

Chapter 290

SUBDIVISION RULES AND REGULATIONS

[HISTORY: Adopted by the Planning Board of the Town of Brewster effective 5-1-1985. Amendments noted where applicable. Rules and Regulations revised and amended in their entirety by the Planning Board effective May 27, 2009]

GENERAL REFERENCES

Zoning -- See Ch. 179.

ARTICLE I **General Provisions**

§290-1. Purpose.

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 by-laws;
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.

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, Chapter 41, Section 81-R 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, representatives 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, Chapter 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 thirty (30) miles per hour. LOS "B" represents stable flow with minor delays and speeds of twenty-five (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 twenty (20) miles per hour or more. LOS "D", "E", and "F" correspond to decreasing abilities to travel greater than fifteen (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, Chapter 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:

- 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) **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.
- 3) **CIRCLE** -- A way that has two different access and egresses.
- 4) **COURT** -- An area which provides access to land used for residential purposes.
- 5) **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).
 - 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. **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.
- 6) **MINOR STREET OR ROAD** -- A street or road whose primary purpose is to provide access to the abutting dwelling units, not in excess of fifty (50). This definition includes drives and lanes.
- 7) **PATH** -- A private driveway used for access to land used for residential purposes.
- 8) **SQUARE** -- An area which provides access to commercial business.
- 9) **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 by-law, 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 twenty 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 twenty-one (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. [Amended effective 10-15-1987]
- 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 By-laws.

- D) If the Board determines that the plan does require approval under the Subdivision Control Law, it shall, within twenty-one (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 twenty-one (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. [Amended 5-1-1990]

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, § 81-K through GG.

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 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 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. [Added effective 10-15-1987]

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 forty-five (45) days of the date of submission.

D. Preliminary Plan Content for Subdivisions Containing Ten (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 (2) 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 (2) foot intervals. The proposed topography 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 twelve (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, Chapter 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 sixteen 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 Ten (10) or More Lots: For developments creating frontage potentially allowing creation of ten (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. Proposals for the subdivision of ten (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 ten (10) or more lots from a single or multiple parcels which was/were held in common ownership as of January 1, 1997, and all non-residential subdivisions, shall be accompanied by four (4) 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 decision-making 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 paragraph (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 projects 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 By-Law.
 - 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

- i. 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 twenty-five (25) dwelling units) the Board may require detailed technical reports of such impacts.
- ii. Water Pollution - The impact of storm water run-off on adjacent and downstream surface water bodies and sub-surface ground water shall be evaluated. Dangers of flooding as a result of increased downstream run-off, especially peak run-off shall also be considered, as well as the impact of the proposed project on water table levels.
- iii. 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.
- iv. Plants & 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.
- v. Water Supply - The average and peak daily demand and the impact of such demands on groundwater aquifers.
- vi. Sewage Disposal - The average and peak daily disposal and the impact of such disposal on groundwater.

b. MAN-MADE ENVIRONMENT

- i. 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 therefore shall be detailed. Consultation with the Board is strongly recommended.
- ii. Zoning - Compatibility of proposed development with the purposes of the Zoning By-law and the Zoning district.

c. PUBLIC SERVICE

- i. 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.
- ii. Public Safety: Police - The expected impact on police services, time and manpower needed to protect the proposed development and service improvements necessitated by the proposed

development. 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.

- iii. 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.
- iv. Solid Waste Disposal - Analysis of the projected volume and type of solid waste to be generated by the proposed development and methods of removal.
- v. Water - Projected impact on Town water system capacity and infrastructure.
- vi. 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

- i. 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 affects shall be detailed.
- ii. Landscaping - Provisions for landscaping shall be described including type, location and function of all plantings and materials.
- iii. 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 - 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:

- i. The existing LOS of relevant road systems including quantitative and qualitative measurements of operational factors including speed, travel delay, freedom to maneuver and safety;
- ii. The expected change in the condition of relevant road systems as a result of the proposed development;
- iii. The comparison on a per acre basis of the total vehicular traffic

generation from the proposed development with:

1. The existing and potential vehicular traffic generation from all other development accessing relevant road systems; and
2. The vehicular traffic generation which would be expected to produce a LOS below LOS "C".

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:

- i. 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
 - ii. 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 NON-RESIDENTIAL 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. The analysis shall indicate differences among alternatives regarding; [Added 5-1-1990]
- i. 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, this shall include analysis of open

and closed drainage system alternatives, examining effects upon the basic water and upon future contaminant levels.

ii. Material effects upon significant wildlife habitats, outstanding botanical features and scenic or historic environs.

iii. Capability of soils, vegetative cover and proposed erosion control efforts to support proposed development without danger of erosion, silting or other instability.

iv. Relationship to the requirements of MGL. C. 131, §§ 40 and 40A (The Wetlands Protection Act).

v. Impact upon the existing water supply system and well capacity of the town.

vi. 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.

vii. Measures to be taken to assure compliance with the environmental controls of Article III, Development Standards, of the Development Plan Review Bylaw.

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 name and address 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.
- 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 fifty (50) lots or more shall require at least two (2) 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. [Amended effective 10-15-1987]
- 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. [Added effective 10-15-1987 and 05/28/08]

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. [effective 05-28-08]

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 (2) 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). [Amended effective 10-15-1987]
- 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, 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.

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.

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 §290-10.O of the Planning Board Rules and Regulations. [Amended effective 10-15-1987]
- 3) The subgrade shall be classified as follows:
 - i. 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.
 - ii. 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.
 - iii. 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. [Amended effective 10-15-1987]
- 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). [Amended effective 10-15-1987]

- 6) The pavement structure shall be constructed in accordance with applicable sections of the Massachusetts Standard Specifications for Highways, Bridges and Waterways.
- i. 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.
 - ii. 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.
 - iii. 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.

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.

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 sub-grade 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. [Amended effective 10-15-1987]

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, drainage way, 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,

drainage way, 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 therefore. 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 in addition thereto or in substitution therefore. 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)

§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. [Added effective 10-15-1987]

Guardrails and barriers may be required when, in the opinion of the Board, they are necessary for the safety of vehicular traffic.

§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. [Amended effective 10-15-1987]

§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.

Inspection #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.

Inspection #2

An inspection will be made of the completed drainage system (without backfill) as required herein or on the Definitive Plan.

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.

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.

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.

Inspection #3

An inspection will be made of the compacted fill as specified in SECTION 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.

Inspection #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 #3. Compaction tests may also be required by the Applicant's Engineer or the Town Engineer.

Inspection #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.

Inspection #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.

Inspection #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 paragraph 6 above for binder course shall also apply to the top course.

Inspection #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.

Inspection #9

A final inspection will be made of all subsequent work as required herein or on the Definitive Plan, which shall include the final clean up. 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 pre-application 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 three hundred dollars (\$300).
- 2) Preliminary subdivision plan: filing fee of one thousand five hundred dollars (\$1,500) plus one hundred dollars (\$100) per lot.
- 3) Definitive subdivision plan: filing fee of three thousand five hundred dollars (\$3,500) plus five hundred dollars (\$500) per each buildable lot. For a multifamily residential development a filing fee of three thousand five hundred dollars (\$3,500) plus five hundred dollars (\$500) per unit.
- 4) Flexible Development: filing fee of five hundred dollars (\$500) up to two lots, plus two hundred dollars (\$200) per each additional buildable lot.
- 5) Special permit hearing
 - a. Cluster Subdivision: filing fee of one thousand (\$1,000) plus one hundred dollars (\$100) per buildable lot.
 - b. Dirt Road Access: filing fee of five hundred dollars (\$500).
 - c. Planned Residential Development: filing fee of one thousand (\$1,000) plus one hundred dollars (\$100) per dwelling unit.
 - d. Major Residential Development: filing fee of one thousand (\$1,000) plus one hundred dollars (\$100) per lot/dwelling.
 - e. Multifamily dwellings/Subsidized Elderly Housing: filing fee of one thousand (\$1,000) plus one hundred dollars (\$100) per dwelling unit.
 - f. Corridor Overlay Protection District (Special Permit): filing fees for change of use or up to 1000 square foot addition four hundred dollars (\$400); over 1000 square feet or a new proposal (i.e.: Structure) one thousand dollars (\$1,000) plus one hundred dollars (\$100) per structure. (per Brewster Zoning Bylaw Chapter 179 Article XII).
 - g. Wind Energy Turbine: filing fee for a Medium-Scale turbine of one hundred dollars (\$100.00); for a Large-Scale turbine one thousand dollars (\$1,000).
 - h. Sand & Gravel: filing fee of one hundred dollars (\$100).
- 6) Early release from covenant, per subdivision, per application filing fee of two hundred and fifty dollars (\$250).
- 7) Covenant extension, review and/or hearing: five hundred dollars (\$500).

- 8) Modification hearing for a definitive subdivision, preliminary subdivision or multifamily residential development: filing fee of three thousand dollars (\$3,000) plus one hundred dollars (\$100) per each additional buildable lot/unit.
- 9) Modification hearing for special permits: fifty percent (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 seventy-five cents (\$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 engineers report). If the project does not pass inspection, a charge of seventy-five cents (\$0.75) per foot of roadway is payable for each additional inspection. There is a minimum fee of fifty dollars (\$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 - twenty-five dollars (\$25).
- 2) Subdivision Rules and Regulations Book - ten dollars (\$10).
- 3) Betterments/Road Repairs – two hundred (\$200) per application.
- 4) Road name change - two hundred dollars (\$200) per application.
- 5) Informal review - fifty dollars (\$50) per application.
- 6) Abutter notification fee – one dollar and 50 cents (\$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 (1) of the following:
 - a. Trip generation exceeding one thousand (1,000) average daily trips or one hundred (100) peak-hour trips.

- b. Average daily movements onto and off of the premises from any existing street exceeding ten percent (10%) of the projected no-build traffic volume on the street at that point, if totaling more than two hundred (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 (5) years in the future, with background traffic growth of four percent (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 five percent (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:
 - i. 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.
 - ii. 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.
 - iii. Impact on pedestrian safety and convenience.
 - iv. 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 (1) 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 one-third (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.

Observed speed (miles per hour)	Sight distance (feet)
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.

TABLE 1
Street Cross-Sectional Design Standards

Town of Brewster

Type of Street	Right-of Way width (minimum) (feet)	Moving Lanes	Lane Width (feet)	Shoulders	Pavement Shoulder Width (feet)	Width (total) (feet)	Sidewalks Number Required	Width (feet)	Bi-walks Number required	Width (feet)	Berm Curbs Required	Width (feet)
Major Arterial Street or Road	60	2	12	2	10.5	27	1	4	1	8	Yes	1.5
Major Collector Street or Road	50	2	12	2	9.5	27	1	4	-	-	Yes	1.5
Minor Street or Road	40	2	11	2	7.5	25	-	-	-	-	No	1.5

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TABLE 2
Street Geometric Design Standards
Town of Brewster

Type of Street	Radius at (Center Line) (minimum) (feet)	Grade Maximum (percent)	Angle Minimum (percent)	Offset (minimum) (feet)	Roadway (minimum) (feet)	Radius at Edge of (minimum) (feet)	Sight Stopping Distance (feet)	Layout Radius Allowed (feet)	Cul-de-Sac** Turnaround Radius (minimum)		
									Edge of Pavement (feet)	Outside (feet)	Inside (feet)
Major Arterial Street or Road	300	7.0	1.0	60	125	50	550	No	N/A	N/A	N/A
Major Collector Street or Road	300	7.0	1.0	60	125	50	550	Yes*	60	50	-
Minor Street or Road	150	7.0	1.0	60	125	30	450	Yes	55	40	-

Notes:

*Permitted only in a collector street serving fewer than fifty (50) dwelling units.

**No more than a two-percent grade will be permitted in any direction in a cul-de-sac. [Added effective 10-15-87]
[Amended 5-1-1990]

TABLE 3
Required Depths of Pavement Sections*
Town of Brewster

Type of Street	Pavement Section	Subgrade support Classification Thickness of Section (inches)	
		Medium	Good/Excellent
Minor Street or Road	Surface course	1	1
	Binder course	2.5	2.5
	Base course**		
	(a) Bituminous	1.5	Not required
	(b) Granular	4	4
Major Street or Road (including collector)	Surface course	1.5	1.5
	Binder course	3	3
	Base course**		
	(a) Bituminous	2.5	2.5
	(b) Granular	6	6
	Compaction of subbase (depth)	24	24
Arterial Street or Road	Surface course	2	2
	Binder course	3	3
	Base course**		
	(a) Bituminous	3	3
	(b) Granular	6	6
	Compaction of subbase (depth)	24	24

Notes:

*All thicknesses shown in Table 3 and related paragraphs are compacted thicknesses. [Added effective 10-15-87]

**Either (a) or (b). [Added effective 1