-1989	Ch. 10, Acts of 1989	Appointment, powers and duties of Town Treasurer and Town Collector
11-13-1989	MGL c. 41, § 41B	Payment of public employees by direct bank credits
11-13-1989	MGL c. 44, § 65	Vacation pay; advances to employees
11-13-1989	MGL c. 32, § 4(2)(b)	Credit of retirement time for call firefighters and reserve police officers
11-13-1989	MGL c. 32, § 4	Retirement time of call firefighters and policemen
10-15-1990	MGL c. 32, §§ 22(6A)(a) and 22D	Retirement system funding schedule
10-15-1990	MGL c. 148, § 26I	Installation of sprinkler systems
5-13-1991	Ch. 291, Acts of 1990	Enhanced 911 service
10-19-1992	MGL c. 32B, § 16	Health maintenance group plan
10-19-1992	Ch. 133, § 48, Acts of 1992	Early retirement incentive program
11-21-1994	MGL. c. 40, § 15A	Allow ratification by majority at Town Meeting for land for low- and moderate-income housing
5-1-1995	MGL. c. 143, § 3Z	Part-time Building Inspectors to engage in certified trade
5-4-1998	MGL c. 44, § 53D	Establishment of revolving fund for the golf handicap service expense for the Captains Golf Course
5-4-1998	MGL c. 171, Acts of 1995	Provide a credit to call-firefighters with full-time service pension rights
5-4-1998	MGL c. 138, § 12B	Prohibition of alcoholic beverages being served in adult entertainment areas



<b>Accepted/Voted</b>	<b>Reference</b>	<b>Subject</b>
11-16-1998	MGL c. 71, § 16B	Reallocation of the sum of the member towns' contributions to the Nauset Regional School District in accordance with the Regional Agreement rather than the Education Reform Formula
11-16-1998	MGL c. 32B, § 9D	Insurance Premiums Program for Surviving Spouse
5-1-2000	MGL c. 41, § 19K	Additional compensation for Town Clerk/Treasurer
11-19-2001	MGL c. 59, § 5K	Senior citizen property tax workoff abatement
11-19-2001	Ch. 210, Laws of 2002	Capital Investment Fund
11-19-2001	Ch. 297, Laws of 2002	Road Betterment Fund
5-6-2002	MGL c. 80, § 13B	Deferral of septic betterment expenses
5-6-2002	MGL c. 59, § 5, Clause 17E	Adjustment of elderly exemptions
11-18-2002	MGL c. 59, § 5, Clause 41C	Elderly exemption
11-18-2002	MGL c. 59, § 5, Clause 41A	Increase maximum qualifying gross receipts to \$40,000
11-17-2003	MGL c. 32B, § 2	Definition of call Fire Department volunteers as employees for access to health care coverage
11-17-2003	MGL c. 59, § 5, Clause 22E	Veteran's exemption
5-3-2004	MGL c. 148, § 26G	Installation of sprinkler system in new construction exceeding 7,500 square feet
11-15-2004	Ch. 149, § 298, of the Acts of 2004	Modified Community Preservation Act
11-15-2004	Ch. 16, Laws of 2006	Affordable Housing Fund
5-2-2005	MGL c. 32, § 89B	Death benefits for surviving spouses and children of police officers and firefighters killed in the line of duty
5-1-2006	MGL c. 59, § 5, Clause 41A	Set interest rate for property tax deferrals
11-14-2005	Ch. 373, Laws of 2006	Private road betterment borrowing

<b>Accepted/Voted</b>	<b>Reference</b>	<b>Subject</b>
11-13-2006	MGL c. 39, § 23D	Ad judicatory hearings attendance
11-13-2006	Ch. 79 of the Acts of 2006	Further regulation of meetings of municipal boards
5-7-2007	MGL c. 59, § 5, Clause 54	Establish a minimum fair cash value required for personal property accounts to be taxed up to \$2,000
5-7-2007	MGL c. 32B § 18	Shift portion of Town's retirees' health insurance costs to federal Medicare program
5-5-2008	MGL c. 41, § 100G ¼, as amended by Ch. 110 of the Acts of 2007	Payment of funeral expenses for fire or police officers killed in the line of duty
11-17-2008	MGL c. 82A, § 2	Authorization to designate or change designation of board or officer authorized to issue trench permits
5-4-2009	MGL c. 41, § 1B	Change Town Clerk from elected to appointed
5-4-2009	MGL c. 60, § 15	Fee of \$10 for each written demand issued by the Collector after 6-30-2009, to be added to and collected as part of the tax
10-19-2009	MGL c. 64L, § 2	Impose local meals excise tax
10-19-2009	MGL c. 64G, § 3A, as amended by Ch. 27 of the Acts of 2009, §§ 51 and 52	Set rate of local room excise tax at 6%, effective 7-1-2010
11-15-2010	MGL c. 32B, § 20	Allow for a separate Other Postemployment Benefits (OPEB) fund that shall be invested and reinvested with the Town Treasurer
11-18-2013	MGL c. 200A, § 9A	Disposition of unclaimed funds
11-18-2013	MGL c. 147, § 10F	Appointment of parking control officers
5-2-2016	MGL c. 44, § 53F3/4	PEG Access and Cable Related Fund
5-17-2016	MGL c. 43C	Optional plans of municipal administration

<b>Accepted/Voted</b>	<b>Reference</b>	<b>Subject</b>
11-13-2017	MGL c. 41, §§ 100 and 111F	Authorization to establish public safety injury leave indemnity fund
3-12-2018	MGL c. 64N, § 3	Local tax option/recreational marijuana tax
5-7-2018	MGL c. 59, § 57A	Unpaid taxes not in excess of \$100; interest
5-7-2018	MGL c. 130, §§ 52 and 54	Taking of eels, shellfish and sea worms; areas in which commercial taking prohibited; cultivation, propagation and protection of shellfish; close seasons
5-7-2018	MGL c. 59, § 5	Adjusted real estate exemption amount/Clause 17D
5-7-2018	MGL c. 59, § 5	Adjusted income and asset limits/Clause 41D
5-7-2018	MGL c. 59, § 5N	Reduction of property tax obligation of veteran in exchange for volunteer services
5-7-2018	MGL c. 59, § 5	Veterans exemptions/Clause 22G
5-7-2018	MGL c. 60A, § 1	Motor vehicle excise tax/prisoner of war
5-7-2018	Ch. 16, Acts of 2006	Petition to rescind
11-14-2022	MGL c. 41, § 110A	Town Clerk's office hours
5-11-2024	MGL c. 59, § 5K, Paragraph 3, Subclause (1)	Senior Tax Work-Off Program exemption adjustment
5-28-2024	MGL c. 44B, §§ 3 to 7	Community Preservation Fund; exemption to 3% annual surcharge for those who qualify for low-income housing or low- or moderate-income senior housing
11-18-2024	MGL c. 40U	Municipal Hearing Officer
12-2-2024	MGL c. 138, § 33B	Allowing morning sale of alcoholic beverages by on-premises licensees on Sundays and certain legal holidays

**§ A295-2. Special Acts.**

<b>General Court Passage/ Approval</b>	<b>Town Meeting Action</b>	<b>Reference</b>	<b>Subject</b>
Approved 1-29-1954		Ch. 42, Acts of 1954	Authorizing Town to appropriate money for municipal advertising purposes
Approved 2-8-1864		Ch. 11, Acts of 1864	Authorizing Town to take stock in Cape Cod Central Railroad Company
Approved 4-15-1935		Ch. 175, Acts of 1935	Authorizing Town to appropriate money for public amusements
12-20-1991/12-30-1991	FYTM 10-21-1991, Art. 1	Ch. 474, Acts of 1991 <sup>102</sup>	Recall elections
1-5-1993/1-12-1993	STM 12-14-1992, Art. 8	Ch. 363, Acts of 1992	Retention of certain funds by Town Treasurer
8-8-1994/8-15-1994	ATM 5-9-1994, Art. 15	Ch. 90, Acts of 1994	Terms of Brewster Historic District Committee members; amend Section 5 of Ch. 370 of Acts of 1973
8-8-1994/8-17-1994	ATM 5-9-1994, Art. 22	Ch. 97, Acts of 1994	Amend Ch. 363, Acts of 1992, re: retention of certain funds, to extend date to 1997 and provide procedure for unclaimed compensation
1-3-1994/1-13-1994	FYTM 11-15-1993, Art. 6	Ch. 462, Acts of 1993	Septic Betterment Program for the Town of Brewster
11-15-1995/ 11-21-1995	FYTM 11-21-1994, Art. 9	Ch. 236, Acts of 1995	Permits appointment of up to four alternate members of the Conservation Commission

---

**102.Editor's Note: This Ch. 474 of the Acts of 1991 was repealed by the General Court, approved 9-7-2000, pursuant to a petition from the Town authorized 5-1-2000 ATM, Art. 28. For current recall provisions, see Ch. 6, Boards, Commissions and Authorities, Art. X, Recall Elections.**

<b>General Court Passage/ Approval</b>	<b>Town Meeting Action</b>	<b>Reference</b>	<b>Subject</b>
5-30-1995/6-1-1995	STM 5-1-1995, Art. 1	Ch. 31, Acts of 1995	Exempts from provisions of Ch. 61, Acts of 1992 and Ch. 472 of Acts of 1973
11-19-1997/11-26-1997	STM 9-29-1997, Art. 1	Ch. 182, Acts of 1997	Financing of a golf course by the Town of Brewster
Approved 8-6-2002	FYTM 11-19-2001, Art. 15	Ch. 210, Acts of 2002	Capital Investment Fund
Approved 8-28-2002	FYTM 11-19-2001, Art. 16	Ch. 297, Acts of 2002	Road Betterment Fund
Approved 2-3-2006	FYTM 11-15-2004, Art. 15	Ch. 16, Acts of 2006	Affordable Housing Fund
Approved 12-7-2006	FYTM 11-14-2005, Art. 18	Ch. 373, Acts of 2006	Private road betterment borrowing
Approved 2-21-2008		Ch. 44, Acts of 2008	Further regulation of water betterments
Approved 5-5-2010	ATM 5-4-2009, Art. 36	Ch. 98, Acts of 2010	Change to appointed members of Board of Water Commissioners
Approved 8-4-2010		Ch. 210, Acts of 2010	Establishment of road maintenance revolving account
Approved 8-5-2010		Ch. 247, Acts of 2010	Authorization to use certain Town-owned land for general Town purposes, including renewable energy projects
Approved 1-7-2019		Ch. 375, Acts of 2018	Repeal of Ch. 1, Acts of 2006; transfer of funds
Approved 1-5-2023		Ch. 396, Acts of 2022	Establishment of Town Charter

**Chapter A296****COMMITTEES, BOARDS AND COUNCILS****GENERAL REFERENCES****Boards, Commissions and Authorities — See Ch. 6.****Committees — See Ch. 12.**

---

**§ A296-1. Listing.**

A. The following is a list of the committees, boards and councils existing in the Town of Brewster. For further information, see Chapter 6, Boards, Commissions and Authorities, and Chapter 12, Committees.

- (1) Arts Council. First appointment was made in 1981.
- (2) Bikeway Committee. The Bikeway Committee was formed and appointed by the Board of Selectmen in 1975.
- (3) Hazardous Waste Committee. The Hazardous Waste Committee first appeared in the Annual Town Report in 1982.
- (4) Committee for the Handicapped. The Committee for the Handicapped was first appointed in September 1985.
- (5) Emergency Planning Committee. The first appointment was made in 1988.
- (6) Brewster Housing Partnership. The first appointment was made in January 1988.
- (7) Insurance Advisory Committee. The first appointment was made in 1982.
- (8) Nickerson State Park Advisory Commission. The Commission was formed in 1984 by a signed agreement between the commonwealth and the Board of Selectmen.
- (9) Old Kings Highway Regional Historic District (OKHRHD). The Old Kings Highway Regional Historic District was formed in 1973 by special state legislation, Ch. 470 of the Acts of 1973, as amended by Ch. 298 of the Acts of 1975 and Ch. 845 of the Acts of 1975.
- (10) Stony Brook Mill Sites Committee. The Committee was formed pursuant to 1940 Annual Town Meeting, Art. 14.
- (11) Pleasant Bay Advisory Committee. The Committee was created in 1987.
- (12) Recycling Commission. The Commission was created pursuant to 5-8-1989 ATM, Art. 13.
- (13) School Committee. The Committee was created in 1803.
- (14) Board of Selectmen. The Board was created in 1803. The Board was renamed the Select Board by Art. 13 of the 11-13-2017 FYTM.

**Disposition List**

**Chapter DL****DISPOSITION LIST**

**The following is a chronological listing of legislation of the Town of Brewster adopted since January 1, 2004, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).]  
§ DL-1. Disposition of legislation.**

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 20	5-3-2004	Acceptance of General Laws	Ch. A295
ATM, Art. 22	5-3-2004	Zoning amendment	Ch. 179
ATM, Art. 23	5-3-2004	Zoning amendment	Ch. 179
ATM, Art. 24	5-3-2004	Zoning amendment	Ch. 179
ATM, Art. 25	5-3-2004	Zoning amendment	Ch. 179
FYTM, Art. 12	11-15-2004	Acceptance of General Laws	Ch. A295
FYTM, Art. 13	11-15-2004	Community Preservation Committee	Ch. 17
FYTM, Art. 15	11-15-2004	Petition for Special Act (Affordable Housing Fund)	Ch. A295
FYTM, Art. 16	11-15-2004	Zoning amendment	Ch. 179
FYTM, Art. 17	11-15-2004	Zoning amendment	Ch. 179
FYTM, Art. 18	11-15-2004	Zoning amendment	Ch. 179
FYTM, Art. 19	11-15-2004	Zoning amendment	Ch. 179
ATM, Art. 18	5-2-2005	General Law acceptance	Ch. A295
ATM, Art. 22	5-2-2005	Temporary road repair amendment	Ch. 157, Art. VII
ATM, Art. 24	5-2-2005	Agricultural Commission amendment	Ch. 12, Art. XVI
ATM, Art. 25	5-2-2005	Zoning amendment	Ch. 179
ATM, Art. 26	5-2-2005	Zoning amendment	Ch. 179
ATM, Art. 27	5-2-2005	Zoning amendment	Ch. 179
ATM, Art. 28	5-2-2005	Zoning amendment	Ch. 179
ATM, Art. 29	5-2-2005	Zoning amendment	Ch. 179
ATM, Art. 31	5-2-2005	Zoning amendment	Ch. 179
FYTM, Art. 14	11-14-2005	Annual Town Meeting amendment	Ch. 48, Art. I

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
FYTM, Art. 15	11-14-2005	Counting of votes	Ch. 48, Art. IX
FYTM, Art. 18	11-14-2005	Petition for special act (private road betterment)	Ch. A295
ATM, Art. 24	5-1-2006	Zoning amendment	Ch. 179
ATM, Art. 26	5-1-2006	Zoning amendment	Ch. 179
ATM, Art. 34	5-1-2006	General law acceptance	Ch. A295
ATM, Art. 28	5-1-2006	Water betterment	Ch. 171
FYTM, Art. 13	11-13-2006	Clerk's fees amendment	Ch. 20, Art. I
FYTM, Art. 14	11-13-2006	Annual Town Meeting amendment	Ch. 48, Art. I
FYTM, Art. 15	11-13-2006	Golf Commission amendment	Ch. 6, Art. V
FYTM, Art. 17	11-13-2006	General law acceptance	Ch. A295
FYTM, Art. 18	11-13-2006	Wetlands protection amendment	Ch. 172
FYTM, Art. 20	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 21	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 22	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 23	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 24	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 25	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 26	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 27	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 28	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 29	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 30	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 31	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 32	11-13-2006	Zoning amendment	Ch. 179
FYTM, Art. 33	11-13-2006	Zoning amendment	Ch. 179
ATM, Art. 20	5-7-2007	General law acceptance	Ch. A295
ATM, Art. 21	5-7-2007	General law acceptance	Ch. A295
ATM, Art. 24	5-7-2007	Zoning amendment	Ch. 179
ATM, Art. 25	5-7-2007	Zoning amendment	Ch. 179
ATM, Art. 26	5-7-2007	Zoning amendment	Ch. 179
ATM, Art. 27	5-7-2007	Zoning amendment	Ch. 179



<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
FYTM, Art. 12	11-5-2007	Handicapped parking	Ch. 106
FYTM, Art. 13	11-5-2007	Zoning amendment	Ch. 179
FYTM, Art. 14	11-5-2007	Zoning amendment	Ch. 179
FYTM, Art. 15	11-5-2007	Zoning amendment	Ch. 179
FYTM, Art. 16	11-5-2007	Zoning amendment	Ch. 179
FYTM, Art. 19	11-5-2007	Zoning amendment	Ch. 179
FYTM, Art. 20	11-5-2007	Zoning amendment	Ch. 179
ATM, Art. 16	5-5-2008	Planning Department amendment	Ch.5, Art. V
ATM, Art. 19	5-5-2008	General law acceptance	Ch. A295
ATM, Art. 20	5-5-2008	Zoning amendment	Ch. 179
ATM, Art. 21	5-5-2008	Zoning amendment	Ch. 179
FYTM, Art. 17	11-17-2008	Zoning amendment	Ch. 179
FYTM, Art. 18	11-17-2008	Zoning amendment	Ch. 179
FYTM, Art. 19	11-17-2008	Zoning amendment	Ch. 179
FYTM, Art. 21	11-17-2008	General law acceptance	Ch. A295
Planning Board	5-27-2009	Subdivision rules and regulations amendment	Ch. 290
ATM, Art. 27	5-4-2009	General law acceptance	Ch. A295
ATM, Art. 29	5-4-2009	Zoning amendment	Ch. 179
ATM, Art. 30	5-4-2009	Zoning amendment	Ch. 179
ATM, Art. 36	5-4-2009	Form of government amendment; request for Special Act	Chs. 5; A295
FYTM, Art. 5	10-19-2009	General Law acceptance	Ch. A295
FYTM, Art. 6	10-19-2009	General Law acceptance	Ch. A295
FYTM, Art. 7	10-19-2009	Building and Needs Assessment Committee amendment	Repealed ATM, Art. 23
FYTM, Art. 8	10-19-2009	Administration: form of government amendment	Ch. 5, Art I
FYTM, Art. 17	10-19-2009	Zoning amendment	Ch. 179
FYTM, Art. 18	10-19-2009	Zoning amendment	Ch. 179
ATM, Art. 28	5-3-2010	Zoning amendment	Ch. 179
ATM, Art. 29	5-3-2010	Zoning amendment	Ch. 179
FYTM, Art. 10	11-15-2010	Zoning amendment	Ch. 179

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
FYTM, Art. 11	11-15-2010	Zoning amendment	Ch. 179
FYTM, Art. 12	11-15-2010	Zoning amendment	Ch. 179
FYTM, Art. 13	11-15-2010	Zoning amendment	Ch. 179
FYTM, Art. 20	11-15-2010	General law acceptance	Ch. A295
ATM, Art. 24	5-2-2011	Beaches: operation of vehicles amendment	Ch. 65, Art. I
ATM, Art. 26	5-2-2011	Noise amendment	Ch. 125
ATM, Art. 27	5-2-2011	Peeping or spying amendment	Ch. 132
ATM, Art. 28	5-2-2011	Pollution: soap or detergents amendment	Ch. 135, Art. I
ATM, Art. 29	5-2-2011	Staff review amendment	Ch. 83
ATM, Art. 30	5-2-2011	Zoning amendment	Ch. 179
ATM, Art. 31	5-2-2011	Zoning amendment	Ch. 179
ATM, Art. 32	5-2-2011	Streets and sidewalks: line of sight amendment; wetlands protection amendment; zoning amendment	Chs. 157, Art. VI; 172; 179
ATM, Art. 33	5-2-2011	Zoning amendment	Ch. 179
FYTM, Art. 12	11-7-2011	Boats: operation on ponds amendment	Ch. 69, Art. I
FYTM, Art. 13	11-7-2011	Zoning amendment	Ch. 179
FYTM, Art. 14	11-7-2011	Illicit connections and discharges	Ch. 115
FYTM, Art. 16	11-7-2011	Zoning amendment	Ch. 179
FYTM, Art. 17	11-7-2011	Zoning amendment	Ch. 179
FYTM, Art. 22	11-7-2011	Town Meetings: meeting sites	Ch. 48, Art. X
ATM, Art. 20	5-7-2012	Capital Planning Committee amendment	Ch. 12, Art. XI
ATM, Art. 21	5-7-2012	Camping amendment	Ch. 77
ATM, Art. 23	5-7-2012	Zoning amendment	Ch. 179
ATM, Art. 24	5-7-2012	Zoning amendment	Ch. 179
ATM, Art. 26	5-7-2012	Zoning amendment	Ch. 179
ATM, Art. 27	5-7-2012	Zoning amendment	Ch. 179
ATM, Art. 28	5-7-2012	Zoning amendment	Ch. 179

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 36	5-7-2012	Community Preservation Committee amendment	Ch. 17
FYTM, Art. 12	10-29-2012	Zoning amendment	Ch. 179
STM, Art. 6	5-6-2013	Zoning amendment	Ch. 179
ATM, Art. 22	5-6-2013	Zoning amendment	Ch. 179
ATM, Art. 23	5-6-2013	Zoning amendment	Ch. 179
FYTM, Art. 9	11-18-2013	General Law acceptance	Ch. A295
FYTM, Art. 10	11-18-2013	Zoning amendment	Ch. 179
FYTM, Art. 11	11-18-2013	Police Department: fingerprint-based criminal history record checks	Ch. 49, Art. 1
FYTM, Art. 15	11-18-2013	General Law acceptance	Ch. A295
ATM, Art. 21	5-5-2014	Zoning amendment	Ch. 179
ATM, Art. 22	5-5-2014	Zoning amendment	Ch. 179
ATM, Art. 24	5-5-2014	Zoning amendment	Ch. 179
ATM, Art. 25	5-5-2014	Building construction repealer	Ch. 72 (reference only)
ATM, Art. 30	5-5-2014	Zoning amendment	Ch. 179
ATM, Art. 34	5-5-2014	Zoning amendment	Ch. 179
FYTM, Art. 11	11-17-2014	Fertilizer nutrient control	Ch. 119
FYTM, Art. 12	11-17-2014	Streets and sidewalks: temporary road repair amendment	Ch. 157, Art. VII
FYTM, Art. 11	9-2-2015	Town Meetings: Annual Town Meeting amendment	Ch. 48, Art. I
ATM, Art. 14	5-2-2016	General Law acceptance	Ch. A295
Annual Town Election, Question 1	5-17-2016	General Law acceptance	Ch. A295
STM, Art. 6	5-1-2017	Finances: departmental revolving funds	Ch. 21, Art. III
ATM, Art. 23	5-1-2017	Finances: Department of Municipal Finance	Ch. 21, Art. IV
ATM, Art. 24	5-1-2017	Swimming pools repealer	Ch. 160 (reference only)

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 25	5-1-2017	Streetlighting Committee repealer	Ch. 12, Art. V (Editor's Note only)
ATM, Art. 26	5-1-2017	Data Processing Advisory Committee repealer	Ch. 12, Art. VI (Editor's Note only)
ATM, Art. 27	5-1-2017	Licenses and permits: denial, revocation and suspension amendment	Ch. 122, Art. I
FYTM, Art. 12	11-13-2017	Zoning Amendment	Ch. 179
FYTM, Art. 13	11-13-2017	Administration: Form of Government Amendment; Nomenclature Change	Ch. 5, Art. I; Ch. 5, Art. II; Ch. 5, Art. III; Ch. 5, Art. IV; Ch. 5, Art. V; Ch. 6, Art. II; Ch. 6, Art. V; Ch. 6, Art. VIII; Ch. 6, Art. X; Ch. 12, Art. VIII; Ch. 12, Art. XI; Ch. 12, Art. XIV; Ch. 12, Art. XV; Ch. 12, Art. XVI; Ch. 16; Ch. 17; Ch. 36; Ch. 42, Art. I; Ch. 43; Ch. 48, Art. II; Ch. 48, Art. VII; Ch. 48, Art. X; Ch. 61; Ch. 97; Ch. 115; Ch. 119; Ch. 122, Art. I; Ch. 157, Art. V; Ch. 157, Art. VII; Ch. 172; Ch. 179
FYTM, Art. 14	11-13-2017	Wetlands Protection Amendment	Ch. 172
FYTM, Art. 15	11-13-2017	General Laws and Special Acts	Ch. A295
STM, Art. 1	3-12-2018	Zoning Amendment	Ch. 179
STM, Art. 2	3-12-2018	Zoning Amendment	Ch. 179
STM, Art. 3	3-12-2018	General Laws and Special Acts Amendment	Ch. A295
STM, Art. 4	3-12-2018	Recreational Marijuana Retailers	Ch. 59
ATM, Art. 17	5-7-2018	General Laws and Special Acts Amendment	Ch. A295

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 18	5-7-2018	General Laws and Special Acts Amendment	Ch. A295
ATM, Art. 22	5-7-2018	General Laws and Special Acts Amendment	Ch. A295
ATM, Art. 23	5-7-2018	General Laws and Special Acts Amendment	Ch. A295
ATM, Art. 24	5-7-2018	General Laws and Special Acts Amendment	Ch. A295
ATM, Art. 25	5-7-2018	General Laws and Special Acts Amendment	Ch. A295
ATM, Art. 26	5-7-2018	General Laws and Special Acts Amendment	Ch. A295
ATM, Art. 27	5-7-2018	General Laws and Special Acts Amendment	Ch. A295
ATM, Art. 28	5-7-2018	Town Meetings: Placement of Articles on Town Meeting Warrant Amendment	Ch. 48, Art. VIII
STM, Art. 7	5-7-2018	Affordable Housing Trust Fund	Ch. 18
FYTM, Art. 8	12-3-2018	Wetlands Protection Amendment	Ch. 172
FYTM, Art. 9	12-3-2018	Town Meetings: Annual Town Meeting Amendment; Special Town Meetings Amendment	Ch. 48, Art. I; Ch. 48, Art. VI
FYTM, Art. 10	12-3-2018	Dogs: Licensing Amendment	Ch. 86, Art. II
FYTM, Art. 11	12-3-2018	Zoning Amendment	Ch. 179
FYTM, Art. 12	12-3-2018	Zoning Amendment	Ch. 179
Ch. 375, Acts of 2018	12-31-2018	General Laws and Special Acts Amendment	Ch. A295

Enactment	Adoption Date	Subject	Disposition	Supp No.
ATM, Art. 16	5-6-2019	Affordable Housing Trust Fund Amendment	Ch. 18	1
ATM, Art. 19	5-6-2019	Stretch Energy Code	Ch. 159	1
ATM, Art. 20	5-6-2019	Pollution and Environmental Hazards: Thin-Film Plastic Bags	Ch. 135, Art. III	1
FYTM, Art. 6	11-18-2019	Zoning Amendment	Ch. 179	1
FYTM, Art. 8	11-18-2019	Committees: Audit Committee	Ch. 12, Art. X	1
FYTM, Art. 9	11-18-2019	Pollution and Environmental Hazards: Single-Use Plastic Bottles; Municipal Drinking Water Access	Ch. 135, Art. II	1
ATM, Art. 21	9-12-2020	Town Meetings: Placement of Articles on Town Meeting Warrant Amendment	Ch. 48, Art. VIII	2
ATM, Art. 22	9-12-2020	Single-Use Plastic Water Bottles	Ch. 152	2
ATM, Art. 23	5-15-2021	Streets and Sidewalks: Temporary Road Repair Amendment	Ch. 157, Art. VII	3
FYTM, Art. 9	11-15-2021	Stormwater Management	Ch. 272	3
FYTM, Art. 10	11-15-2021	Zoning Amendment	Ch. 179	3
FYTM, Art. 11	11-15-2021	Zoning Amendment	Ch. 179	3
ATM, Art. 18	5-14-2022	Hunting in the Punkhorn Parklands	Ch. 98	4

Enactment	Adoption Date	Subject	Disposition	Supp No.
FYTM, Art. 5	11-14-2022	Community Preservation Committee Amendment	Ch. 17	4
FYTM, Art. 13	11-14-2022	Finances Amendment	Ch. 21	4
FYTM, Art. 16	11-14-2022	General Laws and Special Acts Amendment	Ch. A295	4
Ch. 396 of the Acts of 2022	1-5-2023	Charter; General Laws and Special Acts Amendment	Ch. C; Ch. A295	4
ATM, Art. 13	5-1-2023	Finances: Departmental Revolving Funds Amendment	Ch. 21, Art. III	5
ATM, Art. 23	5-1-2023	Committees: Building and Needs Assessment Committee Repealer	Ch. 12, Art. XV	5
ATM, Art. 24	5-1-2023	Alcoholic Beverages: Sale of Miniature Single-Use Containers	Ch. 60, Art. II	5
FYTM, Art. 5	11-13-2023	Zoning Amendment	Ch. 179	5
FYTM, Art. 6	11-13-2023	Streets and Sidewalks: Private Road Repair Repealer; Private Road Repair and Betterment Amendment	Ch. 157, Art. VII	5
FYTM, Art. 12	11-13-2023	Boards, Commissions and Authorities: Golf Commission Amendment	Ch. 6, Art. V	5
ATM, Art. 16	5-11-2024	General Laws and Special Acts	Ch. A295	6

Enactment	Adoption Date	Subject	Disposition	Supp No.
ATM, Art. 17	5-11-2024	General Laws and Special Acts	Ch. A295	6
Annual Town Election, Question 2	5-28-2024	General Laws and Special Acts	Ch. A295	6
FYTM, Art. 7	11-18-2024	Zoning Amendment	Ch. 179	6
FYTM, Art. 8	11-18-2024	Affordable Housing Trust Fund Amendment	Ch. 18	6
FYTM, Art. 10	11-18-2024	General Laws and Special Acts	Ch. A295	6
Select Board	12-2-2024	General Laws and Special Acts	Ch. A295	6