

## Brewster Select Board Policy Handbook Index

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**POLICY NO: 1**

**DATE APPROVED: 6/8/87**

**AMENDED: 8/25/97**

**TOWN OF BREWSTER**

**RULES AND REGULATIONS FOR THE REGULATIONS OF TAXI CABS  
AND THE OPERATION THEREOF**

**Section 1:** The following words as used in these rules and regulations, unless the context otherwise requires, shall have the following meaning:

**“Application”** An application by mail or otherwise to the Board of Selectmen for the purpose upon a blank provided therefor and presented with the fee established by Section 6.

**“Chief”** The Chief of Police of the Town of Brewster.

**“Operator”** Any person who operates a taxi cab.

**“Police Officer or “Officer”** Any officer authorized to make arrest or serve process provided he is in uniform or displays his badge of office.

**“Taxi Cab”** Any vehicle used for the carrying of passengers for hire, including limousines.

**“Seat”** The space ordinarily occupied by one person.

**“Way”** Any public way, any private way laid out for public use, any way dedicated to the public use or any place to which the public has a right of access.

**Section 2:** (a) No person shall offer for hire a taxi cab upon any way in the Town of Brewster unless such taxi cab has a valid taxi cab license issued by the Board of Selectmen.

(b) No person shall, within the Town of Brewster, offer for hire for the carrying of any passenger or passengers over any way or ways in said Town, any motor vehicle. And no person shall carry for hire any passenger or passengers over any such way or ways between two points within said Town in any motor vehicle unless this vehicle has a valid taxi cab license issued by the Board of Selectmen.

(c) Section 2 (a) and (b) shall not apply to buses, operated by a common carrier between fixed and regular terminal.

**Section 3:** Application for a Taxi Cab License shall be made by the owner thereof. Such application shall set forth under oath or penalties of perjury all information that the Board of Selectmen may require. If such application is denied, the fee shall be returned to the applicant.

**Section 4:** No Taxi Cab License shall be granted unless the applicant has complied with these rules and regulations and with the laws of the Commonwealth of Massachusetts pertaining to taxi cabs and the operation thereof.

**Section 5:** The Board of Selectmen may issue a Taxi Cab License if in its opinion the owner is competent, the vehicle a proper one for engaging in such business and the granting of such license is a public convenience and necessity. Such license shall set forth the name, residence, place of business of the licensee, a description of the vehicle with its identification numbers and the number of seats exclusive of the operator. Such license shall expire on December 31 of each year. Before issuing the Taxi Cab License, the Board of Selectmen shall consult with the Chief of Police concerning the applicant's qualifications.

**Section 6:** The fee for a Taxi Cab License shall be established by the Board of Selectmen.

**Section 7:** No person shall employ anyone in the operation of a Taxi Cab License unless such person is properly licensed as an operator in accordance with the applicable laws of Massachusetts. No person shall allow or permit any taxi cab owned by him or under his control to be operated by any person in violation of the applicable laws of Massachusetts.

**Section 8:** Every person operating a taxi cab shall have his license to operate and a list of the rates and charges of far conspicuously posted in his vehicle.

**Section 9:** No person operating a taxi cab shall have or permit to be on or about his person anything which may interfere with the proper operation of his vehicle, nor shall any taxi cab be operated if it is unsafe or improperly equipped. At no time shall any taxi cab be operated when the passengers therein are in excess of its licensed seating capacity.

**Section 10:** If the Board of Selectmen determines that a duly licensed taxi cab is unsafe, improperly equipped or otherwise unfit to be operated, they shall suspend or revoke such license after a hearing.

**Section 11:** No taxi cab shall operate from any place other than a fixed stand or terminal and no taxi cab shall cruise upon any way for the purpose of soliciting passengers or business.

**POLICY NO: 2**

**DATE APPROVED: 6/8/87**

**AMENDED: 8/25/97**

**TOWN OF BREWSTER**

**LICENSING BOARD**

**RULES AND REGULATIONS**

**PURPOSE**

The Licensing Board of the Town of Brewster will exert every effort to provide the residents and guests of the Town with establishments offering quality goods and services and will resist issuance of licenses to establishments with a consistant operation of poor quality goods and services. In furtherance of this purpose, the Board of Selectmen of the Town of Brewster adopts the following rules and regulations.

**COMPLIANCE**

Where the Town of Brewster Licensing Board Rules and Regulations conflict with the General Laws of the Commonwealth of Massachusetts, the General Laws shall prevail. The General Laws most frequently referred to herein relating to these Rules and Regulations are:

Chapter 138, Alcoholic Liquors

Chapter 140, Licenses

References to the General Laws are indicated herein by the letter "C" for the Chapter and by the letter "s" for the Section; i.e., C. 138/s 1.

**COMPLIANCE WITH ALCOHOLIC BEVERAGES CONTROL COMMISSION RULES AND REGULATIONS**

Where the Town of Brewster Licensing Board Rules and Regulations conflict with the Rules and Regulations of the Alcoholic Beverages Commission, the latter shall govern.

**OMISSIONS AND WAIVERS**

The omission of reference in part, or in its entirety, to any law, code, ordinance or regulation taking precedence over the Rules and Regulations set forth herein shall not constitute a waiver on the part of the Town to require the applicant to comply with the law, code, ordinance or regulations.

**SECTION 12:**

Licenses for Alcoholic Beverages to be Drunk on the Premises issued to Common Victuallers licensed under Chapter 140, Licenses, to conduct a restaurant, an innholder, to conduct a hotel

and a keeper of a tavern will be treated as a new application as outlined above and on the Applicant Check List. Action by the Board on renewal of annual licenses shall be made during the month of December.

Renewals for seasonal licenses under Section 12 and 15 shall be made automatically during the MONTH OF MARCH unless the application fails to meet the requirements of the Massachusetts General Laws or these regulations. Action by the Board on renewal of seasonal licenses shall be made after March 1, and shall terminate at the discretion of the Board, but not before June 1. Annual and Seasonal license holders wishing to reduce the period of service to meet the public need, i.e., twelve months of the year from January 1 to December 31 and from April 1 to November 30, respectively, shall submit a request in writing to the Licensing Board. Justification for the request shall be submitted therewith. The Licensing Board shall analyze each request on an individual basis and notify the licensee accordingly in writing.

Payment for renewed licenses must be made at the time the license is picked up by the licensee.

Seasonal License Extensions requests must be made in writing by the licensee, stating the reason for the extension request. If license extension is granted, the fee is \$175.00 and notification will be made to the ABCC.

Closing of Licensed Premises - The licensee's request must be in writing to the licensing authority, stating reasons why the premises will be closed and when the premises will reopen, i.e., renovations, vacations, natural disasters.

#### **TERMS, LICENSING EXCERPTS**

The following is excerpted from the Massachusetts General Laws, Chapter 138, Section 23 and is inserted here to emphasize a strict policy of the Board.

“Whenever, in the opinion of the local licensing authorities, any applicant for a license under Section 12, 14, 15 and 30A fails to establish to their satisfaction his compliance with the requirements in this chapter...said authorities may refuse to issue or reissue to such applicant any such license; and whenever in their opinion any holder of such a license fails to maintain such compliance or whenever it shall appear to them that the nature of the business...no longer satisfies the definition thereof contained in chapter, or that alcoholic beverages are being sold, served or drunk therein in violation of any provision of this Chapter, they may, after hearing or opportunity therefor modify, suspend, revoke, or cancel such license.”

the applicant resides...” and shall follow the description of the design under Regulation 51 of the ABCC Rules and Regulations in Full Force and Effect 1975.

### **SUSPENSION, FORFEITURE OF LICENSE HEARING**

The following is excerpted from the Massachusetts General Laws 138, Section 64 and is inserted here to emphasize a strict policy of the Board.

“The Licensing authorities after notice to the licensee and reasonable opportunity for him to be heard by the Board, may modify, suspend, revoke or cancel his licenses upon satisfactory proof that he has violated or permitted a violation of any condition thereof, or law of the Commonwealth...if the license is revoked, the licensee shall be disqualified to receive a license for one year after the expiration of the term of the licenses revoked, and if he is the owner of the premises...no license shall be issued to be exercised on said premises for the residue of the term thereof.”

### **CLOSING HOURS**

(Minutes of 9/25/84)

Please be advised that the closing hour for all liquor establishments in the Town of Brewster is 1:00 o'clock a.m. unless the license specifies an earlier closing time. No orders for alcoholic beverages shall be taken after 12:40 a.m., referred to as “Last Call” and all beverages must be cleared from the tables and service area no later than 1:00 a.m. and no person, employee or otherwise, shall remain on the premises after 2:00 a.m. COPY FROM REGULATIONS APPROVED BY BOARD is attached. The regulation is promulgated by the Brewster Licensing Board by provisions of Chapter 138, Section 12 of the General Laws of the Commonwealth of Massachusetts, and the Brewster Police Department is notified to enforce the closing hour. This regulation shall be in full force and effect from this date unless specifically waived in writing by said Licensing Board.

CHAPTER 138, SECTION 12 - SALE OF ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES - Common Victuallers (Restaurants), Innholders, Clubs, etc. - Hours during which sales of alcoholic beverages may be made by any licensee as aforesaid shall be fixed by the local licensing authority either generally or specifically for each license. No licensee shall be restricted in accordance with the terms of the license from making sales after 11:00 a.m. and before 11:00 p.m. Monday through Saturday or 12:00 noon Sunday, except where otherwise noted.

CHAPTER 138, SECTION 15 - SALE OF ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES - Package Good Stores - Any holder of a license under this section shall be permitted to make sales in accordance with the terms of their license at any time between 8:00 a.m. and 11:00 p.m. Monday through Saturday, except where otherwise noted.

### **MINIMUM HOURS OF OPERATION UNDER SECTION 12**

Innholders Annual License - minimum hours of operation Saturday and Sunday from 12:00 noon to 7:00 p.m. December first through April first. The licensing authority must be notified in writing the exact hours the Inn will be in operation.



Common Victualler Annual Licensee - must remain open at least four (4) hours daily December first through April first. Upon renewal of license this Board must be notified in writing the exact hours the restaurant will be in operation.

**MINIMUM HOURS OF OPERATION UNDER SECTION 15**

Package Goods Store Annual License - 9:00 a.m. to 9:00 p.m. Monday through Saturday, unless otherwise noted.

**ATTACHED DOCUMENTS**

The following attached documents are hereby made part of these Rules and Regulations as if incorporated herein.:

Calendar of Holidays for Current year  
Application Check List  
ABCC Document  
BLB Document

**BREWSTER LICENSING BOARD**

**ONE-DAY ONLY LIQUOR LICENSE**

Effective January 1, 1984

Any individual or organization interested in acquiring a One-Day Only Liquor License to sell all alcoholic or wine and malt beverages must follow the following procedures:

1. Fill out an application and return to the Selectmen's Office with the fee.
2. A completed list of "parties of interest" must accompany the application. Parties of interest shall mean petitioner, abutters, owners of land directly opposite on any public or private street or way, and must be certified by the Board of Assessors.
3. A public hearing date will be set and a legal advertisement will be placed in a local newspaper.
4. The petitioner must send out by certified mail a copy of the legal advertisement as it appeared in the local newspaper within three (3) days of publication to all those "parties of interest" listed, and the cost for both the certified mailings and legal advertisement are to be borne by the petitioner.
5. The legal hearing must be held prior to any function requesting a One-Day Only Liquor License.

**CHANGE OF MANAGER - ALL ALCOHOLIC BEVERAGE LICENSED ESTABLISHMENTS**

Effective December 1, 1984 all requests for CHANGE OF MANAGERS will be handled as follows:

1. Petition for Change of Manager (Form 997) must be completed in duplicate.
2. Petition filed by corporation shall be signed by some officer duly authorized by a vote certified by the clerk or secretary of the corporation, together with a copy of the certificate of its corporation. A copy of the vote appointing its manager or other principal representative, and a copy of the manager's birth certificate or proof of U. S. citizenry, shall also accompany the petition.

Filing fees: A certified check payable to the Commonwealth of Massachusetts, and a check payable to the Town of Brewster must accompany petition.

The Administrative Secretary will set up a hearing date when all requested information has been received.

The hearing date will be posted on the Selectmen's Agenda at least forty-eight (48) hours prior to the date and time of the scheduled meeting. The Board of Selectmen will review the petition for change at the designated meeting.

POLICY NO: 3

DATE APPROVED: 8/17/87

DATE AMENDED: 8/11/97, 7/6/04, 5/16/16, 12/4/17

TOWN OF BREWSTER  
APPLICATION FOR A YARD SALE PERMIT

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

DATE(S) OF PROPOSED YARD SALE \_\_\_\_\_ RAIN DATE \_\_\_\_\_

In making this application, it is understood that all parking will be provided off paved roads.

Yard Sales shall not be permitted along Main Street (Route 6A) the Saturday of Memorial Day through Labor Day.

The fee includes two (2) approved signs issued by the Selectmen's Office with the yard sale permit. Additional approved signs may be purchased for an additional charge through the Selectmen's office. Off Site Signs are Not Allowed per Zoning Bylaw Chapter 179, Section 20.6. Off-premise signs on public property are punishable by up to a \$300.00 fine.

LIMITATIONS:

- Two (2) Yard Sales per Homeowner/Occupant/Location per calendar year
- Two (2) consecutive days are allowed per permit
- One (1) day extension may be granted in case of inclement weather

Special approval can be obtained from the Board of Selectmen and the Police Chief for additional yard sales. Maximum of four (4) Yard Sale Permits allowed per calendar year.

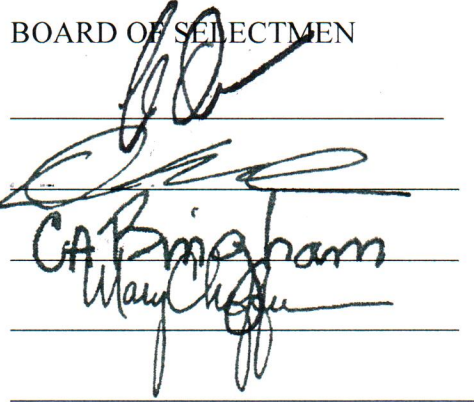
Sign Permit Number \_\_\_\_\_

Date Issued \_\_\_\_\_

Authorized Signature \_\_\_\_\_

APPROVED:

  
Heath Eldredge, Police Chief

BOARD OF SELECTMEN  
  
CA Bingham  
Way Chappin



**Town of Brewster**  
 2198 Main Street  
 Brewster, MA 02631  
 www.brewster-ma.gov  
 Phone: (508) 896-3701

**Policy No: 4**  
**Date Approved: August 24, 1987**  
**Dates Amended: August 25, 1997**  
**May 8, 2023**

Email: [TownManager@brewster-ma.gov](mailto:TownManager@brewster-ma.gov)

## Select Board Policy on Items Brought Before Select Board for Signature

ITEM	SUGGESTED DISPOSITION	REASON
<b>I. Accounting</b>		
Warrant/Payroll	Sign (electronic)	Procedural & informational
Warrant/Expenses	Sign (electronic)	Procedural & informational
<b>II. Licenses and Permits</b>		
Aquaculture Licenses / Shellfish Grants	Stamp/Sign (ink)	Decision made in Open Meeting
Auctioneers Licenses	Stamp/Sign (ink)	Decision made in Open Meeting
Automatic Amusements	Stamp/Sign (ink)	Decision made in Open Meeting
Bowling Licenses	Stamp/Sign (ink)	Decision made in Open Meeting
Car Dealers – Class I, II, III	Stamp/Sign (ink)	Decision made in Open Meeting
C. C. Gas Permits	Stamp/Sign (ink)	Decision made in Open Meeting
Common Victualler	Stamp/Sign (ink)	Decision made in Open Meeting
Entertainment Licenses (Annual/Daily)	Stamp/Sign (ink)	Decision made in Open Meeting
General Licenses (Amusement)	Stamp/Sign (ink)	Decision made in Open Meeting
Hawker & Peddler Licenses	Stamp/Sign (ink)	Decision made in Open Meeting
Inn Holder & Lodging House Licenses	Stamp/Sign (ink)	Decision made in Open Meeting
Junk Collectors	Stamp/Sign (ink)	Decision made in Open Meeting
Junk Dealers	Stamp/Sign (ink)	Decision made in Open Meeting
Liquor Licenses (Annual/Seasonal/Daily)	Stamp/Sign (ink)	Decision made in Open Meeting
Livery	Stamp/Sign (ink)	Decision made in Open Meeting
Shellfish Grants	Stamp/Sign (ink)	Decision made in Open Meeting
Special Event Permits	Stamp/Sign (ink)	Decision made in Open Meeting
<b>III. Agreements</b>		
Affordable Deed Restrictions	Sign (ink)	Decision made in Open Meeting
Cemetery Deeds	Stamp/Sign (ink)	Decision made in Open Meeting
Community Emergency Management Plan	Stamp/Sign (ink)	Decision made in Open Meeting
Discharge of Mortgages	Sign (ink)	Decision made in Open Meeting
Gift Agreements	Stamp/Sign (ink)	Decision made in Open Meeting
Intermunicipal Agreements	Stamp/Sign (ink)	Decision made in Open Meeting
Land Development Agreements	Sign (ink)	Decision made in Open Meeting



**Town of Brewster**

2198 Main Street  
 Brewster, MA 02631  
 www.brewster-ma.gov  
 Phone: (508) 896-3701

Email: [TownManager@brewster-ma.gov](mailto:TownManager@brewster-ma.gov)

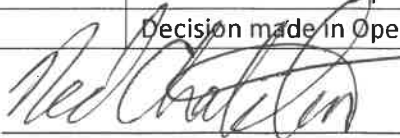
**Policy No: 4**

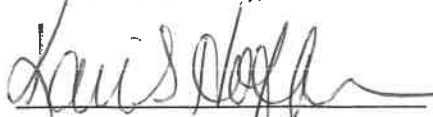
**Date Approved: August 24, 1987**

**Dates Amended: August 25, 1997  
 May 8, 2023**

License Agreements	Sign (ink)	Decision made in Open Meeting
Memorandum of Agreement/Understanding	Sign (ink)	Decision made in Open Meeting
Mortgage Agreements	Sign (ink)	Decision made in Open Meeting
Regulatory Agreements	Stamp/Sign (ink)	Decision made in Open Meeting
<b>IV. Contracts</b>		
Cell Tower Lease Agreements	Stamp/Sign (ink)	Decision made in Open Meeting
Cell Tower Sublease Agreements	Stamp/Sign (ink)	Decision made in Open Meeting
Cell Tower Site Modifications	Stamp/Sign (ink)	Decision made in Open Meeting
Comcast & LCCAT License Agreements	Stamp/Sign (ink)	Decision made in Open Meeting
Commerce Park Leases & Adjustments	Stamp/Sign (ink)	Decision made in Open Meeting
Commerce Park Site Modifications	Stamp/Sign (ink)	Decision made in Open Meeting
Contracts Over \$1,000,000	Sign (ink)	Decision made in Open Meeting
Employment Agreements	Stamp/Sign (ink)	Decision made in Open Meeting
Grant Agreements/Applications	Stamp/Sign (ink)	Decision made in Open Meeting
<b>V. Miscellaneous</b>		
Appointments & Reappointments	Stamp/Sign (ink)	Decision made in Open Meeting
Borrowing Authorizations	Stamp/Sign (ink)	Decision made in Open Meeting
Election Warrant	Sign (ink)	Decision made in Open Meeting
Letters of Support	Stamp/Sign (ink)	Decision made in Open Meeting
Management Representation Letters	Stamp/Sign (ink)	Decision made in Open Meeting
Meeting Minutes	Stamp/Sign (ink)	Decision made in Open Meeting
Pass Through Town Permission	Stamp/Sign (ink)	Decision made in Open Meeting
Select Board Policies (Including Personnel)	Stamp/Sign (ink)	Decision made in Open Meeting
Theatre	Stamp/Sign (ink)	Decision made in Open Meeting
Town Landing and Public Beach Access Permission	Stamp/Sign (ink)	Decision made in Open Meeting
Town Meeting Warrants for Posting	Sign (ink)	Decision made in Open Meeting
Vote on Tabulating Systems	Stamp/Sign (ink)	Decision made in Open Meeting

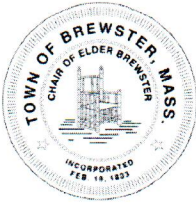
  
 David Whitney, Chair

  
 Ned Chatelain, Vice Chair

  
 Kari Hoffmann, Clerk

\_\_\_\_\_  
 Mary Chaffee

  
 Cindy Bingham



**Town of Brewster**  
2198 Main Street  
Brewster, MA 02631  
www.brewster-ma.gov  
Phone: (508) 896-3701  
Email: brewster@brewster-ma.gov

Office of:  
Select Board and  
Town Administrator

## **SELECT BOARD POLICY ON WAIVER OF TOWN PERMIT FEES**

Policy no. 5  
Date adopted: 10/5/87  
Date amended: 8/25/97  
Date amended: 4/16/02  
Date amended: 12/21/20

### **A. PURPOSE**

1. This policy seeks to create consistent and clear eligibility standards for the reduction or waiver of Town fees. The policy also establishes a standard process by which the Select Board will consider and potentially approve any such request.
2. The Town of Brewster seeks to support events held on Town property that broadly benefit the community, many of which are organized, coordinated, and/or hosted by local non-profit organizations. The Town also actively engages in construction projects that are initiated or coordinated by various Town entities that benefit the community.

### **B. POLICY & ELIGIBILITY**

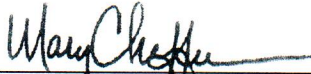
1. **Town exemptions.** Construction projects initiated, participated in, or sponsored by the Town, including those related to affordable housing, shall be exempt from all applicable licensing and permit fees except electrical and plumbing/gas inspectional service fees.
2. **Nonprofit application limits.** The Select Board may consider waiver of fees associated with the use of Town facilities by non-profit organizations upon proof of current 501(c)(3) status. Such activity shall be consistent with the applicant organization's mission. Any such waiver amount shall not exceed \$1,000 for a particular request/event, nor shall the Board grant waivers in excess of \$2,000 per fiscal year to any one entity.
3. **Recycling Center waivers.** The Select Board may, from time to time, waive certain Recycling Center fees associated with disposal of brush materials after a significant storm event or a Town-sponsored clean-up activity.
4. **Public safety/emergency waivers.** As a result of a public safety or health emergency, the Select Board may, at their discretion, choose to waive or pro-rate certain fees.
5. **Other applications.** Requests for waiver from any other Town fees is generally discouraged but may be reviewed on a case-by-case basis. The Select Board's action on any such requests shall not be considered


precedential.


**C. APPROVAL PROCESS**

1. Each project/event fee waiver request shall be submitted in writing to the Select Board stating the nature and purpose of such request.
2. The Select Board shall act on a request as soon as practicable.
3. The Select Board's action on any such request shall be final and not subject to appeal.

Approved by the Brewster Select Board on December 21, 2020

  
\_\_\_\_\_  
Mary Chaffee, Chair

  
\_\_\_\_\_  
Ben DeRuyter, Vice Chair

  
\_\_\_\_\_  
Cynthia Bingham, Clerk

  
\_\_\_\_\_  
David Whitney

  
\_\_\_\_\_  
Edward Chateau



**Town of Brewster**  
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Office of:  
Select Board and  
Town Administrator

## **BREWSTER SELECT BOARD POLICY #6**

### **SELECT BOARD APPOINTMENTS TO TOWN COMMITTEES**

Date Adopted: 11 / 01 / 2021

#### **A. DEFINITIONS**

1. **Ad hoc committee:** A committee formed for a limited period of time for a specific and temporary purpose.
2. **Advisory committee:** A committee that acts only in an advisory capacity to the Select Board with no authority to bind the Select Board, e.g., the Bikeways and Human Services Committees.
3. **Alternate member:** A committee member appointed to sit on the committee in the case of an absence, inability to act, or conflict of interest on the part of a regular member or in the event of a vacancy (Town Charter 5-3-1).
4. **Appointed committee:** A committee in which the members are appointed rather than elected.
5. **Committee:** Any multiple-member public body, including boards and commissions.
6. **Elected committee:** A committee in which the members are elected by town voters.
7. **Public body:** All multiple member committees, boards, and commissions, elected or appointed, or otherwise authorized under state law, town charter, or as appropriate, by the Select Board, to serve a public purpose.
8. **Regulatory committee:** A committee with financial or regulatory authority granted by state law and/or town charter, e.g., the board of health, planning board, and school committee.
9. **Standing committee:** A permanent committee.

#### **B. PURPOSE**

1. **Appointing authority.** The Select Board is the appointing authority for all non-elected, multiple member committee positions. It appoints jointly with a second public body for certain elected committee vacancies (covered by a separate policy, number 6A, dated November 1, 2021). The Select Board may create and make appointments to ad hoc and advisory committees as it deems necessary. The Town Moderator is the appointing authority for certain committee positions not covered by this policy. (See Appendix A).
2. **Appointment process.** This policy describes the process used by the Select Board to appoint volunteers to Town committees, boards, and commissions where members are not elected.
3. **Resident involvement.** The Town encourages resident involvement in decision-making through participation on committees and relies on qualified volunteers



playing active committee roles.

4. **Appointment process goals.** The members of a committee should be selected so as to provide the strongest possible group for the handling of any task that may arise within the province of that committee. The Select Board seeks to appoint qualified Brewster residents who are broadly representative of the demographics and experiences of residents in Town and whose skill set matches the particular committee's needs. The Select Board aims to have balanced and diverse representation on committees wherever feasible.
5. **Town employees and non-Brewster voters.** Town of Brewster employees may be appointed to a committee at the appointing authority's discretion, subject to the Conflict of Interest law and any other general or special laws. Non-Brewster voters may be appointed to certain ad hoc and advisory committees. The Select Board will explicitly identify opportunities for non-Brewster voters to seek appointment to such committees. Town employees and non-Brewster voters appointed to serve on such committees will be full voting members unless otherwise outlined in the committee charge.

### **C. SELECTION CRITERIA**

1. The applicant is registered to vote in Brewster, with certain exceptions for appointed ad hoc and advisory committees, as discussed above.
2. Successful applicants will demonstrate:
  - a. Broad perspective and concern for Brewster's welfare and progress;
  - b. Familiarity with Brewster's issues, government processes, and plans, including without limitation the Vision Plan;
  - c. Interest in duties and responsibilities of the committee, board, or commission under consideration;
  - d. Willingness to devote time and effort toward the committee's work;
  - e. Basic awareness and understanding of pertinent laws, bylaws, regulations, and policies;
  - f. Relevant professional and/or personal experience/expertise;
  - g. Effective teamwork and communication skills; and
  - h. Commitment to carrying out the duties of the committee in the best interest of the Town according to applicable law and regulations and not to advance or create the appearance of advancing a personal agenda.
3. Under the Town Charter, 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 (Charter 2-12-1-G).

### **D. REMOVAL BY SELECT BOARD FROM APPOINTED POSITION**

1. Under the Town Charter, any person appointed to a multiple member committee by the Select Board may be removed by the Select Board following written notice and the opportunity for a public hearing (Charter 5-1-1-B).

### **E. PROCESS FOR SELECT BOARD APPOINTMENTS TO NON-ELECTED COMMITTEES** (See chart that follows)

1. **Advertising** (*Responsibility: Town Administration*)
  - a. Vacancy notices are posted with guidance on how to apply.

2. **Application Initial Review** (*Responsibility: Town Administration*)
  - a. Applicant submits application (see Appendix B) and other materials to Town Administrator's office.
  - b. Upon receipt, staff reviews application for completeness and, if satisfied that the application is complete, forwards the application to the Town Clerk.
  
3. **Eligibility Confirmation** (*Responsibility: Town Clerk*)
  - a. The Town Clerk notes the applicant's voting status on the "Committee Application Screening and Action Form" and returns the form to Town Administration, who then forwards the application materials to the Select Board Liaison.
  
4. **Screening and Recommendation** (*Responsibility: Select Board Liaison*)
  - a. The Select Board Liaison assigned to the committee on which a vacancy has occurred conducts applicant screening, and then submits their recommendation to Town Administration staff, using "Select Board Committee Application Screening Form" (See Appendix C). Screening activities include reviewing application materials, interviewing applicant, and conferring with the committee chair.
  
5. **Notice of Proposed Appointment (Meeting #1)** (*Responsibility: Town Administration*)
  - a. For applicants recommended for appointment by the Select Board Liaison, the "Select Board Committee Application Screening Form" with the Liaison's recommendation and application materials are published in a Select Board meeting packet at least one week prior to the meeting at which a vote on the appointment will be held.
  
6. **Select Board Vote (Meeting #2)** (*Responsibility: Select Board*)
  - a. The recommended appointment is placed on Select Board meeting agenda, including the name of the candidate, if known.
  - b. The Select Board deliberates on the recommended appointment and votes.
  - c. A simple majority vote is required to confirm or reject the appointment.
  
7. **Notification of Decision** (*Responsibility: Town Administration*)
  - a. Town Administration then notifies the applicant of the Select Board's decision:
    - i. If appointed, Town Administration notifies the applicant of their appointment and directs the appointee to be sworn in by Town Clerk before participating in a public meeting. The appointment certification form is forwarded by Town Administration to the appointee and the Town Clerk, along with the required Certification of Compliance with any applicable laws, including without limitation the Open Meeting Law, Public Records Law, and Conflict of Interest Law.
    - ii. If the applicant is not appointed, Town Administration notifies the

applicant; other vacancies may be considered and the application can be kept on file.

**F. APPOINTMENTS TO AD HOC COMMITTEES** (*Responsibility: Town Administration and Select Board*)

1. The Select Board may request the Town Administrator perform screening and make recommendations to the Select Board for appointments to ad hoc committees.
2. The same application form is used as with standing committee applications and the same two meeting publication processes will be used (though no Select Board Liaison recommendation occurs).
3. For ad hoc committees, Town Administration will evaluate applications and forward recommendations to the Select Board for deliberation and vote at a public meeting.
4. The Select Board will clearly identify opportunities that non-Brewster voters are eligible to apply for.

**G. RE-APPOINTMENT TO COMMITTEE** (*Responsibility: Town Administration and Select Board*)

1. Committee members whose terms are expiring should notify Town Administration, by email or in writing, if they wish to be re-appointed no later than 30 days before the end of their term.
2. For members wishing to be re-appointed, Town Administration will notify the Select Board Liaison to the Committee and the Committee Chair.
3. The Select Board Liaison will consult with the Committee Chair and inform Town Administration of a recommendation for re-appointment.
4. If a committee member is recommended for re-appointment:
  - i. Meeting #1: Town Administration will publish member's request for re-appointment and re-appointment recommendation by the Select Board Liaison in a Select Board packet at least one week prior to the meeting at which a vote on re-appointment will be held.
  - ii. Meeting #2: The recommendation for re-appointment will be placed on the Select Board meeting agenda, including the member's name. The member's request for re-appointment and the Select Board Liaison's recommendation for re-appointment will be published in Select Board meeting packet.
  - iii. A simple majority vote is required to confirm or reject the re-appointment.
5. If a member does not wish to be re-appointed, a vacancy will be added to the Town-maintained committee vacancy list.

**H. APPOINTMENTS TO COMMITTEES COMPRISED OF OTHER COMMITTEE MEMBERS** (*Responsibility: Town Administration and Select Board*)

1. Certain Town Committees are formed of members representing other Town committees and departments, e.g., the Water Quality Review Board and the Brewster Affordable Housing Trust.
2. The Select Board makes appointments to these committees based on the recommendation of the contributing committee and/or applicable Town bylaws or charter provisions.

Approved by the Brewster Select Board on:

*CABingham*

---

Cynthia Bingham, Chair

*David Whitney*

---

David Whitney, Vice Chair

*Edward B Chatelain*

---

Edward Chatelain, Clerk

*Mary Chaffee*

---

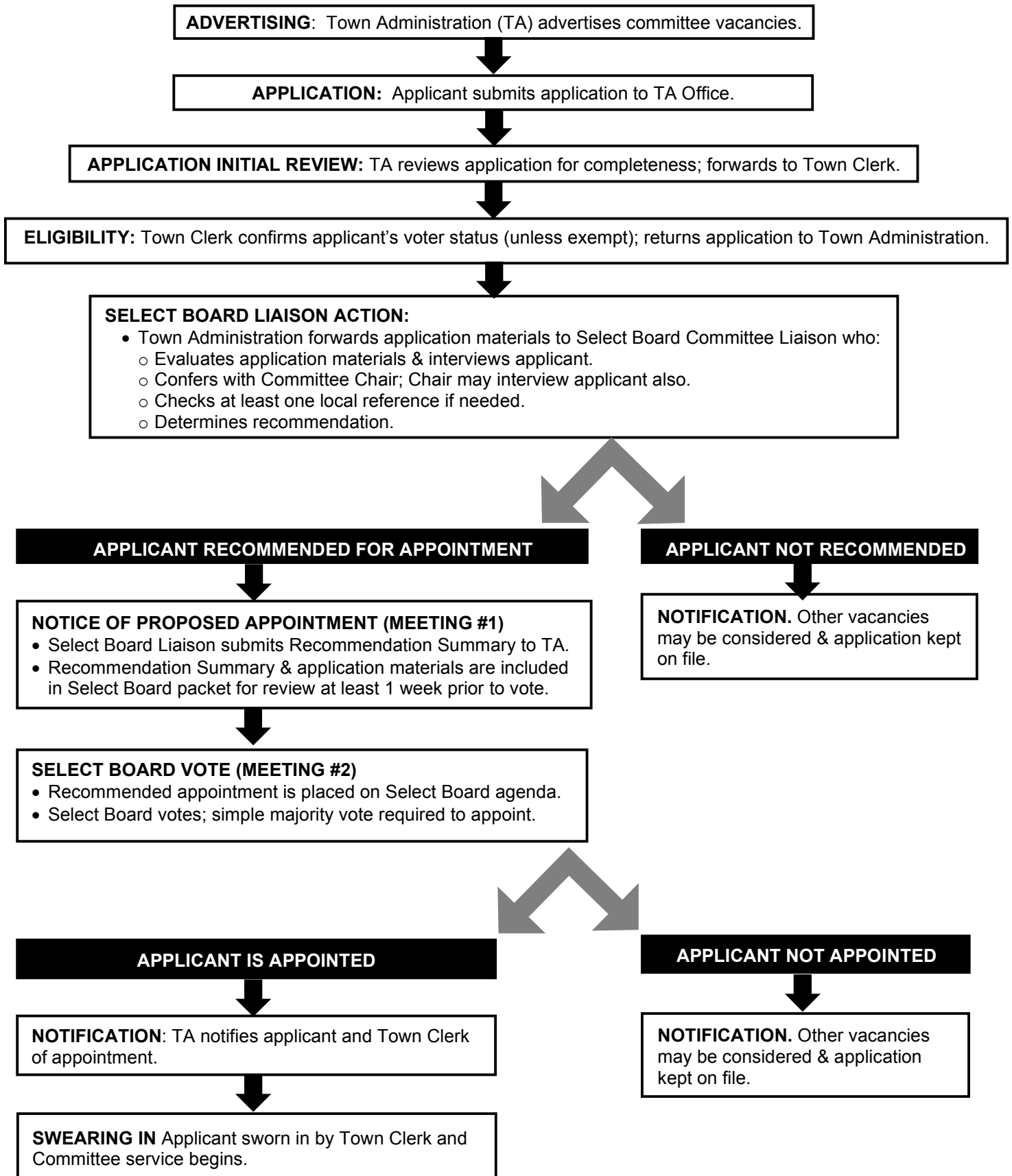
Mary Chaffee

*Kari S. Hoffmann*

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Kari Hoffmann

## FLOWCHART: SELECT BOARD APPOINTMENT PROCESS FOR NON-ELECTED COMMITTEE VACANCIES



**Appendix A  
Town of Brewster Committee Appointing Authorities**

<b>APPOINTING AUTHORITY</b>	<b>RESPONSIBLE FOR APPOINTMENTS TO:</b>
Select Board	<ul style="list-style-type: none"> <li>• All multiple member non-elected committees*</li> <li>• Ad hoc committees*</li> <li>• Town Moderator vacancy</li> <li>• Town Constable vacancy</li> <li>• Old Kings Highway Historic District Committee – 1 seat (under charter)</li> <li>• Housing Authority – 2 seats (state law)</li> </ul>
Select Board and Second Board with Joint Authority (see separate policy)	<p>Vacancies on elected public bodies:</p> <ul style="list-style-type: none"> <li>• Board of Health</li> <li>• Housing Authority</li> <li>• Brewster School Committee</li> <li>• Nauset Regional School Committee - Brewster seats</li> <li>• Old Kings Highway Historic District Committee</li> <li>• Planning Board</li> <li>• Recreation Committee</li> </ul>
Town Moderator	<ul style="list-style-type: none"> <li>• Finance Committee (all seats)</li> <li>• Audit Committee (1 seat)</li> <li>• Deputy Town Moderator</li> <li>• Cape Cod Technical High School Committee Brewster representatives in accordance with regional school district agreement</li> </ul>
Finance Committee	<ul style="list-style-type: none"> <li>• Audit Committee (2 seats)</li> </ul>

\*Appointments managed under this Select Board policy.

## Appendix B

### Town of Brewster SELECT BOARD COMMITTEE APPOINTMENT APPLICATION

#### APPLICANT DIRECTIONS:

- Thank you for your interest in serving Brewster. The Town aims to match applicants with committee service best aligned to your skills and interests as well as the committee's needs.
  - The Town may consider the information in this application, any supplemental information, and any other publicly available information. An appointment to any committee, board or commission is at the discretion of the Select Board.
  - Please complete this form online, or on paper, and submit a résumé if desired to Erika Mawn, Town Administrator's Executive Assistant:
    - Email: [EMawn@Brewster-MA.gov](mailto:EMawn@Brewster-MA.gov)
    - Mail: Erika Mawn, 2198 Main St., Brewster, MA 02631, or
    - In person: Town Administrator's Office or drop-box outside Town Hall.
  - After your application materials are received, you'll be contacted regarding next steps. Vacancies will be filled by applicants deemed best qualified to serve in a particular capacity, which discretion lies solely with the appointing authority. Submitting this form does not guarantee appointment.
- 

1. **Applicant name:**

2. **Address:**

3. **Phone Numbers:** Home: \_\_\_\_\_ Cell: \_\_\_\_\_

4. **Email:**

5. **This is an application for:**  Full member status  Alternate status

6. **Are you a full-time Brewster resident?**  Yes  No

7. **Years you've lived in Brewster:**

8. **Are you registered to vote in Brewster?**  Yes  No

9. **Committees you are interested in serving on in order of preference:**

- a.
- b.
- c.

**NOTE: You may attach a résumé or CV instead of completing items 10-14.**

**10. EDUCATION.** List schools attended, degrees/diplomas/certificates received, and date of completion.

**11. OCCUPATION:**  Active  Retired  Not currently working

**12. EMPLOYMENT EXPERIENCE.** List employers, job titles and dates of employment for at least previous 3 years.

**13. GOVERNMENT POSITIONS.** List any Town of Brewster or other government volunteer, elected, or appointed positions you now hold or have held.

**14. COMMUNITY ACTIVITIES.** List all civic, non-profit, or other organizations that you belong to or have belonged to in the previous 5 years:

a. Organizations and dates:

**15. GOALS:** Please explain why you'd like to serve on a particular committee.

**16. EXPERIENCE & SKILLS:** Please list any experience, achievements, skills, or interests you have that would assist you to serve effectively on the committee you wish to serve on.

**17. TOWN EMPLOYMENT:** Are you or any member of your immediate family employed by or receiving financial consideration from the Town of Brewster?

**18. CONFLICTS OF INTEREST.** Do any of your activities or relationships present the possibility or probability of a conflict of interest if you are appointed?(Does not automatically disqualify but may need to be disclosed)

**19. LOCAL REFERENCES:** Please provide the names and contact information for references (Brewster residents preferred):

a. Name:  
Address:  
Phone:  
Email:  
Relationship to you:

b. Name:  
Address:  
Phone:  
Email:  
Relationship to you:



**20. ADDITIONAL INFORMATION. Please add any additional information you'd like.**

**21. SIGNATURE. By signing below, you state that you understand and agree.**

- My completion of this form does not guarantee my appointment and my application will be kept on file for two (2) years.
- If appointed to a position, I will be considered a Municipal Employee under MGL Ch. 268A and will be subject to:
  - Massachusetts Conflict of Interest Law, MGL Ch. 268A;
  - Massachusetts Financial Disclosure Law, MGL Ch. 268B;
  - Massachusetts Open Meeting Law, MGL Ch. 30A, Sections 18-25, and the implementing regulations, 940 CMR 29.00;
  - Massachusetts Public Records Law, MGL Ch. 66, and the implementing regulations, 950 CMR 32.00;
  - Massachusetts Campaign Finance Law, MGL Ch. 55; and
  - Brewster Charter, when in force, and Town bylaws, and all other applicable federal, state, and local laws or regulations.
- If appointed, I must be sworn in by the Town Clerk before serving, and I will complete State Conflict of Interest training after appointment, as well as any other certifications required by law.
- When submitted, I understand that this form becomes a public document.

Signature:

Date:

## Appendix C

### SELECT BOARD COMMITTEE APPLICATION SCREENING FORM

**Applicant Name**

**Requested Committee**

#### 1. TOWN CLERK REVIEW

- a. Applicant is a registered Brewster voter:  Yes  No  
b. Date confirmed

#### 2. SELECT BOARD LIAISON RECOMMENDATION TO SELECT BOARD

**a. Select Board Liaison Applicant Interview:**

- i. Interviewer name (Select Board Liaison):  
ii. Interview date:

**b. Select Board Liaison Consultation with Committee Chair:**

- iii. Committee Chair name:  
iv. Consultation date:  
v. Did Committee Chair also interview applicant?  Yes  No

**c. Was at least 1 Brewster reference contacted:**  Yes  No  N/A

**d. Select Board Liaison Recommendation:**

- i.  Recommend appointment.  
ii.  Recommend appointment to other committee that is a better fit for applicant qualifications.  
iii.  Recommend holding application for future opening.  
iv.  Not recommended.

#### 3. SELECT BOARD ACTION

- a. At a Select Board meeting held \_\_\_\_\_, the Applicant was appointed to for a term ending \_\_\_\_\_ year term.

#### 4. NOTIFICATION OF APPOINTEE AND TOWN CLERK

- a. Date notification of appointment sent to appointee and Town Clerk:

## Appendix D

### 1. Appointment Letter



#### **Town of Brewster**

2198 Main Street  
Brewster, MA 02631  
[www.brewster-ma.gov](http://www.brewster-ma.gov)  
Phone: (508) 896-3701

Office of:  
Select Board and  
Town Administrator

[Date]

Dear \_\_\_\_\_,

Thank you for applying for appointment to a Town of Brewster Committee. I am pleased to inform you that on [date], you were appointed to:

Your term will end:

[*Term end date*]

Please contact the Town Clerk to arrange your swearing in, which must be done prior to your participation in a committee meeting.

Colette Williams, Town Clerk  
2198 Main St., Brewster, MA 02631  
Phone: (508) 896-4506  
Email: [townclerk@brewster-ma.gov](mailto:townclerk@brewster-ma.gov)

Thank you for your willingness to serve our community.

Sincerely,

Peter Lombardi  
Town Administrator

## 2. Non-appointment Letter



**Town of Brewster**  
2198 Main Street  
Brewster, MA 02631  
[www.brewster-ma.gov](http://www.brewster-ma.gov)  
Phone: (508) 896-3701

Office of:  
Select Board and  
Town Administrator

[Date]

Dear [Applicant Name],

Thank you for applying for appointment on a Town of Brewster Committee. You were not selected for this appointment, however, we would like to retain your application. We would like to be able to consider you when a future committee vacancy opens that interests you, and for which your background and experience would be a good fit.

Volunteers make vital contributions to our community, and we appreciate your willingness to serve. If you have any questions about committee openings, please contact the Town Administrator's Office or visit the Town website to review openings.

Phone: (508) 896-3701

Email: [townclerk@brewster-ma.gov](mailto:townclerk@brewster-ma.gov)

Committee Openings: <https://www.brewster-ma.gov/committee-openings>

Sincerely,

Peter Lombardi  
Town Administrator



**Town of Brewster**  
2198 Main Street  
Brewster, MA 02631  
[www.brewster-ma.gov](http://www.brewster-ma.gov)  
Phone: (508) 896-3701

Office of:  
Select Board and  
Town Administrator

## **BREWSTER SELECT BOARD POLICY #6A**

### **SELECT BOARD JOINT APPOINTMENTS TO TOWN COMMITTEES**

Date Adopted: 11 / 01 / 2021

#### **A. DEFINITIONS**

1. **Committee:** Any multiple-member public body, including boards and commissions.
2. **Elected committee:** A committee in which the members are elected by town voters.
3. **Public body:** All multiple-member committees, boards and commissions, elected or appointed, or otherwise authorized under state law, town charter, or as appropriate, by the Select Board, to serve a public purpose.

#### **B. PURPOSE**

1. This policy describes the process used, under MGL Ch 41, Sec. 11, to appoint volunteers to fill vacancies on Town committees, boards and commissions where members are elected.
2. Under such circumstances, if there is a vacancy on a committee consisting of two or more members, the remaining members of the Committee are required to provide notice of the vacancy to the Select Board within one month of the vacancy. Thereafter, the Select Board and the remaining members of the committee experiencing the vacancy, will make joint appointments to fill the vacancy by a roll-call vote.
3. The Town encourages resident involvement in decision-making through participation on committees, boards, and commissions, and relies on qualified volunteers playing active committee roles.
4. The appointing authorities seek to appoint qualified Brewster residents who are broadly representative of the demographics and experiences of residents in Town and whose skill set matches the particular committee's needs. The Town aims to have balanced and diverse representation on committees wherever feasible.
5. Town of Brewster employees may be appointed at the appointing authorities' discretion, subject to Conflict of Interest laws and any other applicable general or special law, charter provision, or bylaw.

#### **C. APPLICABILITY.** This policy applies to vacancies on the following public bodies:

1. Board of Health
2. Housing Authority
3. Brewster School Committee
4. Nauset Regional School Committee - Brewster seats

5. Old Kings Highway Historic District Committee
6. Planning Board
7. Recreation Committee

#### **D. SELECTION CRITERIA**

1. Applicant is registered to vote in Brewster.
2. Successful applicants will demonstrate:
  - a. Broad perspective and concern for Brewster's welfare and progress;
  - b. Familiarity with Brewster's issues, government processes, and plans, including without limitation the Vision Plan.
  - c. Interest in duties and responsibilities of the committee, board, or commission under consideration;
  - d. Willingness to devote time and effort toward the committee's work;
  - e. Basic awareness and understanding of pertinent laws, bylaws, regulations, and policies;
  - f. Relevant professional and/or personal experience/expertise;
  - g. Effective teamwork and communication skills; and,
  - h. Commitment to carrying out the duties of the committee in the best interest of the Town according to applicable law and regulations and not to advance or create the appearance of advancing a personal agenda;
3. Under the Town Charter, 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.

#### **E. PROCESS FOR JOINT SELECT BOARD APPOINTMENTS TO VACANCIES ON ELECTED PUBLIC BODIES (See chart that follows)**

1. **Advertising** (*Responsibility: Town Administration*)
  - a. Vacancy notices are posted with guidance on how to apply.
2. **Application Initial Review** (*Responsibility: Town Administration*)
  - a. Applicant submits application and other materials to the Town Administrator's office.
  - b. Upon receipt, staff reviews application for completeness and, if satisfied that the application is complete, forwards the application to the Town Clerk.
3. **Eligibility Confirmation** (*Responsibility: Town Clerk*)
  - a. The Town Clerk notes the applicant's voting status on the "Committee Screening and Recommendation Form" and returns the form to Town Administration who then forwards the application materials to the Select Board Liaison.
4. **Notice of Committee Appointment** (*Responsibility: Town Administration*)
  - a. Applicant materials are published in the Select Board meeting packet and in the meeting packet of the committee on which the vacancy has occurred at a meeting at least one week prior to the date on which the joint committee will vote on the appointment. The agenda item for the

joint appointment must be posted by both the Select Board and the committee on which the vacancy has occurred, with the name of the candidate to fill the vacancy, if known.

5. **Joint Deliberation and Vote** (*Responsibility: Select Board and Second Public Body*)
  - a. A joint meeting of the Select Board and the committee with the vacancy is convened.
  - b. Appointment to fill the vacancy is by a simple majority vote of all officers entitled to vote. The vote to fill the vacancy must be by roll-call.
  
6. **Notification** (*Responsibility: Town Administration*)
  - a. Town Administration then notifies the applicant of the Select Board and committee's decision:
    - i. If appointed, Town Administration notifies the applicant of appointment and directs the appointee to be sworn in by the Town Clerk before participating in a public meeting. The appointment certification form is forwarded by Town Administration to the appointee and the Town Clerk, along with the required Certification of Compliance with any applicable laws, including without limitation the Open Meeting Law, Public Records Law, and Conflict of Interest Law.
    - ii. If not appointed, Town Administration notifies the applicant; other vacancies may be considered and the application can be kept on file.

Approved by the Brewster Select Board on:

*CABingham*

---

Cynthia Bingham, Chair

*David Whitney*

---

David Whitney, Vice Chair

*Edward B Chatelain*

---

Edward Chatelain, Clerk

*Mary Chaffee*

---

Mary Chaffee

*Kari A. Hoffmann*

---

Kari Hoffmann

## FLOWCHART: SELECT BOARD JOINT APPOINTMENT PROCESS FOR ELECTED COMMITTEE VACANCIES

**APPLICABILITY:** This process applies to appointments to vacancies on these public bodies where the Select Board and the committee with a vacancy jointly vote to appoint:

- Board of Health
- Housing Authority
- Brewster School Committee
- Nauset Regional School Committee - Brewster seats
- Old Kings Highway Historic District Committee
- Planning Board
- Recreation Committee

**ADVERTISING:** Town Administration (TA) advertises committee vacancies.

**APPLICATION:** Applicants submit applications to TA Office.

**APPLICATION INTAKE & INITIAL REVIEW:** TA reviews applications for completeness; forwards to Town Clerk.

**ELIGIBILITY CONFIRMATION:** Town Clerk confirms applicant's voter status and eligibility for appointment; returns application to Town Administration.

**NOTICE OF PROPOSED APPOINTMENT (MEETING #1)**

- Application materials are included in Select Board meeting packet and meeting packet of committee experiencing the vacancy at least one week prior to joint meeting deliberation and vote.

**JOINT DELIBERATION AND VOTE (MEETING #2)**

- Select Board and committee experiencing the vacancy meet jointly to deliberate and vote.
- Simple majority of all officers entitled to vote determines outcome.

**APPLICANT IS APPOINTED**

**NOTIFICATION:** Applicant and Town Clerk are notified of appointment.

**SWEARING IN** Applicant sworn in by Town Clerk and Committee service begins.

**APPLICANT NOT APPOINTED**

**NOTIFICATION.** Other vacancies may be considered & application kept on file.



## Appendix A

### Town of Brewster COMMITTEE APPOINTMENT APPLICATION FOR JOINT APPOINTMENTS

#### APPLICANT DIRECTIONS:

- Thank you for your interest in serving Brewster. The Town aims to match applicants with committee service best aligned to your skills and interests as well as the committee's needs.
  - The Town may consider the information in this application, any supplemental information, and any other publicly available information. An appointment to any committee, board or commission is at the discretion of the appointing authority.
  - Please complete this form online, or on paper, and submit a résumé if desired to Erika Mawn, Town Administrator's Executive Assistant:
    - Email: [EMawn@Brewster-MA.gov](mailto:EMawn@Brewster-MA.gov)
    - Mail: Erika Mawn, 2198 Main St., Brewster, MA 02631, or
    - In person: Town Administrator's Office or drop-box outside Town Hall.
  - After your application materials are received, you'll be contacted regarding next steps. Vacancies will be filled by applicants deemed best qualified to serve in a particular capacity. Submitting this form does not guarantee appointment.
- 

1. Applicant name:

2. Address:

3. Phone numbers: Home:

Cell:

4. Email:

5. Are you a full-time Brewster resident?  Yes  No

6. Years you've lived in Brewster:

7. Are you registered to vote in Brewster?<sup>1</sup>  Yes  No

8. Committee you'd like to be appointed to:

**NOTE: You may attach a résumé or CV instead of completing items 9-13.**

9. EDUCATION. List schools attended, degrees/diplomas/certificates received, and date of completion.

10. OCCUPATION:  Active  Retired  Not working at this time

---

- 11. EMPLOYMENT EXPERIENCE.** List employers, job titles and dates of employment for at least previous 3 years.
  
- 12. GOVERNMENT POSITIONS.** List any Town of Brewster or other government volunteer, elected, or appointed positions you now hold or have held.
  
- 13. COMMUNITY ACTIVITIES.** List all civic, non-profit, or other organizations that you belong to or have belonged to in the previous 5 years:
  - a. Organizations and dates:
  
- 14. GOALS:** Please explain why you'd like to serve on a particular committee, board or commission.
  
- 15. EXPERIENCE & SKILLS:** Please list any experiences, achievements, skills, or interests you have that would assist you to serve effectively on the committee you wish to serve on.
  
- 16. TOWN EMPLOYMENT:** Are you or any member of your immediate family employed by or receiving financial consideration from the Town of Brewster?
  
- 17. CONFLICTS OF INTEREST.** Do any of your activities or relationships present the possibility or probability of a conflict of interest if you are appointed?  
(Does not automatically disqualify but may need to be disclosed)
  
- 18. LOCAL REFERENCES:** Please provide the names and contact information for references (Brewster residents preferred):
  - a. Name:  
Address:  
Phone:  
Email:  
Relationship to you:
  
  - b. Name:  
Address:  
Phone:  
Email:  
Relationship to you:

**19. ADDITIONAL INFORMATION. Please add any additional information you'd like.**

**20. SIGNATURE. By signing below, you state that you understand and agree.**

- My completion of this form does not guarantee my appointment and my application will be kept on file for two (2) years.
- If appointed to a position, I will be considered a Municipal Employee under MGL Ch. 268A and will be subject to:
  - Massachusetts Conflict of Interest Law, MGL Ch. 268A;
  - Massachusetts Financial Disclosure Law, MGL Ch. 268B,
  - Massachusetts Open Meeting Law, MGL Ch. 30A, Sections 18-25, and the implementing regulations, 940 CMR 29.00;
    - Massachusetts Public Records Law, MGL Ch. 66, and the implementing regulations, 950 CMR 32.00;
  - Massachusetts Campaign Finance Law, MGL Ch. 55; and
  - Brewster Charter, when in force, and Town bylaws, and all other applicable federal, state, and local laws or regulations.
- If appointed I must be sworn in by the Town Clerk before serving, and I will complete State Conflict of Interest training after appointment, as well as any other certifications required by law.
- When submitted, I understand that this form becomes a public document.

Signature:

Date:

**Appendix B**

**JOINT COMMITTEE APPLICATION SCREENING AND ACTION FORM**

**Applicant Name**

**Committee Vacancy**

**1. TOWN CLERK REVIEW**

a. Applicant is a registered Brewster voter:  Yes  No

b. Identification of Appointing Authority: Select Board and

**2. JOINT APPOINTING AUTHORITY ACTION**

a. At a joint meeting of the Select Board and the \_\_\_\_\_ (committee with vacancy) held \_\_\_\_\_, the Applicant was:

i.  Appointed to a term ending \_\_\_\_\_ year term.

ii.  Not appointed

**3. NOTIFICATION OF APPOINTEE AND TOWN CLERK**

a. Date notification of appointment sent to appointee and Town Clerk:

## Appendix C

### 1. Appointment Letter



#### **Town of Brewster**

2198 Main Street  
Brewster, MA 02631  
[www.brewster-ma.gov](http://www.brewster-ma.gov)  
Phone: (508) 896-3701

Office of:  
Select Board and  
Town Administrator

[Date]

Dear [Applicant Name],

Thank you for applying for appointment to a Town of Brewster Committee. I am pleased to inform you that on [date], you were appointed to:

[Name of Committee]

Your term will end:

[Term end date]

Please contact the Town Clerk to arrange your swearing in, which must be done prior to your participation in your first committee meeting.

Colette Williams, Town Clerk  
2198 Main St., Brewster, MA 02631  
Phone: (508) 896-4506  
Email: [townclerk@brewster-ma.gov](mailto:townclerk@brewster-ma.gov)

Thank you for your willingness to serve our community.

Sincerely,

Peter Lombardi  
Town Administrator

## 2. Non-appointment Letter



### Town of Brewster

2198 Main Street

Brewster, MA 02631

[www.brewster-ma.gov](http://www.brewster-ma.gov)

Phone: (508) 896-3701

Office of:  
Select Board and  
Town Administrator

[Date]

Dear [Applicant Name],

Thank you for applying for appointment on a Town of Brewster Committee. You were not selected for this appointment, however we would like to retain your application. We would like to be able to consider you when a future committee vacancy opens that interests you, and for which your background and experience would be a good fit.

Volunteers make vital contributions to our community, and we appreciate your willingness to serve. If you have any questions about committee openings, please contact the Town Administrator's Office:

Phone: (508) 896-3701

Email: [townclerk@brewster-ma.gov](mailto:townclerk@brewster-ma.gov)

Committee Openings: <https://www.brewster-ma.gov/committee-openings>

Sincerely,

Peter Lombardi  
Town Administrator



# Town of Brewster

2198 Main Street  
Brewster, MA 02631-1898  
Phone: (508) 896-3701  
Fax: (508) 896-8089

Office of:  
Board of Selectmen  
Town Administrator

POLICY No.: 7  
Date Approved: 07/21/08  
Amended: 06/20/16

## Town of Brewster

### Professional Conduct Policy

This policy applies to all paid, elected and appointed employees, officers or special municipal employees in Town Service. Employees under the supervision and control of the School Committee and the Brewster Ladies' Library may have additional or modified professional standards. Employees subject to collective bargaining agreements are also subject to those provisions which are specifically regulated by collective bargaining agreements.

All paid elected, appointed employees and board and committee members are expected to act honestly, conscientiously, reasonably and in good faith at all times having regard to their responsibilities, the interests of the Town and the welfare of its residents.

- Employees have an obligation to be present at work as required and to be absent from the workplace only with proper authorization;
- to carry out their duties in an efficient and competent manner, and maintain specified standards of performance;
- to comply with reasonable employer instructions and policies and to work as directed;
- to respect the privacy of individuals and use confidential information only for the purposes for which it was intended;
- to neither use, nor allow the use of Town property, resources, or funds for other than authorized purposes;
- to incur no liability on the part of the Town without proper authorization;
- to maintain all qualifications necessary for the performance of their duties legally and efficiently;
- to maintain a professional and respectful image to co-workers and the public;
- to project a positive and professional image of the Town; and
- to work cohesively and cooperatively with fellow employees, inter-

departmental staff, officers and volunteers to accomplish organization-wide directives, goals and tasks requiring mutual coordination, within the context of each employee's authority.


The intent of this policy is to ensure that:

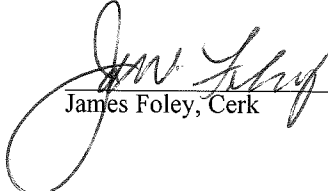
- 1) employees meet the Town's legitimate expectations in the areas of performance and behavior;
- 2) employees whose performance or behaviors are deficient are provided with the necessary assistance and motivation to meet the Town's expectations; and
- 3) disciplinary action initiated against an employee is fair and appropriate.

Specific policies, standards, and practices are outlined in various documents such as Statutes, laws, guidance documents, job descriptions, policy and procedure manuals, dress codes, memos, individual performance reviews, etc. When unsure of the Town's standards and expectations, employees are expected to verify acceptable practices whenever possible, by consulting written documents or conferring with co-workers and/or supervisors. Failure to behave in a manner consistent with the standards of conduct and policies included therein may result in disciplinary action being initiated against the offending employee. The Town shall utilize a fair and equitable process in reviewing an employee's alleged violation of these standards and policies and shall discipline the employee, if called for, in a manner appropriate given the alleged violation.

Adopted by the Brewster Board of Selectmen

  
\_\_\_\_\_  
John Dickson, Chair

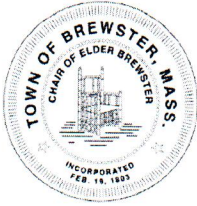
  
\_\_\_\_\_  
Peter Norton, Vice Chair

  
\_\_\_\_\_  
James Foley, Clerk

  
\_\_\_\_\_  
Cynthia Bingham

  
\_\_\_\_\_  
David Whitney





**Town of Brewster**  
2198 Main Street  
Brewster, MA 02631  
[www.brewster-ma.gov](http://www.brewster-ma.gov)  
Phone: (508) 896-3701

Office of:  
Select Board and  
Town Administrator

## **BREWSTER SELECT BOARD POLICY #8**

### **CAMPAIGNING ON PUBLIC PROPERTY POLICY**

Date Adopted: Nov. 12, 1991

Amended: Aug. 25, 1997

Mar. 29, 1998

Aug. 17, 2020

#### **A. PURPOSE**

1. This policy addresses campaigning at certain Town events and on certain Town properties.

#### **B. DEFINITIONS**

1. **Campaigning:** All acts of public canvassing, demonstrating, soliciting, petitioning, enlisting, election campaigning, surveying, polling, and similar advocacy activities.
2. **Nonpublic forum:** An area not traditionally used as a place for public assembly and debate, e.g., private offices, areas from which the general public is excluded, or a polling place.
3. **Promotional Material:** Any petition, pledge list, candidate literature, opinion statement, circular, appeal, flyer, handbill, card, placard, poster, picture, banner, sticker, sign, or similar item intended to influence the action of a voter.
4. **Public Forum:** An area traditionally used for public assembly and debate, e.g., sidewalks and public parks.

#### **C. CAMPAIGNING AT MUNICIPAL BUILDINGS**

1. **Promotional Material.** Promotional material directed toward Brewster residents or Town of Brewster employees may be left unattended at the campaigner's risk for general public review and/or signature within the public areas of municipal buildings. These areas include designated bulletin boards as well as meeting rooms, break rooms, and restrooms open to the general public, but not within department business offices or other areas closed to the public.
2. **Campaigning in a Public Forum.** Campaigning and holding a public forum are permitted in the public areas of municipal buildings subject to reasonable time, place, and manner restrictions, as follows:
  - a. **Time:** Campaigning shall be limited to days and at times that Town buildings are open to the public.
  - b. **Place:** Campaigning shall be permitted in the public halls and parking lots of municipal buildings, except when voting is underway in a Town building. On election day, State law prohibits campaigners from

standing within 150 feet of any building entrances to a polling place. Campaigners are not permitted within the department business offices of municipal buildings and shall keep all entrances and exits to municipal buildings clear for entrance and egress of the public.

- c. **Manner:** Campaigning shall not interfere with the normal operations and activities of the persons visiting or working within or around the building.
  - i. Campaigners shall not stop or impede vehicular or pedestrian traffic.
  - ii. No promotional material may be affixed to any structure, installed and/or left at a municipal building or in a public way.
  - iii. Any campaigning hindering the passage of voters, or otherwise violating these restrictions, shall be prohibited.

#### **D. CAMPAIGNING AT THE RECYCLING CENTER**

1. Persons wishing to campaign on the grounds of the Brewster Recycling Center shall park safely in areas designated by the operating engineer, outside of active traffic flow.
2. Campaigners may not stop or impede vehicular traffic or Recycling Center operations.
3. No promotional material may be installed and/or affixed to any structure at the Recycling Center or left on the premises. Promotional material may be affixed to the campaigner's vehicle.
4. Failure to comply with these regulations and any additional reasonable content-neutral rules implemented by Recycling Center staff shall result in the campaigner being directed to leave the facility.

#### **E. CAMPAIGNING AT TOWN MEETING**

1. Campaigning activities that are not part of Town Meeting must take place outside the town meeting space.
  - a. Indoor Town Meeting: Campaigning activities may be conducted outside the building where Town Meeting is held.
    - i. Campaigners shall not impede or block access to the meeting place and shall stand in the area designated by the Town Moderator for such purposes.
  - b. Outdoor Town Meeting: Campaigners shall comply with any regulations instituted for protection of the public health and safety, including a complete ban on campaign activities outside of area designated for Town Meeting based upon reasonable, content neutral, public health and safety concerns.
2. The Moderator shall designate an area or areas for campaigning outside of Town Meeting, including, if the Moderator deems the same to be appropriate, a location for campaign materials to be made available to voters. To the extent that any campaigner wishes, they may contact the Town Moderator in advance so as to allow the Moderator to designate a sufficient area for such activities.

**F. CAMPAIGNING AT THE BREWSTER LADIES LIBRARY**

1. Promotional material directed specifically to the residents of the Town of Brewster is permitted to be left, at owner's risk, for general public review in a designated area or areas at the Library.
2. Campaigning shall be permitted in the public areas of the Library only to the extent it does not interrupt or impede library patrons or employees; use of particular rooms for such purposes shall be on a first-come first-serve basis.

**G. CAMPAIGNING ON ELECTION DAY AT THE POLLING PLACE**

1. On election day, State law prohibits campaigners from standing within 150 feet of any building entrances to a polling place.
2. State law prohibits the presence of promotional material in the polling place, unless brought by a voter for their own use and removed from the area with the voter.
3. Unattended signs may be placed in a designated area or areas more than 150-feet from the polling place building entrance door no earlier than four (4) hours prior to the polls opening and shall be removed within twenty-four (24) hours of the polls closing. If not removed within 24 hours of polls closing, the materials shall be discarded.

**H. CAMPAIGNING ON EARLY VOTING DAYS AT THE POLLING PLACE**

1. While early voting is underway, campaigners must stand no closer than 50 feet from any building entrances to a place where early voting is ongoing.
2. Promotional materials may be held by campaigners outside 150-feet of the building entrance door of the early voting location; provided, however, that any unattended materials shall be discarded.
3. Campaigners and promotional material shall not impede or interrupt voters or prevent Town employees or Town business from normal operations.

**I. PUBLIC MEETINGS ON ELECTION DAY**

1. No public hearings or posted meetings shall be held either during the hours the polls are open on election day or during town meeting, other than in connection with Town Meeting, unless the application of this sentence is waived, upon prior request, due to extenuating circumstances and in the best interests of the Town.

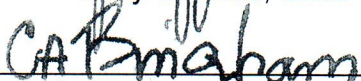
**J. CONTROLLING LAW**


1. In all areas where related State statute or regulations is more stringent, such statutes and regulations shall prevail.

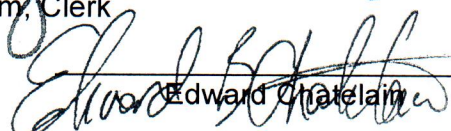
Approved by the Brewster Select Board August 17, 2020

  
\_\_\_\_\_  
Mary Chaffee, Chair

\_\_\_\_\_  
Benjamin deRuyter, Vice Chair

  
\_\_\_\_\_  
Cynthia Bingham, Clerk

  
\_\_\_\_\_  
David Whitney

  
\_\_\_\_\_  
Edward Chatelet

***POLICY NO:*** 9

***DATE ADOPTED:*** 2/14/89

***AMENDED:*** 8/25/97

***TOWN OF BREWSTER***

***FAIR HOUSING POLICY STATEMENT***

The Congress of the United States of America has declared a national fair housing policy through Title VIII of the Civil Rights Act of 1968. The Commonwealth of Massachusetts has also declared a state equal housing opportunity policy through the Massachusetts Fair Housing Law; M.G.L., Chapter 151B. Towns within the Commonwealth of Massachusetts are part of a long standing tradition of equal justice for all persons.

It is hereby resolved that the Town of Brewster affirms its commitment to ensure equal opportunity in housing for all persons. The effects of overt or covert discrimination based on race, color, religious creed, national origin, sex, sexual orientation, disability, political beliefs, age, children, ancestry, marital status, veteran status, source of income, blindness or deafness in the sale, rental or financing of housing have insidious implications for the moral base of any community. In the conduct of all Town programs and activities affecting the housing of Town residents, the policy of the Town shall be to promote equal choice and access to housing for all persons. The Town shall take all actions necessary and appropriate to prevent discrimination in housing and housing services against individuals residing or wishing to reside within its boundaries.

The Town recognizes that discriminatory practices are detrimental to its citizens and to its future, and will take all necessary action to remedy the effects of discrimination and prevent the continuation of such practices. The Town will aggressively move to counteract any activities which restrict the potential for equal opportunity in housing.

The Town encourages all real estate agents, home builders, land developers, mortgage lenders and landlords to review their operating practices and join the Town in making equal opportunity in housing a reality.

***POLICY NO:*** 10

***DATE ADOPTED:*** 1/22/91

***AMENDED:*** 8/25/97

***TOWN OF BREWSTER***

***SHOULDER MAINTENANCE POLICY***

1. Roadside grass mowing will be conducted throughout the growing season. Frequency will be determined by need and scheduling constraints of the Department of Public Works through the Superintendent.
2. Roadside brushing which is conducted from September first (1) through April fifteenth (15) of the following year, will not to exceed two times per year. This will mitigate any concern around bird nesting.
3. Shoulder widths will be maintained at four (4) feet for scenic roads and six (6) feet for all other roads. These standards can be exceeded where sightlines and/or the radius of a curve or corner so requires.
4. All maintenance activities will conform to the requirements of Chapter 40, Section 15C and Chapter 87, Sections 1-5 of the Massachusetts General Laws. If the proposed mowing activities exceed the limitations of these statutes, then the appropriate public notices and hearing will be adhered to.

***POLICY NO:*** 11

***DATE ADOPTED:*** 1/22/91

***AMENDED:*** 8/25/97

***TOWN OF BREWSTER***

***WASTE TRANSFER STATION POLICY***

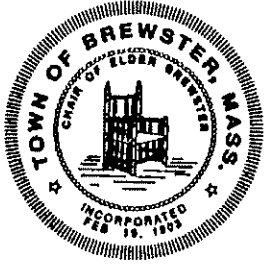
The Brewster Solid Waste Transfer Station will operate six (6) days per week, excluding Wednesdays, from May first (1) to October thirty-first (31) from 8:00 a.m. to 3:00 p.m.

From November first (1) to April thirtieth (30), the Station will operate five (5) days per week, excluding Tuesdays and Wednesdays, from 8:00 a.m. to 3:00 p.m. In addition the Station will be closed on holidays.

**Procedure for Changing the Hours of Operation or Access to the Facility will be as follows:**

The Town Administrator, his/her designee or the Department of Public Works Superintendent shall notify each member of the Board of Selectmen of a recommendation to change, adjust, modify or amend the hours of operation or access to the facility. Written notice shall be issued to the Board of Health fourteen (14) days prior to any proposed advertised public hearing regarding the changes so that the Board of Health and the general public may make known comments, suggestions, cautions, recommendations or objections to be considered in the decision to approve or deny such changes.

In the extraordinary case of evacuation or necessary closure, the Board of Selectmen and the Board of Health shall meet as soon as possible and confer upon a reopening date.



## Town of Brewster

2198 Main Street  
Brewster, MA 02631-1898  
Phone: (508) 896-3701  
Fax: (508) 896-8089

Office of:

Board of Selectmen  
Town Administrator

**POLICY NO:** 12  
**DATE APPROVED:** 4/29/96  
**AMENDED:** 8/25/97  
12/19/16

### TOWN OF BREWSTER VEHICLE USE POLICY

#### PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines and standards for:

- Vehicle Uses – Municipal, Personal, and Stipends
- Personal Vehicle Use for Work Related Travel
- Municipal Vehicle Assignments
- Vehicle Accident Reporting
- Responsibilities When Driving a Municipal or a Personal Vehicle
- Policy Exemptions

#### APPLICABILITY

This policy applies to all Brewster government employees. Employees regulated by individual agreement or collective bargaining agreements are subject to those portions of this policy not specifically regulated by those agreements.

If any provision of this policy violates any governing law or regulation, or if any law or regulation applicable to this policy becomes effective after the effective date of this policy, then this policy shall be deemed changed to be in compliance with such governing law or regulation.

#### DEFINITIONS

**Vehicle Stipend** – the approved amount to compensate an employee for regular and routine use of a Personal Vehicle for work related travel. Vehicle Stipends are considered a salary item and as such are subject to taxation.

**Expense Reimbursement** – payment for approved expenses relating to Personal Vehicle use upon receipt of written documentation. Expense reimbursement is not considered to be a salary item.

**Municipal Vehicle** – those automobiles, truck, vans or other self-propelled equipment owned, rented or leased by the Town and licensed for travel on a public way.

**Personal Vehicle** – a vehicle owned or available for private use by the employee.

**Commuting** – the use of Municipal Vehicle for travel between the employee’s residence and his or her principal work location. Under Internal Revenue Service (IRS) regulations, the benefit of using a Municipal Vehicle for commuting is considered taxable income to an employee and the value of the personal use of the Municipal Vehicle will be included in his or her compensation.

## **VEHICLE USES**

### **Municipal Vehicles**

The Town recognizes that, in the execution of their duties, employees may require use of a Municipal Vehicle either during their work shift or on a 24-hour on-call basis. Municipal Vehicles are not Personal Vehicles and are not for personal use. Municipal Vehicles are assigned solely for purposes consistent with providing services to and for its citizens.

### **Personal Vehicles**

It is the policy of the Town to reimburse employees for reasonable expenses which they incur as a result of Personal Vehicle use on behalf of the Town. Receipts and Expense Reports must be submitted in a timely manner in order for employee to be reimbursed for such expenses.

### **Vehicle Stipend**

It is the policy of the Town that if an employee is required to use his or her Personal Vehicle on a year round basis, and that employee has not been assigned a Municipal Vehicle, the employee may receive an authorized Vehicle Stipend. Such stipend may be rescinded with 90-day written notice and will not be paid in combination with personal automobile expense reimbursement.

### **Registering and Insuring a Vehicle**

Whenever a new vehicle is purchased and registered, The Town Administrator’s office shall be notified and appropriate paperwork completed immediately to add the vehicle to the Town’s insurance policy.



**ADMINISTRATIVE REQUIREMENTS**

**Reimbursement of Work-Related Travel Expenses**

When an employee is authorized to use a Personal Vehicle for work-related travel, he or she shall be reimbursed for mileage at the IRS standard mileage rate unless covered by contract or stipend. Employees will be notified by the Town Administrator’s Office of any changes to the IRS rate.

In accordance with IRS regulations, the mileage rate is intended to cover, but is not limited to, the cost of fuel, repairs, insurance, all operating costs and general wear and tear on the Personal Vehicle.

In addition to the mileage rate, the Town will reimburse employees authorized to travel outside of the Town, within the scope of employment, for tolls and reasonable parking expenses, when receipts are provided.

Employees receiving a Vehicle Stipend will not be reimbursed for tolls but may be reimbursed for reasonable parking expenses. Employees will not be reimbursed for tolls that are paid by the employee during his or her normal commute to work.

**Insurance**

Employees who are authorized to use Personal Vehicles for work related travel are required annually to show proof of the following minimum levels of insurance coverage to the Town Administrator’s office:

- Bodily Injury:                                 \$100,000/\$300,000
- Property Damage:                             \$100,000

Employees will not be reimbursed for commuting between their homes and offices or other regular work locations.

In order to be reimbursed for Personal Vehicle use, employees must complete a request for reimbursement submitted with appropriate supporting documentation and/or receipts in a timely manner.

**EMPLOYEE DRIVING RECORDS**

In the course of their employment, Employees may be subject to a driving record check through the Registry of Motor Vehicles. This is necessary for the Town to appropriately identify potential risk of liability.

A copy of the operator’s Massachusetts driving record (MVR) shall be obtained by the Town Administrator’s Office to verify the historical driving record of the operator. This will also be obtained annually basis.

If the operator has an out of state license, the operator must provide a copy of their existing state driving record to the Town Administrator's Office.

Driving records shall be reviewed by the Town Administrator and Department Head.

Driving records determined to be a safety concern may result in the disapproval of an employee's vehicle use in the course of employment.

**ASSIGNMENT OF MUNICIPAL VEHICLES**

Employees are required to have a valid motor vehicle license for the class of vehicle to be operated, issued by the Commonwealth of Massachusetts or their state of current residence and must show proof of such valid license to his/her Supervisor or Department Head prior to being assigned a Municipal Vehicle.

The assignment of Municipal Vehicles for 24-hour use will be made by the Town Administrator and will only be considered for employees who require a vehicle for the ordinary and necessary discharge of their job functions as identified in an approved position description. The following criteria will be used in the determination of eligibility for 24-hour vehicle use:

- Officially designated on-call status;
- Requirement for frequent emergency availability during non-working hours;
- Issuance of a pager or other communication device; and/or,
- Emergency or other equipment contained in the vehicle.

Municipal Vehicle assignments may be rescinded in writing for good reason or cause by the Town Administrator.

Prior to the assignment of a municipal a copy of the operator's Massachusetts driving record as described in this policy.

Employees assigned a Municipal Vehicle for 24-hour use involving a commute of more than 25 miles one way shall reimburse the Town for the additional fuel cost as determined by the Town Treasurer.

**IMPUTED INCOME TAXATION**

Employees authorized to commute in a Municipal Vehicle may be subject to imputed income regulations as set forth by the Internal Revenue Service, which considers a certain portion of the vehicle use (namely the commute) to be income for the purposes of income taxation. The Town Treasurer shall be responsible for determining any tax liability and will be provided with the names of all employees

authorized to use Municipal Vehicles for commuting purposes, and the normal, one-way commuting distance, each December 1<sup>st</sup>.

Employees who are assigned marked and unmarked police vehicles and/or Municipal Vehicles that meet eligibility criteria as defined under 26 CFR 1.274-5T will not be subject to imputed income taxation as a result of the vehicle assignment.

**RULES & RESPONSIBILITIES**

Employees who drive a Municipal or Personal Vehicle are responsible for but not limited to, the following:

- Municipal Vehicles may only be used for legitimate municipal business.
- Individuals assigned a Municipal Vehicle with commuting privileges may take “incidental personal uses” such as stopping at a grocery store or going to the bank, on his/her way home but only if the stop does not add mileage to the trip.
- Operators should exercise sound judgment at all times when using assigned Municipal Vehicles and should avoid the appearance of misuse.
- The Massachusetts Ethics Code discusses unwarranted privileges: Using public equipment or resources for personal use constitutes use of an official position to obtain an unwarranted privilege not similarly available to others. Misuse of an assigned Municipal Vehicle is an ethics violation.
- Municipal Vehicles will not be used to transport any individual who is not directly or indirectly related to municipal business. Passengers shall be limited to Town employees and individuals who are directly associated with Town work activity (committee members, consultants, contractors, etc.). Family members shall not ordinarily be transported in Municipal Vehicles. Police Officers transporting individuals in the performance of their normal job duties are exempt from this provision.
- Municipal Vehicles shall contain only those items for which the vehicle is assigned.
- The Town shall not be liable for the loss or damage of any personal property transported in the Municipal Vehicle or for any personal property while using their Personal Vehicle for work related travel.
- Employees are expected to keep Municipal Vehicles clean, and to report any malfunction, damage, needed repairs or other vehicle problems to their supervisors immediately.
- Employees assigned Municipal Vehicles for commuting purposes are expected to park such vehicles in safe locations and to lock the vehicle when not in use. Operators should never leave vehicles unattended with the ignition keys in the lock or anywhere in the vehicle.
- Unless expressly exempted by law, employees are to ensure that they and all passenger(s) in a Municipal Vehicle wear seat belts at all times, if the Municipal Vehicles is so equipped.
- All operators of vehicles that require a CDL license, must be tested for drugs and alcohol as provided by US DOT regulations and the town drug/alcohol policy.
- Employees may not operate Municipal Vehicles or Personal Vehicles being used for work related travel, under the influence of alcohol, illegal drugs or any controlled substances.

- Employees are prohibited from possessing open alcoholic containers, illegal drugs or controlled substances in a Municipal Vehicle or in a Personal Vehicle being used for work related travel.
- Police Officers who are required to carry prohibited items in performing their normal job duties are exempt from applicable provisions.
- Employees operating a Municipal Vehicle or a Personal Vehicle while on work related travel must maintain a valid motor vehicle license issued by the Commonwealth of Massachusetts or the state of their current residence, which must be provided upon request by a Supervisor during a specific or periodic license check.
- Employees operating a Municipal Vehicle or a Personal Vehicle while on work related travel, shall drive defensively and obey all applicable traffic and parking regulations, ordinances, and laws.
- Employees who incur parking or other fines/citations while operating or using an assigned Municipal Vehicle or using a Personal Vehicle on work related travel are personally responsible for payment of such fines/citations unless payment of such fine/citation is approved by the Town Administrator.
- Employees who are issued citations for any offense while operating or using a Municipal Vehicle must notify their Supervisor immediately but in no case later than 24 hours after the issuance of a citation.
- An employee who is assigned a Municipal Vehicle and who is arrested for or charged with a motor vehicle offense for which punishment includes suspension or revocation of the motor vehicle license, whether in his or her Personal Vehicle or in a Municipal Vehicle, must notify his or her Supervisor immediately but in no case later than 24 hours after such arrest or charge has occurred. License suspension or conviction of an offense may be grounds for loss of Municipal Vehicle privileges.
- No employee may use a Municipal Vehicle for out of state use without advance approval of the Town Administrator.
- When utilizing a Municipal Vehicle, employees are required to obtain fuel from designated Municipal fueling facilities unless fueling is required in the course of out of town travel.
- Smoking is not permitted in a Municipal Vehicle in accordance with M.G.L. c270 s22. Those utilizing a Personal Vehicle for work related travel should be considerate of others in the vehicle that does not smoke.

#### **CELLULAR PHONES AND HANDHELD ELECTRONIC DEVICES**

The use of cellular phone and handheld electronic devices is prohibited. This prohibition includes: receiving (accepting) or placing calls; retrieving, sending or responding to text and image messaging; Internet browsing; reading, drafting or sending emails; checking voice messages; and operating any application installed on cellular phones or handheld devices. In the event of exigent circumstances, employees are expected to keep a call short, use hands-free options if available, refrain from discussion of emotional matters and remain focused on the road and driving conditions. Special care should be taken in situations where there is traffic, inclement weather or the employee is driving in an unfamiliar area.

## VEHICLE ACCIDENTS

In the event that an employee's Personal Vehicle is damaged during an approved, work-related trip and the damage is not due to negligence of the employee, the Town will reimburse the employee to cover the part of the cost of repair up to a maximum of \$500 or the amount of the deductible, whichever is less, per occurrence. A copy of a police report and evidence of the employee's vehicle insurance deductible (comprehensive or collision) payment shall accompany any request for reimbursement.

When an employee using a Municipal Vehicle or Personal Vehicle on work related travel is involved in a motor vehicle accident, the operator must:

- Stop the vehicle
- Obtain the following information:
  - Name(s) and address(es) of the other driver(s);
  - Drivers license number(s) of the other driver(s);
  - Name(s) and address(es) of the owner(s);
  - Registration number(s) of the other vehicle(s) involved;
  - Name(s) and address(es) of other driver(s) insurance company(ies); and,
  - Name(s) and address(es) of any witness(es) to the accident.
- Do not admit liability for the accident, even if the employee believes it was their fault.
- **Immediately** report details to the employee's immediate supervisor.
- When any person has been injured and/or when vehicles have suffered significant damage, the local or state police must be called to the scene.
- Do not move the vehicle in these circumstances until authorized by the police.
- Unless an injury prevents the operator from doing so, he/she must fill out a Vehicle Accident Report within 48 hours of the accident. A blank copy of the form may be obtained from the Town Administrator's office or the Town's web site. The completed VAR shall be filed with their direct Supervisor and Town Administrator's office.
- The Supervisor shall ensure all information is in the report and file a copy with the Town Administrator's office.

## SPECIAL CIRCUMSTANCES

This policy is intended to provide a basic framework governing the use of Personal and Municipal Vehicles in Town cannot contain procedures governing every situation that might arise. Employees seeking clarification of this policy should contact the Town Administrator's office. Exemptions from certain provisions of this policy may be authorized by the Town Administrator under mitigating circumstances and after review by the Department Head. Such exemptions must be documented and signed off by the employee (see Attachment A) and approved by the Town Administrator and will be placed in the employee's personnel file.

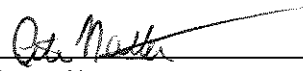
**EXEMPTIONS**

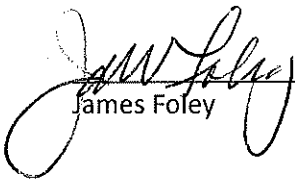
Exemptions to the Vehicle Use Policy are strictly limited. Exemptions that will increase the liability to the Town shall not be granted. Issues related to insurance coverage, transportation of individuals unrelated to Municipal business, operating a vehicle without a valid motor vehicle license are examples of what will not be exempted.

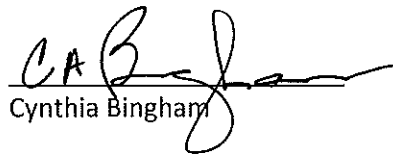
**DISCIPLINE**

Failure to comply with any and all applicable provisions of this policy may result in disciplinary action up to and including suspension or removal of Town vehicle privileges, suspension and/or termination of employment.

  
\_\_\_\_\_  
John Dickson

  
\_\_\_\_\_  
Peter Norton

  
\_\_\_\_\_  
James Foley

  
\_\_\_\_\_  
Cynthia Bingham

  
\_\_\_\_\_  
David Whitney

**ATTACHMENT A – EXEMPTION FORM**

Employees seeking an exemption from provisions of the Town’s *Vehicle Use Policy* must submit this form to their Department Head for review and then to the Town Administrator who may authorize limited exemptions to this policy under documented mitigating circumstances and in accordance with allowed policy exemptions (see **Attachment C**). This form will be placed in the employee’s personnel file.

Employee Name: \_\_\_\_\_  
FIRST LAST M.I.

Department: \_\_\_\_\_ Title: \_\_\_\_\_

List specific policy sections for exemption consideration and indicate why needed (attach add’l paper if required):

\_\_\_\_\_  
\_\_\_\_\_

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Reviewed: \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Department Head Signature Print Name

Department Head Approved YES \_\_\_\_\_ NO \_\_\_\_\_ INITIALS  
Town Administrator Approved YES \_\_\_\_\_ NO \_\_\_\_\_ INITIALS

**ATTACHMENT B – ACKNOWLEDGEMENT**

I. \_\_\_\_\_ (print name), as an employee of the Town of Brewster, hereby acknowledge that I have received, read understand, and agree to abide by the Town’s *Vehicle Use Policy*.

If assigned a Municipal Vehicle and/or receive a Vehicle Stipend and/or use a Personal Vehicle for work related travel, I shall comply with the respective provisions of the policy or those portions of the policy not specifically regulated by law or collective bargaining agreement or individual agreement/contract.

In addition, I authorize the Town Administrator to obtain, on an annual basis for Municipal Vehicle usage or on a case by case basis for Personal Vehicle usage, a copy of my driving record, which shall only be used in determining my safety record, enabling me to be assigned and/or operate a Municipal Vehicle or to use my Personal Vehicle for work related travel, should the need be required. In consultation with the appropriate Department Head, the Town Administrator shall make such a determination.

Once signed, this form will be placed in the employee’s personnel file for records purposes.

Employee Signature: \_\_\_\_\_

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_



## ATTACHMENT C – EXEMPTION LIMITATIONS

The following is a guide for the Town Administrator in determining what sections of the Town's *Vehicle Use Policy* may be exempted.

Keep in mind that **Attachment A** of the *Vehicle Use Policy* must be filled out and appropriately signed, approved, and placed in the employee's personnel file for an exemption to be fully authorized.

Only the following sections of the Vehicle Use Policy may be exempted:

- If the Town Administrator believes that there are extenuating circumstances requiring an individual to be assigned a Municipal Vehicle for 24-hour usage but does not meet the eligibility requirements in this section.
- If a compelling business reason is provided and approved by the Town Administrator that rationalizes why someone should be allowed to commute greater than 25 miles one-way, then it will not be the financial responsibility on the employee to reimburse the Town. However, an exemption to this section does not alleviate the employee from section 5.B.6 (Imputed Income Taxation), which is governed by law and handled by the Town Treasurer's office.
- Municipal Vehicles shall only contain items for which the vehicle is assigned. If this section is exempted, companion section 5.C.4.b shall not be exempted. The Town shall not be liable for the loss or damage of allowable transported non-work related items.
- Deals with obtaining fuel from designated Municipal fueling facilities.

Only the above 4 sections of the *Vehicle Use Policy* may be exempted. All other sections of the policy shall not be exempted. Exemptions for individuals with contract agreements with the Town are subject to contract amendments approved by the Board of Selectmen to ensure consistency with application and intent and subsequently approved by the appropriate appointing authority.

By allowing exemptions from the *Vehicle Use Policy*, the Town Administrator has determined that any of the above exemptions listed on approved **Attachment A** are needed for the employee to perform his/her job responsibilities more effectively or that the indicated exemptions will not inhibit the employee from further meeting his/her job responsibilities.

## **ATTACHMENT D – GUIDELINES FOR ACCEPTABLE DRIVERS**

An acceptable rating to drive a Town/City vehicle or for employees to use personal vehicles for municipal business shall be 1 or 2.

Rating (based on last 3 years of driving experience)

**(1) Superior** – no traffic citation or motor vehicle accidents

**(2) Good** – no more than 1 moving traffic citation, or 1 motor vehicle accident (not at fault)

**(3) Marginal** – no more than 2 moving traffic citations, or 2 motor vehicle accidents (not at fault), or 1 at fault motor vehicle accident

**(4) Probationary status** – anything in excess of marginal rating. A six months watch is indicated and MVR's checked at six months intervals.

**(5) Unacceptable** – any driver whose MVR shows any one of the following records is not acceptable:

- Three or more accidents (at fault) in the last three years.
- One or more Type A violations in the last three years.
- Any combination of accidents and Type B violations equaling four or more in the last 2 years.
- An operator's license that has been suspended or revoked within the past three years.

### **Type A Violations**

1. Driving while intoxicated
2. Driving under the influence of drugs
3. Negligent homicide arising out of the use of a motor vehicle
4. Operating a motor vehicle during a period of suspension or revocation of an operator's license.
5. Using a motor vehicle for the commission of a felony.
6. Aggravated assault with a motor vehicle.
7. Operating a motor vehicle without the owner's authorization.
8. Permitting an unlicensed person to drive.
9. Reckless driving.
10. Speeding contest.
11. Hit and run (bodily injury and physical damage) driving.

### **Type B Violations**

All moving violations not listed as Type A violations.



**Board of Selectmen  
Town Administrator**

2198 Main Street  
Brewster, Massachusetts 02631-  
1898  
(508) 896-3701  
FAX (508) 896-8089

POLICY No.: 13  
Date Approved: 07/21/08  
Amended: \_\_\_\_\_

## **TOWN of BREWSTER EQUAL EMPLOYMENT OPPORTUNITY POLICY**

### **I. Non-Discrimination in Employment**

Our town prohibits discrimination in employment on the basis of:

- Age (40 and above),
- Criminal record (applications only),
- Physical, mental, or psychiatric disability,
- Genetics (results of genetic testing),
- Maternity leave,<sup>1</sup>
- National origin or ancestry,
- Race or color,
- Religion or political belief,
- Sex,
- Sexual orientation, or
- Active military status.

Unlawful discrimination of employees occurring in the workplace, in program offerings, activities, or in other settings in which employees may find themselves in connection with their employment will not be tolerated by the Town. To that end, all employees shall take steps to ensure equality of opportunity in the internal affairs of all departments, as well as relations with the public, including those persons and organizations doing business with any agent of the Town.

Further, any retaliation against an individual who has formally or informally complained about discrimination or has cooperated with an investigation of a discrimination complaint is

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<sup>1</sup>[This policy is supplemented by personnel policies delineating maternity, disability, and other leave rights.]

prohibited. To achieve our goal of providing a workplace and a community free from discrimination, the conduct that is described in this policy will not be tolerated, and we will implement the procedure described below to address any potential inappropriate, discriminatory or exclusionary conduct.

The town commits itself and its employees, within the context of state and federal civil rights laws, to ensure equitable participation of people of all backgrounds in all of its daily operations.

This policy applies to all employment practices and employment programs sponsored by the town. This policy shall apply, but not be limited to, the areas of:

- Recruitment,
- Selection,
- Compensation and benefits,
- Professional development and training,
- Reasonable accommodation for disabilities or religious practices,
- Promotion,
- Transfer,
- Termination,
- Layoff, and
- Other terms and conditions of employment.

Because the town takes allegations of discrimination seriously, we will respond promptly to complaints and where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose any necessary corrective action, including disciplinary action.

## **II. Discriminatory Harassment**

The Town's separate Harassment Policy details our commitment to a workplace free to any verbal or physical conduct which is unwelcome, severe or pervasive, and related to membership or perceived membership in a protected class.

## **III. Reasonable Accommodation**

Employees seeking reasonable accommodations for communication, employment, admission, access, treatment or participation may submit their request in writing to Jillian Douglass, Assistant Town Administrator or Charles Sumner, Town Administrator. The Town maintains a separate "Accommodation Request Procedure", which is attached hereto.

#### **IV. Discrimination Complaints**

If any of our employees believes that he or she has been subjected to unlawful discrimination, the employee has the right to file a complaint with our organization. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting Jillian Douglass, Assistant Town Administrator or Charles Sumner, Town Administrator, 508-896-3701, ext 130 or ext 128. These individuals are also available to discuss any concerns you may have, and to provide information to you about our Equal Employment Opportunity policy and our complaint process. Alternatively, employees may contact any of the town's department supervisors.

#### **V. Discrimination Investigation**

The town will promptly investigate the allegation in a fair and thorough manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation will include private interviews with the person filing the complaint, the person alleged to have committed the discrimination, and relevant witnesses. When we have completed our investigation, we will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate we will also impose disciplinary action.

#### **VI. Disciplinary Action**

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may include counseling, verbal or written warning, suspension, or termination.

#### **VII. State and Federal Remedies**

In addition to the above, if you believe you have been subjected to unlawful discrimination, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a


complaint with these agencies. Each of the agencies has a time period of 300 days for filing a claim.

1. The United States Equal Employment Opportunity Commission (EEOC): One Congress Street, 10th Floor Boston, MA 02114, (617) 565-3200.
2. The Massachusetts Commission Against Discrimination (MCAD):  
Boston Office: One Ashburton Place, Rm. 601, Boston, MA 02108, (617) 994-6000  
Springfield Office: 424 Dwight Street, Rm. 220, Springfield, MA 01103, (413) 739-2145  
Worcester Office: Worcester City Hall, 455 Main Street, Room 100, Worcester, MA 01608, (508) 799-8010


Adopted by the Brewster Board of Selectmen

June 2nd, 2008

  
Peter G. Norton, Chairman

  
Dyanne F. Cooney, vice Chair

  
James W. Foley

  
Edward S. Lewis

  
Gregory A. Levasseur

**POLICY NO:** 13

**DATE APPROVED:** 2/16/93

**AMENDED:** 8/25/97

**TOWN OF BREWSTER**

**NON-DISCRIMINATION ON BASIS OF DISABILITY POLICY**

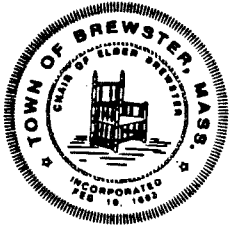
The Town of Brewster does not discriminate on the basis of disability in the admission or access to, or treatment or employment in the operation of its programs, services or activities.

The Administrative Assistant to the Town Administrator has been designated to coordinate compliance with the non-discrimination requirements contained in Section 35.107 of the Department of Justice Regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the ADA Coordinator.

Questions, concerns, complaints or requests for additional information regarding the ADA may be directed to:

ADA Coordinator  
Selectmen's Office  
Brewster Town Offices  
2198 Main Street  
Brewster, Ma. 02631  
Phone: (508) 896-3701, ext. 30

Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brewster are invited to make their needs and preferences known to the ADA Coordinator.



# Town of Brewster

BREWSTER, MASSACHUSETTS 02631 - 1898

(508) 896-3701

OFFICE OF:  
BOARD OF SELECTMEN  
BOARD OF ASSESSORS  
BOARD OF PUBLIC WORKS  
EXECUTIVE SECRETARY

## Town of Brewster ADA Complaint Procedure

The Town of Brewster has adopted an internal complaint procedure providing for the prompt and equitable resolution of complaints from members of the general public alleging any action prohibited by the U.S. Department of Justice regulations implementing title II of the Americans with Disabilities Act. Title II states, in part, that "no otherwise qualified disabled individual shall, solely by the reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination" in the employment practices and policies or the provision of services, activities, programs and benefits by the Town of Brewster.

Initial complaints should be submitted to: Jillian Douglass, Administrative Assistant/ADA Coordinator, Selectmen's Office, 2198 Main Street, Brewster, MA 02631, (508) 896-3701 ext. 30, who has been designated to coordinate ADA compliance efforts.

1. A complaint should be filed in writing or verbally, contain the name, phone number, and address of the person filing it, and a brief description of the nature of the complaint and any alleged violation of regulations.
2. A complaint should be filed with the Town as soon as possible, but no later than 60 calendar days after the party alleging the complaint becomes aware of the alleged violation.\*
3. An investigation, as may be appropriate, shall follow the filing of a complaint. The investigation shall be conducted by the town employee or official deemed by the Executive Secretary to be most knowledgeable and unbiased in the nature of the problem. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
4. A written determination as to the validity of the complaint and a description of the resolution or accommodation, if any, shall be issued by the Town Administrator and a copy forwarded to the party alleging the complaint no later than 60 calendar days after the filing of the complaint.
5. Accommodations identified as costing the Town of Brewster in



excess of \$5,000 shall be considered an undue hardship unless outside sources of funding are secured for any amount over \$5000.

6. The ADA Coordinator shall maintain the files and the records of the Town of Brewster relating to all complaints filed.

7. The party alleging the complaint can request a reconsideration by the Town of a case in instances where he/she is dissatisfied with the resolution. The request for reconsideration must be made within 10 calendar days to the Brewster Board of Selectmen.

8. The right of the person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency. Use of this complaint procedure is not a prerequisite to the pursuit of other remedies.

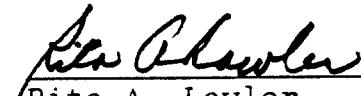
9. These rules shall be construed to protect the substantive rights of interested persons to meet appropriate due process standards and to assure that the Town of Brewster complies with the ADA and implementing regulations.

\* A complaint related to employment may still be filed with the Equal Employment Opportunity Commission within 180 days of the alleged discrimination if no acceptable resolution is reached with the Town. A complaint related to access to transportation may still be filed with the Secretary of Transportation within 180 days of the alleged discrimination if no acceptable resolution is reached with the Town. A complaint related to access to services may still be filed with the Attorney General's Office within 180 days of the alleged discrimination if no acceptable resolution is reached with the Town.

THE BREWSTER BOARD OF SELECTMEN

\_\_\_\_\_  
Eric K. Rasmussen, Chairman

  
\_\_\_\_\_  
John C. Mitchell

  
\_\_\_\_\_  
Rita A. Lawler

  
\_\_\_\_\_  
George V. Flemming

\_\_\_\_\_  
R. Christine Durgin

***POLICY NO:*** 14

***DATE APPROVED:*** 2/16/93

***AMENDED:*** 8/25/97

***TOWN OF BREWSTER***

***HEALTH INSURANCE POLICY  
PART-TIME AND  
ELECTED AND APPOINTED OFFICIALS***

The Board of Selectmen voted to formalize their existing practice with respect to insurance coverage for part-time and elected and appointed positions. At the August 26, 1985 Special Town Meeting the Town voted to only offer insurance coverage to employees working twenty (20) hours per week or more. Past practice has been to grandfather coverage for employees working part-time for the Town who had previously been working full-time for the Town.

The Selectmen's vote on February 16, 1993 grandfathered coverage for all persons currently enrolled in the Town's health insurance programs, but stipulated that, effective February 16, 1993, no new part-time elected or appointed officials working less than an annual average of twenty (20) hours per week will be eligible for coverage through the Town's insurance programs.

***POLICY NO: 15***

***DATE APPROVED: 9/20/93***

***AMENDED: 8/25/97***

***TOWN OF BREWSTER***

***QUALIFIED PENSION PLAN***

All employees (other than election workers) who are not subject to either the Barnstable County Retirement system or the Massachusetts Retirement system, must contribute 7.5% of their gross pay to the Copeland PTS (Part-Time/Seasonal) Program. Said funds (plus accrued interest) will be refunded to said employee upon termination of employment with the Town of Brewster. There is no annual administrative fee for this program. The Town of Brewster has elected to select the PTS program rather than deducting for social security, because the town must contribute matching funds for the latter, and nothing for the former.

Election workers making less than \$1,000.00 annually are not subject to any PTS or social security deduction.



**Board of Selectmen**  
**Town Administrator**  
2198 Main Street  
Brewster, Massachusetts 02631-1898  
(508) 896-3701  
FAX (508) 896-8089

***POLICY:*** 16

***DATE ORIGINALLY ADOPTED:*** 3/27/94

***AMENDED:*** 8/25/97

***AMENDED:*** 4.25.16

## ***TOWN OF BREWSTER***

### **FAMILY AND MEDICAL LEAVE ACT (FMLA) COMPLIANCE POLICY**

#### **A. Introduction**

The Federal Family and Medical Leave Act of 1993 (“FMLA” or “the Act”) was enacted on February 5, 1993. The new law was effective on August 5, 1993, however, where a collective bargaining agreement (“CBA”) was in place on that date, the Act became effective on February 5, 1994.

The FMLA entitles eligible employees to take up to twelve (12) weeks of unpaid, job-protected leave within a twelve-(12)-month period for specified family and medical reasons. An eligible employee’s right to FMLA leave began on August 5, 1993 or February 5, 1994 as applicable.

#### **B. Employee Eligibility**

To be eligible for FMLA benefits with the Town, an employee must:

- Work for the Town;
- Have worked for the Town for a total of at least twelve months; and
- Have worked at least 1,250 hours over the previous twelve months.

#### **C. Leave Entitlement**

The Town will grant an eligible employee up to a total of twelve (12) work weeks of unpaid leave during a fiscal year for one or more of the following reasons:

- To tend to an employee’s newborn or the birth or placement of a child for adoption or foster care within an employee’s family;

- To tend to an employee's immediate family member (spouse, domestic partner, child, or parent) with a serious health condition;
- To tend to an employee's own serious health condition;
- For any qualifying event/issue arising out of the fact that the employee's spouse, domestic partner, son, daughter, or parent is a covered military member on "covered active duty;" **or**
- Twenty-six (26) work weeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness who is the spouse, domestic partner, son, daughter, parent, or next of kin to the employee (military caregiver leave).

Leave for birth or placement for adoption or foster care must conclude within twelve (12) months of the birth or placement.

Under some circumstances, employees may take FMLA leave intermittently. Twelve (12) weeks of leave within a twelve (12) month period is the maximum amount of leave time required by the FMLA, regardless of the number of qualifying events that may occur within a twelve (12) month period involving an individual eligible employee. Eligible employees must utilize accrued paid leave prior to being awarded unpaid FMLA leave time.

#### **D. Definitions**

***Serious Health Condition*** – is defined as an illness, injury, impairment, or physical or mental condition that involves either:

1. Incapacity or in-patient care at a health care facility, or;
2. Incapacity requiring absence from work or other activities for more than three (3) calendar days during which continuing treatment has been prescribed by a health care provider, or;
3. Continuing treatment by a health care provided for chronic or long-term health condition which is incurable or if left untreated could result in incapacity for more than three (3) calendar days.

***Health Care Provider*** – is defined as a doctor of medicine or authorized practitioner within the jurisdiction in which w/he is located, or any other person capable of providing health care services defined by the Department of Labor's Family Medical Leave Act Regulations.

#### **E. Maintenance of Health Benefits**

The Town will maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. The employee will make arrangements with the Treasurer's Office to pay his or her share of health insurance premiums while on leave. The Town may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

#### **F. Substitution of Paid Leave**

If leave is taken under this policy because of the placement of an adopted or foster child, eligible employees must first exhaust their paid personal and vacation leave prior to be granted unpaid FMLA leave time.

If the leave is taken by a female employee for the birth or her child, the employee may utilize accrued paid sick leave for any period of the pregnancy during which she is physically incapacitated, provided such temporary disability is certified by a health care provider.

If the leave is taken because of the employee's own serious health condition, eligible employees must first exhaust their accrued paid sick leave, as well as their accrued paid personal and vacation leave, before being granted unpaid FMLA leave time.

If the employee's accrued paid leave is less than the twelve (12) weeks, the remaining leave, up to twelve (12) weeks within a twelve (12) month period following the qualifying event, shall be granted without pay.

FMLA leave taken in relation to the birth or placement of a child must be taken within the first twelve (12) months following the birth or placement of the child.

#### **F. Job Restoration**

Upon return from FMLA leave, an employee will be restored to his or her original job, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

In addition, an employee's use of FMLA leave will not result in the loss of an employment benefit that the employee earned or was entitled to before using FMLA leave.

#### **G. Notice and Certification**

Employees seeking to use FMLA leave are required to provide to their department head, with a copy to the Town Administrator:

- Thirty (30) days advanced notice of the need to take FMLA leave when the need is foreseeable, otherwise as soon as is practicable;
- Medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member in accordance with the FMLA form;
- Second or third medical opinions and periodic recertification (at the Town's expense) if requested by the Town, and;
- Periodic reports during FMLA leave regarding the employee's status and intent to return to work as requested by the employee's department head.

When leave is needed under the category of care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the Town's operations.

#### **G Other Provisions**

The FMLA does not affect any other federal or state law which prohibits discrimination, nor supersede any state or local law which provides greater family or medical leave protection. Nor does it affect the Town's obligation to provide greater leave rights under a collective bargaining agreement or employment benefit plan, where applicable.

The Family Medical Leave Act shall prevail if there is any conflict between the Act and this policy. To the extent that Massachusetts General Laws provide greater family or medical leave rights than the Family Medical Leave Act, Massachusetts Statute shall prevail.

Adopted this 25 day of April, 2016

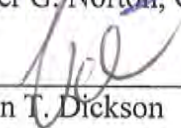
BREWSTER BOARD OF SELECTMEN



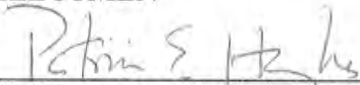
\_\_\_\_\_  
Benjamin deRuyter, Chair



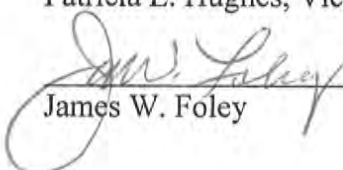
\_\_\_\_\_  
Peter G. Norton, Clerk



\_\_\_\_\_  
John T. Dickson



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Patricia E. Hughes, Vice Chair



\_\_\_\_\_  
James W. Foley



# Town of Brewster

2198 Main Street  
Brewster, MA 02631-1898  
Phone: (508) 896-3701  
Fax: (508) 896-8089

Office of:  
Board of Selectmen  
Town Administrator

## **POLICY NO. 17** **POLICY AND PROCEDURES FOR THE** **RENTAL OF TOWN FACILITIES BY** **NON TOWN SPONSORED GROUPS, PRIVATE INDIVIDUALS AND BUSINESSES**

1. Use of Town owned buildings, grounds, property or equipment located thereon (hereafter referred to as facilities) shall be engaged through the Office of the Selectmen/Town Administrator, using the application form attached hereto and referred to as Attachment A.. The Town Administrator or the Assistant Town Administrator shall oversee the rental of Town facilities. The Town facility or portion of said Town facility to be rented shall be described on the request for rental. Completed applications for use of facilities shall be submitted a minimum of 14 days (two weeks) or no greater than twelve (12) months prior to the date desired for the use or event. **Applications seeking waivers from fees, requirements, insurance or other conditions shall be referred to the Board of Selectmen for approval.** Approval to use a portion of a facility does not imply permission to use any other portion of the facility or any equipment on the premises unless specifically stated. The applicant organization is responsible for containing all of its members and related persons within the areas assigned, leaving the facilities in the condition in which they were found, and for payment of any related fees or charges.
2. The Town of Brewster assumes no liability for injuries to persons who are on Town premises or for damage to any equipment or property. The holder of a permit to use Town facilities agrees to accept all equipment and property and waives any and all claims against the Town of Brewster, its officials, employees and/or agents for any injury, accident, illness, expense or claim of damage of any kind, whether to persons or to property which may occur as a result of the use of Town facilities by said holder or by others with or without the permit holder's express, implied or apparent authority.
3. The holder of a permit further agrees to assume all liability and to indemnify and hold harmless the Town of Brewster, its officials, employees and/or agents for any and all claims. The applicant shall be responsible for any damage to Town property and/or equipment within the rented facility by themselves, their clients and/or patrons. The holder of the permit, at all times during the exercise of its rights there under, shall have in effect an insurance policy or binder, insuring the holder and the Town of Brewster, in the amount of five hundred thousand (\$500,000) dollars per claim, against all above mentioned claims, liabilities, and expenses, including those caused or contributed to by the condition of the facility. The applicant shall provide a valid insurance policy and/or binder with their application for facility use.
4. The Town Administrator or the Assistant Town Administrator shall authorize the use of Town facilities by any organization provided the use would either provide a benefit, nor be a detriment to the



Town of Brewster. A denial of use by the Town Administrator or the Assistant Town Administrator may be appealed to the Board of Selectmen.

5. A fee for facility use will be charged to all groups not directly related to the Town, to defray the cost of cleaning maintenance, utilities, supplies and heating as applicable. The Town Administrator may waive facility use fees for non-profit or charitable groups, with a 501C designation, that benefit Brewster residents indirectly. The present fee schedule, which has been approved by the Board of Selectmen, is attached hereto and may be revised by the Board from time to time. A denial by the Town Administrator or the Assistant Town Administrator may be appealed to the Board of Selectmen.

Regulations and fees are subject to change by action of the Brewster Board of Selectmen. Attached fee schedule may be adjusted to accommodate extenuating circumstances via the authority of the Board of Selectmen. Requests for special consideration should be submitted to the Town Administrator, who will take the request to the Board of Selectmen.

6. A bank or certified check made payable to the Town of Brewster must accompany the application. Rental requests for Town properties may be made up to twelve (12) months in advance of the date requested for rental. Rental requests exceeding a value of \$75 shall be accompanied by a ten percent (10%) retainer fee to reserve the date. All requests shall be processed in the order in which they are received (first-come-first-served). The balance of all fees due to the Town shall be made to the Town of Brewster within 45 business days prior to the rental date. Failure to pay the fee balance shall void the requested rental. Payments may be made in cash, by certified bank check or money order. Applications with no special conditions or waiver requests, adhering to all rules and conditions outlined in these Town policies, may be approved by Administrative staff upon payment in full of use fees.

7. **Safety & Security:** An applicant or sponsor of the proposed event must contact the Police and Fire /Emergency Departments in advance of submitting an application for use to determine whether there is a need for traffic control and/or security supervision at the proposed event. All required security or supervision will be paid for by the organization using the facilities. Application forms require signature from Brewster Police and Brewster Fire/Rescue Department personnel verifying whether a public safety detail is required in order to be considered complete. Fees for Police, Fire or Emergency supervision details are set by the Police or Fire/Emergency Departments and are due to the same. The Board of Selectmen reserves the right to require public safety supervision.

8. **Parking:** If the proposed event will require parking in excess of the number of spaces located on the property, the applicant must consult with the Police Chief of the Town of Brewster and provide supplemental information to the Town Administrator or Board of Selectmen as to where off-premise parking will be provided and how pedestrian safety and vehicular circulation will be addressed. If parking is proposed for unpaved areas which are not specifically designated for parking, the applicant must indicate where parking is proposed.

9. **Music/Noise:** The Town of Brewster has a noise bylaw (Chapter 125 of the Code of the Town of Brewster) which states that excessive noise that is audible at a distance of one hundred fifty (150) feet from its source shall be punishable by a fine of up to fifty dollars (\$50). Users of Town facilities are subject to this bylaw and the sponsoring agency or group shall be held responsible for ensuring compliance. In accordance with the provisions of MGL Chapter 136, if live or amplified music or

performance theatre or dance is proposed, an entertainment license is required. Separate application shall be made to the Board of Selectmen if an entertainment license is required.

10. Lighting: Any proposed temporary outdoor lighting must be indicated. In order to be approved, temporary lighting must not be excessively bright or shine onto areas that are not part of the facility being used. The Town reserves the right to require official inspections, at the applicant's expense, of any portable generators and/or temporary electrical or power service proposed on Town premises.

11. Trash and Waste: All trash and/or waste materials must be properly disposed of. If inadequate containers or receptacles are available on site, it shall be the responsibility of the applicant to remove any and all trash from the site. If advance notice is provided at the time of application regarding the need for additional containers or receptacles, applicants may arrange for trash and waste removal services through the Town's existing contracts or arrangements. Applicants will be charged for the clean-up and removal of trash which has not been properly disposed of or has been left on the premises.

12. Toilet facilities: If the Town has provided toilet facilities, applicants shall be responsible for ensuring that his/her/their guests or agents use (and do not abuse) these facilities. If no toilet services are provided on the site by the Town and the application for use exceeds 4 hours, the applicant may be required to provide toilet facilities at their own cost. A determination shall be made by the Town regarding the need for toilet facilities or additional facilities at the time of application. Applicants may arrange for provision of these services through the Town's existing contracts or arrangements.

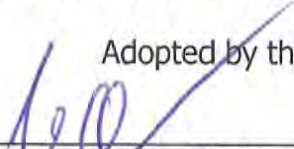
13. Smoking: Smoking is not permitted in or on Town facilities.

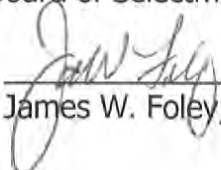
14. Fires: Open fires are not permitted on Town Property. Contained fires for cooking shall require approval from both the Board of Health and the Fire Department.

15. Food and Beverages: No food or beverages may be served or consumed in Town Facilities other than in designated kitchen and cafeteria areas equipped for food preparation and eating. Food Service permits from the Board of Health are required to serve food and/or beverages. If food is to be served out of doors on Town property, type of food and location of the kitchen where the food is to be prepared must be specified. Alcoholic beverages are prohibited in Town facilities and on Town property.

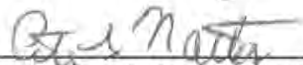
16. Kitchen Use: The sponsoring organization shall leave any kitchen or cafeteria equipment and premises clean and in the same condition as before the event.


Adopted by the Brewster Board of Selectmen this 13th day of August 2013

  
\_\_\_\_\_  
John Dickson, Chairman

  
\_\_\_\_\_  
James W. Foley, Vice-Chairman

  
\_\_\_\_\_  
Patricia Hughes, Clerk

  
\_\_\_\_\_  
Peter G. Norton

  
\_\_\_\_\_  
Benjamin deRuyter

<b>BASE FEES FOR</b> three (3) hours custodial fee	Weekday	Weekend Day (add custodial fee)	Weekend Evening (add custodial fee)	Week Day Evening (add
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**Town Office Building**

Meeting Room A, B or C	\$50.00	\$75.00	\$150.00	\$50.00
Rooms A & B (combined)	\$150.00	\$225.00	\$450.00	\$100.00
Ball Field (Non-Sport Events)	\$100.00	\$100.00	N/A	N/A

**Council On Aging Building**

Front Lawn	\$50.00	\$250.00	N/A	N/A
Meeting Room	\$35.00	\$100.00	\$200.00	\$50.00
Kitchen	\$35.00	\$50.00	\$75.00	\$50.00

**Captains Golf Course Pavilion**

Meeting Room	\$75.00	\$350.00	\$350.00	\$100.00
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**Water Facility**

Meeting Room	\$35.00	N/A	N/A	\$35.00
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**Drummer Boy Property**

Fields	\$300.00	\$400.00	N/A	N/A
Playground	\$35.00	\$50.00	N/A	N/A
Electrical Service	\$50.00	\$50.00	\$50.00	\$50.00

(+any utility charges above and beyond)

**Gazebo/Bandstand**

Sept. – March	\$100.00	\$100.00	N/A	N/A
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April – August	\$200.00	\$200.00	N/A	N/A
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<b>Public Beach</b>	\$25.00	\$50.00	N/A	N/A
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(groups over 20, daylight hours after Labor Day Weekend and before Memorial Day Weekend, **ONLY**. For Construction Access at beaches, see Selectmen's Construction Access Permit Process)

Use of the Freeman's Way Ball Fields and the Tennis Courts on Underpass Road may be scheduled via application to the Recreation Commission. Please call 508-896-9430 or visit the Town's web site at [www.town.brewster.ma.us](http://www.town.brewster.ma.us) for fees and forms.

Use of the Crosby Mansion may be scheduled via the Crosby Property Manager. Please call 508-896-1744 or visit the website at <http://www.crosbymansion.com/>. Rental of the Crosby Cottages is also handled by the Crosby Property Manager. Please call 508-896-1744.

Custodial fees --- Shall apply to any events scheduled during hours which would not normally be staffed by Town Personnel. Custodial fees will be figured based on the pay rate of the least-paid individual available assigned to open, attend, supervise or lock-up a facility. Hourly rates will be 1.5 times the individual's regular hourly rate for the hours required, or a minimum of 3 hours, whichever is greater. Custodial fees will not be charged for events taking place in public facilities which are already scheduled to be open and occupied during the times of the proposed event(s).

Deposits ---Depending on the potential for damage posed by the nature of the activity proposed, the Board may require the User(s) of the facility to leave with the Town a returnable cash damage deposit equivalent to any insurance deductible which would apply. A paper receipt shall be provided in return for any deposit left with the Town. Deposits shall be returned to the Facility User(s) unless damage in excess of normally anticipated wear and tear is incurred, which requires repair, maintenance or replacement beyond that which would typically be expected.

Date Approved: 11/15/93

Amended: 8/25/97, 7/1/02, 9/15/03, 2/7/05, 1/10/11, 8/12/13

**APPLICATION FOR FACILITY USE**

BREWSTER BOARD OF SELECTMEN

2198 MAIN STREET, BREWSTER, MA 02631

All requests must be made **at least two (2) weeks in advance of the desired use date**. For more information please call the Selectmen's Office at 896-3701. Completed forms may be dropped-off or mailed to the address above, or **faxed back to 508-896-8089**.

ORGANIZATION OR GROUP: \_\_\_\_\_

LOCAL SPONSORING ORGANIZATION: \_\_\_\_\_

AREA OR FACILITIES NEEDED: \_\_\_\_\_

DATE OR DATES REQUESTED: \_\_\_\_\_

TIME IN: \_\_\_\_\_ TIME OUT: \_\_\_\_\_ (INCLUDING PREPARATION & DISMANTLING)

PURPOSE OF FACILITY USE: \_\_\_\_\_

NATURE OF ACTIVITY TO TAKE PLACE: \_\_\_\_\_

WILL ADMISSION FEE BE CHARGED? YES \_\_\_\_\_ NO \_\_\_\_\_ AMOUNT \_\_\_\_\_

NON-PROFIT ORGANIZATION: YES \_\_\_\_\_ NO \_\_\_\_\_

IRS # \_\_\_\_\_ TOTAL NUMBER OF PERSONS EXPECTED \_\_\_\_\_

MAXIMUM PEOPLE EXPECTED AT ONE TIME: \_\_\_\_\_

ANY SPECIAL EQUIPMENT NEEDED?: \_\_\_\_\_

PERSON RESPONSIBLE FOR THE OBLIGATIONS OF THE GROUP WHO WILL PAY THE BILL - NAME: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

I have read the regulations and understand them with the acknowledgement that any additional expenses incurred will be paid by my organization and that any violation may jeopardize continue use of the building.

Signature: \_\_\_\_\_

Telephone: \_\_\_\_\_

**ATTACH PROOF OF INSURANCE IN THE AMOUNTS REQUIRED BY THE TOWN.**

**AUTHORIZATION**

This application is recommended for approval and reservation made according to the above information with the understanding that the Town of Brewster regulations will be followed and proof of insurance will be provided:

\_\_\_\_\_ Date of Selectmen's Approval \_\_\_\_\_ Assistant Town Administrator or Administrative Assistant

Reservation entered on \_\_\_/\_\_\_/\_\_\_ by \_\_\_\_\_

Fee to be assessed for this use: \_\_\_\_\_ Date paid: \_\_\_\_\_

Deposit(s) of \_\_\_\_\_ received on \_\_\_/\_\_\_/\_\_\_

Insurance requirements are: met \_\_\_\_\_ waived \_\_\_\_\_

**IF INDICATED HERE, ADDITIONAL APPROVAL IS REQUIRED.** PLEASE OBTAIN APPLICABLE SIGNATURES BELOW :

Entity	Type of Approval or Permit Req'd	Dept. Signature
Board of Selectmen License(s)	_____	_____
Brewster Health Permits	_____	_____
Brewster Police Permits	_____	_____
Brewster Building Permits	_____	_____
Brewster Fire Permits	_____	_____
Planning/Zoning Permits	_____	_____
Conservation Commission Conditions	_____	_____

**FOR OUTDOOR EVENTS - IF SITE REQUIRES SPECIAL SET-UP**

Please attach sketch(s) outlining location(s) of any furniture, equipment, signs or apparatus to be set-up on site. Please indicate points of pedestrian and/or vehicular access and egress, proposed parking configurations, temporary sanitary facilities, and source of power and/or water to be used.

***POLICY NO:*** 18

***DATE APPROVED:*** 10/3/89

***AMENDED:*** 8/25/97

***TOWN OF BREWSTER***

***CONSERVATION RESTRICTIONS  
STATEMENT OF POLICY  
BOARD OF SELECTMEN***

Whereas, the protection of the environment, including clean air, pure water resources, scenic areas, open space, natural habitat of fish, wildlife and plants, is a primary concern of the Town of Brewster, and

Whereas, the Town prepared an Open Space and Recreation Plan in 1985 to establish a strategy to protect the natural resources cited above; and

Whereas, Conservation restrictions pursuant to Massachusetts General Laws, Chapter 184, Section 31 et seq. are a proper means to implement appropriate objectives of the Open Space and Recreation Plan; and

Whereas, the Board of Selectmen and Conservation Commission must evaluate the extent to which a Conservation restriction on a particular property will yield significant public benefits by protecting water resources and clean air, preserving open space, forest lands and natural habitat of fish, wildlife or plants and providing scenic enjoyment, outdoor recreation and education of the public;

NOW, THEREFOR, the Board of Selectmen declares it to be a policy of the Town of Brewster to accept and/or approve Conservation restrictions that provide significant public benefit as enumerated above; and that Conservation restrictions may be held by the Town of Brewster or state or federal agencies or qualified Conservation restrictions held by the Town will be controlled and enforced by the Conservation Commission and that approval of Conservation restrictions by the Board of Selectmen as required by Massachusetts General Laws, Chapter 184, Section 31 et seq. shall be conclusive confirmation that the same yields significant public benefits of the type cited herein.

# **CODE OF THE TOWN OF BREWSTER WETLANDS PROTECTION CHAPTER 172 BREWSTER WETLANDS PROTECTION BY-LAW**

## **SECTION 172-1. Purpose [Amended 10-19-1987 STM, Art. 29]**

The purpose of this chapter (By-law) 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, ground water and ground water quality, water quality in the numerous ponds of the town, flood control, erosion and sedimentation control, storm damage prevention, prevention of water pollution, fisheries, shell-fish, wildlife and wildlife habitat, aesthetics and historic values (collectively, the "interests protected by this chapter" (By-law)). This chapter By-law is further intended to provide a means for review and correction of activities performed by any person in violation of any provision contained herein.

## **SECTION 172-2. Applicability. [Amended 10-19-1987 STM. Art. 29]**

**A.** Except as permitted by the Conservation Commission or as provided in this By-law, no person shall remove, fill, dredge, alter or build upon or within any of the following resource areas:

- (1) On or within one hundred (100) feet of any bank, beach, dune or flat;
- (2) On or within one hundred (100) feet of any fresh water wetland, coastal wetland, marsh, meadow, bog or swamp;
- (3) Upon or within one hundred (100) feet of any lake, pond, river, stream, estuary or the ocean;
- (4) Upon any land under said waters;
- (5) Upon or within one hundred (100) feet of any land subject to flooding or inundation by groundwater or surface water; or upon any land subject to flooding or inundation by tidal action or coastal storm flowage.

**B.** Any activity proposed or undertaken outside any area specified above shall be subject to regulation under this By-law 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.



### **SECTION 172-3. Exemptions.**

**A.** The permit and application required by this chapter (By-law) shall not be required for maintaining, repairing or replacing an existing and lawfully located structure or facility which is used in the services 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 (By-law) 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 twenty-four (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 twenty-one (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 (By-law).

**C.** Other than stated in this section, the exemptions provided in the Wetlands Protection Act and the Regulations promulgated thereunder shall not apply.

### **SECTION 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 (By-law). Upon the petition of any ten (10) registered voters of the town, the Commission shall require any work commenced within the jurisdiction of this chapter (By-law) 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 (By-law).

(2) The application and plans shall contain data as required by this chapter (By-law)

and any regulations adopted pursuant thereto by the Conservation Commission.

**(3)** The Conservation Commission may require application and plans under this chapter (By-law) 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]**

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 (By-law).

## **SECTION 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 three hundred (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 (5) 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 twenty-one (21) days of the close of the public hearing thereon or within twenty-one (21) days from receipt.

**(3)** The Commission shall issue its permit or other action or determination, in writing, within twenty-one (21) days of the close of the public hearing thereon, or within twenty-one (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 (By-law) 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

uncertain announced at the hearing either for receipt of additional information.

The Commission in an appropriate case may combine its hearing under this By-law with the hearing conducted under the Wetlands Protection Act, G.L.c.131 sec. 40. 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]**

**SECTION 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 Board of Selectmen, Planning Board, Board of Appeals, Board of Health and Building Inspector, who shall, if requested by the Conservation Commission in writing or by ten (10) registered voters of the town, file written comments and recommendations with the Commission.

**B.** The Commission shall not take final action until such boards and officials have had fourteen (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 development plan review process. For actions subject to that process, none of the timing limitations of § 172-5 shall commence to run until development plan approval has been obtained. **[Added 5-14-1990 STM, Art. 12]**

**SECTION 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 (By-law), the Commission, within twenty-one (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 (By-law), the Commission shall so inform the applicant that the work does not require a permit.

## **B. Permits**

(1) Permits shall expire three (3) years from the date of issuance. Any permit may be renewed once for an additional one-year (1) period, provided that a request for an extension is received in writing, by the Commission prior to expiration of the permit.

(2) For good cause, the Commission may revoke or modify a permit issued under this chapter (By-law).

(3) The Conservation Commission shall issue permits under this section (By-law) in addition to any Order of Conditions issued under the Wetlands Protection Act.

### **SECTION 172-8. Promulgation of Regulations.**

After public notice and public hearing, the Commission shall promulgate the rules and regulations to effectuate the purposes of this chapter (By-law). Public notice shall include publication of all proposed regulations in a newspaper of general circulation in the town not less than twenty-one (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 (By-law).

### **SECTION 172-9. Definitions.**

The following definitions shall apply in the interpretation and implementation of this chapter (By-law).

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 by-laws, administrative agencies, public or quasi-public corporations or bodies, this municipality and any other legal entity, its legal representatives, agents or assigns.

**SECTION 172-10. Security. [Amended 5-12-1986 ATM, Art. 60]**

As part of a permit issued under this chapter [By-law], 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 be secured wholly or in part, by one (1) 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.

**SECTION 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 By-law 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 By-law, 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 ten (10)

residents of the Commonwealth, the Board of Selectmen 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.

**D.** In the alternative to criminal prosecution, the Commission may elect to utilize the non-criminal disposition procedure set forth in G.L.c.40, sec.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 By-law, regulations thereunder, or permits issued thereunder, shall be punished by a fine of not more than three hundred dollars (\$300.00). Each day or portion thereof during which a violation continues, shall constitute a separate offense, and each provision of the chapter (By-law), regulations, or permit violated shall constitute a separate offense.

#### **SECTION 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 (By-law). Failure to provide adequate evidence to the Commission supporting a determination that the proposed work will not harm the interests protected by this chapter (By-law) shall be sufficient cause for the Commission to deny a permit.

#### **SECTION 172-13. Relation to Wetlands Protection Act.**

This chapter (By-law) is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, G.L.c.131, §. 40, and regulations thereunder.

#### **SECTION 172-14. Severability.**

**A.** The invalidity of any section or provision of this By-law shall not invalidate any other section or provision thereof, nor shall it invalidate any Order of Conditions which previously has been issued.

**B.** If any court of the Commonwealth shall invalidate any provision of this chapter (By-law) or any regulation promulgated thereunder, the Conservation Commission shall present to the next Town Meeting after such invalidation, amendments to this chapter (By-law) which are designed to comply with any court decision invalidating such provision, and shall amend the regulations pursuant to Section 172-8 to comply with such decision. [Amended 5-12-1986 ATM, Art. 60]

**Adopted at Special Town Meeting 12-10-1984**  
**Approved by State Attorney General 4-1985**  
**Amended at Annual Town Meeting 5-19-1986**  
**Amended at Special Town Meeting 10-19-1987**  
**Amendment approved by State Attorney General 1-21-1988**  
**Amended at Annual Town Meeting 5-8-1989**  
**Amendment approved by State Attorney General 8-29-1989**  
**Amended at Annual Town Meeting 5-5-1997**  
**Amendment Approved 7-28-1997**

TOWN OF  
*BREWSTER*

*WETLAND REGULATIONS*

DATES OF ADOPTION/ PROMULGATION

- Massachusetts Wetland Protection Act - Adopted, 1974
- Brewster Wetlands Protection By-Law - Promulgated and Adopted December 10, 1984, Approved by State Attorney General, April, 1985, Amended May 19, 1986, Amended at Special Town Meeting, October 19, 1987, Approved by State Attorney General, January 21, 1988, Amended May 8, 1988, Approved by State Attorney General, August 29, 1989
- Brewster Wetlands Protection Regulation - Promulgated May 27, 1986



**BREWSTER WETLAND REGULATIONS  
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## PART I GENERAL PROVISIONS

### 1.01 Introduction and Purpose

#### (1) Introduction

These regulations are promulgated by the Town of Brewster Conservation Commission pursuant to the authority granted to it under Section 8 of the Town of Brewster Wetlands Protection By-law (hereinafter referred to as the By-law). These regulations shall complement the Wetlands Protection By-law, and shall have the force of law upon their effective date.

#### (2) Purpose

The By-law sets forth a public review and decision making process by which activities affecting areas Subject to Protection under the By-law are to be regulated in order to ensure the protection of the following interests:

- public water supply
- private water supply
- groundwater and groundwater quality
- water quality in the numerous ponds in the Town
- flood control
- erosion and sedimentation control
- storm damage prevention
- fisheries
- shellfish
- wildlife
- aesthetics
- agriculture
- aquaculture
- historic values

The purpose of these regulations is to define and clarify that process by establishing standard definitions and uniform procedures by which the Brewster Conservation Commission may carry out its responsibilities under the By-law.

### 1.02 Statement of Jurisdiction

#### (1) Area Subject to Protection Under the By-law

The following areas are subject to protection under the By-law:

- (a) beach  
dune  
flat  
freshwater wetland  
coastal wetland  
marsh  
meadow  
bog  
or swamp
  - (b) Any land within 100 feet of any of the areas set forth in Section 1.02 (a) above;
  - (c) Any lake,  
pond  
river  
stream  
estuary  
or the ocean:
  - (d) Any land under any of the water bodies set forth in Section 1.02 (c) above;
  - (e) Any land subject to flooding or inundation by any of the following:  
groundwater,  
surface water,  
tidal action,  
or coastal storm flowage.
- (2) Activities Subject to Regulation Under the By-law.
- (a) Any activity proposed or undertaken which will constitute removing, filling, altering, or building upon any area specified in Section 1.02 (1) is subject to regulation under the By-law and requires the filing of an Application for Permit.
  - (b) Any subsurface sewage disposal system, where any component thereof is within any area specified in Section 1.02 (1), above. Because of the demonstrated potential for contamination of ground and surface waters from effluent from these systems, and for protection of the public health, safety, and welfare, and for the protection of the Federally designated sole-source aquifer upon which the residents of the Town of Brewster depend for all public and private drinking water supplies, no leaching facility of any such system shall

be permitted within or under any area specified in Section 1.02(1) unless the applicant can demonstrate that there will be no alternation of the ground or surface water within or under any area specified in Section 1.02(1) above, and that there will be no adverse impact upon any of the interests specified in the By-law, and subject to the provisions of Part V of these Regulations.

- (c) Any activity proposed or undertaken outside the areas specified in Section 1.02(1) above shall not be subject to regulation under the By-law unless, in the judgement of the Conservation Commission, said activity will result or has resulted in the removing, filling, altering, or building upon an area specified in Section 1.02(1) above. If the applicant wishes to have the Conservation Commission determine whether an activity may be subject to regulation under the By-law, he or she may do so by way of a Request for Determination of Applicability pursuant to Section 6.01 of these regulations.

### 1.03 General Provisions Concerning Burden of Proof and Burden of Going Forward

- (1) The Applicant shall have the burden of going forward with credible evidence from a competent source in support of all matters asserted by the applicant in accordance with his or her burden of proof pursuant to Section 1.03 (b) below;
- (2) The Applicant shall have the burden of proving by clear and convincing evidence that the work proposed in the Application for Permit will not harm the interests protected in the By-law. Failure to meet the Burden of Proof shall be cause for the Conservation Commission to deny the Application for Permit, along with any work or activity proposed therein.

### 1.04 Definitions

Activity means any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; the erection, reconstruction or expansion of any buildings or structures; the driving of pilings; the construction or improvement of roads and other ways; the changing of run-off characteristics; the intercepting or diverging of ground or surface water; the installation of drainage, sewage and water systems; the discharging of pollutants; the destruction of plant life; and any other changing of the physical characteristics of land, or of the physical or chemical characteristics of water.

Aesthetics means the natural scenery and appearance of any resource area visually accessible to the public.

**Agriculture:** Land in agricultural use means land presently and primarily used in the raising of animals including, but not limited to, dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees and fur-bearing animals, or land presently and primarily used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals.

Additionally, land in agricultural use means land presently and primarily used in the raising of fruits, vegetables, berries, nuts, and other foods for human consumption, feed for animals, tobacco, flowers, sod, trees, nursery or greenhouse products, and ornamental plants and shrubs; or land presently and primarily used in raising forest products under a planned program to improve the quantity and quality of a continuous crop; or land presently and primarily used in a related manner which is incidental thereto and represents a customary and necessary use in raising such products.

**Alter** means to change the condition of any Area Subject to Protection Under the By-law. The term "alter" shall include, without limitation, the following actions when undertaken in Resource Areas Subject to Protection Under the By-law:

- (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.

**Applicant** means any person who files an Application for Permit on Request for Definition of Applicability, or on whose behalf such a notice is filed.

**Aquaculture:** Land in aquacultural use means land presently and primarily used in the growing of aquatic organisms under controlled conditions, including one or more of the following uses: raising, breeding or producing a specified type of animal or vegetable life, including, but not limited to, finfish such as carp, catfish, black bass, flatfishes, herring, salmon, shad, smelt, sturgeon, striped bass, sunfishes, trout, whitefish, eel, tilapia; shellfish such as shrimp, crabs, lobster, crayfish, oysters, clams, periwinkles, scallops, mussels, squid; amphibians such as frogs; reptiles

such as turtles; seaweeds such as irish moss and dulse; and edible fresh water plants.

Normal maintenance or improvement of land in aquacultural use means the following activities, when done in connection with the production of aquatic organisms as defined above: draining, flooding, heating, cooling, removing, filling, grading, compacting, raking, tilling, fertilizing, seeding, harvesting, filtering, rafting, culverting or applying chemicals in conformance with all state and federal laws; provided, however, that such activities are clearly intended to improve and maintain land in aquacultural use and that best available measures are utilized to ensure that there will be no adverse effect on wetlands outside the area in aquacultural use, and further provided that removing, filling, dredging or altering of a salt marsh is not to be considered normal maintenance or improvement of land in aquacultural use.

Area Subject to Protection Under the Act means any area specified in Section 1.02 (1). It is used synonymously with Resource Area, each one which is defined in greater detail in Parts II, III and IV.

Bank (coastal) is defined in Part II, Section 2.05.

Bank (inland) is defined in Part III, Section 3.01.

Beach (barrier) is defined in Part II, Section 2.04

Beach (coastal) is defined in Part II, Section 2.02

Beach (inland): a naturally occurring inland beach means an unvegetated bank as defined in Part III, Section 3.01

Best Available Measures means the most up-to-date technology or the best designs, measures or engineering practices that have been developed and that are commercially available.

Best Practical Measures means technologies, designs, measures or engineering practices that are in general use to protect similar interests.

Bordering means touching.

Boundary means the boundary of an Area Subject to Protection Under the Act. A description of the boundary of each area is found in the appropriate section of these regulations.

Certificate of Compliance means a written determination by the issuing authority that work or a portion thereof has been completed in accordance with a Permit.

Conditions means those requirements set forth in a written Permit issued by a conservation commission for the purpose of permitting, regulating or prohibiting any activity that removes, fills, dredges or alters an Area Subject to Protection Under the

By-law.

Conservation Commission means that body comprised of members lawfully appointed pursuant to G.L. c. 40 s. 8C.

Creek means the same as a stream.

Date of Issuance means the date a permit is mailed, as evidenced by a postmark, or the date it is hand delivered.

Date of Receipt means the date of delivery to an office, home or usual place of business by mail or hand delivery.

Determination

- (a) a Determination of Applicability means a written finding by a conservation commission or the Department as to whether a site or the work proposed thereon is subject to the jurisdiction of the By-law.
- (b) a Determination of Significance means a written finding by the conservation commission, after a public hearing, that the area on which the proposed work is to be done, or which the proposed work will alter, is significant to one or more of the interests identified in the By-law.
- (c) a Notice of Non-Significance means a written finding by the conservation commission, after a public hearing, that the area on which the proposed work is to be done, or which the proposed work will alter, is not significant to any of the interests of the By-law.

Dredge means to deepen, widen or excavate, either temporarily or permanently.

Dune means coastal dune, as defined in Part II, Section 2.03.

Estuary means:

- (a) any area where fresh and salt water mix and tidal effects are evident; or
- (b) any partially enclosed coastal body of water where the tide meets the current of any stream or river.

Extension Permit means a written extension of time within which the authorized work shall be completed.

Fill means to deposit any material so as to raise an elevation, either temporarily or permanently.

Flat (tidal) is defined in Part II, Section 2.02.

Flood Control means the prevention or reduction of flooding and flood damage.

Freshwater Wetlands are defined in Part III.

Ground Water Supply means water below the earth's surface in the zone of saturation.

Interests Identified in the By-law means those interests specified in Section I of the By-law and Section 1.01 (2) of these regulations.

Issuing Authority means the conservation commission.

Lake means any open body of fresh water with a surface area of 10 acres or more, and shall include great ponds.

Land Containing Shellfish is defined in Part II, Section 2.08.

Land Subject to Coastal Storm Flowage means land subject to any inundation caused by coastal storms up to and including that caused by the 100 year storm, surge of record or storm record, whichever is greater.

Land Subject to Flooding is defined in Part III, Section 3.04.

Land Subject to Tidal Action means land subject to the periodic rise and fall of a coastal water body, including spring tides.

Land Under Salt Ponds is defined in Part II, Section 2.07.

Land Under Water Bodies and Waterways means, the bottom of, or land under the surface of the ocean or any estuary, creek, river, stream, pond or lake. Land under the ocean and estuaries is further defined in Part II, Section 2.01; land under inland water bodies is further defined in Part III, Section 3.03.

Majority means more than half of the members of the conservation commission then in office.

Marsh is defined in Part II, Section 2.06 and Part III, Section 3.02.

Meadow (or Wet Meadow) is defined in Part III, Section 3.02.

MEPA means the Massachusetts Environmental Policy Act, G.L. c. 30, ss 62-62H, and the regulations promulgated pursuant thereto, 301 CMR 10.00, et seq.



Notice of Intent means the written notice filed by any person intending to remove, fill, dredge or alter an Area Subject to Protection under the Massachusetts Wetlands Protection Act, M.G. L. c. 131 s 40.

Ocean means the Atlantic Ocean and all contiguous water subject to tidal action.

Order means an Order of Conditions, Superseding Order or Final Order, whichever is applicable, issued pursuant to M.G.L. c. 131 s 40.

Order of Conditions means the document issued by a Conservation Commission containing conditions which regulate or prohibit an activity under M.G.L. c. 131, s 40.

Owner of Land Abutting the Activity means the owner of land sharing a common boundary or corner with the site of the proposed activity in any direction, including land located directly across a street, way, creek, river, stream, brook or canal.

Party to any proceeding means the applicant, the Conservation Commission and pursuant to Section 1.05 may include the owner of the site, any abutter, any person aggrieved, any ten residents of the city or town where the land is located and any ten persons pursuant to G.L. c. 30A, s 10A.

Person Aggrieved means any person who, because of an act or failure to act by the issuing authority, may suffer an injury in fact which is different either in kind or magnitude from that suffered by the general public and which is within the scope of the interests identified in the By-law facts to allow the Conservation Commission to determine whether or not the person is in fact aggrieved.

Plans means such data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the issuing authority to describe the site and/or the work, to determine the applicability of the Act or to determine the impact of the proposed work upon the interests identified in the Act.

Pond (coastal) means Salt Pond as defined in Part II, Section 2.07.

Pond (inland) means any open body of fresh water, either naturally occurring or man-made by impoundment, which is never without standing water due to natural causes, except during periods of extended drought. For purposes of this definition, extended drought shall mean any period of four or more months during which the average rainfall for each month is 50% or less of the ten year average for that same month. Basins or lagoons which are part of wastewater treatment plants shall not be considered ponds, nor shall swimming pools or other impervious man-made retention basins.

Prevention of Pollution means the prevention or reduction of contamination of surface or ground water.

Private Water Supply means any source or volume of surface or ground water demonstrated to be in any private use or shown to have potential for private use.

Protection of Fisheries means protection of the capacity of an Area Subject to Protection under the By-law to prevent or reduce contamination or damage to fish and (2) to serve as their habitat and nutrient source. Fish includes all species of fresh and salt water finfish and shellfish.

Protection of Land Containing Shellfish means protection of the capacity of an Area Subject to Protection Under the By-law to prevent or reduce contamination or damage to shellfish and (2) to serve as their habitat and nutrient source.

Protection of Wildlife means the protection of any plant or animal species listed as endangered, Threatened, or Special Concern, or on the Watch List by the Massachusetts Natural Heritage Program; listed as Federally Endangered or Federally Threatened by the U.S. Fish and Wildlife Service; deemed locally threatened in writing by the Brewster Conservation Commission; and means protection of the ability of any resource area to provide food, breeding habitat, or escape cover any species falling within the definition of Wildlife set forth in these Regulations.

Protection of Historic Values means the protection of areas subject to protection under the By-law which are known or are determined in writing by the Conservation Commission to be likely to contain sites of archaeological significance, including but not limited to middens, burial sites, or historic and prehistoric structures and artifacts.

Public Water supply means any source or volume of surface or ground water demonstrated to be in public use or approved for water supply pursuant to G.L.C. 111, § 160 by the Division of Water Supply of the DEP or shown to have a potential for public use.

Remove means to take away any type of material, thereby changing an elevation, either temporarily or permanently.

Request for Determination of Applicability means a written request made by any person to a Conservation Commission for a determination as to whether a site or work thereon is subject to the By-law.

Resource Area means any of the areas specified in Part II, Section 2.01 through 2.09 and Part III, Sections 3.01 through 3.04. It is used synonymously with Area

Subject to Protection Under the By-law, each one of which is enumerated in Section 1.02 (1) of this part.

River means a natural flowing body of water that empties to any ocean, lake or other river and which flows throughout the year.

Salt Marsh is defined in Part II, Section 2.06.

Significant means plays a role. A resource area is significant to an interest identified in the Act when it plays a role in the provision or protection, as appropriate, of that interest.

Spring Tides means those tides which occur with the new and full moons, and which are perceptibly higher and lower than other tides.

Storm Damage Prevention means the prevention of damage caused by water from storms, including, but not limited to, erosion and sedimentation, damage to vegetation, property or buildings, or damage caused by flooding, waterborne debris or waterborne ice.

Stream means a body of running water, including brooks and creeks, which moves in a definite channel in the ground due to a hydraulic gradient. A portion of a stream may flow through a culvert or beneath a bridge. Such a body of running water which does not flow throughout the year (i.e. which is intermittent) is a stream.

Vegetated Wetlands is defined in Part III, Section 3.02.

Work means the same as activity.

Wildlife means any non-domesticated mammal, bird, reptile, amphibian, fish, mollusk, arthropod, insect or other invertebrate, other than a species of the Class Insecta which has been determined by the Commonwealth of Massachusetts or any agency thereof to be a pest whose protection under the provisions of the By-law would be a risk to man.

## 1.05 Procedures

- (1) Time Periods. All Time Periods of ten days or less specified in the By-law and these regulations shall be computed using business days only. In the case of a determination or Order such period shall commence on the first day after the date of issuance and shall end at the close of business on the tenth business day thereafter. All other time periods specified in the By-law and these regulations shall be computed on the basis of calendar days, unless the last day falls on a Saturday, Sunday or legal holiday, in which

case the last day shall be the next business day following.

- (2) Actions by Conservation Commissions. Where the By-law states that a particular action (except receipt of a request or notice) is to be taken by the Conservation Commission, that action is to be taken by more than half the members present at a meeting of at least a quorum. A quorum is defined as a majority of the members then in office.

Where the By-law states that a permit or notification shall be issued by the Conservation Commission, that action is to be taken by a majority of the members then in office, who need not convene as a body in order to sign said permit or notification, provided they met pursuant to the open meeting law, G.L. c. 39, ss 23A-23C, when voting on the matter.

Where the By-law states that the Conservation Commission is to receive a request or notice, Conservation Commission means a member of the Conservation Commission or an individual designated by the Conservation Commission to receive such request or notice.

- (3) Determination of Applicability

(a) Requests for Determination of Applicability

1. Any person who desires a determination as to whether the By-law apply to land, or to work that may affect an Area Subject to Protection Under the By-law, may submit to the Conservation Commission by certified mail or hand delivery a Request for a Determination of Applicability, Form 1 of Section 6.01.
2. Any person who proposes to perform work within the Buffer Zone shall submit to the Conservation Commission either a Notice of Intent for such work or a Request for a Determination of Applicability. Said request shall include sufficient information, as required on Form 1, to enable the conservation commission to find and view the area and to determine whether the proposed work will alter an Area Subject to Protection Under the By-law.
3. A Request for a Determination of Applicability shall include certification that the Conservation Commission and the owner of the area subject to the request, if the person making the request is not the owner, has been notified that a determination is being requested under the By-law.

(b) Determination of Applicability

1. Within 21 days after date of receipt of the Request for a Determination of Applicability, the Conservation Commission shall hold a public meeting on the Request for a Determination of Applicability, Form 2 of Section 6.01. Notice of the time and place of the public meeting at which the determination will be made shall be given by the Conservation Commission at the expense of the person making the request not less than ten (10) days prior to such meeting, by publication in a newspaper of general circulation in the city or town in which the land is located, and by mailing a notice to the person making the request, the owner, the board of health, the planning board, the board of appeals, the board of selectmen, and the building inspector. Notice shall also be given in accordance with the open meeting law, G.L. c. 39, § 23B, and shall be given to abutters in accordance with the By-law. Said determination shall be signed by a majority of the Conservation Commission, and copies thereof shall be sent by the conservation commission to the person making the request and to the owner within 21 days of the close of the public hearing or any continuances thereof.

Said determination shall be valid for one year from date of issuance.

2. The Conservation Commission shall find that the By-law applies to the land, or a portion thereof, if it is an Area Subject to Protection Under the By-law as defined in Section 1.02 (1) above. The Conservation Commission shall find that the By-law applies to the work or the portion thereof, if it is an Activity Subject to Regulation Under the By-law as defined in Section 1.02 (1) above.
3. The Application for Permit shall be filed in the event of a positive determination, and all of the procedures set forth in Section 1.05 (4) shall apply.

(4)

Applications for Permits

- (a) Any person who proposes to do work that will remove, fill, dredge or alter any Area Subject to Protection Under the By-law shall submit an Application for Permit on Form 3 of Section 6.01 and other application materials in accordance with the submittal requirements set forth in

the General Instruction for Completing Applications for Permits provided in Section 1.06.

- (b) Upon receipt of the application materials referred to in subsection (4) (a) above the Conservation Commission shall issue a file number. the designation of a file number shall not imply that the plans and supporting documents have been judged adequate for the issuance of a Permit but only that copies of the minimum submittal requirements contained in the General Instructions have been filed.
- (c) In the event that only a portion of a proposed project or activity lies within an Area Subject to Protection Under the Act and the remainder of the project or activity lies outside those areas, all aspects of the project must be described in the detail called for by the General Instructions and Forms 3 and 4; provided, also that in such circumstances the Notice of Intent shall also contain a description and calculation of peak flow and estimated water quality characteristics of discharge from a point source (both closed and open channel) when the point of discharge falls within an Area Subject to Protection under the By-law.

(5) Public Hearings by Conservation Commissions

- (a) A public hearing shall be held by the conservation commission within 21 days of receipt of the minimum submittal requirements set forth in the General Instructions for Completing Application for Permits (form 3) and shall be advertised in accordance with the By-law and the requirements of the open meeting law, M.G.L. c. 39 § 23B.
- (b) Public hearings may be continued as follows:
  - 1. without the consent of the applicant 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.
  - 2. with the consent of the applicant, to an agreed-upon date, which shall be announced at the hearing; or
  - 3. with the consent of the applicant for a period not to exceed 21 days after the submission of a specified piece of information or the occurrence of a specified action. The date, time and place of said continued hearing shall be publicized in accordance

with the By-law, and notice shall be sent to any person at the hearing who so requests in writing.

(6) Permits Regulating the Work

(a) Within 21 days of the close of the public hearing or any continuance thereof, the Conservation Commission shall either:

1. make a determination that the area on which the work is proposed to be done, or which the proposed work will remove, fill, dredge or alter, is not significant to any of the interests identified in the Act, and shall so notify the applicant and the Department on Form 6 of Section 6.01; or
2. make a determination that the area on which the work is proposed to be done, or which the proposed work will remove, fill, dredge, or alter, is significant to one or more of the interests identified in the By-law and shall issue a Permit for the protection of said interest (s), on Form 5 of Section 6.01.

(b) The Permit shall impose such conditions as are necessary for the protection of those areas found to be significant to one or more of the interests identified in the By-law. The Permit shall prohibit any work or any portion thereof that cannot be conditioned to meet said standards.

The Permit shall impose conditions upon work or the portion thereof that will in the judgement of the Conservation Commission, result in the filling, dredging, altering or building within or upon an area subject to protection under the By-law. The Permit shall impose conditions setting limits on the quantity and quality of discharge from a point source (both closed and open channel) when said limits are necessary to protect the interests identified in the By-law.

(c) If the Conservation Commission finds that the information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the By-law, it may issue a Permit prohibiting the work. The Permit shall specify the information which is lacking and why it is necessary.

(d) A Permit shall be valid for one year from the date of its issuance.

(e) The Permit shall be signed by a majority of the Conservation Commission and shall be mailed or hand delivered to the applicant or

his agent or attorney.

- (f) A copy of the plans describing the work and the Permit shall be kept on file by the Conservation Commission and shall be available to the public at reasonable hours.
- (g) Prior to the commencement of any work permitted or required by the Permit, the Permit shall be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the permit shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Permit shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done. Certification of recording shall be sent to the issuing authority on the form at the end of Form 5. If the work is undertaken without the applicant first recording the Permit, the issuing authority may issue an Enforcement Order or may itself record the Permit.

(7) Extensions of Permits for Work

- (a) The issuing authority may extend a Permit for one period of up to one year, which will be made on Form 7 of Section 6.01. The request for an extension shall be made to the Conservation Commission at least thirty days prior to the expiration of the Permit.
- (b) The issuing authority may deny the request for an extension and require the filing of a new Application for Permit for the remaining work in the following circumstances:
  - 1. where no work has begun on the project, except where such failure is due to an unavoidable delay, such as appeals, in the obtaining of other necessary permits;
  - 2. where new information, not available at the time the Permit was issued, has become available and indicates that the Permit is not adequate to protect the interests identified in the By-law;
  - 3. where incomplete work is causing damage to the interests identified in the By-law; or
  - 4. where work has been done in violation of the Permit or these



regulations.

- (c) If issued by the Conservation Commission, the Extension Permit shall be signed by a Majority of the commission.
- (d) The Extension Permit shall be recorded in the Land Court or the Registry of Deeds, whichever is appropriate. Certification of recording shall be sent to the issuing authority on the form at the end of Form 7. If work is undertaken without the applicant so recording the Extension Permit, the Conservation Commission may issue an Enforcement Order (Form 9, Section 6.01) or may itself record the Extension Permit.

(8) Certificate of Compliance

- (a) Upon written request by the applicant, a Certificate of Compliance shall be issued by the Conservation Commission within 21 days of receipt thereof, and shall certify on Form 8 of Section 6.01 that the activity or portions thereof described in the Application for Permit and plans has been completed in compliance with the Permit. If issued by the Conservation Commission, the Certificate of Compliance shall be signed by a majority of the Commission.
- (b) Prior to the issuance of a Certificate of Compliance, a site inspection shall be made by the Conservation Commission or their agents.
- (c) If the Conservation Commission determines, after review and inspection, that the work has not been done in compliance with the Permit, it may refuse to issue a Certificate of Compliance. Such refusal shall be issued within 21 days of receipt of a request for a Certificate of Compliance, shall be in writing and shall specify the reasons for denial.
- (d) If a project has been completed in accordance with plans stamped by a registered professional engineer, architect, landscape architect or land surveyor, a written statement by such a professional person certifying substantial compliance with the plans and setting forth what deviation, if any, exists for the plans approved in the Permit shall accompany the request for a Certificate of Compliance.
- (e) If the Permit contains conditions which continue past the completion of the work, such as maintenance or monitoring, the Certificate of

Compliance shall specify which, if any, of such conditions shall continue. The Certificate shall also specify to what portions of the work it applies, if it does not apply to all the work regulated by the Permit.

- (f) The Certificate of Compliance shall be recorded in the Land Court or Registry of Deeds, whichever is appropriate. Certification of recording shall be sent to the issuing authority on the form at the end of Form 8. Upon failure of the applicant to so record, the issuing authority may do so.

### 1.06 Emergencies

- (1) Any person requesting permission to do an emergency project shall specify why the project is necessary for the protection of the health or safety of the citizens of the Commonwealth and what agency of the Commonwealth or subdivision thereof is to perform the project or has ordered the project to be performed. If the project is certified to be an emergency by the Conservation Commission, its agents or employees, the certification shall include a description of work which is to be allowed and shall not include work beyond that necessary to abate the emergency. A site inspection shall be made prior to certification.
- (2) An emergency certification shall be issued only for the protection of public health or safety or for the protection of any interests specified in the By-law.
- (3) The time limitation for performance of emergency work shall not exceed 21 days.

### 1.07 Severability

The invalidity of any section or provision of the By-law or of these regulations shall not invalidate any other section or provision thereof, nor shall it invalidate any permit which previously has been issued.

If any Court of the Commonwealth shall invalidate any provision of the By-law or of these regulations, the Conservation Commission shall promulgate additional regulations, or present to the next Town Meeting after such invalidation, amendments to the By-law or regulations which are designated to comply with any Court decision invalidating such provision or regulation, as the case may be.

## 1.08 Effective Date

The effective date of these regulations shall be May 27, 1986 and the provisions of these regulations shall apply to all work performed after the date.

## PART II. REGULATIONS FOR COASTAL WETLANDS

### 2.01 Land Under the Ocean

#### (1) Preamble

Land under the ocean is likely to be significant to the protection of wildlife, marine fisheries and, where there are shellfish, to protection of land containing shellfish. Near shore areas of land under the ocean are likely to be significant to storm damage prevention and flood control.

Land under the ocean provides feeding areas, spawning and nursery grounds and shelter for many coastal organisms related to marine fisheries.

Near shore areas of land under the ocean help reduce storm damage and flooding by diminishing and buffering the high energy effects of storms. Submerged bars dissipate storm wave energy. Such areas provide a source of sediment for seasonal rebuilding of coastal beaches and dunes.

When a proposed project involves the dredging, removing, filling or altering of a near shore area of land under the ocean, the Conservation Commission shall presume that the area is significant to the interests specified above.

When a proposed project involves the dredging, removing, filling or altering of land under the ocean beyond the near shore area, the Conservation Commission shall presume that such land is significant to protection of marine fisheries and, where there are shellfish, to the protection of land containing shellfish and that it is not significant to storm damage prevention or flood control.

These presumptions may be overcome upon a clean showing that the area or land does not play a role in the protection of wildlife, marine fisheries, land containing shellfish, storm damage prevention or flood control, as appropriate, and if the Conservation Commission makes a written determination to such effect.

When near shore areas of land under the ocean are significant to storm

damage prevention or flood control, the bottom topography of such land is critical to the protection of those interests.

When near shore areas or other land under the ocean is significant to the protection of marine fisheries, the following factors are critical to the protection of such interests:

- (a) water circulation,
- (b) distribution of sediment grain size
- (c) water quality, and
- (d) finfish habitat.

(2) Definitions

- (a) "Land Under the Ocean" means land extending from the mean low water line seaward to the boundary of the municipality's jurisdiction.
- (b) "Near shore Areas" of land under the ocean means that land extending from the mean low water line to the seaward limit of the municipality's jurisdiction.

When Land Under the Ocean or Near shore Areas of Land Under the Ocean are Found to be Significant to the Protection of Wildlife, Marine Fisheries, Damage Prevention or Flood Control, the Following Regulation Shall Apply:

- (3) Improvement dredging for navigational purposes affecting land under the ocean shall be designated and carried out using the best available measures so as to minimize adverse effects on such interests caused by changes in:
  - (a) bottom topography which will result in increased flooding or erosion caused by an increase in the height or velocity of waves impacting the shore;
  - (b) sediment transport processes which will increase flood or erosion hazards by affecting the natural replenishment of beaches;
  - (c) water circulation which will result in an adverse change in flushing rate, temperature, or turbidity levels; or
  - (d) marine productivity which will result from the suspension or transport of pollutants, the smothering of bottom organisms, the accumulation of pollutants by organisms, or the destruction of habitat or nutrient source areas.

- (4) Maintenance dredging for navigational purposes affecting land under the ocean shall be designed and carried out using the best available measures so as to minimize adverse effects on such interests caused by changes in marine productivity which will result from the suspension or transport of pollutants, increases in turbidity, the smothering of bottom organisms, the accumulation of pollutants by organisms, or the destruction of habitat or nutrient source areas.
- (5) Projects not included in Section 2.01 (3) or 2.01 (4) which affect near shore areas of land under the ocean shall not cause adverse effects by altering the bottom topography so as to increase storm damage or erosion of coastal beaches, coastal banks, coastal dunes, or salt marshes.
- (6) Projects not included in 2.01 (3) which affect land under the ocean shall be designed and constructed, so as to cause no adverse effects on wildlife, marine fisheries or shellfish caused by:
  - (a) alterations in water circulation;
  - (b) destruction of eelgrass (Zostera marina) beds;
  - (c) alterations in the distribution of sediment grain size; or
  - (d) changes in water quality, including, but not limited to, other than natural fluctuations in the level of dissolved oxygen, temperature or turbidity, or the addition of pollutants.

## 2.02 Coastal Beaches

### (1) Preamble

Coastal beaches, which are defined to include tidal flats, are significant to wildlife, storm damage prevention and flood control. In addition, tidal flats are likely to be significant to the protection of wildlife, marine fisheries, and where there are shellfish, to land containing shellfish.

Coastal beaches dissipate wave energy by their gentle slope, their permeability and their granular nature, which permit changes in beach form in response to changes in wave conditions.

Coastal beaches serve as a sediment source for dunes and subtidal areas. Steep storm waves cause beach sediment to move offshore, resulting in a gentler beach slope and greater energy dissipation. Less steep waves cause an onshore return of beach sediment, where it will be available to provide protection against future storm waves.

A coastal beach at any point serves as a sediment source for coastal areas

downdrift from that point. The oblique approach of waves moves beach sediment alongshore in the general direction of wave action. Thus, the coastal beach is a body of sediment which is moving along the shore.

Coastal beaches serve the purposes of storm damage prevention and flood control by dissipating wave energy, by reducing the height of storm waves, and by providing sediment to supply other coastal features, including coastal dunes, land under the ocean and other coastal beaches. Interruptions of these natural processes by manmade structures reduce the ability of the coastal beach to perform these functions.

Tidal flats are likely to be significant to the protection of marine fisheries because they provide habitats for marine organisms, such as polychaete worms and mollusks, which in turn are food sources for fisheries.

Tidal flats are also sites where organic and inorganic materials may become entrapped and then returned to the photosynthetic zone of the water column to support algae and other primary producers of the marine food web, together with the various forms of wildlife which feed on these organisms.

Land within 100 feet of a coastal beach or tidal flat is likely to be significant to the protection and maintenance of coastal beaches and flats, and therefore to the protection of the interests which these resource areas serve to protect.

When a proposed project involves the building upon or within, the dredging, filling, removing, or altering of a coastal beach or of land within 100 feet of a coastal beach, the Conservation Commission shall presume that the coastal beach is significant to the interests specified above. This presumption may be overcome only upon a clear showing that a coastal beach does not play a role in storm damage prevention or flood control, or that tidal flats do not play a role in the protection of land containing shellfish, and if the issuing authority makes a written determination to such effect.

When coastal beaches are determined to be significant to storm damage prevention or flood control, the following characteristics are critical to the protection of those interests:

- (a) volume (quantity of sediments) and form, and
- (b) the ability to respond to wave action.

When coastal beaches are significant to the protection of marine fisheries, the following characteristics are critical to the protection of those interests:

1. distribution of sediment grain size,
2. water circulation
3. water quality, and
4. relief and elevation.

(2) Definitions

- (a) "Coastal Beach" means unconsolidated sediment subject to wave, tidal and coastal storm action which forms the gently sloping shore of a body of salt water and includes gently sloping shore of a body of salt water and includes tidal flats. Coastal beaches extend from the mean low water line landward to the dune line, coastal bank line or the seaward edge of existing man-made structures, when these structures replace one of the above lines, whichever is closest to the ocean.
- (b) "Tidal Flat" means any nearby level part of a coastal beach which usually extends from the mean low water line landward to the more steeply sloping face of the coastal beach or which may be separated from the beach by land under the ocean.

- (3) No activity, other than maintenance of an already existing structure, which will result in the building within or upon, removing, filling, or altering of coastal beaches or tidal flats, or of any land within 50 feet of any coastal beach or tidal flat, shall be permitted by the Conservation Commission, except for activity which is allowed under a variance from these regulations granted pursuant to Section 5.01.

### 2.03 Coastal Dunes

(1) Preamble

All coastal dunes are likely to be significant to storm damage prevention and flood control, and all coastal dunes on barrier beaches and the coastal dune closest to the coastal beach in any area are per se significant to storm damage prevention and flood control.

Coastal dunes aid in storm damage prevention and flood control by supplying sand to coastal beaches. Coastal dunes protect inland coastal areas from storm damage and flooding by storm waves and storm elevated sea levels because such dunes are higher than the coastal beaches which they border. In order to protect this function, coastal dune volume must be maintained while allowing the coastal dune shape to conform to natural wind and water flow patterns.

Vegetation cover contributes to the growth and stability of coastal dunes by providing conditions favorable to sand deposition.

On retreating shorelines, the ability of the coastal dunes bordering the coastal beach to move landward at the rate of shoreline retreat allows these dunes to maintain their form and volume, which in turn promotes their function of protecting against storm damage or flooding.

Land within 100 feet of a coastal dune is likely to be significant to the protection and maintenance of coastal dunes, and therefore to the protection of the interest which these resource areas serve to protect.

When a proposed project involves the dredging, filling, removal or alteration of a coastal dune or of land within 100 feet of a coastal dune, the Conservation Commission shall presume that the area is significant to the interests of storm damage prevention and flood control. This presumption may be overcome only upon a clear showing that a coastal dune does not play a role in storm damage prevention or flood control, and if the Conservation Commission makes a written determination to that effect.

When a coastal dune is significant to storm damage prevention or flood control, the following characteristics are critical to the protection of those interest(s):

- (a) the ability of the dune to erode in response to coastal beach conditions;
- (b) dune volume;
- (c) dune form, which must be allowed to be changed by wind and natural water flow;
- (d) vegetative cover; and
- (e) the ability of the dune to move landward or laterally.

(2) Definition

"Coastal Dune" means any natural hill, mound or ridge of sediment landward of a coastal beach deposited by wind action or storm overwash. Coastal dune also means sediment deposited by artificial means and serving the purpose of storm damage prevention or flood control.



- (3) No activity, other than the maintenance of an already existing structure, which will result in the building within or upon, removing, filling, or altering of a coastal dune or of any land within 50 feet of any coastal dune shall be permitted by the Conservation Commission, except for activity which is allowed under a variance from these regulations granted pursuant to Section 5.01.
- (4) Any activity which is allowed under a variance granted pursuant to Section 5.01 of these regulations on a coastal dune or within 100 feet of a coastal dune shall not have an adverse effect on the coastal dune by:
  - (a) affecting the ability of waves to remove sand from the dune;
  - (b) disturbing the vegetative cover so as to destabilize the dune;
  - (c) causing any modification of the dune form that would increase the potential for storm or flood damage;
  - (d) interfering with the landward or lateral movement of the dune; or
  - (e) causing removal of sand from the dune artificially.
- (5) The following projects may be permitted, provided that they adhere to the provisions of Section 2.03 (4):
  - (a) pedestrian walkways, designed to minimize the disturbance to the vegetative cover;
  - (b) fencing and other devices designed to increase dune development; and
  - (c) plantings compatible with the natural vegetative cover.

#### 2.04 Barrier Beaches

- (1) Preamble.

Barrier beaches are significant to wildlife, storm damage prevention and flood control and are likely to be significant to the protection of marine fisheries and, where there are shellfish, the protection of land containing shellfish.

Barrier beaches protect landward areas because they provide a buffer to

storm waves and to sea levels elevated by storms. Barrier beaches protect from wave action such highly productive wetlands as salt marshes, estuaries, lagoons, salt ponds and fresh water marshes and ponds, which are in turn important to marine fisheries.

Barrier beaches are maintained by the alongshore movement of beach sediment caused by wave action. The coastal dunes and tidal flats on a barrier of beach consist of sediment supplied by wind action, storm wave overwash and tidal inlet deposition. Barrier beaches in Massachusetts undergo a landward migration caused by the landward movement of sediment by wind, storm wave migration and tidal current processes. The continuation of these processes maintains the volume of the landform which is necessary to carry out the storm and flood buffer function.

When a proposed project involves removal, filling, dredging or altering of a barrier beach, the issuing authority shall presume that the barrier beach, including all of its coastal dunes, is significant to the interest(s) specified above. This presumption may be overcome only upon a clear showing that a barrier beach, including all of its coastal dunes, does not play a role in storm damage, flood control, or the protection of marine fisheries, or land containing shellfish and if the issuing authority makes a written determination to such effect.

When a barrier beach is significant to storm damage prevention and flood control, the characteristics of coastal beaches, tidal flats and coastal dunes listed in Section 2.03 (1) and 2.04 (1) and their ability to respond to wave action, including storm overwash sediment transport, are critical to the protection of the interest specified above.

(2) Definition.

"Barrier Beach" means a narrow low-lying strip of land generally consisting of coastal beaches and coastal dunes extending roughly parallel to the trend of the coast. It is separated from the mainland by a narrow body of fresh, brackish or saline water or marsh system. A barrier beach may be jointed to the mainland at one or both ends.

(3) The provisions of Section 2.02 (3) (coastal beaches) and 2.04 (3) through 2.04 (5) (coastal dunes) shall apply to the coastal beaches and to all coastal dunes which make up a barrier beach.

## 2.05 Coastal Banks

### (1) Preamble.

Coastal banks are likely to be significant to storm damage prevention and flood control. Coastal banks that supply sediment to coastal beaches, coastal dunes and barrier beaches are per se significant to storm damage prevention and flood control. Coastal banks that, because of their height, provide a buffer to upland areas from storm waters are significant to storm damage prevention and flood control.

Coastal banks composed of unconsolidated sediment and exposed to vigorous wave action serve as a major continuous source of sediment for beaches, dunes, and barrier beaches (as well as other land forms caused by coastal processes). The supply of sediment is removed from banks by wave action, and this removal takes place in response to beach and sea conditions. It is a naturally occurring process necessary to the continued existence of coastal beaches, coastal dunes and barrier beaches which, in turn, dissipate storm wave energy, thus protection structures of coastal wetlands landward of them from storm damage and flooding.

Coastal banks, because of their height and stability, may act as a buffer or natural wall, which protects upland areas from storm damage and flooding. While erosion caused by wave action is an integral part of shoreline processes and furnishes important sediment to downdrift landforms, erosion of a coastal bank by wind and rain runoff, which plays only a minor role in beach nourishment, should not be increased unnecessarily. Therefore, disturbances to a coastal bank which reduce its natural resistance to wind and rain erosion cause cuts and gullies in the bank, increase the risk of its collapse, increase the danger to structures at the top of the bank and decrease its value as a buffer.

Bank Vegetation tends to stabilize the bank and reduce the rate of erosion due to wind and rain runoff. Pedestrian and vehicular traffic damages the protective vegetation and frequently leads to gully erosion or deep "blowouts" on unconsolidated banks. Therefore, any project permitted on a coastal bank should incorporate, when appropriate, elevated walkways.

A particular coastal bank may serve both as a sediment source and as a buffer, or it may serve only one role.

When a proposed project involves dredging, removing, filling or altering a coastal bank on land within 100 feet of a coastal bank, the conservation commission shall presume that the area is significant to storm damage

prevention and flood control. This presumption may be overcome only upon a clear showing that a coastal bank does not play a role in storm damage prevention or flood control and if the issuing authority makes a written determination to that effect.

When conservation commission determines that a coastal bank is significant to storm damage prevention or flood control because it is a vertical buffer to storm waters, the stability of the bank, i.e., the natural resistance of the bank to erosion caused by wind and rain runoff, is critical to the protection of that interest(s).

(2) Definition.

"Coastal Bank" means the seaward face or side of any elevated landform, other than a coastal dune, which lies at the landward edge of a coastal beach, land subject to tidal action, or other wetland.

No activity, other than the maintenance of an already existing structure, which will result in the building within or upon, removing, filling, or altering of a coastal bank or of any land within 50 feet of any coastal bank shall be permitted by the conservation commission, except for activity which is allowed under a variance from the regulations granted pursuant to Section 5.01.

(3) Any activity which is allowed under a variance granted pursuant to Section 5.01 of these regulations on a coastal bank or within 100 feet of a coastal bank shall comply with the following regulations:

(a) No new bulkhead, revetment, seawall, groin or other coastal engineering structure shall be permitted on which a coastal bank except that which a coastal engineering structure may be permitted when required to prevent storm damage to buildings constructed prior to the effective date of these regulations or constructed pursuant to a Notice of Intent filed prior to the effective date of these regulations, including reconstructions of such buildings subsequent to the effective date of these regulations, provided that the following requirements are met:

1. a coastal engineering structure or a modification thereto shall be designed and constructed so as to minimize, using best available measures, adverse effects on adjacent or nearby coastal beaches due to changes in wave action, and
2. the applicant demonstrates that no method of protecting the

building other than the proposed coastal engineering structure is feasible.

3. protective planting designed to reduce erosion may be permitted.
- (b) Any project on a coastal bank or within 100 feet landward of the top of a coastal bank, other than a structure permitted by Section 2.05 (3) (a), shall not have an adverse effect due to wave action on the movement of sediment from the coastal bank to coastal beaches or land subject to tidal action.
  - (c) The Permit and the Certificate of Compliance for any new building within 100 feet landward of the top of a coastal bank permitted by the conservation commission under this By-law shall contain the specific condition: Section 2.05 of the Wetlands Regulation, promulgated under the Brewster Wetlands Protection By-law requires that no coastal engineering structure, such as a bulkhead, revetment, or seawall shall be permitted on an eroding bank at any time in the future to protect the project allowed by this Permit.

When a coastal bank is determined to be significant to storm damage prevention or flood control because it is a vertical buffer to storm waters, the following regulations shall apply:

- (d) Any project on such a coastal bank or within 100 feet landward of the top of such coastal bank shall have no adverse effects on the stability of the coastal bank.

## 2.06 Salt Marshes

- (1) Preamble.

Salt marshes are significant to protection of wildlife, marine fisheries, where there are shellfish, to protection of land containing shellfish, and prevention of pollution and are likely to be significant to storm damage prevention and ground water supply.

A salt marsh produces large amounts of organic matter. A significant portion of this material is exported as detritus and dissolved organics to estuarine and coastal waters, where it provides the basis for a large food web that supports many marine organisms, including finfish and shellfish. Salt marshes also provide a spawning and nursery habitat for several important estuarine forage finfish.

Salt marsh plants and substrate remove pollutants from surrounding waters. The network of salt marsh vegetation roots and rhizomes binds sediments together.

The sediments absorb chlorinated hydrocarbons and heavy metals such as lead, copper, and iron. The marsh also retains nitrogen and phosphorous compounds, which in large amounts can lead to algal blooms in coastal waters.

The underlying peat also serves as a barrier between fresh ground water landward of the salt marsh and the ocean, thus helping to maintain the level of such ground water.

Salt marsh cord grass and underlying peat are resistant to erosion and dissipate wave energy, thereby providing a buffer that reduces wave damage.

Land within 100 feet of a salt marsh is likely to be significant to the protection and maintenance of salt marshes, and therefore to the protection of the interest which these resource areas serve to protect.

When a proposed project involves the dredging, filling, removing or altering of a salt marsh, or land within 100 feet of a salt marsh, the conservation commission shall presume that such area is significant to the interests specified above. This presumption may be overcome only upon a clear showing that a salt marsh does not apply a role in the protection of marine fisheries, prevention of pollution, ground water supply, or storm damage prevention, and if the issuing authority makes a written determination to such effect.

When a salt marsh is significant to one or more of the interests specified above, the following characteristics are critical to the protection of such interest(s):

- (a) the growth, composition and distribution of salt marsh vegetation, (protection of marine fisheries, prevention of pollution, storm damage prevention);
- (b) the flow and level of tidal and fresh water (protection of marine fisheries, prevention of pollution); and
- (c) the presence and depth of peat (ground water supply, prevention of pollution, storm damage prevention).

## (2) Definitions

- (a) "Salt Marsh" means a coastal wetland that extends landward up to the highest Spring Tide line of the year, and is characterized by a plant community consisting of 50% or more of any of the following species: Salt marsh cord grass (*Spartina alterniflora*); Salt meadow cord grass (*Spartina patens*); Spike grass (*Distichlis spicata*); Sea Lavender (*Limonium nashii*); Seaside Plantago (*Plantago juncooides*); Aster (*Aster subulatus*); Seaside Foldenrod (*Solidago sempervirens*); Salt Bush (*Atriplex patula*); Sea-Blite (*Suaeda maritima*); Black-grass (*Juncus gerardi*); Samp hire (*Salicornia europaea*); Glasswort (*S. begelovii*); Reed (*Phragmites australis*); Saltmarsh Bulrush (*Scirpus robustus*); or Cattails (*Typha spp.*).
  - (b) "Spring Tide" means the tide of the greatest amplitude during the approximately 14 day tidal cycle. It occurs at or near the time when the gravitational forces of the sun and moon are in phase (new and full moons).
  - (c) No activity, other than the maintenance of an already existing structure, which will result in the building within or upon, removing, filling, or altering of a salt marsh on land within 50 feet of any salt marsh shall be permitted by the conservation commission, except for activity which is allowed under a variance from these regulations granted pursuant to Section 5.01.
- (3) Any activity which is allowed under a variance granted pursuant to Section 5.01 of these regulations on a salt marsh or within 100 feet of a salt marsh shall comply with the following regulations:
- (a) A proposed project in a salt marsh, on lands within 100 feet of a salt marsh, or in a body of water adjacent to a salt marsh shall not destroy any portion of the salt marsh and shall not have an adverse effect on the productivity of the salt marsh. Alterations in growth, distribution and composition of salt marsh vegetation shall be considered in evaluating adverse effects on productivity.
  - (b) Notwithstanding the provisions of Section 2.05 (3) (a), a small project within a salt marsh, such as an elevated walkway or other structure which has no adverse effects other than blocking sunlight from the underlying vegetation for a portion of each day, may be permitted if such a project complies with all other applicable requirements of these regulations.

- (c) Notwithstanding the provisions of Section 2.06 (2) and (3) a project which will restore or rehabilitate a salt marsh, or create a salt marsh, may be permitted; provided, however, that the section shall not be construed to allow the alteration of one salt marsh on a given site by (or contingent upon) the creation of another.

## 2.07 Land Under Salt Pond and Land Within 100 Feet of the Bank of Salt Ponds

### (1) Preamble.

Land under salt ponds is significant to the protection of marine fisheries and wildlife, and, where there are shellfish, to the protection of land containing shellfish.

Land under salt ponds provides an excellent habitat for marine fisheries. The high productivity of plants in salt ponds provides food for shellfish, crustaceans and larval and juvenile fish. Salt ponds also provide spawning areas for shellfish and nursery areas for crabs and fish.

Land within 100 feet of the bank of a salt pond is likely to be significant to the protection and maintenance of land under salt ponds, and therefore to the protection of the interest which these resource areas serve to protect.

When a proposed project involves the dredging, filling, removing or altering of land under a salt pond or land within 100 feet of the bank of a salt pond, the conservation commission shall presume that such land is significant to the protection of marine fisheries and, where there are shellfish, to the protection of land containing shellfish. This presumption may be overcome only upon a clear showing that land under a salt pond does not play a role in the protection of marine fisheries or land containing shellfish, and if the conservation commission makes a written determination to such effect.

When land under a salt pond is significant to the protection of marine fisheries, the following factors are critical to the protection of that interest:

- (a) water circulation,
- (b) distribution of sediment grain size,
- (c) freshwater inflow,
- (d) productivity of plants, and
- (e) water quality.

### (2) Definition.

"Salt Pond" means a shallow enclosed or semi-enclosed body of saline water



that may be partially or totally restricted by barrier beach formation. Salt ponds may receive freshwater from small streams emptying into their upper reaches and/or springs in the salt pond itself.

- (3) No activity, other than the maintenance of an already existing structure, which will result in the building within or upon, removing, filling, or altering of land under a salt pond or land within 50 feet of the bank of a salt pond shall be permitted by the Conservation Commission, except for activity which is allowed under a variance from these regulations granted pursuant to Section 5.01.
- (4) Any activity which is allowed under a variance granted pursuant to Section 5.01 of these regulations on land under a salt pond or land within 100 feet of the bank of a salt pond shall comply with the following regulations:
  - (a) Any project on land under a salt pond, on lands within 100 feet of the mean high water line of a salt pond, or on land under a body of water adjacent to a salt pond shall not have an adverse effect on the marine fisheries or shellfish habitat of such a salt pond caused by:
    1. alterations of water circulation;
    2. alterations in the distribution of sediment grain size and the relief or elevation of the bottom topography;
    3. modifications in the flow of fresh wand/or salt water;
    4. alterations in the productivity of plants, or;
    5. alterations in water quality, including, but not limited to, other than normal fluctuations in the level of dissolved oxygen, nutrients, temperature or turbidity, or the addition of pollutants.
- (5) Notwithstanding the provisions of 2.07 (3) and (4), activities specifically designed and intended to maintain the depth and the opening of the salt pond to the ocean in order to maintain or enhance the marine fisheries or for the specific purpose of fisheries management, may be permitted.

## 2.08 Land Containing Shellfish

- (1) Preamble.

Land containing shellfish is found within certain of the resource areas under the jurisdiction of the By-law. Shellfish are also specifically one of the interests of the By-law. The purpose of this section is to identify those resource areas likely to contain shellfish and to establish regulations for projects which will affect such land.

Land containing shellfish is significant to the protection of marine fisheries as well as to the protection of the interest of land containing shellfish.

Shellfish are a valuable renewable resource. The maintenance of productive shellfish beds not only assures the continuance of shellfish themselves, but also plays a direct role in supporting fish stocks by providing a major food source. The young shellfish in the planktonic larval stage that are produced in large quantities during spring and summer are an important source of food for the young stages of marine fishes and many crustaceans.

When a resource area is found to be significant to the protection of and containing shellfish, and is, therefore, also significant to marine fisheries the following factors are critical to the protection of those interests:

- (a) shellfish,
- (b) water quality,
- (c) water circulation, and
- (d) the natural relief, evaluation or distribution of sediment grain size of such land.

(2) Definitions.

- (a) "Land containing shellfish" means land under the ocean, tidal flats, salt marshes and land under salt ponds when any such land contains shellfish.
- (b) "Shellfish" means the following species: Bay scallop (*Aegopecten irradians*); Blue mussel (*Mytilus edulis*); Ocean quohog (*Artica islandica*); Oyster (*Crassostrea virginical*); Quohog (*Mercenaria merceneria*); Razor clam (*Ensis directus*); Sea clam (*Spisula solidissima*); Sea Scallop (*Placopecten magellanicus*); Soft shell clam (*Mya arenaria*); Lobster (*Homarus americanus*); Grass shrimp (*Palaemonetes, sp.*); Sand shrimp (*Crangon septemspinosa*); Blue crab (*Callinectes sapidus*); Green crab (*Carcinus maenas*); Fiddler crab (*Uca sp.*); Rock crab (*Cancer irroratus*); and Freshwater mussel (*Andonata implicata*) and (*Elliptio complanata*).

(3) Except as provided in Section 2.08 (4) and (5) below, any project on land containing shellfish shall not adversely affect such land or marine fisheries by a change in the productivity of such land caused by:

- (a) alterations of water circulation,
- (b) alterations in relief elevations,
- (c) the compacting of sediment by vehicular traffic,

- (d) alterations in the distribution of sediment grain size,
  - (e) alterations in natural drainage from adjacent land, or,
  - (f) changes in water quality, including, but not limited to, other than natural fluctuations in the levels of salinity, dissolved oxygen, nutrients, temperature or turbidity, or the addition of pollutants.
- (4) Except in Areas of Critical Environmental Concern, the Conservation Commission may, after consultation with the Shellfish Constable, permit the shellfish to be moved from such area under the guidelines of, and to a suitable location approved by, DMF, in order to permit a proposed project on such land. Any such project shall not be commenced until after the moving and replanting of the shellfish has commenced.
- (5) Notwithstanding Section 2.08 (3), projects approved by DMF that are specifically intended to increase the productivity of land containing shellfish may be permitted in the discretion of the Conservation Commission. Aquaculture projects approved by the appropriate local and state authority may also be permitted, within the discretion of the Conservation Commission.

#### 2.09 Banks of or Land Under the Ocean, Ponds, Streams, Rivers, Lakes, or Creeks that Underlie An Anadromous/Catadromous Fish Run ("Fish Run")

- (1) Preamble.

The banks of and land under the ocean, ponds, streams, rivers, lakes or creeks that underlie an anadromous/catadromous fish run are significant to protection of marine fisheries and wildlife land within 100 feet of such banks is likely to be significant to the protection and maintenance of these banks, and therefore to the protection of the interests which these resource areas serve to protect.

Anadromous and catadromous fish ("the fish") are renewable protein resources that provide recreational, aesthetic and commercial benefits. In addition, throughout their life cycle such fish are important components of freshwater, estuarine, and marine environments and are food sources for other organisms.

The spawning migrations of such fish also provide a direct link between marine and freshwater ecosystems. This link plays a role in maintaining the productivity of fisheries. When a proposed project involves the dredging, filling, removing or altering of a bank of fish run, or land under the ocean, or under a pond, stream, river, lake or creek which is a fish run, or of any land

within 100 feet of these areas, the Conservation Commission shall presume that such bank or land is significant to the protection of marine fisheries. This presumption may be overcome only upon a clear showing that such bank or land does not play a role in the protection of marine fisheries, and if the Conservation Commission makes a written determination to that effect.

When such a bank of a fish run, or land under the ocean or under a pond, stream, river, lake or creek which is a fish run is significant to the protection of marine fisheries, the following factors are critical to the protection of such interests:

- (a) the fish,
- (b) accessibility of spawning areas,
- (c) the volume or rate of the flow of water within spawning areas and migratory routes, and
- (d) spawning and nursery grounds.

(2) Definitions.

- (a) "Anadromous Fish" means fish that enter fresh water from the ocean to spawn, such as alewives, shad and salmon.
- (b) "Catadromous Fish" means fish that enter salt water from fresh water to spawn, such as eels.
- (c) "Anadromous/Catadromous Fish Run" means that area within estuaries, ponds, streams, creeks, rivers, lakes or coastal waters, which is spawning or feeding ground or passageway for anadromous or catadromous fish. Such fish runs shall include those areas which have historically served as fish runs and are either being restored or are planned to be restored at the time the Application for Permit is filed.

(3) No activity, other than the maintenance of an already existing structure, which will result in the building within or upon, removing, filling, or altering of the bank of a fish run, land under a fish run, or land within 50 feet of the bank of a fish run shall be permitted by the Conservation Commission, except for activity which is allowed under a variance granted pursuant to Section 5.01.

(4) Any activity which is allowed under a variance granted pursuant to Section 5.01 of these regulations on the bank of a fish run, land under a fish run, or land within 50 feet of the bank of a fish run shall comply with the following regulations:

- (a) Any project on such land or bank shall not have an adverse effect on the anadromous or catadromous fish run by:
  - 1. impeding or obstructing the migration of the fish; or by causing mortality to adult or juvenile fish; or
  - 2. changing the volume or rate of flow of water within the fish run; or
  - 3. impairing the capacity of spawning or nursery habitats necessary to sustain the various life stages of the fish.
- (b) Dredging, disposal of dredge material or filling in a fish run shall be prohibited.

### PART III REGULATIONS FOR INLAND WETLANDS

#### 3.01 Inland Banks (Naturally Occurring Banks and Beaches)

- (1) Preamble.

Banks are likely to be significant to wildlife, public or private water supply, to ground water supply, to flood control, to storm damage prevention, to the prevention of pollution and to the protection of fisheries. Where Banks are composed of concrete, asphalt or other artificial impervious material, said Banks are likely to be significant to flood control and storm damage prevention.

Banks are areas where ground water discharges to the surface and where, under some circumstances, surface water recharges the ground water.

Where Banks are partially or totally vegetated, the vegetation serves to maintain the Banks' stability, which in turn protects water quality by reducing erosion and siltation.

Banks may also provide shade that moderates water temperatures, as well as providing breeding habitat, escape cover and food, all of which are significant to the protection of fisheries. Banks which drop off quickly or overhang the water's edge often contain numerous undercuts which are favorite hiding spots for important game species such as largemouth bass (*Micropterus salmoides*).

Banks act to confine floodwaters during the most frequent storms, preventing the spread of water to adjacent land. Because Banks confine water during

such storms to an established channel they maintain water temperatures and depths necessary for the protection of fisheries. The maintenance of cool water temperatures during warm weather is critical to the survival of important game species such as brook trout (*Salvelinus fontinalis*), rainbow trout (*Salvelinus gairdneri*), and brown trout (*Salmo trutta*). An alteration of a Bank that permits water to frequently and consistently spread over a larger and more shallow area increases the amount of property which is routinely flooded, as well as elevating water temperature and reducing fish habitat within the main channel, particularly during warm weather.

Land within 100 feet of a bank is likely to be significant to the protection and maintenance of the bank, and therefore to the protection of the interests which these resource areas serve to protect.

- (2) Definition, Critical Characteristics and Boundary
  - (a) A Bank is the portion of the land surface which normally abuts and confines a water body. A Bank may be partially or totally vegetated or it may be comprised of exposed soil, gravel or stone.
  - (b) The physical characteristics of a Bank, as well as its location, as described in the foregoing subsection (2) (a) are critical to the protection of the interests specified in Section 3.01 (1).
  - (c) The upper boundary of a Bank is the first significant break in the slope or the mean annual flood level, whichever is higher. The lower boundary of a Bank is the mean annual low flow level.
- (3) No activity, other than the maintenance of an already existing structure, which will result in the building within or upon, removing, filling, or altering of a bank, on land within 50 feet of any bank, shall be permitted by the Conservation Commission, except for activity which is allowed under a variance from these regulations granted pursuant to Section 5.01.
- (4) Any activity which is allowed under a variance granted pursuant to Section 5.01 of these regulations on a Bank or on land within 100 feet of a Bank shall comply with the following regulations:
  - (a) Any proposed work on a Bank or within 100 feet of a Bank shall not impair the following:
    1. the physical stability of the Bank;
    2. the water carrying capacity of the existing channel within the Bank;

3. ground water and surface water quality;
4. the capacity of the Bank to provide breeding habitat, escape cover and food for fisheries.

### 3.02 Vegetated Wetlands (Wet Meadows, Marshes, Swamps and Bogs)

#### (1) Preamble

Vegetated Wetlands are likely to be significant to wildlife, public or private water supply, to ground water supply, to flood control, to storm damage prevention, to prevention of pollution, to the protection of fisheries, and to the protection of shellfish.

The plant communities, soils and associated low, flat topography of Vegetated Wetlands remove or detain sediments, nutrients (such as nitrogen and phosphorous) and toxic substances (such as heavy metal compounds) that occur in run-off and flood waters.

Some nutrients and toxic substances are detained for years in plant root systems or in the soil. Others are held by plants during the growing season and released as the plants decay in the fall and winter. This latter phenomenon delays the impacts of nutrients and toxins until the cold weather period, when such impacts are less likely to reduce water quality.

Vegetated Wetlands are areas where ground water discharges to the surface and where, under some circumstances, surface water discharges to the ground water.

The profusion of vegetation and the low, flat topography of Vegetated Wetlands slow down and reduce the passage of flood waters during periods of peak flows by providing temporary flood water storage, and by facilitating water removal through evaporation and transpiration. This reduces downstream flood crests and resulting damage to private and public property. During dry periods the water retained in Vegetated Wetlands is essential to maintenance of base flow levels in rivers and streams, which in turn is important to the protection of water quality and water supplies.

Wetland vegetation provides shade that moderates water temperatures important to fish life. Wetlands flooded by adjacent water bodies and waterways provides food, breeding habitat and cover for fish. Fish populations in the larval stage are particularly dependent upon food provided by over-bank flooding which occurs during peak flow periods (extreme storms), because most river and stream channels do not provide quantities of the microscopic plant and animal life required.

Wetland vegetation supports a wide variety of insects, reptiles, amphibians, mammals and birds which are a source of food for important game fish. Bluegills (*Lepomis macrochirus*), pumpkinseeds (*Lepomis gibbosus*), yellow perch (*Perca flavescens*), rock bass (*Ambloplites rupestris*) and all trout species feed upon nonaquatic insects. Largemouth bass (*Micropterus salmoides*), chain pickerel (*Esox niger*) and northern pike (*Esox lucius*) feed upon small mammals, snakes, nonaquatic insects, birds and amphibians. These Wetlands are also important to the protection of rare and endangered wildlife species.

Vegetated Wetlands, together with land within 100 feet of a vegetated wetland, serve to moderate and alleviate thermal shock and pollution resulting from runoff from impervious surfaces which may be detrimental to wildlife, fisheries, and shellfish downstream of the vegetated wetland.

The maintenance of base flows by vegetated wetlands is likely to be significant to the maintenance of a proper salinity ratio in estuarine areas downstream of the vegetated wetland. A proper salinity ratio, in turn, is essential to the ability of shellfish to spawn successfully, and to therefore provide for the continuing procreation of shellfisheries.

Land within 100 feet of a Vegetated Wetland is likely to be significant to the protection and maintenance of vegetated wetlands, and therefore to the protection of the interests which these resource areas serve to protect.

(2) Definition, Critical Characteristics and Boundary

- (a) Vegetated Wetlands are freshwater wetlands. The types of freshwater wetlands are wet meadows, marshes, swamps and bogs. They are areas where the topography is low and flat, and where the soils are annually saturated. The ground and surface water regime and the vegetational community which occur in each type of freshwater wetland are specified in Section 3.02 (2) (c), below.
- (b) The physical characteristics of Vegetated Wetlands, as described in the foregoing subsection (2) (a), are critical to the protection of the interests specified in Section 3.02 (1) above.
- (c) The boundary of Vegetated Wetlands is the line within which 50 percent or more of the vegetational community consists of the wetland plant species identified in Section 3.02 (2) (c) (1) through 3.02 (2) (c) (4), below:

1. The term "bogs" as used in this section shall mean areas



where standing or slowly running water is near or at the surface during a normal growing season and where a vegetational community has a significant portion of the ground or water surface covered with sphagnum moss (Sphagnum spp.) and where the vegetational community is made up of a significant portion of one or more of, but not limited to nor necessarily including all, of the following plants or groups of plants: aster (Aster nemoralis), azaleas (Rhododendron canadense and R. viscosum), black spruce (Picea mariana), bog cotton (Eriophorum), cranberry (Vaccinium macrocarpon), high-bush blueberry (Vaccinium corymbosum), larch (Larix laricina), laurels (Kalmia augustifolia and K. polifolia), leatherleaf (Chamaedaphne calyculata), orchids (Arethusa, Calopogon, Pogonia), pitcher plants (Sarracenia purpurea), sedges (Cyperaceae), sundews (Drosera), sweet gale (Myrica gale), white cedar (Chamaecyparis thyoides).

2. The term "swamps", as used in this section, shall mean areas where ground water is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface, and where a significant part of the vegetational community is made up of, but not limited to nor necessarily include all of the following plants or groups of plants: alders (Alnus), ashes (Fraxinus), azaleas (Rhododendron canadense and R. viscosum), black alder (Ilex verticillata), black spruce (Picea mariana), button bush (Cephalanthus occidentalis), American or white elm (Ulmus americana), white Hellebore (Veratrum viride), hemlock (Tsuga canadensis), highbush blueberry (Vaccinium corymbosum), larch (Larix laricina), cowslip (Caltha palustris), poison sumac (Toxicodendron vernix), red maple (Acer rubrum), skunk cabbage (Symplocarpus foetidus), sphagnum mosses (Sphagnum), spicebush (Lindera benzoin), black gum tupelo (Nyssa sylvatica), sweet pepper bush (Clethra alnifolia), white cedar (Chamaecyparis thyoides), willow (Salicaceae).

3. The term "wet meadows," as used in this section where ground water is at the surface for a significant part of the growing season and near the surface throughout the year and where a significant part of the vegetational community is composed of various grasses, sedges and rushes; made up of, but not limited to nor necessarily including all, of the following plants or groups of plants: blue flag (Iris), vervain (Verbena),

thoroughwort (Eupatorium), dock (Rumex), false loosestrife (Ludwigia), hydrophilic grasses (Poaceae), loosestrife (Lythrum), marsh fern (Dryopteris thelypteris), rushes (Juncaceae), sedges (Cyperaceae), sensitive fern (Onoclea sensibilis), smartweed (Polygonum).

4. The term "marshes," as used in this section, shall mean areas where a vegetational community exists in standing or running water during the growing season and where a significant part of the vegetational community is composed of, but not limited to nor necessarily including all, of the following plants or groups of plants: arums (Araceae), bladder worts (Utricularia), bur reeds (Sparganiaceae), button Bush (Cephalanthus occidentalis), cattails (Typha), duck weeds (Lemnaceae), eelgrass (Vallisneria), frog bits (Hydrocharitaceae), horsetails (Equisetaceae), hydrophilic grasses (Poaceae), leatherleaf (Chamaedaphne calyculata), pickerel weeds (Pontederiaceae), pipeworts (Eriocaulon), pond weeds (Potamogeton), rushes (Juncaceae), sedges (Cyperaceae), smartweeds (Polygonum), sweet gale (Myrica gale), water milfoil (Haloragaceae), water lilies (Nymphaeaceae), water startworts (Callitrichaceae), water willow (Decodon verticillatus).
- (3) No activity, other than the maintenance of an already existing structure, which will result in the building within or upon, removing, filling, or altering of a vegetated wetland, or of land within 50 feet of a vegetated wetland, shall be permitted by the Conservation Commission, except for activity which is allowed under a variance from these regulations granted pursuant to Section 5.01.
- (4) Any activity which is allowed under a variance granted pursuant to Section 5.01 of these regulations upon or within 50 feet of a vegetated wetland shall not impair in any way the vegetated wetland's ability to perform any of the functions set forth in Section 3.02 (1).

### 3.03 Land Under Water Bodies (under any Creek, River, Stream, Pond or Lake, and Flats)

- (1) Preamble

Land Under Water Bodies and Waterways is likely to be significant to wildlife, public and private water supply, to ground water supply, to flood control, to storm damage prevention, to prevention of pollution and to the protection of fisheries.

Where Land under Water Bodies and Waterways is composed of previous material, such land represents a point of exchange between surface and ground water.

The physical nature of Land Under Water Bodies and Waterways is highly variable, ranging from deep organic and fine sedimentary deposits to rocks and bedrock. The organic soil and sediments play an important role in the process of detaining and removing dissolved and particulate nutrients (such as nitrogen and phosphorous) from the surface water above. They also serve as traps for toxic substances (such as heavy metal compounds).

Land Under Water Bodies and Waterways, in conjunction with banks, serves to confine floodwater within a definite channel during the most frequent storms. Filling within this channel blocks flows which in turn causes backwater and overbank flooding during such storms. An alteration of Land Under Water Bodies and Waterways that causes water to frequently spread out over a larger area at a lower depth increases the amount of property which is routinely flooded. Additionally, it results in an elevation of water temperature and a decrease in habitat in the main channel, both of which are detrimental to fisheries, particularly during periods of warm weather and low flows.

Land under rivers, streams and creeks that is composed of gravel allows the circulation of cold, well oxygenated water necessary for the survival of important game fish species such as brook trout (*Salvelinus fontinalis*), rainbow trout (*Salvelinus gairdneri*), brown trout (*Salmo trutta*) and atlantic salmon (*Salmon salar*). River, stream, and creek bottoms with a diverse structure composed of gravel, large and small boulders and rock outcrops provides escape cover and resting areas for the above mentioned game fish species (salmonids). Such bottom type also provides areas for the production of aquatic insects essential to fisheries.

Land under ponds and lakes is vital to a large assortment of warm water fish during spawning periods. Species such as largemouth bass (*Micropterus salmoides*), smallmouth bass (*Micropterus dolomieu*), blue gills (*Lepomis macrochirus*), pumpkinseeds (*Lepomis gibbosus*), black crappie (*Pomoxis nigromaculatus*) and rock bass (*Ambloplites rupestris*) build nests on the lake and bottom substrates within which they shed and fertilize their eggs.

Land within 100 feet of any bank abutting land under a water body is likely to be significant to the protection and maintenance of land under a body of water, and therefore to the protection of the interests which these waterbodies serve to protect.

- (2) Definition, Critical Characteristics and Boundaries
  - (a) Land Under Water Bodies is the land beneath any creek, river, stream, pond or lake. Said land may be composed of organic muck or peat, fine sediments, rocks or bedrock.
  - (b) The physical characteristics and location of Land Under Water Bodies and Waterways specified in the foregoing subsection (2) (a) are critical to the protection of the interests specified in Section 3.03 (1) above.
  - (c) The Boundary of Land Under Water Bodies is the mean annual low water level.
- (3) No activity, other than the maintenance of an already existing structure, which will result in the building within or upon, removing, filling, or altering of land under a waterbody shall be permitted by the Conservation Commission, except for activity which is allowed under a variance from these regulation granted pursuant to Section 5.01.
- (4) Any activity which is allowed under a variance granted pursuant to Section 5.01 of these regulations on land under a waterbody shall comply with the following regulations
  - (a) Any proposed work upon land under a waterbody shall not impair the following:
    - 1. The water carrying capacity within the defined channel, which is provided by said land in conjunction with the banks;
    - 2. Ground and surface quality; and
    - 3. The capacity of said land to provide breeding habitat, escape cover and food for fisheries.

### 3.04 Land Subject to Flooding (both Bordering and Isolated Areas)

#### (1) Preamble

##### (a) Bordering Land Subject to Flooding:

Bordering Land Subject to Flooding is an area which floods from a rise in a bordering waterway or water body. Such areas are likely to be significant to flood control and storm damage prevention.

Bordering Land Subject to Flooding provides a temporary storage area for flood water which has overtopped the bank of the main channel of a creek, river or stream or the basin of a pond or lake. During periods of peak run-off, flood waters are both retained (i.e., slowly released through evaporation and percolation) and detained (slowly released through surface discharge) by Bordering Land Subject to Flooding. Over time, incremental filling of these areas causes increases in the extent and level of flooding by eliminating flood storage volume or by restricting flows, thereby causing increases in damage to public and private properties.

(b) Isolated Land Subject to Flooding:

Isolated Land Subject to Flooding is an isolated depression or a closed basin which serves as a ponding area for run-off or high ground water which has risen above the ground surface. Such areas are likely to be locally significant to flood control and storm damage prevention. In addition, where such areas are underlain by pervious material they are likely to be significant to public or private water supply and to ground water supply. Where such areas are underlain by pervious material covered by a mat of organic peat and muck, they are also likely to be significant to the prevention of pollution. Isolated land subject to flooding provides important breeding habitat for amphibians and some rare plants. Isolated Land Subject to Flooding provides a temporary storage area where run-off and high ground water pond and slowly evaporate or percolate into the substrate. Filling causes lateral displacement of the ponded water onto contiguous properties, which may in turn result in damage to said properties.

Isolated Land Subject to Flooding, where it is underlain by pervious material, provides a point of exchange between ground and surface waters. Contaminants introduced into said area, such as septic system discharges and road salts, find easy access into the ground water and neighboring wells. Where these conditions occur and a mat of organic peat or muck covers the substrate of the area, said mat serves to detain and remove contaminants which might otherwise enter the ground water and neighboring wells.

(2) Definitions, Critical Characteristics and Boundaries

(a) Bordering Land Subject to Flooding

1. Bordering Land Subject to Flooding is an area with low, flat

topography adjacent to and inundated by flood waters rising from creeks, rivers, streams, ponds or lakes. It extends from the banks of these waterways and water bodies; where a bordering vegetated wetland occurs, it extends from said wetland.

2. The topography and location of Bordering Land Subject to Flooding specified in the foregoing subsection (2) (a) are critical to the protection of the interests specified in Section 3.04 (1) (a) above.
3. The boundary of Bordering Land Subject to Flooding is the estimated maximum lateral extent of flood water which will theoretically result from the statistical 100 year frequency storm. Said boundary shall be that determined by reference to the most recently available flood profile data prepared for the community within which the work is proposed under the National Flood Insurance Program (NFIP, currently administrated by the Federal Emergency Management Agency, successor to the U.S. Department of Housing and Urban Development). Said boundary, so determined, shall be presumed accurate. This presumption may be overcome only by credible evidence from a registered professional engineer or other professional competent in such matters.

Where NFIP Profile data is unavailable, the boundary of Bordering Land Subject to Flooding shall be the maximum lateral extent of flood water which has been observed or recorded.

(b) Isolated Land Subject to Flooding:

1. Isolated Land Subject to Flooding is an isolated depression or closed basin without an inlet or an outlet. It is an area which at least once a year confines standing water.

Isolated Land Subject to Flooding may be underlain by pervious material, which in turn may be covered by a mat of organic peat or muck.

2. The characteristics specified in the foregoing subsection (2) (b) (1) are critical to the protection of the interests specified in Section 3.04 above.

3. The boundary of Isolated Land Subject to Flooding is the perimeter of the largest observed or recorded volume of water confined in said area.
- (3) No activity, other than the maintenance of an already existing structure, which will result in the building within or upon, removing, filling, or altering of land subject to flooding shall be permitted by the Conservation Commission, except for activity which is allowed under a variance from these regulations granted pursuant to Section 5.01.
- (4) Any activity which is allowed under a variance granted pursuant to Section 5.01 of these regulation on land subject to flooding shall not result in the following:
  - (a) Flood damage due to filling which causes lateral displacement of water that would otherwise be confined within said area.
  - (b) An adverse effect on public and private water supply or ground water supply where said area is underlain by pervious material.
  - (c) An adverse effect on the capacity of said area to prevent pollution of the ground water, where the area is underlain by pervious material which in turn is covered by a mat of organic peat and muck.

PART IV. CATEGORICAL PERMISSION FOR MOSQUITO CONTROL PROJECTS  
AND PROJECTS AND ACTIVITY AFFECTING EXISTING CRANBERRY BOGS

4.01 Activities Affecting Cranberry Bogs

- (1) Pursuant to Section 2 of the By-law, the Conservation Commission categorically gives permission for work on land which is being used as of the effective date of these regulations as bogs in actual agricultural use or on land to be used in a related manner which is incidental thereto and represents a customary and necessary use in raising such products, provided it is carried out in accordance with the following general conditions and any additional conditions deemed necessary by the Conservation Commission:
  - (a) all fertilizers, pesticides, herbicides and other such materials shall be used in accordance with all applicable state and federal laws and regulations governing their use as well as any such municipal regulations; and

- (b) all activities shall be undertaken in such a manner as to prevent erosion and siltation of adjacent water bodies and wetlands as specified by the U.S.D.A. Soil Conservation Service, "Guidelines for Soil and Water Conservation"; and
  - (c) there shall be no contamination or pollution of any adjacent of contiguous water body, creek, stream, pond, lake, or the ocean. any violation of this general condition shall be cause to revoke permission for operation of the bog under the By-law and require an Application for a Permit, any other provision of the law notwithstanding.
- (2) The permission granted in Section 4.01 (a) shall only apply to existing bogs in actual production at the effective date of these regulations. Abandoned bogs, or bogs upon which renovation is proposed, shall be subject to all other provisions of these regulations.

#### 4.02 Mosquito Control Projects

- (1) Pursuant to Section 2 of the By-law, the Conservation Commission categorically give permission for mosquito control projects performed pursuant to the provisions of Clause 36 of M.G. L.c. 50 s5, of M.G.L.c. 252, or of any special act, provided that adequate notice, oral or written, has been given to the Conservation Commission at least 24 hours prior to the commencement of any work other than normal maintenance and control.

#### 4.03 Other Categorical Permission

- (1) There shall be no other categorical permission granted by the Conservation Commission except by amendment to this part of these regulations, and in accordance with the provisions of the By-law.

### PART V. VARIANCES

#### 5.01 Variances

- (1) The Conservation Commission may, in its discretion, grant variances for the operation of one or more of these regulations pursuant to this Section. Such variances are intended to be granted only in rare and unusual cases, and shall be granted only in accordance with the provisions of this section.

A variance may be granted only for the following reasons and upon the following conditions:



- (a) The Conservation Commission may grant a variance from these regulations upon a clear and convincing showing by the applicant that any proposed work, or its natural and consequential impacts and effects, will not have any adverse effect upon any of the interests protected in the By-law. It shall be the responsibility of the applicant to provide the Conservation Commission with any and all information which the Commission may in writing request in order to enable the Commission to ascertain such adverse effects, and the failure of the applicant to furnish any information which has been so requested shall result in the denial of a request for the variance pursuant to this subsection.
  
- (b) The Conservation Commission may grant a variance from these regulations when it is necessary to avoid so restricting the use of the property as to constitute an unconstitutional taking without compensation. If an application for a variance pursuant to the subsection is received by the Conservation Commission, the Commission may request an opinion from Town Counsel as to whether the application of these regulations to a particular case will result in such a taking without compensation.

## PART VI: FORMS

### 6.01 Forms

The following forms, together with any requirements for the submission of Applications for Permits or Requests for Determination of Applicability which the Conservation Commission may promulgate in writing, are incorporated by reference, and are expressly made a part of these Regulations.

***POLICY NO:*** 19

***DATE APPROVED:*** 4/29/96

***AMENDED:*** 8/25/97

***TOWN OF BREWSTER***

***USE OF LEGAL SERVICES POLICY***

***REQUEST FOR LEGAL SERVICES:***

In order to receive a legal opinion or to pursue civil litigation from Brewster's Town Counsel the requesting Department Supervisor or Chairman of the requesting Board, Committee, Commission or other entity should complete a form entitled "Request for Legal Services" and submit the completed form, along with any pertinent information attached, to the Town Administrator for approval. If approved the Town Administrator will forward the information to Town Counsel. The Town Administrator may also express comments or concerns to Town Counsel about any information relative to the request for legal services.

***EXCEPTION/CRIMINAL LITIGATION:***

The Town Administrator shall refer any request for legal services requiring criminal litigation to the Board of Selectmen for review and approval prior to forwarding the request to Town Counsel. The Board of Selectmen shall have the authority to require that the requesting department supervisor, board, committee, commission or other entity meet with them in order to more fully discuss the request.

***EXCEPTION/INTERDEPARTMENTAL DISPUTES OR DISAGREEMENT:***

The Town Administrator shall also review each and every request for legal services involving a dispute or disagreement between two or more Town departments, boards, committees, commissions or other entities. The Town Administrator shall have the authority, at his/her discretion, to first call a joint meeting between boards, committees, commissions or other entities involved, in order to mediate, and/or to authorize mediation services to a resolution. For purposes of economy, resort to outside agencies and/or individuals to obtain mediation assistance, in order to reach a resolution between the disagreeing boards and/or committees.

In the event that no resolution is reached, the Town Administrator shall decide upon each request for legal services by each department, board, committee, commission or other entity. The Board of Selectmen shall review the Town Administrator's decision and in all such cases retains the authority to restrict the use of Town counsel and the Town's legal budget for said legal services.

*APPEAL TO BOARD OF SELECTMEN:*

Any decision or determination made by the Town Administrator is appealable to the full Board of Selectmen. Such appeal should be in writing to the Chairman of the Board of Selectmen.

*TOWN ADMINISTRATOR REQUIREMENTS:*

The Town Administrator will provide a periodic summary of Legal Services Authorization to the Board of Selectmen.



**Town of Brewster**  
2198 Main Street  
Brewster, Massachusetts 02631-1898  
(508) 896-3701  
FAX (508) 896-8089

**POLICY NO:** 20

**DATE ADOPTED:** 4.4.16

**AMENDED:** \_\_\_\_\_

## **TOWN OF BREWSTER SUBSTANCE ABUSE POLICY**

### **I. Statement of Purpose**

To foster a safe, healthy and productive work environment, the Town of Brewster maintains a Substance Abuse Policy (the "Policy"). The Town of Brewster recognizes that a wide range of problems, not directly associated with one's job function, can have an adverse effect on an employee's health and job performance. The abuse of psychoactive drugs or substance abuse is one such problem. With this policy, the Town of Brewster endeavors to ensure that an employee's substance abuse problem does not jeopardize the successful operation of our business, or otherwise negatively affect the Town of Brewster, our employees or the general public.<sup>1</sup>

### **II. Coverage**

The Policy applies to all full-time, part-time, temporary and contract employees of the Town of Brewster.

The Town of Brewster subjects drivers of any Town vehicle (whether or not subject to Department of Transportation ("DOT") laws) to additional requirements. See "Compliance Requirements for Drivers."

All employees must sign an acknowledgment form and substance abuse testing consent form at the time of hire. (See Appendices B and C).

### **III. Education and Training**

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<sup>1</sup> Definitions of key terms used in this Policy are contained in Appendix A.

The Town of Brewster recognizes the need for a balanced approach to achieving a drug and Alcohol-free workplace. The Town of Brewster offers the following resources in support of our employees:

1. *Employee Education* - To assist employees in understanding the problems and dangers associated with substance abuse, and in an ongoing effort to prevent and eliminate substance abuse in the workplace, The Town provides access to information, and referral resources for its employees regarding substance abuse and the Policy.
2. *Supervisory Training* – Managers and supervisors will receive information and appropriate training regarding their roles in connection with the Policy. Supervisors are responsible for monitoring job performance and identifying patterns of job performance deterioration as they develop.

#### **IV. Prohibited Conduct**

The Town of Brewster is concerned with those situations where the employees' use of Alcohol and/or drugs interferes with their job performance, adversely affects the job performance and safety of other employees, or may adversely impact the Town's ability to conduct business.

The following employee conduct is prohibited:

1. Use, possession, distribution, dispensation, sale or storage (including in a desk, locker, automobile, tool box, lunch box, briefcase or other repository) of a Controlled Substance or intoxicants, and the use of Alcohol, look alike drugs, designer drugs, and volatile substances while on the job, in Town-supplied vehicles, in vehicles being used for the Town purposes, during working hours, or while representing the Town in any manner, or on agency Property.

The possession of paraphernalia associated with the use of these substances is also a violation of this policy.

2. "Being under the influence" of a Controlled Substance, Illegally Used Drug or Alcohol on Town property, on Town business, in Town-supplied vehicles or vehicles being used for Town business or during working hours, or while representing the Town of Brewster in any manner.
  - a. Being under the influence of Alcohol is defined as a Blood Alcohol Content (BAC) of .04% or higher.
  - b. Being under the influence of a Controlled Substance or Illegally Used Drug is defined as a verified positive drug test result.

Some drugs which are characteristic of illegal Controlled Substances include, but are not limited to, Cannabis (Marijuana and derivatives), PCP, LSD, Mescaline, Cocaine, and other Hallucinogens, Heroin and Designer Drugs.

3. Employees who are convicted for off-the-job drug involvement may be considered to be in violation of this policy. In deciding what action to take, management may take into consideration the nature of the charges, the employee's present job assignment, the employee's record with the Town, and other factors relative to the impact of the employee's conviction upon the Town's ability to conduct business as usual.
4. Using prescription drugs illegally. Employees' legal use of otherwise prescribed Controlled Substances including, Stimulants (Methamphetamine, etc.), Depressants (Barbiturates, etc.), and Tranquilizers (Valium, Librium, etc.) becomes illegal use when such Controlled Substances are not prescribed for medical treatment by an accredited physician or when an employee takes excessive doses beyond the prescribed dose. Nothing in this policy precludes the appropriate use of legally prescribed medications. Employees who must take legal medication during the work day are responsible for their safekeeping.

Employees in safety-sensitive positions, as identified in Appendix D, should notify a supervisor or manager of the use of a prescription or over-the-counter drug which may affect or alter the physical or mental ability of the employee to conduct his or her job responsibilities. Employees must follow all physician, manufacturer or package insert directions when taking an over-the-counter or prescription drug safely.

5. Switching, adulterating or committing any other misconduct pertaining to any breath, blood or urine sample.
6. Refusing to consent to testing or refusing to submit a breath, blood or urine sample for testing. The following behavior constitutes a refusal or failure to take a test: refusal or failure to provide adequate breath, saliva, or urine for testing without a valid medical explanation after having received notice of the requirement for testing or without a genuine inability to provide a specimen; interfering with testing; tampering with a specimen; not reporting to the collection site; leaving the scene of an accident without submitting to a test and without providing an adequate explanation; or engaging in any other conduct that clearly obstructs the testing process.

## **VI. Consequences of Violating This Policy**

Violations of this policy may serve as the basis for referral to a substance abuse treatment program, referral for criminal prosecution, and/or discipline, up to and including termination of employment.

The Town of Brewster generally will terminate the employment of employees who receive a verified positive test result. The Town may at its discretion terminate the employment of an employee who receives a verified positive test result but who is currently enrolled in a substance abuse program. The Town of Brewster will not hire applicants who are seeking employment who have received a verified positive test result. The Town may require an employee to enter into a return to work agreement following any counseling and/or treatment.

The Town of Brewster, in its sole discretion, may determine the appropriate response to be taken in any given case.

## **VII. Reporting Criminal Activity**

All employees are expected to bring policy infractions associated with criminal activity to the attention of the Town Administrator. When appropriate, the Town may report or refer violations of this policy to responsible law enforcement.

### VIII. Testing

The purpose of testing for Alcohol and other drugs is to prevent the hiring of individuals who illegally use drugs, deter employees from abusing these drugs, and provide early identification and referral to treatment, when appropriate within management's discretion, for certain employees with a substance abuse problem.

The Town of Brewster may test for drugs and/or Alcohol in the following circumstances:

- **Reasonable Suspicion.** Testing that is conducted when a manager or supervisor has a reasonable suspicion of controlled substance and/or alcohol use. Reasonable suspicion will be based on direct observation of an employee's appearance, conduct or behavior.
- **Follow-up.** Drug and Alcohol testing for employees who have violated the Town's Policy, but who had the opportunity to keep their jobs conditioned on successful rehabilitation and no further "positive" test results. Follow-up testing applies during a one year period following the completion of the treatment program.
- **Government Required Drug and/or Alcohol Testing.** The Town of Brewster institutes drug and/or alcohol tests when required by government regulation, such as the regulations of the Department of Transportation (See Compliance Requirements for Drivers below).

The Town of Brewster will test employees in Safety Sensitive Positions (listed in Appendix D) for drugs and/or alcohol in accordance with the following:

- **Post Offer, Pre-Employment.** Testing that is conducted to prevent the hiring of individuals who test positive for Alcohol, Controlled Substance, or Illegally Used Drugs or who engage in any other prohibited conduct as defined in Section V. Applicants shall be advised in connection with their application for employment that, once the Town offers them a position, they will be required to submit to a drug screen within the 12 hour period following the offer of employment. Failure to consent to such a screen or a verified positive drug or alcohol test result will disqualify an applicant for employment. The Town does not discriminate against qualified applicants for employment because of a past history of substance abuse.
- **Transfer to Safety Sensitive Position Drug Testing.** Employees whom the Town transfers from non-safety sensitive to Safety Sensitive Positions, as identified in Appendix D, are required to submit to a drug test after receiving the transfer offer. If the employee declines to take the test, the Town of Brewster will withdraw the transfer offer.

- **Post-Accident/Incident.** Drug and Alcohol testing for employees who are involved in on-the-job Accidents or near Accidents, or who engage in unsafe job-related activities that pose a significant danger to themselves, other employees, or the public.
- **Follow-up.** (As per above.)
- **Reasonable Suspicion.** (As per above.)
- **Government Required Drug and/or Alcohol Testing.** (As per above.)
- **Random.** Unannounced drug testing for employees in Safety Sensitive Positions. Random testing is an objective system which does not give the Town discretion to waive the selection of any employee who has been randomly chosen.

## **IX. Testing Procedures**

- All testing will be performed by an independent toxicology lab certified in accordance with the Federal Department of Health and Human Services Guidelines to ensure proper testing and appropriate chain-of-custody documentation.
- All initial screening presumptive positive test results will be retested by one alternate confirmatory method by gas chromatography/mass spectrometry or an equally reliable methodology. Only those samples which test positive on both the screen and the confirmation test will be considered a “positive.”
- The process will maintain individual privacy during the collection process and the confidentiality of test results.
- Confirmed “positive” test results may receive a professional medical review, which includes the opportunity for employees to explain the result, depending on the employee’s position.

## **X. Inspections**

When the Town of Brewster has reasonable suspicion to believe that an employee may be in possession of Alcohol, Controlled Substances or Drug Paraphernalia on Town Property, or in other cases when the Town deems appropriate, the Town reserves the option to inspect all Town Property (including individual offices, desks, lockers and other containers). In addition, the Town may request that the employee empty the contents of his or her personal effects (such as lunch boxes, handbags, briefcases, packages and/or outer clothing), and inspect Town vehicles, vehicles used for Town business, and/or personal vehicles on the Town’s premises. The Town may discipline an employee, up to and including termination of employment, for refusing to submit to an inspection.



## **XI. Reservation of Rights**

The Town of Brewster reserves the right to interpret, change, or rescind this policy, in whole or in part, with or without notice. This policy does not create a binding employment contract or modify an existing contract.

### **Compliance Requirements For Drivers**

Employees who operate commercial motor vehicles, who are required to have commercial drivers licenses, and/or who may be required to drive a commercial motor vehicle at work (hereinafter referred to as “drivers”) are subject to the requirements below *in addition* to the prior provisions in the Policy which do not conflict with this section.<sup>2</sup> These requirements apply to employees who perform safety sensitive duties other than engaging in the operation of commercial motor vehicles requiring a commercial driver’s license (See Appendix D).

#### **Prohibited Use**

Drivers may not perform safety-sensitive functions<sup>3</sup> within four hours after using alcohol or consume alcohol up to eight (8) hours after a commercial motor vehicle Accident or until undergoing a post-accident test (whichever occurs first).

Controlled Substance use is prohibited, unless such use is pursuant to the instructions of a licensed medical practitioner.

#### **Circumstances Requiring Testing**

The Town requires drivers to submit to Controlled Substances testing as a condition of continued employment. The following tests are required:

---

<sup>2</sup> The compliance requirements for drivers of commercial motor vehicles apply to drivers who operate a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: (1) has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or (2) has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or (3) is designed to transport 16 or more passengers, including the driver; or (4) is of any size and issued in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.

<sup>3</sup> *Safety-sensitive function* means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include: (1) All time at a Town or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the Town; (2) All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (“FMCSR”) or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time; (3) All time spent at the driving controls of a commercial motor vehicle in operation; (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of the FMCSR); (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

1. *Testing Prior To Driving* - Prior to the first time a driver performs safety-sensitive functions, including driving, for the Town, the driver must undergo testing for Controlled Substances. The driver may not be required to undergo Controlled Substance testing if: (i) the driver has participated in a drug testing program that meets the DOT requirements within the previous 30 days; and (ii) while participating in that program, the driver either was tested within the past six months or participated in a random testing program during the previous 12 months and no prior employer has any record of the driver violating a Controlled Substance use rule of any DOT agency.
2. *Random Testing* – The Town will test drivers annually for Alcohol and Controlled Substances. The random tests will be unannounced and the dates for administering such tests will be spread reasonably throughout the calendar year. Each driver whom the Town notifies for selection for random testing must proceed to the test site immediately.

#### Timing of Random Testing

A driver will be tested for Alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

3. *Post Accident Testing* - As soon as practicable following an Accident involving death, substantial bodily injury to any person, disabling damage to one or more motor vehicles, or a citation under state or local law for a moving traffic violation, the driver will undergo testing for Alcohol and Controlled Substances.

#### Timing of Post-Accident Testing

*Alcohol testing* – The Town (or its Agent) will conduct a post-Accident Alcohol test within two (2) hours following an Accident. If unable to do so, the Town will prepare and maintain a record stating why the test was not promptly administered. If the Town does not conduct the test within eight (8) hours, it will cease attempts to administer the test.

*Controlled Substances testing* – The Town will conduct a post-Accident Controlled Substances test within 32 hours following the Accident. If unable to do so, then the Town will prepare and maintain a record stating why the test was not promptly administered.

A driver who is subject to post-Accident testing shall remain readily available for such testing. A driver will be deemed to have refused to submit to testing unless the driver does not submit to testing because he or she requires immediate medical attention.

4. *Reasonable Suspicion Testing*- The Town of Brewster will conduct reasonable suspicion testing when a driver's supervisor reasonably suspects that a driver is affected by Alcohol or a Controlled Substance or has violated this policy. No driver shall report for duty or remain on

duty requiring the performance of safety-sensitive functions unless the driver's Alcohol concentration measures less than .02 and the driver's Controlled Substances test result is negative.

The Town will consider a driver's appearance, behavior, speech, and body odor. The observations will be made by a trained supervisor or agency official. Such observed conduct may include slurred or other abnormal speech, irregular or unsteady gait, flushed or agitated appearance, bloodshot eyes, dilated pupils, nonsensical or irrational behavior, or the smell of marijuana and/or Alcohol.

#### Timing of Reasonable Suspicion Testing

The Town will conduct reasonable suspicion Alcohol testing based on observations during, just preceding, or just after the period of the work day that the driver.

The Town will administer an Alcohol test within two (2) hours of the observation. If unable to do so, then the Town will prepare and maintain a record as to why the test was not promptly administered. If the test is not administered within eight (8) hours of the observation, the Town will cease attempts to administer the test and prepare and maintain a record as to why the test could not be administered.

5. *Return-to-duty testing* - Any driver removed from driving for violating this policy will be retested prior to returning to driving duty.
6. *Follow-up testing* - A driver may be subject to unannounced follow-up testing as directed by a substance abuse professional following a determination that a driver has a substance abuse problem.

#### Timing of Follow-Up Testing

The Town of Brewster will conduct such testing only when the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions.

#### Testing Procedures

Same as Section IX above (page 5).

#### Refusal or Failure To Submit To Testing

The following behavior constitutes a refusal or failure to take a test: refusal or failure to provide adequate breath, saliva, or urine for testing without a valid medical explanation after having received notice of the requirement for testing or without a genuine inability to provide a specimen; interfering with testing; tampering with a specimen; not reporting to the collection site; leaving the scene of an Accident without submitting to a test and without providing an adequate explanation; or engaging in any other conduct that clearly obstructs the

testing process. The Town shall not permit a driver who refuses to submit to testing to perform or continue to perform safety sensitive functions and may, in its sole discretion, terminate the employee immediately.

Consequences of Testing Positive

Any driver, who, as a result of testing, tests positive as confirmed by a Medical Review Officer (MRO), will be considered in violation of this policy and shall be terminated from his or her employment. In addition, no driver who is found to have an Alcohol concentration of .02 or greater but less than .04 shall not perform or continue to perform safety-sensitive functions until the start of the driver's next scheduled duty (but not less than 24 hours following a test).]

Record Retention and Test Results

The Town will maintain complete and confidential records in accordance with applicable law. Records shall include all refusals or failures to test and all known reasons for such refusals or failures. Such records may be made available to prospective employers only in accordance with applicable law.

A copy of test results will be provided to the driver tested upon written request to the Town Administrator.

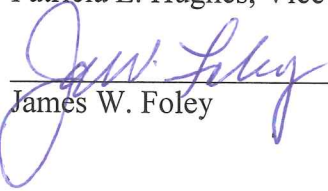
Adopted this 4<sup>th</sup> day of April, 2016

BREWSTER BOARD OF SELECTMEN

  
\_\_\_\_\_  
Benjamin deRuyter, Chair

  
\_\_\_\_\_  
Patricia E. Hughes, Vice Chair

  
\_\_\_\_\_  
Peter G. Norton, Clerk

  
\_\_\_\_\_  
James W. Foley

  
\_\_\_\_\_  
John T. Dickson

## APPENDIX A

### DEFINITIONS

For purposes of this policy, the following definitions shall apply:

**Accident/Incident** - an unplanned, unexpected and unintended event causing or contributing to property damage or personal injury which occurs on Agency Property, on Mass Development business, or during an employee's working hours, or which involves motor vehicles or heavy equipment supplied by the Town of Brewster or used for the Town purposes.

**Alcohol** - colorless, volatile and flammable liquid that is the intoxicating agent in fermented and distilled liquors. It includes, but is not limited to, beer, wine and liquor. It does not include Alcohol used in chemical processing, cleaning or testing unless it has been ingested by the employee.

**Agency Property** - includes buildings, offices, warehouses, plants, facilities, land, equipment, vehicles which are owned, leased or used for Town business, personal vehicles on Agency premises, and parking lots owned, utilized or leased by the Town. It also includes any other site at which Town business is transacted whether on or away from Town owned or leased property.

**Controlled Substance** - any drug included in Schedule I through V, as defined by Section 802(6) of Title 21 of the United States Code 21 USC 802(6), (e.g., cocaine, marijuana, morphine the possession of which is unlawful under Chapter 13 of that title). The term does not include the use of prescribed drugs which have been legally obtained and are being used in the manner and for the purpose for which they were prescribed.

**Drug Paraphernalia** – any item which is primarily intended or designed for use in the administering, transferring, manufacturing or storing of a Controlled Substance and/or Illegally Used Drug.

**Illegally Used Drug** – any prescribed drug which is legally obtainable but has not been legally obtained or is not being used for prescribed purposes, all designer drugs, and any other over-the-counter or nondrug substances (e.g. airplane glue) being used for other than their intended purposes or in accordance with their accompanying instructions. (Note: A designer drug is a man-made drug, or combination of drugs, which is similar in basic scientific properties to a Controlled Substance and is produced in a clandestine laboratory.)

**Medical Review Officer (MRO)** – an independent, licensed physician responsible for receiving laboratory drug testing results. The MRO has knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate a positive test as it relates to the employee's medical history and other biomedical information.

## **Reasonable Suspicion of Drug and/or Alcohol Use**

- 1) observable phenomena, such as direct observation of drug or Alcohol use, possession or distribution and/or the physical symptoms of being under the influence of drugs and/or Alcohol, and/or
- 2) a pattern of abnormal conduct, erratic or aberrant behavior or deteriorating work performance including, but not limited to, frequent absenteeism, excessive tardiness, recurrent Accidents, which appear to be related to substance abuse and do not appear to be attributable to other factors; and/or
- 3) evidence that an employee has tampered with a drug/Alcohol test; and/or
- 4) repeated or flagrant violations of the Town's safety or work rules, which are determined by a supervisor or manager to pose a substantial risk of physical injury or property damage and which appear to be related to substance abuse and do not appear to be attributable to other factors; and/or
- 5) reckless or risky behavior on the part of an employee which, in the opinion of a supervisor or manager, may have caused or contributed to an Accident as defined above, and/or
- 6) conviction of any drug or Alcohol related offense or an arrest occurring in the workplace, while conducting Town business or when representing the Town of Brewster in any manner.
- 7) arrest or indictment for any drug or Alcohol related offense occurring in the workplace, while conducting Town of Brewster business, or representing the Town of Brewster in any manner, when coupled with other conduct indicative of potential substance abuse such as items 1-5 above.

The above examples of Reasonable Suspicion of Drug and/or Alcohol Use are not all inclusive, but are intended to be illustrative. The symptoms of being affected by drugs or Alcohol are not confined to those consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. Although reasonable suspicion does not require certainty, suspicion based upon mere rumor, speculation, or unsubstantiated information of third parties shall not be sufficient to meet the standard of reasonable suspicion.

**Safety Sensitive Position** – any job or position determined by the Town of Brewster to be accompanied by such risk to health and safety based on the nature of the work involved that even a momentary lapse of attention could have serious consequences to the employee, co-workers, customers, the Town or the general public. (See Appendix D).

**Under the Influence of a Controlled Substance, Illegally Used Drug and/or Alcohol** – the presence of a measurable amount which is .04% or higher of Alcohol in the blood or breath, or a verified positive drug test result for a Controlled Substance or an Illegally Used Drug.

**APPENDIX B**

**SUBSTANCE ABUSE POLICY ACKNOWLEDGMENT FORM**

I have received, read and acknowledged the terms and requirements of the Substance Abuse Policy of The Town of Brewster ("Policy"). I understand and acknowledge that I am required to follow the Policy. I also understand that my failure to comply with the Policy may result in discipline, up to and including termination of employment.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Employee's Name Printed

**APPENDIX C**

**SUBSTANCE ABUSE TESTING CONSENT FORM**

I understand that the Substance Abuse Policy of the Town of Brewster establishes conditions under which I may be required to undergo substance abuse testing. The Town of Brewster may require me to provide breath, blood or urine samples for drug and/or Alcohol testing. Should this occur, I hereby consent to such testing. I authorize the testing laboratory to release my test results to the Medical Review Officers (MRO) and/or to designated supervisors and managers on a need-to-know basis.

If my test results are positive, I may be required to provide information about any legal nonprescription drugs and other drugs for which I have a prescription that I take routinely or have taken within the last 30 days.

I understand that the Town may use such information in connection with Town business and for purposes of employment and disciplinary actions, and disclose it in response to government agencies or other valid legal requests, or legal proceedings.

I understand that any communication I have with collection site personnel, testing laboratories or Medical Review Officers (MRO) does not create or imply any form of doctor/patient relationship.

I release The Town of Brewster, its employees, management, and its designated medical representatives from any and all claims or causes of action related to such testing and any decisions based on the results of the testing.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Town of Brewster Representative

\_\_\_\_\_  
Employee's Name Printed



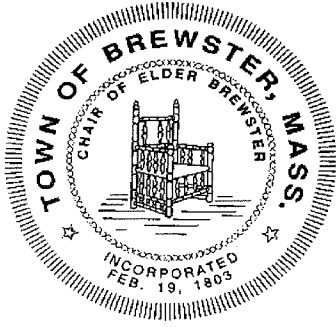
## **APPENDIX D**

### **LIST OF SAFETY SENSITIVE POSITIONS**

A Safety Sensitive Position is any job position determined by the Town of Brewster to be accompanied by such risk to health and safety based on the nature of the work involved that even a momentary lapse of attention could have serious consequences to the employee, co-workers, customers, the Town of Brewster or the general public.

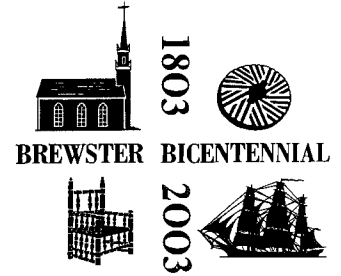
The Town of Brewster deems the following positions to be Safety Sensitive Positions:

- DPW Superintendent
- Water Superintendent
- DPW Foreman
- Water Foreman
- Water Treatment Operator
- Cross Connection Surveyor & Tester
- Master Mechanic, DPW
- Master Mechanic Golf
- Maintenance Mechanic DPW
- Maintenance Mechanic Golf
- Equipment Operator, DPW
- Equipment Operator, Water Technician
- Water System Maintenance Technician
- Skilled Truck Driver/Laborer, A
- Skilled Truck Driver/Laborer, B
- Bus Driver



**Board of Selectmen  
Town Administrator**

2198 Main Street  
Brewster, Massachusetts 02631-1898  
(508) 896-3701  
FAX (508) 896-8089



***POLICY NO:* 21**  
***DATE APPROVED:***

**TOWN OF BREWSTER**

**HERRING/ALEWIFE RULES AND REGULATIONS**

Each year, the Alewife Committee will observe the alewife population and determine whether or not to implement special rules and regulations for the protection of the resources. The Committee reserves the right to implement an annual license and to recommend a permit fee, for adoption by the Board of Selectmen. During years when no permit is required the rules shall be as follows:

1. Limits on removal of herring/alewife – Two dozen (24) herring/alewives per week may be taken.
2. Herring/Alewives may only be taken by means of a hand-held dip net.
3. The herring/alewives may only be taken from the north side of the Stony Brook Road Mill Site in the designated areas.
4. Herring/Alewives may only be taken Monday through Thursday, sunrise to sunset. Removal is prohibited on the weekends. The site closes at dusk and opens at dawn.
5. Violations to these rules and regulations are subject to written citation, court appearance and fines.

During years when licenses and permits are required, the following rules shall apply in addition to those listed above:

6. No person shall take from the waters of the Town of Brewster any herring or alewife without first obtaining form the Board of Selectmen a permit or license to do so.
7. Persons entitled to a family permit (one per family) shall be a **real estate taxpayer and/or be legally domiciled in the Town of Brewster**. The permit shall include the immediate members of their family only. (Immediate in this context shall mean a household member living with, and/or supported by, the resident head-of-household on a year-round basis.) Permits are not transferable and are subject to revocation by the Board of Selectmen if rights and privileges granted thereby are abused.
8. Fees for permits shall be voted by the Board of Selectmen

9. Town of Brewster herring/alewife permits shall be available at the Brewster Town Office Building, 2198 Main Street, Monday through Friday, except holidays, 8:30 a.m. to 3:30 p.m. During the months of July and August, permits shall be available in the Brewster Visitor Center at 2198 Main Street, every day, from 9:00 a.m. to 3:00 p.m.
10. Permits must be **visibly** worn in a carrying case on the license holder's person, while engaging in the taking of Herring/Alewives.
11. The Board of Selectmen reserve the right to suspend for a period of thirty (30) days the permit of any person violating the Town regulations on herring/alewives. Violators of any rule or regulation made under the authority of Chapter 130, Section 93, 94 and/or 95 of the Massachusetts General Laws, unless otherwise provided shall be punished by a fine of not less than \$5.00, but not more than \$50.00.



**Town of Brewster**  
2198 Main Street  
Brewster, MA 02631  
[www.brewster-ma.gov](http://www.brewster-ma.gov)  
Phone: (508) 896-3701

Email: [TownManager@brewster-ma.gov](mailto:TownManager@brewster-ma.gov)

**Policy No: 22**  
**Date Approved: May 22, 1995**  
**Dates Amended: August 25, 1997**  
**April 23, 2012**  
**December 19, 2016**  
**May 8, 2023**

## **Select Board Public Beach, Pond And Landing Policies**

Public Beach area includes the beach, the parking lot and abutting Town sand dunes and flats.

1. Vehicle permits are required for parking at all Town beaches, ponds and landings from June 15 through the Sunday of Labor Day weekend. Permits for parking may be obtained by residents using the mail-in program or online at [www.brewster-ma.gov](http://www.brewster-ma.gov). Residents will be issued a physical permit that must be placed on the rear left bumper of the vehicle. Failure to properly attach and display the resident beach permit will result in a fine. Please see Policy #64 for rules and regulations at First Light Beach.

Non-resident daily and seasonal permits can be purchased online and will be issued electronically using plate reader technology verification. All permits (resident and non-resident) will bear the registration number and state for the vehicle for which it has been issued and shall be valid only for that vehicle.

2. Motor vehicles are not permitted to park or travel beyond the designated parking areas. Parking is only permitted in marked spaces. Parking is prohibited from blocking entrances to beaches, ponds, walkways to beaches, emergency access and side streets. Between the Saturday before Memorial Day and Labor Day of each year, motor vehicles, boats and trailers are prohibited from parking within the traveled portion of the road layout on beach and pond landing roads, for more information please see the regulations governing roadside parking on town ways near town landings. Beaches, ponds and parking areas are closed from 10:00 pm to 6:00 am the following day, unless otherwise posted.
3. Tents, travel trailers, campers or other recreational vehicles are not allowed overnight on Town property. Vehicles over 22 feet are not permitted in public areas. Vehicles must fit within the painted lines.
4. When there is no lifeguard on duty, swim at your own risk. There is a lifeguard on duty at Long Pond Beach in the summer months from 9:00am to 4:00pm (subject to change). Please see Policy #54 for more information on Long Pond Use. Please supervise children at all times within the public beach and pond areas, including in the water and on the flats.



## Town of Brewster

2198 Main Street  
Brewster, MA 02631  
www.brewster-ma.gov  
Phone: (508) 896-3701

Email: [TownManager@brewster-ma.gov](mailto:TownManager@brewster-ma.gov)

Policy No: 22

Date Approved: May 22, 1995

Dates Amended: August 25, 1997

April 23, 2012

December 19, 2016

May 8, 2023

5. Please keep off dune areas. These are areas which are subject to erosion from wind, water or traffic. Do not pick or disturb sea lavender, beach grass or other vegetation. Be aware of poison ivy, which is abundant. Please stay on designated paths. Certain paths or areas may be closed from time to time and will be so designated by signs. No feeding of waterfowl is allowed.
6. The consumption of alcohol, the consumption of marijuana (whether through smoking or edibles) and the use of illegal drugs is not permitted in or on Town facilities. No person shall possess alcohol, marijuana products or paraphernalia, or illegal drugs on Town property. The prohibitions in this section apply to all Town-owned properties, including but not limited to all public beaches, ponds, Town landings, Town owned parks, playgrounds, playing fields and walking trails, including vehicles thereon.
7. Per Board of Health Regulation, smoking is prohibited on all Town-owned properties, including but not limited to all public beaches, ponds, Town landings, Town owned parks, playgrounds, playing fields and walking trails.
8. Per Board of Health Regulation, all dogs, horses and pets (except service animals) are prohibited from public beaches, ponds, landings, and tidal flats 24 hours per day from May 15 to September 15. This includes all parking areas for and access areas to the beaches, ponds, landings, and tidal flats. Transferring an animal on a leash from a vehicle to a watercraft is allowed at landings. Per Board of Health Regulation, no person owning or having care, custody or control of any dog shall allow such dog to soil, defile, defecate, or commit nuisance upon any public beaches, ponds, landings, and tidal flats.
9. Littering is prohibited. All refuse and recycling must be placed in a rubbish or recycling container. Please separate your refuse and recycling into the provided appropriate containers. Rubbish and recycling containers are in place seasonally; at all other times, please take your refuse and other materials with you when you leave. Glass containers are not allowed on beaches or at ponds. Household refuse may not be disposed of in beach refuse or recycling containers.
10. No person shall disturb the peace and tranquility of others. No lewd, obscene, profane or indecent acts or language or excessive noise are permitted on Town property.
11. The damaging, defacing, or removing of any building, structure, or sign on Town property is not allowed. Violators will be prosecuted.



**Town of Brewster**

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**Policy No: 22**

**Date Approved: May 22, 1995**

**Dates Amended: August 25, 1997**

**April 23, 2012**

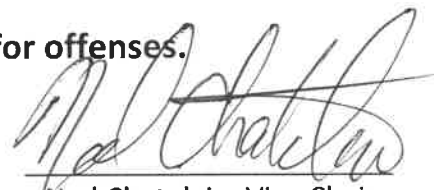
**December 19, 2016**


**May 8, 2023**

12. Selling, advertising or giving away of goods or services on Town property is not allowed, except with written permission from the Select Board. The selling of single use plastic water bottles is prohibited per Town bylaw.
13. Use of detergents, boat washing or rinsing is prohibited. Boat storage and boat moorings require a Town permit. Please contact the Natural Resources Department for more information.
14. No person shall take from the flats or waters of the Town of Brewster sea clams, soft shell clams, mussels, quahogs, razor clams, oysters, scallops, sea worms or eels without first obtaining from the Town of Brewster a permit or license to do so. Please see Town Shellfish Rules and Regulations for more information.
15. Use of open fires on Town property is prohibited at all times, per the Fire Department. Fireworks are illegal in the State of Massachusetts.
16. Access to Town owned beaches, ponds, and landings may be restricted at the discretion of the appropriate Town staff at any time.
17. Private events on Town public beaches, ponds, and/or landings are not permitted between Memorial Day Weekend and Labor Day Weekend. Questions about use of these Town properties should be directed to the Town Manager's office.

**Possible Fines up to \$200.00 for offenses.**

  
David Whitney, Chair

  
Ned Chatelain, Vice Chair

  
Kari Hoffmann, Clerk

\_\_\_\_\_  
Mary Chaffee

  
Cynthia Bingham

***POLICY NO: 23***

***DATE APPROVED: 6/10/95***

***AMENDED: 8/25/97***

***TOWN OF BREWSTER***

***USE OF LOCAL BUSINESSES FOR GOODS AND SERVICES  
SUPPLIED TO THE TOWN***

The Selectmen adopted a policy that if a business located in Brewster can supply the Town with a service or product at a competitive rate under the provisions of the various State Procurement Laws, the Town should procure that item from the Brewster business.

The Town will maintain a vendor list of Brewster businesses and will notify that business of bidding opportunities. The local business will be required to contact the Board of Selectmen's Office in order to be placed on the bid list. This notification should include the name, address and telephone number, as well as the scope of services and products which the respective bidder provides.

***POLICY NO:*** 24

***DATE APPROVED:*** 8/14/95

***AMENDED:*** 8/25/97

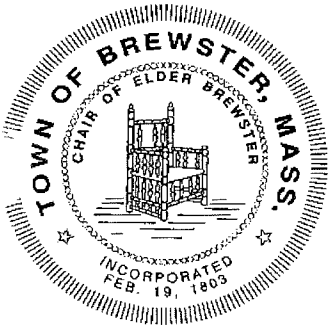
***TOWN OF BREWSTER***

***SEPTAGE SYSTEM PUMPING POLICY***

The Board of Selectmen has adopted a policy whereby when a department, board, committee or commission requires the services of a contractor to perform pumping of septage systems for Town-owned buildings and/or properties that the septage material be transported to the Orleans, Eastham and Brewster Groundwater Protection District facility in Orleans, Massachusetts

The continued successful operation of this facility is critical to the Town of Brewster's financial and environmental well-being. The transport and treatment of septage to another treatment facility undermines this important goal.





Board of Selectmen  
**Town Administrator**

2198 Main Street  
Brewster, Massachusetts 02631-  
1898  
(508) 896-3701  
FAX (508) 896-8089

POLICY No.: 25  
Date Approved: 07/21/08  
Amended: \_\_\_\_\_

## **Town of Brewster Discriminatory Harassment Policy**

### **I. Introduction**

It is the goal of our town to promote a workplace that is free of discriminatory harassment (“harassment”) of any type, including sexual harassment. Discriminatory harassment consists of unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law, such as gender, race, color, national origin, ancestry, religion, age, disability, genetics, military status, sexual orientation, or participation in discrimination complaint-related activities (retaliation). Our town will not tolerate harassing conduct that affects employment conditions, that interferes unreasonably with an individual’s performance, or that creates an intimidating, hostile, or offensive work environment.

Harassment of employees occurring in the workplace, in connection with work-related travel, and/or work-sponsored events will not be tolerated. Further, any retaliation against an individual who has complained about harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated.

Because the town takes allegations of harassment seriously, we will respond promptly to complaints of harassment. Where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of harassment.

## II. Definitions

“Harassment” means unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law. Harassment includes, but is not limited to:

1. Display or circulation of written materials or pictures that are degrading to a person or group as previously described.
2. Verbal abuse, slurs, derogatory comments, or insults about, directed at, or made in the presence of an individual or group as previously described.

“Sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The definition of sexual harassment is broad. In addition to the above examples, other unwelcome sexually oriented conduct, whether intended or not, that has the effect of creating a work environment that is hostile, offensive, intimidating or humiliating to either male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances – whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one’s sex life; comment on an individual’s body, comment about an individual’s sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;

- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and,
- Discussion of one's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by this organization.

### **III. Complaint Procedures**

All employees, managers, and supervisors of the town share responsibility for avoiding, discouraging and reporting any form of discriminatory harassment. The primary responsibility for ensuring proper investigation and resolution of harassment complaints rests with Charles Sumner, Town Administrator, or Jillian Douglass, Assistant Town Administrator, or his/her designee, who will administer the policy and procedures described herein.

If any of our employees believe that he or she has been subjected to discriminatory harassment, the employee has the right to file a complaint with our organization. In addition, residents, visitors, applicants, vendors, contractors, their agents and employees, or other third parties who believe they have been subjected to discriminatory harassment may also file a complaint with our organization using the procedures described herein. Furthermore, employees may also file a complaint if they have been subjected to harassment from residents, visitors, applicants, vendors, contractors, their agents and employees, or any other third parties in the workplace, while performing work-related duties, or during other work-related activities.

Prompt reporting of harassment is in the best interest of our organization and is essential to a fair, timely, and thorough investigation. Accordingly, complaints should be filed as soon as possible following the incident(s) at issue. This may be done in writing or orally, by sending notice to the Town Administrator's Office, 2198 Main St., Brewster, MA, 02631, or by calling 508-896-3701, ext. 130 (Jillian Douglass) or ext. 128 (Charles Sumner). Ms. Douglass and Mr. Sumner are also available to discuss any concerns you may have and to provide information to you about our policy on harassment and our complaint process.

### **IV. Complaint Investigation**

When we receive the complaint, we will promptly investigate the allegation in a fair and expeditious manner to determine whether there has been a violation of our policy. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will include private interviews with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed harassment. The complainant, the person alleged to have committed harassment, and

all witnesses are required to fully cooperate with all aspects of an investigation. Attorneys are not permitted to be present or participate in the complaint investigation. When we have completed our investigation, we will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

Notwithstanding any provision of this policy, we reserve the right to investigate and take action on our own initiative in response to behavior and conduct which may constitute harassment or otherwise be inappropriate, regardless of whether an actual complaint has been filed.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate we will also impose disciplinary action.

#### **V. Disciplinary Action**

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as we deem appropriate under the circumstances.

#### **VI. State and Federal Remedies**

In addition to the above, if you believe you have been subjected to discriminatory harassment of any type, including sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies requires that claims be filed within 300 days from the alleged incident of when the complainant became aware of the incident.

##### **The United States Equal Employment Opportunity Commission (“EEOC”)**

One Congress Street, 10<sup>th</sup> Floor  
Boston, MA 02114,  
(617) 565-3200

##### **The Massachusetts Commission Against Discrimination (“MCAD”)**


Boston Office:  
One Ashburton Place, Room 601  
Boston, MA 02108  
(617) 727-3990


Springfield Office:  
424 Dwight Street, Room 220  
Springfield, MA 01103  
(413) 739-2145

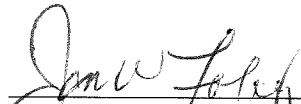
Worcester Office:  
22 Front Street, 5<sup>th</sup> Floor  
P.O. Box 8038  
Worcester, MA 01641  
(508) 799-6379


Adopted by the Brewster Board of Selectmen

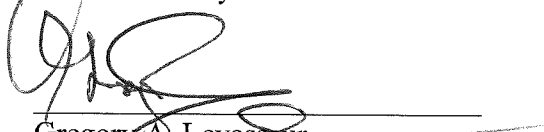
June 2nd, 2008

  
Peter G. Norton, Chairman

  
Dyanne F. Cooney, vice Chair

  
James W. Foley

  
Edward S. Lewis

  
Gregory A. Levasseur

I hereby certify that I have received and read the Town of Brewster's Discriminatory Harassment Policy.

Signed, \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.

4

**POLICY NO: 26**  
**DATE APPROVED 12/1/97**  
**AMENDED: 11/2/98**

**TOWN OF BREWSTER**

**HUNTING AT WING ISLAND**

The Brewster Board of Selectmen held a meeting on November 2, 1998 to update and review the following policy. This policy was adopted regarding the allowance of hunting on the lands currently managed by the Board of Selectmen.

The Board of Selectmen recognizes that many individuals within the Town of Brewster wish to be allowed permission to hunt on Town owned property under the management and control of the Board of Selectmen. However, the Board shall not permit hunting on these parcels of land as described below. This restriction shall be reviewed and revoted on an annual basis to conform to Massachusetts General Laws regarding the management of wildlife of large tracts of land.

**Wing Island** is located on the north side of Route 6A, in the western portion of Brewster. The Island contains a significant area of wooded upland which is heavily utilized (for passive recreation and education) by the public, and by the Brewster Museum of Natural History staff for the purpose of education. The primary reason for banning hunting at this location is the public safety issue. These lands are shown on Brewster Assessors' Map 1, Parcel 5.

The saltmarsh areas below the mean high water bordering both Paines's and Quivett Creek adjacent to Wing Island have historically been used, and continue to be used for hunting. These areas may still be utilized in accordance with the laws governing hunting activities.

Revoted:     September 11, 2000 by Board of Selectmen  
              November 4, 2001 by Board of Selectmen  
              October 21, 2002 by Board of Selectmen  
              October 20, 2003 by Board of Selectmen  
              November 1, 2004 by Board of Selectmen  
              October 23, 2006 by Board of Selectmen  
              October 15, 2008 by Board of Selectmen



POLICY NO:  
DATE APPROVED:

27  
02/09/98

# Town of Brewster

BREWSTER, MASSACHUSETTS 02631 - 1898

(508) 896-3701

OFFICE OF:  
BOARD OF SELECTMEN  
BOARD OF ASSESSORS  
BOARD OF PUBLIC WORKS  
EXECUTIVE SECRETARY

## POLICY AND PROCEDURE FOR EMPLOYMENT AND PROMOTION BREWSTER POLICE DEPARTMENT

*The following is a policy as established by the Board of Selectmen and the Chief of Police for employment and promotion of all personnel in the police department in compliance with Chapter 41, Section 97A of the Massachusetts General Laws. (copy attached)*

### A. SPECIAL/SUMMER POLICE OFFICERS

*The candidate's will be interviewed by the Chief of Police or his designee and a complete background check will be performed. The successful candidate(s) will be required to take the standard physical exam as established for all town personnel by the Board of Selectmen. Appointments for Special/Summer Officers are generally for a limited period of time for a specific assignment, i.e. General Traffic Enforcement, Boat/Waterways, etc. The Chief of Police will forward the successful candidate(s) name(s) to the Board of Selectmen for appointment.*

*Appointment per Chapter 41, Section 97A of the Massachusetts General Laws.*

### B. DISPATCHER

*The candidate's will complete a standardized test equivalent for the duties of the position. The test results will be reviewed, a complete background check will be conducted and the Chief of Police or his designee will conduct an extensive interview. The successful candidate(s) will be required to take the standard physical exam as established for all town personnel by the Board of Selectmen. In the event there are two equal candidate's of similar qualifications, any Brewster Resident will be given preference. The successful candidate(s) name(s) will be forwarded to the Town Administrator for approval in concurrence with the Chief's recommendation. Appointment per the Personnel By-Law of the Town of Brewster.*

**C. FULL TIME POLICE OFFICER POSITIONS**

*The Chief of Police will notify the Board of Selectmen prior to filling any open full time permanent position(s). The hiring process will consist of an open selection in which a standardized test will be administered which is equivalent for the duties of the position. A complete background check will be conducted if the candidate is a new person, and all successful candidate(s) will be required to complete a physical exam, and the physical abilities test for Municipal Public Safety Personnel as prescribed by the Human Resources Division of the Commonwealth of Massachusetts. All successful candidate(s) will be required to pass an independent psychological test. The Chief of Police or his designee will conduct an extensive interview and review the applicants goals and objectives and past accomplishments. In the event there are two equal candidate's of similar qualifications, any Brewster Resident will be given preference. After the selection process is completed, the Chief of Police will compile the written results of the test and interview and will forward his selection of the one successful candidate to the Board of Selectmen for appointment. Appointment will be per Chapter 41, Section 97A of the Massachusetts General Laws.*

**D. PROMOTIONAL POSITIONS**

*A standardized test will be administered which is equivalent for the duties of the position for personnel of a certain level of experience which will be determined by the Chief of Police. All successful candidate(s) will be required to pass an independent psychological test. The Chief of Police or his designee will set up an interview board consisting of the Chief or his designee, and two (2) Chief's of Police from neighboring towns. The interview board will review the candidate(s) and their goals and objectives and past accomplishments along with questions and scenario's consistent with effective police practice. After the selection process is completed, the Chief of Police will compile the written results of the test and interview and will forward his selection of the one successful candidate to the Board of Selectmen for appointment. The appointment is per Chapter 41, Section 97A of the Massachusetts General Laws.*



**MASSACHUSETTS GENERAL LAWS**  
**CHAPTER 41 SECTION 97A**  
**Adopted March 2, 1954**  
**Annual Town Meeting**

**"In any town which accepts this section there shall be a police department established by the selectmen, and such department shall be under the supervision of an officer to be known as the chief of police. The selectmen of any such town shall appoint a chief of police and such other officers as they deem necessary, and fix their compensation, not exceeding, in the aggregate, the annual appropriation therefor. In any such town in which such appointments are not subject to chapter thirty-one, they shall be made annually or for a term of years not exceeding three years, as the selectmen shall determine, and the selectmen may remove such chief or other officers for cause at any time after a hearing. The chief of police in any such town shall from time to time make suitable regulations governing the police department, and the officers thereof, subject to the approval of the selectmen; provided, that such regulations shall become effective without such approval upon the failure of the selectmen to take action thereon within thirty days after they have been submitted to them by the chief of police. The chief of police in any such town shall be in immediate control of all town property used by the department, and of the police officers, whom he shall assign to their respective duties and who shall obey his orders. Section ninety-seven shall not apply in any town which accepts the provisions of this section. Acceptance of the provisions of this section shall be by a vote at an annual town meeting".**

## MEDICAL & PHYSICAL ABILITIES TESTING

HRD            Human Resources Division

PAT            Physical Abilities Test

*The standards programs apply to all initial appointments made after November 1, 1996. All individuals hired on or before November 1, 1996 are grandfathered.*

### **Medical Examinations:**

Medical examinations for prospective candidates will be scheduled by local departments and conducted by local medical providers. Hiring departments are responsible for ensuring that medical providers have a copy of the Physicians Guide for Conducting Medical Exams for Municipal Public Safety Personnel.

The MCJTC's policy is that all medical examinations be conducted within one hundred and eighty days of the start of the academy.

### **Physical Abilities Test Preparation:**

The initial Physical Fitness Standards Program consists of a job simulation type Physical Abilities Test (PAT) administered by the HRD. All non-civil service police departments shall distribute a copy of the Physical Abilities Test Preparation Guide to each candidate sixteen weeks in advance of the PAT. (I checked and this 16 week distribution is not mandatory)

The PAT for police officers require an individual to demonstrate muscular strength, including upper body strength and upper and lower leg strength, muscular endurance and flexibility.

### **Physical Abilities Tests:**

The PAT for police officers includes four events that simulate the work of a police officer. The test involves running an obstacle course, pulling a trigger using each hand, separating two individuals involved in a dispute and dragging a victim or suspect to safety.

Hiring departments in all police departments must notify the HRD of the names of police candidates who have passed all departmental screening processes and who require physical abilities testing, by completing the enclosed PAT Notification Form.

A copy of the enclosed Letter to Job Candidates, advising candidates of the physical abilities testing process, should be given to individuals who have received a conditional offer of employment and have completed their medical examinations successfully.

The job candidate must pay a \$50 fee (by money order, made out to the Commonwealth of Massachusetts) in order to take the PAT. When a candidate has passed all screening processes, received a Medical Verification Form indicating successful completion of the medical exam and a copy of the Letter to Job Candidates, advising him/her of the testing process, the candidate should appear at one of the PAT centers on a testing day with both of these documents, as well as a \$50 money order.

### **Application for Enrollment in a Police Academy:**

The MCJTC has developed a new “one-stop” application form. The enclosed form should be filled out and mailed to the appropriate agencies. (see instructions on top of form).

### **Bottom Line:**

**Need to send in Enrollment Application to MCJTC**

**Need to have Dwayne go through another physical**

**After physical completed, need to send in PAT notification form to set up testing.**

**FILE**

**MEDICAL AND PHYSICAL FITNESS TESTING OF  
FULL-TIME, PART-TIME AND SEASONAL POLICE OFFICERS**

The recently adopted "Initial Medical and Physical Fitness Standards Regulations for Municipal Public Safety Personnel" may make the hiring process for part-time or seasonal officers difficult in some departments, especially during 1997. Departments planning on hiring "summer specials" who have no prior police experience may find the new procedures especially troublesome.

This article will address several issues which apply to all newly appointed officers in Standards departments as well as some areas of special concern to departments planning on hiring seasonal officers this summer.

**COVERED POSITIONS**

In the 188 communities on the attached list which are covered by the Medical and Physical Fitness Standards Programs, M.G.L. c. 31, § 61A mandates that all officers appointed for the first time after November 1, 1996 must pass both an Initial Medical Examination and Physical Abilities Test (PAT) before performing police duties. Officers who were appointed prior to that date, regardless of whether there has been a break in service, are "grand-fathered", i.e., exempt from the new exam and testing requirements. This includes persons who received an appointment as a police officer in the same or any other department. The exemption also encompasses those who were appointed on a full or part-time basis.

**INITIAL MEDICAL EXAMS**

Appointing authorities are required to arrange with a physician to conduct a medical exam which must take place within 30 days of an officer's appointment. The exam could be given either before or after the appointment. If

it is given before, it must follow a conditional offer of employment to comply with the Americans with Disabilities Act (ADA).

The components of the medical exam are specified in the "Medical Standards" section of the material filed by the state's Human Resources Division (HRD) with the Secretary of State. Copies were mailed to all chiefs in January, 1997 and are available from HRD at (617) 727-3777.

### **PHYSICAL ABILITIES TEST (PAT)**

#### **Elements**

A test consisting of four events simulating the work of a police officer is administered on a pass/fail basis. The events involve: running an obstacle course; pulling a trigger using each hand; separating two individuals involved in a dispute; and, dragging a victim or suspect to safety. Three exam sites have been set up in Woburn, New Bedford, and Chicopee. A \$50.00 fee is charged to candidates unless a financial need waiver is granted.

#### **Timing**

Newly hired officers or candidates must be administered the PAT within 30 days of their date of appointment. As is the case with the initial medical exam, the test can be given either *before* or *after* the person's appointment, so long as it is done *within* 30 days. Unlike the medical exam, however, there is no ADA requirement that the individual receive a conditional offer of employment prior to the PAT.

#### **Consequences of Failing**

A candidate or newly appointed officer who fails the PAT may be retested. The regulations envision a retest after 16 weeks. However, an earlier retest is possible if a waiver form is signed. If time and resources allow, a same-day retest is possible.

A second failure requires the appointing authority to rescind the individual's appointment as a police officer. There is, however, no requirement that any appointment be made in the first place. Similarly, neither the statute nor the standards (regulation) specify any prohibition against future reappointments.

Thus an individual could be reappointed as often as the municipality was so inclined, at least in a non-Civil Service department.

**Note:** In a Civil Service department which is under the Standards Program, no appointment will be authorized by the Personnel Administrator until after the PAT has been passed. Names appear on a Civil Service list based on the written exam. Once a conditional offer of employment has been made, the appointing authority notifies HRD and advises the job candidate about the PAT requirement. In Civil Service departments participating in the Standards Program, the one PAT covers both the Civil Service Exam Program and the Initial Physical Fitness Standards Program. Nothing in the statute or regulations addresses the issue directly. However, it is possible that a second failure may result in a decision by HRD to remove a candidate's name from the Civil Service list.

#### **PAT CONDITIONING RECOMMENDATIONS**

The four-part PAT requires cardiovascular fitness, muscle strength, muscular endurance and flexibility. The events are each timed with a 20 second rest between events. Candidates wear a duty belt with a holster, plastic handgun and night stick.

HRD has developed a self-administered Physical Activity Readiness Questionnaire (PAR Q). This should help candidates prepare for the PAT and it must be completed on the day of the test as well.

Candidates may practice going through the PAT before actually taking such test provided they receive a written release from their hiring department and they have successfully completed their medical exam and after they sign a waiver of liability.

HRD developed a PAT Preparation Guide outlining a 16 week program of recommended exercises that candidates should follow. The demands of the test are such that training is important in order to pass the PAT. Departments should

arrange to have the Guide given to prospective officers, preferably at least 16 weeks before a PAT is anticipated.

### **TRAINING REQUIREMENTS**

At present the only requirements for police officer training are contained in M.G.L. c. 41, § 96B and the regulations (CMR's) promulgated by the Criminal Justice Training Council. No new or additional training mandates were included in the Standards Programs.

Full-time police officers must complete the basic recruit academy, currently of 18 weeks duration. The statute states that such academy attendance is mandatory before exercising police powers on a full-time basis. However, the CMR's include a waiver provision, allowing an appointing authority to ask the Training Council to grant 90 day extensions, generally when no academy is operating or has seats available in the region. Usually no more than two such waivers will be approved.

It is possible that the provisions of M.G.L. c. 31, § 61A may impact on the use of such waivers in the future for officers appointed initially after November 1, 1996. That statute specifies that such officers may not "perform the duties of such position until he shall have undergone initial medical and physical fitness examinations and shall have met such initial standards." Unlike M.G.L. c. 41, §96B, there is no statutory authorization for waivers of the medical or PAT requirements prior to an officer's exercising police powers.

Henceforth, the medical exam and physical agility test (referred to as the "pre-screening") which are required for admission into a recruit academy will be the same medical exam and PAT required under the Standards regulations. The Training Council will require one physical abilities test of all candidates before entry into an academy, which exam will be the PAT administered by HRD. Similarly, the Training Council will require that future medical exams, given before the start of an academy, comply with the Standards Program.

The timing of the medical exam and PAT may present some difficulty for departments, especially where a full-time officer is to attend a recruit academy. In the case of a Civil Service department, the problem could be further compounded. A chief will be hard-pressed to schedule both exams at a time which satisfies each program's requirements. It is likely that certain officers will be required to undergo the same exams on multiple dates, depending upon the availability of an academy. This will be required in cases where an officer receives a waiver from the Training Council due to the lack of a space at an academy. In such cases, the language of M.G.L. c. 31, § 61A will require repeated testing in Standards communities since it precludes a newly appointed officer from "perform(ing) the duties of such position until he shall have undergone initial medical and physical fitness examinations and shall have met such initial standards."

The statute pertaining to Medical Standards requires that medical exams be scheduled *within 30 days* of appointment. In addition, the Training Council requires that medical exams be conducted *within 90 days* of the start of an academy.

The statute governing the Medical Standards Program requires that candidates take the PAT *within 30 days* of appointment. The Training Council requires that all police officers complete the PAT *within 30 days* prior to the start of the academy.

#### **Seasonal or Part-Time Officers**

In the case of part-time or seasonal officers, other practical scheduling issues may arise despite the fact that they are not required to attend a recruit academy. Departments intending to hire seasonal officers often have little or no contact with some applicants before an exam date is scheduled. Unless this practice is altered, it is likely that a larger pool of applicants will be needed.

The following suggestions are worth considering for those departments intending to hire "summer specials" for 1997:



- Attempt to alert potential first time officer candidates of the new medical and PAT requirements as soon as possible. This could include such things as newspaper stories, notices to colleges and packages of information in response to inquiries.
- Copies of PAR Q (conditioning program) should be distributed as far in advance as possible to prospective applicants.
- Attempt to secure employment applications and conduct any background screening as early as possible. Interviews may be conducted at any time.
- Psychological testing for mental diseases cannot be done until after a conditional offer of employment is made. However, psychological screening for personality and other non-disorder traits most likely is not restricted under the ADA and can be given prior to a conditional offer of employment.
- Arrangements should be made to have all medical exams given at the city or town's expense as soon as possible (and not more than 30 days) after a conditional offer of employment is extended. Since a PAT must also be administered in the same 30 day period, it may be worthwhile to contract with several doctors or medical facilities to expedite the testing process.
- Contact HRD and alert them as to the anticipated number of PAT candidates to be sure time is available at a desired testing site.

Departments intending to hire candidates who have not passed the Training Council's Reserve/Intermittent Academy should consult the Council as soon as possible. M.G.L. c. 41, § 96B requires that prior to exercising police powers, a reserve or intermittent officer must "satisfactorily complete a course of study prescribed by (the Training Council)". A municipality is exposing itself to potential liability by granting police powers and providing a weapon to undertrained individuals. Consideration should be given to limiting undertrained persons to traffic control or other duties not involving arrests or firearms.

### SUMMARY

New medical and physical fitness testing will be required for all officers in "standards" communities receiving their first appointment after November 1, 1996. A successful medical exam and PAT is a prerequisite to starting work. New officers must take both within one month of their appointment. A PAT re-test can be taken up to 16 weeks later. The required timing of such tests will require careful planning, especially in order for officers to attend recruit academy. In Civil Service departments involved in the Standards Programs, the coordination of the timing of appointments, exams and academy enrollment is likely to be difficult.

Even greater problems are likely to be encountered in 1997 for departments intending to hire "summer specials". Such departments should attempt to contact prospective candidates (ideally 16 weeks in advance of physical fitness testing), advising them of the new requirements for medical exams and physical fitness testing. This article contains several other suggestions for such departments.

\*\*\*\*\*

John M. Collins  
Collins & Weinberg  
47 Memorial Drive  
Shrewsbury, MA 01545  
(508) 842-1556  
1-800-322-2011  
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### MUNICIPALITIES REQUIRED TO IMPLEMENT MEDICAL AND PHYSICAL FITNESS STANDARDS AND WELLNESS PROGRAMS FOR PUBLIC SAFETY PERSONNEL

Abington	E. Longmeadow	Medford	Rutland
Agawam	Eastham	Medway	Salem
Amesbury	Everett	Melrose	Sandwich
Andover	Fairhaven	Mendon	Saugus
Ashburnham	Fall River	Middleboro	Scituate
Athol	Falmouth	Millis	Sharon
Azleboro	Fitchburg	Millbury	Shrewsbury
Auburn	Foxboro	Millville	Somerville
Avon	Framingham	Milton	Southborough
Barnstable	Franklin	Monson	Southwick
Barre	Gardner	Montague	Spencer
Bellingham	Gloucester	Montgomery	Springfield
Belmont	Grafton	Nantucket	Sterling
Berlin	Granville	Natick	Stoughton
Beverly	Greenfield	Needham	Sturbridge
Blackstone	Halifax	Newburyport	Sutton
Blandford	Hampden	New Bedford	Swampscott
Bolton	Hanover	New Braintree	Taunton
Boston	Hanson	Norfolk	Templeton
Bourne	Harvard	North Adams	Tolland
Boylston	Harwich	Northborough	Truro
Braintree	Hardwick	Northbridge	Upton
Brewster	Holbrook	Norwell	Uxbridge
Bridgewater	Holden	N. Brookfield	Wakefield
Brimfield	Holland	Oakham	Wales
Brockton	Holyoke	Orleans	Walpole
Brookfield	Hopedale	Oxford	Waltham
Brookline	Hubbardston	Palmer	Wareham
Cambridge	Hull	Paxton	Warren
Canton	Kingston	Peabody	Webster
Carver	Lakeville	Pembroke	Welfleet
Charlton	Lancaster	Petersham	Westborough
Chatham	Lawrence	Phillipston	Westminster
Chelsea	Leicester	Pittsfield	W. Boylston
Chester	Lexington	Plainville	W. Bridgewater
Chicopee	Longmeadow	Plymouth	W. Brookfield
Clinton	Lowell	Plympton	Westwood
Cohasset	Ludlow	Princeton	Weymouth
Danvers	Lunenburg	Provincetown	Whitman
Dedham	Lynn	Quincy	Wilbraham
Dennis	Marion	Randolph	Winchendon
Douglas	Marlborough	Reading	Winchester
Dover	Marshfield	Revere	Winthrop
Dudley	Mashpee	Rochester	Woburn
Duxbury	Mattapoisett	Rockland	Worcester
E. Bridgewater	Maynard	Royalston	Wrentham
E. Brookfield	Medfield	Russell	Yarmouth ✓

188 Municipalities

11/22/96

# Regulations for Initial Medical and Physical Fitness Standards Tests for Municipal Public Safety Personnel

## 01 Purpose

The purpose of the initial medical and physical fitness standards programs is to minimize health and safety risks to the public, fellow workers and police officers and fire fighters themselves. These standards are promulgated pursuant to M.G.L. c.31, s.61A and c.32, s.5 (3) (e).

## 02 Definitions

Cardiovascular Fitness Cardiovascular Fitness (aerobic endurance, stamina) is a measure of heart and lung function. It is the ability to maintain whole body activity for a length of time without fatiguing or running out of breath.

Category A Medical Condition A medical condition that would (1) preclude an individual from performing the essential job functions of a municipal fire fighter or police officer in a training or emergency operational environment, or (2) present a significant risk to the safety and health of that individual or others.

Category B Medical Condition A medical condition that, based on its severity or degree, may or may not (1) preclude an individual from performing the essential job functions of a municipal fire fighter or police officer in a training or emergency operational environment, or (2) present a significant risk to the safety and health of that individual or others.

Flexibility Flexibility is a measure of the range of motion at a joint. Adequate levels of flexibility are necessary in order to make daily movements with ease.

Initial Standards Tests to determine if job candidates possess the abilities to perform the essential functions of their jobs, and have no disqualifying conditions. This term applies to both medical and physical fitness standards.

Medical Standards Medical (or Health ) Standards are tests of various health status categories that are demonstrably related to an occupation. These tests are designed to ensure that employees have no disqualifying conditions and have the physical attributes that will permit performance of the essential functions of their jobs.

Muscular Endurance Muscular Endurance is a measure of a muscle's ability to maintain a submaximal force or repeatedly apply a submaximal force without a rest; that is, the number of times one can lift a certain amount of weight. Adequate levels of muscular endurance allow one's muscles to perform a task for a longer period of time before the muscles get tired.

Muscular Strength Muscular Strength (also referred to simply as "strength") is a measure of the greatest amount of force a muscle can apply; that is, the most weight a muscle group can move at one time.

Physical Fitness Physical Fitness is defined as "the ability to carry out daily tasks with vigor and alertness, without undue fatigue and with ample energy to enjoy leisure-time pursuits and to meet unforeseen emergencies" (President's Council on Physical Fitness and Sports). An adequate level of physical fitness is required to perform many jobs and to provide energy for recreational activities. Physical fitness consists of the following components: cardiovascular fitness, muscle strength, muscular endurance, and flexibility. In order to perform optimally at work and in our other daily activities it is necessary to develop and maintain adequate levels of fitness in each of these components.

Physical Fitness Standards Physical Fitness Standards are tests of physical abilities that are demonstrably related to an occupation. These tests are designed to ensure that employees have the physical abilities required to perform the essential functions of their jobs.

Standards and Wellness Community A standards and wellness community is a community that is subject to the requirements of MGL Chapter 31, Sections 61A and 61B, either through independent acceptance of these sections, or through acceptance of Chapter 32, Section 22D. The Human Resources Division (HRD) periodically promulgates a list of standards and wellness communities.

### 03 Eligibility Criteria

(1) These Initial Medical and Physical Fitness Standards Programs apply to each individual who receives an offer of employment from a fire or police department in a standards and wellness community, that is one that accepted or is deemed to have accepted M.G.L. c. 32, s.22D or that has independently accepted M.G.L. c.31, s.61A and s. 61B. Every individual hired after November 1, 1996 in a standards and wellness community police or fire department is subject to the initial medical and physical fitness standards programs as promulgated by the Personnel Administrator.

### 04 Timing of Standards Tests

(1) Initial Standards Examinations (Examination and Re-examination) Effective November 2, 1996, every new hire in standards and wellness communities must take Initial Medical and Physical Fitness Standards Examinations within thirty days of the date of appointment. Each candidate who does not pass the Medical Standards Examination will not be permitted to take the Physical Fitness Standards Examination unless and until he/she passes the Medical Standards Examination. Any candidate who does not appear for his/her scheduled examination or re-examination will be determined to have failed that examination or re-examination. Any candidate who fails the Medical Standards Examination or Physical Fitness Standards Examination may be re-tested after sixteen weeks. Any candidate who fails the Medical Standards Test or Physical Fitness Standards Test upon re-examination (second attempt) will have his/her appointment rescinded.

**05 Medical Standards Examinations and Re-examinations**

(1) Conducting Medical Standards Examinations and Re-examinations  
Medical Standards Examinations shall be conducted by physicians in conformance with the guidelines and forms promulgated by the Massachusetts Human Resources Division. All decisions concerning whether or not an individual passes the Medical Standards Examination must be based upon the individual's ability to perform the essential functions of the job. The physician conducting the Medical Standards Examination or Re-examination is responsible for conducting a thorough and complete examination. Medical Standards Examinations and Re-examinations must be conducted by a physician approved by the standards and wellness community for which the candidate seeks to work.

(2) Review of Medical Standards Examinations and Re-examinations  
Standards and wellness communities' physicians are responsible for reviewing the results of the examinations and advising HRD, the hiring department and the candidate whether or not the candidate has passed the Medical Standards Examination.

(3) Medical Standards Records Information and records concerning an individual's Medical Standards Examination must be kept confidential and in conformance with medical records requirements.

(4) Incomplete Medical Standards Examinations or Re-examinations  
Any community that concludes that a physician has conducted an incomplete or less than thorough Medical Standards Examination is required to notify HRD and return the results of the exam to the physician with an explanation of the reasons for their conclusion. The physician is then required to review the community's concerns and respond to those concerns in a thorough and complete manner.

## 06 Physical Fitness Standards Examinations and Re-examinations

(1) Monitors Each examination monitor must be trained and must understand his/her roles and areas of responsibility as prescribed by the Human Resources Division. Each test site must be supervised by a monitor-in-charge who is responsible for all operations at the site, including testing of events and equipment to ensure that everything is working properly and safely. The monitor-in-charge is responsible for supervising the work of all monitors. An Emergency Medical Technician must be present during all testing and is responsible for the operation of the Safety Plan.

(2) Safety Plan Each testing site must have a safety plan in place for responding to any emergency situation. The safety plan shall include the following:

(a) Administration of a Self-evaluation questionnaire (PAR Q) to each individual who intends to participate in the fitness test to determine physical readiness for testing.

(b) Screening of blood pressure, pulse rate and oral temperature of each candidate to ensure that these measurements are within normal limits on the day of testing.

(c) Emergency Medical Technician on site who will be responsible for implementing the necessary precautions (screenings and evaluation) and responding to or obtaining the needed medical assistance in case of an emergency situation.

(d) Reports must be made to HRD and the hiring department documenting any injuries or medical emergencies that occur during the physical fitness testing.

(3) Examination Administration Each monitor must examine every individual by delivering the authorized instructions for each event, in the same manner, accurately scoring the individual's performance, and precisely recording all scores on the score sheets provided by HRD. The instructions for each event will be provided by the Human Resources Division. Any candidate who fails the test will be informed by the Monitor-in-Charge of his/her test results and provided with guidance on how to prepare for his/her re-examination. All examination results will be kept confidential.



(4) Examination Preparation Each individual should be permitted sixteen weeks to prepare for the Physical Fitness Standards Examination. Each individual will be provided with a Test Preparation Guide promulgated by HRD to assist them in their preparation. Prior to any re-examination candidates will be afforded sixteen weeks to prepare. Individuals who wish to waive the sixteen weeks in order to undergo an examination or re-examination may do so.

## **07 Medical Standards Examinations for Municipal Fire Fighters**

(1) Medical Evaluation Each municipal fire department shall establish and implement a pre-placement medical evaluation process for candidates. During the medical evaluation, the physician shall evaluate each individual to ascertain the presence of any medical conditions listed in the National Fire Protection Association (NFPA) 1582, Medical Requirements for Fire Fighters, or any medical conditions not listed which would prevent the individual from performing the essential job functions without posing a significant risk. It is the intent of these standards to encourage the use of professional judgment regarding medical conditions which are not specifically listed. A candidate shall not be certified as meeting the medical requirements of these standards if the physician determines that the candidate has any Category A medical condition specified in the NFPA 1582. Furthermore, a candidate shall not be certified as meeting the medical requirements of these standards if the physician determines that the candidate has a Category B medical condition that is of sufficient severity to prevent the candidate from performing the essential functions of a fire fighter without posing a significant risk to the safety and health of him/herself or others.

All medical information collected as part of a medical evaluation shall be considered confidential medical information, and shall be released by the physician only with the specific written consent of the candidate. The physician shall report the results of the medical evaluation to the candidate, including any medical condition(s) disclosed during the medical evaluation, and the recommendation as to whether the candidate is medically certified to perform as a fire fighter. The physician shall inform the fire department and HRD only as to whether or not the candidate is medically certified to perform as a fire fighter. The specific written consent of the candidate shall be required to release confidential medical

information to the fire department and HRD, following guidelines set forth under the Americans With Disabilities Act (ADA) and other relevant policies.

(2) Medical Standards The Initial Medical Standards for Fire Fighters will be the NFPA's 1582, Medical Requirements for Fire Fighters. Because the document is copyrighted, copies of these requirements may be obtained only through the NFPA, 1 Batterymarch Park, Quincy, MA. 02269-9101.

## **08 Physical Fitness Standards Test Course for Fire Fighters**

(1) General Description The Physical Fitness Standards Test for Fire Fighter consists of 7 events that require each candidate to perform simulations of activities that are part of the fire fighter's job. These events require cardiovascular fitness, muscle strength, muscular endurance and flexibility. Each event will be timed. During all events, the candidate will wear a weighted vest which approximates the weight of the clothing, equipment and breathing apparatus that a fire fighter normally wears during these types of activities. The events are described below. They will be performed in the order listed.

(a) Stair Climb This event simulates continuous stair climbing, an activity that fire fighters may perform when getting to a fire at an incident scene. For this event, the candidate will be required to step on a rotating stair case (also known as a stepmill) at a pre-determined stepping pace for a specific period of time. There is a five minute rest period after the stair climb event.

(b) Ladder Event This event simulates various activities related to using extension ladders. The candidate will be required to remove a ladder from a rack, carry it some distance, raise a weight of approximately 45 lbs. attached to a rope that simulates the raising of an extension ladder, lower that weight and return the ladder to the rack from which it was taken. The event ends when the ladder is back in the rack. This event will be timed.

(c) Hose Advance This event simulates the actions necessary to manipulate a fully charged fire hose. The candidate will be required

to pull 50 feet of hose through a U-shaped course with several turns. There will be a ceiling on the U-shaped course to prevent the candidate from standing upright. This event will be timed.

(d) Forcible Entry This event simulates breaking down a door to gain entry to a burning structure or an incident scene. For this event the candidate will be required to strike a rubber pad mounted on a moveable post. The candidate will use a 12 lb. sledge hammer to move the post a set distance. The post and structure are weighted to simulate the force one would need to exert on a door in order to gain entrance. The candidate's score will be based on the time it takes to move the post the required distance.

(e) Search This event simulates the actions necessary to enter and search a smoke-filled structure. Candidates crawl through a dark wooden tunnel with obstructions and turns. The tunnel is approximately 65 feet long. The tunnel is 4 feet high and 4 feet wide. At one location in the tunnel there is an obstacle on the floor and at one location there is an obstacle from the ceiling. In addition, at two locations, the tunnel is reduced from 4 feet to 3 feet in width. This event will be timed.

(f) Rescue Through a Doorway This event simulates the actions necessary to drag an unconscious victim through a doorway to get the victim to safety. Individuals drag a 125 pound dummy approximately 60 feet along a zigzag course to a designated area at the end of the course. In this event, there is a low ceiling over the course to prevent candidates from standing upright. This event will be timed.

(g) Ceiling Hook (Pike Pole) This event simulates the use of a pike pole or ceiling hook. A pike pole or ceiling hook is a fire fighting tool used to tear down ceilings or open walls while looking for hidden fires. This event requires the candidate to take a pike pole, tipped with an industrial hammer head, and thrust it upward at a metal plate in an 8 foot ceiling. The metal plate weighs approximately 60 lbs. and must be lifted six inches in order for the strike to count. The candidate then steps over to the next part of the event, where a pike pole handle is suspended from a ceiling height. The pole is attached to a counter balance that weighs approximately 80 lbs. The candidate must pull the pole down six inches in order for the pull to count. The candidate must perform one push and five pulls in a sequence. The event will require the candidate to perform four one-minute periods of work, in which he/she will try to do as many push-pull sequences as possible. Only completed sequences

will count in the scoring of this event. Each work period will be followed by a 30 second rest period.

(2) Specifications for these test events are on file at HRD.

**09 Scoring of the Physical Fitness Standards Test Course for Fire Fighters**

(1) The scoring will be as follows:

TABLE OF CUT SCORES	
Stepmill	200 secs
Ladder	35.56 secs
Hose Advance	20 secs
Forcible Entry	13.91 secs
Search	39 secs
Rescue	36 secs
Ceiling Hook	25 reps

(2) In order to pass the Physical Fitness Standards Test successfully, a candidate must pass every sub-test by achieving at least the passing score indicated on the above chart. If upon examination, a candidate does not pass the test, then that candidate will be required to retake the entire test (all the sub-tests) during the re-examination.

**10 Medical Standards Examinations for Municipal Police Officers are as follows**

(1) Medical Evaluation Each municipal police department shall establish and implement a pre-placement medical evaluation process for candidates. During the medical evaluation, the physician shall evaluate each individual to ascertain the presence of any medical conditions listed in these standards, or any medical conditions not listed which would prevent the individual from performing the essential job functions without posing a significant risk. It is the intent of these standards to encourage the use of professional judgment regarding medical conditions which are not specifically listed. A candidate shall not be certified as meeting the medical requirements of these standards if the physician determines that the candidate has any Category A medical condition specified in these standards. Furthermore, a candidate shall not be certified as meeting the medical requirements of these standards if the physician determines that the candidate has a Category B medical condition that is of sufficient severity to prevent the candidate from performing the essential functions of a police officer without posing a significant risk to the safety and health of him/herself or others.

(2) The medical evaluation shall minimally include the following:

- (a) comprehensive medical history, that is, a baseline (pre-placement) or interval (periodic) occupational history, including significant past exposures and training and experience with personal protection equipment
- (b) height and weight
- (c) vital signs: pulse, respiration, blood pressure, and, if indicated, temperature
- (d) dermatological system
- (e) ears, eyes, nose, mouth, throat
- (f) cardiovascular system
- (g) respiratory system
- (h) gastrointestinal system

- (i) genitourinary system
- (j) endocrine and metabolic systems
- (k) musculoskeletal system
- (l) neurological system
- (m) mental status evaluation
- (n) audiometry Audiograms should be performed in an ANSI approved "soundproof" booth (ANSI S3.1-1977) with equipment calibrated to ANSI standards (ANSI S3.6-1973). If a booth is unavailable, the test room sound pressure levels should not exceed those specified in the Federal OSHA noise regulations (29 CFR 1910.25).
- (o) visual acuity and peripheral vision testing
- (p) pulmonary function testing A baseline test should be administered by an experienced individual. Only a spirogram that is technically acceptable and demonstrates the best efforts by an individual should be used to calculate the Forced Vital Capacity (FVC) and Forced Expiratory Volume in one second (FEV<sub>1.0</sub>), and,
- (q) other diagnostic testing where indicated.

(3) The medical evaluation process should also include:

- (a) a review of tetanus immunization status
- (b) a PPD test, based on individual departmental infection control plans, and,
- (c) a review of hepatitis B immunization status.

(4) All medical information collected as part of a medical evaluation shall be considered confidential medical information, and shall be released by the physician only with the specific written consent of the candidate. The physician shall report the results of the medical evaluation to the candidate, including any medical condition(s) disclosed during the medical evaluation, and the recommendation as to whether the candidate is medically certified to perform as a police officer. The physician shall

inform the police department and HRD only as to whether or not the candidate is medically certified to perform as a police officer. The specific written consent of the candidate shall be required to release confidential medical information to the police department and HRD, following guidelines set forth under the Americans With Disabilities Act (ADA) and other relevant policies.

(5) Category A And Category B Medical Conditions

(a) A Category A Medical Condition is a medical condition that would preclude an individual from performing the essential job functions of a municipal police officer, or present a significant risk to the safety and health of that individual or others.

(b) A Category B Medical Condition is a medical condition that, based on its severity or degree, may or may not preclude an individual from performing the essential job functions of a municipal police officer, or present a significant risk to the safety and health of that individual or others.

(6) The following biological systems shall be components of the Initial Medical Standards for police officers:

(a) Musculoskeletal

1. Head and Neck

a. Category A medical conditions shall include:

i none.

b. Category B medical conditions shall include:

i. deformities of the skull, loss or congenital absence of the bony substance of the skull which limit the ability to wear a mask and/or protective breathing apparatus,

ii. thoracic outlet syndrome sufficient to compromise required activity,

iii. congenital cysts, chronic draining fistulas, or similar lesion,

- iv. contraction of neck muscles,
- v. any other head or neck condition that results in an individual not being able to perform as a police officer.

## 2. Axial Skeleton

- a. Category A medical conditions shall include:
  - i. meningomyelocele,
  - ii. osteoporosis with compression fractures,
  - iii. spondylolisthesis (grade 2 or 3).
- b. Category B medical conditions shall include:
  - i. lumbar laminectomy,
  - ii. arthritis,
  - iii. structural abnormality, fracture, or dislocation,
  - iv. degenerative disk disease,
  - v. herniated disk or sciatica with clinical evidence of radiculopathy,
  - vi. spinal stenosis,
  - vii. spinal surgery not covered in Category A,
  - viii. any other axioskeletal condition that results in an individual not being able to perform as a police officer.

## 3. Extremities

- a. Category A medical conditions shall include:



- i. lower extremity amputation above the knee,
- ii. upper extremity amputation at or above the wrist, of either thumb, or of digits if absence of those digits interferes with performance of essential job functions (which include weapon firing with either hand),
- iii. endoprostheses.

b. Category B medical conditions shall include:

- i. limitation of motion of a joint,
- ii. below-the-knee amputations and other amputations not covered in Category A,
- iii. deformity or dislocation of a joint or limb,
- iv. joint reconstruction, ligamentous instability, or joint replacement not covered in Category A,
- v. chronic osteoarthritis or traumatic arthritis,
- vi. inflammatory arthritis,
- vii. osteomyelitis,
- viii. compressive neuropathies, including carpal tunnel syndrome,
- ix. required use of stabilizing orthopedic braces,
- x. any other extremity condition that results in an individual not being able to perform as a police officer.

(b) Eyes And Vision

1. Category A medical conditions shall include:

- a. severe color vision deficiency, inadequate to identify red, green and yellow colors,
- b. far vision worse than 20/25 (Snellen) corrected or 20/200 uncorrected,
- c. near vision worse than 20/40 corrected,
- d. total peripheral vision of less than 140 degrees in the horizontal meridian,
- e. abnormal depth perception (less than 80% on the Shepard-Fry test),
- f. proliferative retinopathy,
- g. retinal detachment,
- h. papilledema,
- i. optic neuritis.

2. Category B medical conditions shall include:

- a. diseases of the eye such as glaucoma, cataracts, or progressive retinopathy,
- b. ophthalmological procedures such as radial keratotomy or repair of retinal detachment,
- c. strabismus or nystagmus,
- d. eyelid disorders such as blepharitis, blepharospasm, entropion, and ectropion,
- e. any other vision disorder or eye condition that results in an individual not being able to perform as a police officer.

(c) Ears And Hearing

1. Category A medical conditions shall include:
  - a. hearing deficit in the pure tone thresholds in either ear beyond a 30 dB threshold at 500 Hz, 1000 Hz, 2000 Hz, or 3000 Hz,
  - b. any inner, middle or outer ear disorder affecting equilibrium.
2. Category B medical conditions shall include:
  - a. perforated tympanum,
  - b. auditory canal - atresia, severe stenosis, or tumor,
  - c. severe external otitis,
  - d. mastoid - severe mastoiditis or surgical deformity,
  - e. Meniere's syndrome or labyrinthitis,
  - f. otitis media,
  - e. any other ear condition that results in an individual not being able to perform as a police officer.

(d) Nose, Mouth, And Throat

1. Category A medical conditions shall include:
  - a. tracheostomy,
  - b. aphonia,
  - c. loss of sense of smell,
  - d. congenital or acquired deformities which interfere with wearing a gas mask.

2. Category B medical conditions shall include:

- a. congenital or acquired deformities not covered in Category A,
- b. dysphonia,
- c. chronic severe rhinitis,
- d. any other nose, oropharynx, trachea, esophagus, or larynx condition that interferes with breathing or speech or otherwise results in an individual not being able to perform as a police officer or to communicate effectively.

(e) Respiratory

1. Category A medical conditions shall include:

- a. lung abscess or empyema,
- b. active tuberculosis,
- c. pneumothorax,
- d. interstitial disease with abnormal exercise oxygen desaturation,
- e. moderate to severe obstructive pulmonary disease, using the following criteria:
  - i. frequent exacerbation of symptoms (>1-2 times per week),
  - ii. cough and low grade wheezing between exacerbations,
  - iii. diminished exercise tolerance,
  - iv. signs of airway obstruction using spirometry,
  - v. regular drug therapy required.

2. Category B medical conditions shall include:

- a. lobectomy or pneumonectomy,
- b. obstructive disease not meeting Category A criteria,
- c. chronic bronchitis,

- d. emphysema,
- e. bronchiectasis,
- f. history of bronchiectasis, bronchitis, fibrous pleuritis, fibrosis, cystic disease, tuberculosis, mycotic lung disease, or pneumothorax,
- g. interstitial disease with normal exercise oxygen saturation,
- h. any other respiratory condition that results in an individual not being able to perform as a police officer.

(f) Cardiovascular

1. Heart

- a. Category A medical conditions shall include:
  - i. current diagnosis of angina pectoris,
  - ii. congestive heart failure,
  - iii. aneurysm,
  - iv. acute pericarditis, endocarditis, or myocarditis. Chronic pericarditis. endocarditis with resultant significant valvular lesions, or myocarditis leading to myocardial insufficiency or excludable arrhythmias,
  - v. cardiac or multi-organ transplant or left ventricular assist device,
  - vi. third degree AV block without cardiac pacemaker,
  - vii. coronary artery disease, cardiac hypertrophy, or other cardiac condition without evidence of a functional capacity greater than 6 METs,
  - viii. recurrent syncope,
  - ix. history of sudden cardiac death syndrome,
  - x. significant valvular heart disease,

- xi. current diagnosis of embolism or thrombophlebitis,
- xii. automatic implantable cardioverter defibrillator (AICD).

b. Category B medical conditions shall include:

- i. coronary artery disease not covered in Category A,
- ii. significant arrhythmias,
- iii. cardiac hypertrophy,
- iv. history of myocardial infarction, coronary artery bypass, coronary angioplasty, stent placement, or atherectomy,
- v. congenital abnormality,
- vi. cardiac pacemaker,
- vii. any other cardiac condition that results in an individual not being able to perform as a police officer.

## 2. Vascular System

a. Category A medical conditions shall include:

- i. congenital or acquired lesions of the aorta and major vessels,
- ii. marked circulatory instability as indicated by orthostatic hypotension, persistent tachycardia, and severe peripheral vasomotor disturbances,
- iii. aneurysm of a major vessel, congenital or acquired,
- iv. untreated persistent hypertension (systolic blood pressure of 160 mmHg or greater or diastolic blood pressure of 100 mmHg or greater).

b. Category B medical conditions shall include:

- i. persistent hypertension controlled through medication (systolic blood pressure less than 160 mmHg and diastolic blood pressure less than 100 mmHg),

- ii. peripheral vascular disease, including intermittent claudication, Raynaud's disease, and Buerger's disease,
- iii. recurrent thrombophlebitis,
- iv. chronic lymphedema,
- v. severe or symptomatic varicose veins or venous insufficiency,
- vi. any other vascular condition that results in an individual not being able to perform as a police officer.

(g) Gastrointestinal

(1) Category A medical conditions shall include:

- a. liver or multi-organ transplantation,
- b. active gastrointestinal bleeding.

(2) Category B medical conditions shall include:

- a. cholecystitis,
- b. gastritis,
- c. chronic or acute hepatitis,
- d. hernia,
- e. inflammatory bowel disease,
- f. intestinal obstruction,
- g. pancreatitis,
- h. bowel resection,
- i. gastrointestinal ulcer,
- j. cirrhosis,
- k. diverticulitis,

1. any other gastrointestinal condition that results in an individual not being able to perform the duties of a police officer.

(h) Reproductive

1. Category A medical conditions shall include:
  - a. none.
2. Category B medical conditions shall include:
  - a. pregnancy, for its duration. Any candidate who is pregnant shall be evaluated based on the candidate's ability to perform as a police officer. Such evaluation shall be based in part on the timing of training and duties as related to pregnancy duration and postpartum recovery. Furthermore, a pregnant candidate shall be informed of the potential risks to her fetus in the performance of essential job functions, due to possible exposures to hazardous materials and physical contact.
  - b. any other reproductive condition that results in an individual not being able to perform as a police officer.

(i) Genitourinary

1. Category A medical conditions shall include:
  - a. renal disease requiring dialysis,
  - b. renal or multi-organ transplantation.
2. Category B medical conditions shall include:
  - a. any other renal, urinary, or genital condition that results in an individual not being able to perform as a police officer.



(j) Neurological

1. Category A medical conditions shall include:

- a. ataxia,
- b. cerebral arteriosclerosis as evidenced by documented episodes of neurological impairment, including cerebrovascular accidents (CVAs) and transient ischemic attacks (TIAs),
- c. multiple sclerosis with activity or evidence of progression within previous three years,
- d. muscular dystrophy,
- e. myesthesia gravis,
- f. ALS,
- g. all seizure disorders to include psychomotor, focal, petit mal, or grand mal seizures other than for those with complete control during previous two (2) years, normal neurological examination, and definitive statement from qualified neurological specialist,
- h. dementia.

2. Category B medical conditions shall include:

- a. congenital conditions and malformations,
- b. migraines,
- c. clinical disorders with paresis, paralysis, loss of coordination, abnormal motor function, or abnormalities of sensation,
- d. history of subdural, subarachnoid, or intracerebral hemorrhage,
- e. recent severe head contusion or concussion,

f. any other neurological condition that results in an individual not being able to perform as a police officer.

(k) Skin

1. Category A medical conditions shall include:
  - a. none.
2. Category B medical conditions shall include:
  - a. non localized, i.e., widespread, skin disease,
  - b. extensive skin grafts,
  - c. contact allergies,
  - d. any other dermatologic condition that results in an individual not being able to perform as a police officer.

(l) Hematopoietic And Lymphatic

1. Category A medical conditions shall include:
  - a. hemorrhagic states requiring replacement therapy, including hemophilia,
  - b. sickle cell disease (homozygous),
  - c. chronic anticoagulation therapy.
2. Category B medical conditions shall include:
  - a. anemia, leukopenia, or thrombocytopenia,
  - b. polycythemia vera,
  - c. splenomegaly,
  - d. history of thromboembolic disease,

e. any other hematological condition that results in an individual not being able to perform as a police officer.

(m) Endocrine And Metabolic

1. Category A medical conditions shall include:

a. uncontrolled diabetes mellitus or diabetes controlled through use of an insulin pump.

2. Category B medical conditions shall include:

a. diseases of the adrenal gland, pituitary gland, parathyroid gland, or thyroid gland of clinical significance,

b. nutritional deficiency disease or metabolic disorder,

c. diabetes mellitus not covered in Category A,

d. any other endocrine or metabolic condition that results in an individual not being able to perform as a police officer.

(n) Tumors And Malignant Disease

1. Category A medical conditions shall include:

a. none.

2. Category B medical conditions shall include:

a. malignant disease which is newly diagnosed, untreated, or currently being treated. The medical evaluation of any candidate with malignant disease which is newly diagnosed, untreated, or currently being treated shall be deferred until treatment has been completed. Treated malignant disease shall be evaluated based on that individual's current physical condition and on the likelihood of that individual's disease to recur or progress.

b. any other tumor or malignancy that results in an individual not being able to perform as a police officer.

(o) Psychiatric

1. Category A medical conditions shall include:

- a. disorders of behavior,
- b. anxiety disorders,
- c. disorders of thought,
- d. disorders of mood.

2. Category B medical conditions shall include:

- a. a history of psychiatric condition or substance abuse problem shall be evaluated based on that individual's history, current status, prognosis, and ability to respond to the stresses of the job,
- b. any other psychiatric condition that results in an individual not being able to perform as a police officer.

(p) Conditions Not Otherwise Covered

1. Category A medical conditions shall include:

- a. none.

2. Category B medical conditions shall include:

- a. connective tissue and autoimmune diseases, including dermatomyositis, lupus erythematosus, scleroderma, and rheumatoid arthritis,
- b. history of heat stroke, frostbite, or other thermal injury,

c. potentially transmissible infectious disease, including HIV and AIDS,

d. any other systemic condition that results in an individual not being able to perform as a police officer.

(q) Chemicals, Drugs, And Medications

1. Category A medical conditions shall include:

a. active alcoholism or substance abuse.

2. Category B medical conditions shall include the regular use of various chemicals and drugs, including -- but not limited to -- the following categories:

a. anticoagulant agents,

b. cardiovascular agents,

c. narcotics,

d. sedative-hypnotics,

e. stimulants,

f. psychoactive agents

g. systemic steroids,

h. any other chemical, drug, or medication that results in an individual not being able to perform as a police officer.

**11 Physical Fitness Standards Test Course for Police Officers**

(1) The Physical Fitness Standards Test for Police Officer consists of four (4) events that require candidates to perform simulations of activities

that are a part of the police officer's job. These events require cardiovascular fitness, muscle strength, muscular endurance and flexibility. Each event will be timed. During all events, the candidate will wear a duty belt equipped with a holster, plastic gun and night stick to simulate the equipment a police officer normally wears during these types of activities. The events are described below. They will be performed in the order listed. There will be a twenty second rest period between events.

(a) Event #1: "Getting to a Problem" - The Obstacle Course. This event simulates the actions necessary to pursue and "takedown" a suspect. The event begins with a 340-yard obstacle course where the candidate will be faced with climbing under an obstacle, climbing up and down steps, going through an open window, climbing over a wall and negotiating a series of cones arranged in a zigzag pattern. At the end of the course, the candidate will be required to grab hold of a weighted bag attached to a pulley and touch it to the ground beyond a three (3) foot line. The candidate will then immediately move around the Power Station to the handcuffing simulation where he/she will be required to pull on two hand levers until the cable hits the stop. This completes the event.

(b) Event #2 "Resolving the Problem" - The Trigger Pull Event. The event consists of raising a handgun and squeezing the trigger six (6) times with each hand.

(c) Event #3: "Resolving the Problem" - The Separation Event. This event simulates tasks that require separating one party from another and controlling individuals, such as in crowd control situations. The candidate will be required to pull a hanging bag, weighted against 75 lbs., backwards touching it to the ground across a marked line. Each candidate will have to perform two "pulls".

(d) Event #4: "Removing the Problem" - The Dummy Drag. This event simulates dragging a victim or suspect. The candidate will be required to drag a 6', 145 pound dummy over a straight 25 foot course.

(2) Specifications for these test events are on file at HRD.

**12 Scoring of the Physical Fitness Standards Test Course for Police Officers**

(1) The scoring will be as follows:

TABLE OF CUT SCORES	
Obstacle Course	130.4 secs
Trigger Pull	7.1 secs
Bag Pull	14.2 secs
Dummy Drag	11 secs

(2) In order to pass the Physical Fitness Standards Test successfully, a candidate must pass every sub-test by achieving at least the passing score indicated on the preceding chart. If upon examination, a candidate does not pass the test, then that candidate will be required to retake the entire test (all the sub-tests) during the re-examination.

**POLICY NO: 28**

**DATE APPROVED: 10/01/98**

**AMENDED:**

**TOWN OF BREWSTER**

**CONSTRUCTION AND DEMOLITION POLICY  
FOR TOWN OF BREWSTER LANDFILL**

The Brewster Board of Selectmen, acting as the Commissioners of the Department of Public Works, in accordance with the Administrative Consent order signed with the Department of Environmental Protection hereby sets forth this policy for the handling of construction and demolition material at the Town of Brewster landfill.

After conducting a public hearing in March of 1998 and taking public input on the proposed policy, the Board, to comply with its agreement to close the landfill by the end of this year, will close the landfill to accepting construction and demolition material, effective October 1, 1998.

The Town will then seek bids for the capping of the landfill and will proceed with the capping phase of the landfill to be completed by the end of 1999.

Those individuals or businesses that apply for and are granted a building permit will be provided with a list of licensed facilities and haulers for the proper disposal of Construction and Demolition materials.



**POLICY NO.: 29**

**DATE ADOPTED: 7/6/99**

**AMENDED:**

**TOWN OF BREWSTER**

**SEASONAL WAGES POLICY**

The Board of Selectmen, acting in its capacity as the Personnel Board, will annually review the wage scale for part-time seasonal employees no later than April 1 of the calendar year.

This review will allow those town departments that rely on seasonal part-time employees to react to market conditions and ensure that those seasonal positions are filled.

The Board of Selectmen will use the current Commonwealth of Massachusetts minimum wage as its lowest legal level for pay for those seasonal positions.

The wage scale for NEW seasonal hires should be capped at 5% less than the starting union pay for the similar position.

The wage scale for RETURNING seasonal hires should be capped at 5% less than the top union pay for the similar position.

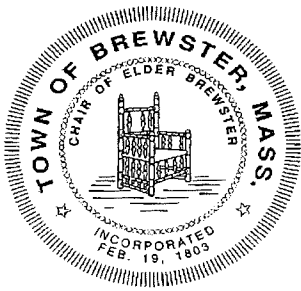
To accomplish this goal, the department heads (Golf, Department of Public works, Recreation) would submit with their annual operating budget the anticipated needs for seasonal employees and a budgeted amount within the range outlined above. The maximum possible budget would then be available as resource to allow flexibility in hiring for these positions.

***POLICY NO:*** 30

***DATE APPROVED:*** 09/13/99

***AMENDED:***

**EQUAL EMPLOYMENT OPPORTUNITY/  
AFFIRMATIVE ACTION  
POLICY STATEMENT**



# Town of Brewster

BREWSTER, MASSACHUSETTS 02631-1898

(508) 896-3701  
FAX (508) 896-8089

OFFICE OF:  
BOARD OF SELECTMEN  
TOWN ADMINISTRATOR

## EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION POLICY STATEMENT

The Town of Brewster has a statutory mandate under law to guarantee equal treatment for all who seek access to its services or opportunities for employment and advancement. No discrimination will be tolerated on the basis of race, creed, political affiliation, color, sex, national origin, age or handicap. The ultimate goal is for personnel of the Town to reflect proportions of minority, female and handicapped persons in the populations they serve.

The Town of Brewster will meet its legal, moral, social, and economic responsibilities for Equal Employment Opportunity/ Affirmative Action as authorized and required by all pertinent state and federal legislation, executive orders, rules and regulations, including the following:

1. Title VII of the Civil Rights Act of 1964 (42 USC s2000e et seq.), which prohibits discrimination in employment on the basis of race, color, religion, sex or national origin; and
2. The Age Discrimination in Employment Act of 1967 (29 USC s621 et seq.) which prohibits discrimination in employment on the basis of age with regard to those individuals who are at least 40 years of age, but less than 65 years of age; and
3. Section 504 of the Rehabilitation Act of 1973 (29 USC s794), and the regulations promulgated pursuant thereto (45 CFR Part 84), which prohibit discrimination against qualified handicapped individuals on the basis of handicap and requires employers to make reasonable accommodations to known physical or mental limitations of otherwise qualified handicapped applicants and employees; and

4. M.G.L. c. 151 s4 (1), as amended by Chapter 533, 1983, which prohibits discrimination in employment on the basis of race, color, sex, religious creed, national origin, ancestry, age or handicap,

In addition, the Town agrees to be familiar with and abide by:

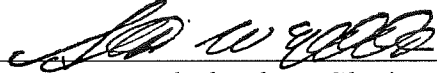
- Massachusetts Executive Order 143
- Massachusetts Executive Order 227
- Massachusetts Executive Order 390
- Equal Pay Act of 1963
- Massachusetts Executive Order 74 amended by Executive Order 116
- Massachusetts Architectural Access Barriers Board Act
- Federal Executive Orders 11246 and 11375 as amended.

All employees, unions, sub-contractors and vendors must make genuine and consistent efforts to :

1. Ensure equal employment opportunities for present and future employees, and
2. Implement affirmative action , as legally required, to remedy the effects of past employment discrimination and social inequalities.

The responsibility for implementing this policy is shared mutually by all Town employees, elected and/or appointed. Responsibility for monitoring and enforcement of this policy for the Board of Selectmen and the citizens of the Town of Brewster has been delegated to the Town Administrator and/or his/her designees.

Furthermore, the Town of Brewster prohibits that any employee, or applicant, be subject to coercion, intimidation, interference or discrimination for filing a complaint or assisting in an investigation under this policy. No portion of this Equal Employment Opportunity/Affirmative Action Policy shall be construed as conflicting with any existing or future judicial or legislative mandate where a constricton consistent with that mandate is reasonable.

  
\_\_\_\_\_  
Steven W. Eledredge, Chairman  
Brewster Board of Selectmen

9/13/99  
\_\_\_\_\_  
Date

***POLICY NO:*** 31

***DATE ADOPTED:*** 10/17/95

**ALCOHOL AND DRUG USE  
AND TESTING POLICY  
FOR SAFETY-SENSITIVE DRIVERS**

## INTRODUCTION

The following is the policy of Brewster regarding testing associated with alcohol misuse and drug use by those employees operating motor vehicles which require a Commercial Drivers' License. A discussion of the physical effects of alcohol and certain drugs on the body is included as well. The term's alcohol misuse, drug use and substance abuse are used interchangeably in this document. The name and telephone number of the person who can answer any questions you may have about the alcohol and drug rules and assist you in substance abuse situations appears on the last page of this policy.

## TERMS AND ABBREVIATIONS

BAT	Breath Alcohol Technician
CDL	Commercial Drivers' License
CMV	Commercial Motor Vehicle
DHHS	Department of Health and Human Services
DOT	Department of Transportation
EAP	Employee Assistance Program
EBT	Evidential Breath Testing
MRO	Medical Review Officer
US	The Employer
You	The Driver/Employee

## DEFINITIONS

Alcohol	The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including weight alcohol including methyl and isopropyl alcohol.
Alcohol Concentration	Also called alcohol content, the alcohol in a Volume of breath, (expresses as grams of alcohol Per 210 liters of breath) as indicated by an Evidential breath test, such as a breathalyzer.
Alcohol Use	The consumption of any beverage, mixture or preparation, including medications containing alcohol
Breath Alcohol Technician	An individual who instructs and assists Individuals in the alcohol testing process And operates an evidential breath testing (EBT) Device.

## Confirmation Test

In alcohol testing: a second test, following a screening test with a result of 0.02 or greater, that provides quantitative measurement of alcohol concentration.

In drug testing: a second test to identify the presence of a specific drug or metabolite. In order to ensure reliability and accuracy, this test is separate from and uses a different technique and chemical principle from that of the alcohol screening test.

## Controlled Substances

In this booklet, the terms "drugs" and "controlled substances" are interchangeable and have the same meaning. Unless otherwise provided, these Terms refer to :

- marijuana
- cocaine
- opiates
- phencyclidine (PCP)
- amphetamines, including methamphetamines.

## Driver

Any person who operates a commercial motor vehicle, (CMV) including:

- full-time, regularly employed drivers
- casual, intermittent or occasional drivers
- leased drivers
- independent, owner-operator contractors who are either directly employed by or under contract to an employer or who operate a commercial motor vehicle (CMV) at the direction of or with the consent of an employer.

## Evidential Breath Testing Device

A device used for alcohol breath testing that has Been approved by the National Highway Safety Administration.

Medical Review Officer	A licensed physician (medical doctor or doctor of Osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program. The MRO must have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test, medical history and other relevant biomedical information.
Screening Test	In alcohol testing: the initial test to determine if a driver has a prohibited concentration of alcohol in his or her system. In controlled substances testing: a screen to eliminate "negative" urine specimens from further consideration.
Substance Abuse	Refers to patterns of substance use that in health consequences or impairment in social, psychologist, and occupational functioning.
Substance Abuse Professional	A licensed physician (medical doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

## WHO IS COVERED BY THE ALCOHOL AND DRUG RULE?

The federal Highway Administration, Department of Transportation Alcohol and Drug ruling applies to every person who operates a commercial motor vehicle (CMV) in interstate or intrastate commerce, and is subject to the commercial driver's license (CDL) requirements of part 383.



## WHAT IS A SAFETY-SENSITIVE FUNCTION?

A safety-sensitive function is defined as including any of the following circumstances and/or activities:

- \* at a carrier or shipper plant, terminal or facility, or other property, or any public property, waiting to be dispatched, unless the driver is relieved from duty by the employer;
- \* inspecting service brakes, including trailer brake connections, parking (hand) brakes, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers, rear vision mirrors, coupling devices, fire extinguisher, spare fuses, or warning devices for stopped vehicles:
  - inspecting, servicing, or conditioning any (CMV) in operation;
  - at the driving controls of a CMV in operation;
  - while in or upon any CMV, except when resting in a sleeper berth;
  - supervising or assisting in loading or unloading a vehicle;
  - attending a vehicle being loaded or unloaded;
  - while in readiness to operate the vehicle;
  - when giving or receiving receipts for shipments loaded or unloaded;
  - performing the driver requirements of sections 392.40 and 392.41 of part 392, Driving Motor Vehicles, relating to accidents;
  - repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

## WHAT ARE THE ALCOHOL AND DRUG PROHIBITIONS?

The DOT refers to the restrictions for the use of both alcohol and controlled substances as prohibitions.

Alcohol prohibitions are tied to the performance of safety-sensitive functions in the following ways:

1. A driver may not report for duty or stay on duty
  - a. with a blood alcohol concentration of 0.04 or greater
  - b. if in possession of alcohol (unless it is being transported as cargo)  
NOTE: this includes any product (medication, food or other product) containing alcohol, regardless of the alcohol content.
  - c. if using alcohol
  - d. within four hours of using alcohol
2. A driver who has an accident may not use alcohol until post-accident testing is done or for a period of eight hours, whichever comes first.
3. Drivers cannot refuse to submit to alcohol testing.
4. Employees who know about any of the above acts cannot permit the driver to perform a safety-sensitive function.

The Federal Highway Administration bans the use of controlled substances by drivers.

### DRUG PROHIBITIONS:

1. Drivers may not report for duty or stay on safety-sensitive duty while using any controlled substance. There may be an exception to this ruling if a physician has prescribed a substance and has advised you that it does not interfere with your ability to operate a vehicle in a safe manner.
2. Drivers may not report for duty or stay on duty if they have tested positive for a controlled substance.
3. Employers who know about either of the above acts cannot permit the driver to perform a safety-sensitive function.
4. Employers may require drivers to report the use of any therapeutic drugs.

## WHAT TESTS ARE REQUIRED AND WHEN WILL I BE TESTED?

There are five situations where testing can be done to determine the presence of alcohol and/or drugs.

### 1. Pre-Employment

When: before a new hire can perform any safety-sensitive duties or when a person transfers into a safety-sensitive function from elsewhere in the municipality, he/she may be tested for drugs.

Note: no person will be considered for a Driver's position who has had a positive drug test within two years of his/her application.

### 2. Post-Accident

When: following an accident where

>a life was lost

>the driver was cited for a moving traffic violation.

Post-accident alcohol testing should be done within 2 hours of the accident. If a test cannot be done within 8 hours, it probably will not be done. Post-accident drug testing shall be done within 32 hours, or not at all. A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

### 3. Random

Unannounced random testing is required on a certain percentage of drivers each year.

How: the random selection process used shall ensure that each driver has an equal chance of being tested each time selections are made.

When: drivers are randomly selected from the pool. Random testing for alcohol shall be completed just before, during or immediately after performing safety-sensitive work. Random testing for drugs may be done at any time you are at work. Once you have been notified that you have been selected for random testing, you must proceed immediately to the test site.

Random testing is done as follows:

- 24% of all drivers shall be randomly tested for alcohol during the first year of the testing program. The number to be randomly tested in following years depends on the percentage of positive tests for the entire industry.
- 50% of drivers shall be randomly tested for controlled substances during each year of the testing program.

#### 4. Reasonable suspicion

When: if your supervisor has reason to believe that your behavior or appearance may indicate alcohol or drug use. Testing for reasonable suspicion is based on:

- the observance of a trained supervisor;
- specific, clearly stated observations concerning the driver's appearance, behavior, speech, or body odor;
- observations made for alcohol testing shall be made just before, during, or just after the performance of a safety-sensitive function.

#### Important Points:

- The supervisor who makes the observation and determines the Reasonable suspicion testing should be done may not conduct the alcohol test on the driver.
- Alcohol testing for reasonable suspicion must be done within 2 hours of the observation. Test that cannot be done within eight hours of the observation shall not be done.
- You cannot report to duty or stay on the job while under the influence Of alcohol or while impaired by alcohol as shown by behavior, speech, or performance that indicated alcohol misuse. You will not be allowed to continue to perform safety-sensitive duties until:

Your alcohol concentration is less than 0.02

Or

24 hours have passed from the time of the initial observation.

- Action regarding alcohol misuse cannot be taken against a driver unless an alcohol test was administered or was refused by the driver.

#### 5. Return to Duty and Follow-up

When:

- Return to duty testing is required for drivers who violate prohibition and are returning to work. In order to return to work, and alcohol concentration of less than 0.02 or a negative drug test is required.

- Follow-up testing is required when a driver returns to a safety—sensitive function. A minimum of six tests shall be performed during the first year back in a safety-sensitive position. However, follow-up testing may continue for up to five years.

## WHAT HAPPENS IF I REFUSE TO BE TESTED?

As part of the alcohol and drug rule, you must submit to alcohol and drug testing. If you refuse to be tested, you cannot continue on the job. Refusal to test is considered to be any time you either fail to provide enough breath for alcohol testing or enough urine for controlled substances testing without valid medical reasons after being notified of the testing requirements, or if you clearly obstruct the testing process.

## HOW IS DRUG TESTING DONE?

1. Drug testing is done by analyzing a urine sample, which is collected in a Private location.
2. Urine specimens are divided into two containers by the collection site person- In your presence. These two samples, called "primary" and "split" are sent to a testing laboratory certified by the Department of Health and Human Services. (DHHS)
3. At the laboratory, a screening test is performed on the primary sample. If This test is positive for drugs, a confirmation test is required.
4. The confirmation test must use a specialized procedure called gas Chromatography/mass spectrometry, to ensure that over-the counter drugs are not reported as positive.
5. If the first test is positive, the Medical Review Officer (MRO) will notify you to Find out if there is a medical reason for the drug use. If you can document why the substance is being taken and the MRO finds it is a legitimate medical use, the test may be reported as negative to the employer.
6. After being notified that the first test was positive, you have 72 hours to Request a test of the split specimen. If you make this request, the split specimen is sent to another DHHS-certified lab for the test.
  - a. If you do not contact the MRO within 72 hours but can prove to the MRO That you had a legitimate reason for not doing so, the MRO can order the split specimen tested.

Removal from safety-sensitive duty as required by the DOT following a positive drug test is not delayed to await the result of the split specimen test.

7. If the analysis of the split sample does not confirm the presence of a drug, The MRO cancels the test and reports this to the DOT, to the employer and to you.

## WHAT ARE THE CONSEQUENCES OF VIOLATING THE ALCOHOL OR DRUG PROHIBITIONS?

Alcohol violations:

- a. Removal from safety-sensitive functions.
- b. Following a violation, a driver cannot return to a safety-sensitive duty until an evaluation has been done and any recommended treatment has been completed.
- c. Anyone with an alcohol concentration of 0.02 or greater, but less than 0.04, cannot return to safety-sensitive duties for at least 24 hours.

Drug Violations:

- a. Removal from safety-sensitive functions.
- b. A driver cannot return to a safety-sensitive job until an evaluation has been done, recommended therapy is completed, and a verified negative drug test is produced.

## WHERE CAN I GO FOR HELP?

The alcohol and drug rule requires us to provide you with an opportunity for treatment. The ruling does not, however, require us to hold a job open for you or to pay for rehabilitation. These issues are handled according to our alcohol and drug policy.

If you violate an alcohol or drug prohibition you must be evaluated by a substance abuse professional to determine what help is needed.

Before you can return to a safety-sensitive job, you must:

- a. have an alcohol concentration of less than 0.02, or a verified negative drug test (depending on the violation)
- b. complete recommended treatment
- c. complete a minimum of 6 follow-up tests within the first year back to work (follow-up testing may be done for up to five years after return to work).

**If you have not violated alcohol or drug prohibitions but would like further information or assistance on alcohol or drug issues, you may do so on a confidential basis through your Employee Assistance Program.**

## WHAT ARE THE EFFECTS OF ALCOHOL AND DRUGS ON THE BODY?

Alcohol, a nervous system depressant, is the most widely abused drug. About half of all auto accident fatalities in this country are related to alcohol abuse. A 12-ounce can of beer, a 5-ounce glass of wine and a 1 1/2 ounce shot of hard liquor all contain the same amount of alcohol. Each 1/2 ounce of alcohol takes the average body about one hour to process and eliminate. Coffee, cold showers and exercise do not hasten sobriety.

Alcohol first acts on those parts of the brain that affect self-control and other learned behaviors. Low self-control often leads to the aggressive behavior associated with some people who drink. In large doses, alcohol can dull sensation and impair muscular coordination, memory and judgement. Taken in larger quantities over a long period of time, alcohol can damage the liver and heart and can cause permanent brain damage. On the average, heavy drinkers shorten their life spans by about ten years.

### Other Effects:

- greatly impaired driving ability
- reduced coordination and reflex action
- impaired vision and judgement
- inability to divide attention
- lowering of inhibitions
- hangover, which can be accompanied by headaches, nausea, dehydration, unclear thinking, unsettled digestion and aching muscles

Marijuana, also known as "pot", "weed", "grass" and other street names, alters the user's sense of time and reduce the ability to perform tasks requiring concentration. The drug has a significant effect on judgement, caution and sensory/motor functions.

Marijuana stays in the body for 28 days, unlike alcohol, which dissipates in a few hours.

Other Effects:

- impaired driving for at least 4-6 hours after smoking 1 "joint".
- Restlessness
- Inability to concentrate
- Increases pulse rate and blood pressure
- Rapidly changing emotions and erratic behavior
- Altered sense of identity
- Dulling of attention
- Hallucinations, fantasies and paranoia
- Reduction or temporary loss of fertility

Cocaine is a stimulant drug which increases heart rate and blood pressure. As a powder, cocaine is inhaled, ingested, or injected. Cocaine is also used as free-base cocaine known as "crack" or "rock", which is smoked. The crack "high" is reached in 4-6 seconds and lasts for about 15 minutes.

Many people mistakenly believe that, because it is smoked, crack is safer than other forms of cocaine use. It is not. Crack cocaine is one of the most of addictive drugs known today. The most dangerous effects of crack are that its use can cause vomiting, rapid heart beat, tremor and convulsions. All of this muscle activity increases the demand for oxygen, which can result in a cocaine-induced heart attack. Since the heat regulating center in the brain is also disrupted, dangerously high body temperatures can occur. With high doses brain functioning breathing and heart beat are depressed, which can lead to death.



Other Effects:

- A rush of pleasurable sensations
- A heightened, but momentary, feeling of confidence, strength and endurance
- Accelerated pulse, blood pressure and respiration
- Impaired driving ability
- Paranoia, which can trigger mental disorders in users prone to mental instability
- Irritation of the nostrils and nasal membrane
- Mood swings
- Anxiety
- Reduced sense of humor
- Compulsive behavior, such as teeth grinding or repeated hand washing.

Opiates include heroin, morphine, codeine and narcotics used to relieve pain and induce sleep. Heroin, also called "junk" or "smack", accounts for 90% of the narcotic abuse in this country.

Sometimes narcotics found in medicines are abused. This include pain relievers containing opium and cough syrups containing codeine. Heroin is illegal and cannot even be obtain with a physician's prescription.

Most medical problems are caused by the uncertain dosage level, the use of unsterile needles, contamination of the drug, or the combination of a narcotic with other drugs. These dangers depend on the specific drug, its source and the way it is used.

Other Effects:

- \*short lived euphoria
- \*impaired driving ability
- \*drowsiness, followed by sleep
- \*constipation
- \*decreased physical activity
- \*reduced vision
- \*change in sleeping habits
- \*possible death

Phencyclidine or PCP, also called "angel dust", was developed as a surgical anesthetic in the late 1950s. Later, due to its unusual side effects in humans, it

was restricted to use as a veterinary anesthetic and tranquilizer. Today, it has no lawful use and is no longer legally manufactured.

PCP is a very dangerous drug. It can produce violent and bizarre behavior even in people otherwise not prone to such behavior. More people die from accidents caused by erratic and unpredictable behavior produced by the drug than from the drug's direct effect on the body.

PCP scrambles the brain's internal stimuli and alters how users see and deal with their environment. Routine activities such as driving and walking become very difficult.

Low doses produce a rush, sometimes associated with a feeling of numbness. Increased doses produce an excited, confused state including any of the following; muscle rigidity, loss of concentration and memory, visual disturbances, delirium, feelings of isolation and convulsions.

Other Effects:

- \*impaired driving ability
- \*drowsiness
- \*perspiration
- \*repetitive speech patterns
- \*incomplete verbal responses
- \*blank stare
- \*thick, slurred speech
- \*involuntary eye movement

The following person should be contacted for assistance with drug and/or alcohol problems:

Jillian Douglass  
Name

896-3701, ext. 130  
Phone

Notes:



# Town of Brewster

BREWSTER, MASSACHUSETTS 02631-1898  
(508) 896-3701  
FAX (508) 896-8089

OFFICE OF:  
BOARD OF SELECTMEN  
TOWN ADMINISTRATOR

## PROHIBITION OF MEETINGS CONFLICTING WITH TOWN MEETINGS OR ELECTIONS

The Board of Selectmen hereby direct all Departments, Boards, Committees, Commissions and other units of the Town's Government to refrain from scheduling meetings during the hours of any Town Meeting that could conflict with a voter's attendance at Town Meeting.

The Spring Annual Town Meeting falls on the first Monday in May and runs from 7:00 p.m. until approximately 11:00 p.m. When there are more than thirty (30) articles on the Warrant, Town Meeting will regularly convene on the next night (Tuesday) as well.

The Fall Yearly Town Meeting falls on the third Monday in November and runs from 7:00 p.m. until approximately 11:00 p.m.

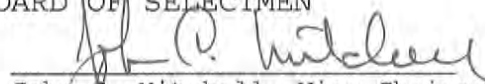
Occasionally, when needed, other Special Town Meetings are scheduled. All Boards, Committees, Commissions and units, including the Nauset Regional School Administrative Office, will be notified in advance, as soon as possible after scheduling, by the Selectmen's Office, to ensure that no Town organization holds a meeting that could conflict with the date and hours of a Town Meeting.

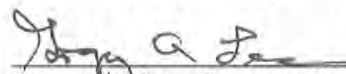
Further, in order to maximize voter turn out, the Board of Selectmen prohibit Boards, Committees, Commissions, and discourage other civic groups from scheduling meetings on the same day as a scheduled governmental election. Brewster's polls are open from 7:00 a.m. to 8:00 p.m. on any scheduled governmental election day.

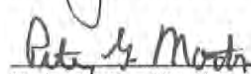
Adopted this 3rd day of January, 2000.

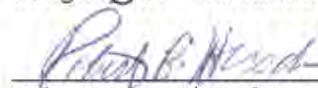
BREWSTER BOARD OF SELECTMEN

  
Steven W. Eldredge, Chairman

  
John C. Mitchell, Vice Chairman

  
Gregory A. Levasseur

  
Peter G. Norton

  
Robert B. Hirschman

CS  
M

## Selectmen's Policy on Acceptance of Gifts for Installation on Town Property

The Town of Brewster welcomes and appreciates that citizens may wish to donate memorial gifts to the Town in the form of benches, trees, shrubs, monuments, etc., in memory of a family member or loved one. Gifts to the Town are 100% deductible from your federal income tax return.

Before a gift requiring installation can be accepted, the following procedure must be followed:

The Town Administrator's Office will maintain a list of town properties where benches, sculpture, monuments, etc. are acceptable.

The Town will also maintain a description of a standardized type and style of bench that will be consistent with historic character and previous donations on each site. Donations will need to adhere to the Town's standards for appearance and quality.

The location of all donated fixtures and furnishings on Town sites shall be coordinated by a representative of the Town Administrator/Board of Selectmen.

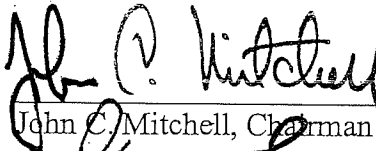
It shall become the responsibility of the person or entity donating the item(s) to arrange for the safe and legal installation of them in the location determined by the Town. Donors must be willing to be responsible for all costs associated with installation of their gift(s).

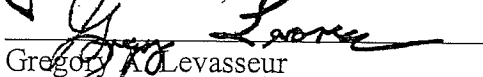
The Board of Selectmen will vote to accept or decline each gift offered to the Town with a value in excess of \$50.

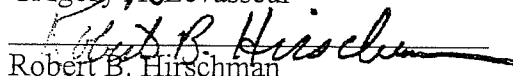
In accepting and locating a gift, the Town does not accept responsibility for permanent maintenance or replacement of the gift. While Town staff will make reasonable attempt to maximize the "useful life" of any donated items, if a gift deteriorates or becomes unsafe or unsightly, the Town reserves the right to remove and/or dispose of the item(s).

We thank you for your generous consideration of the Town of Brewster.

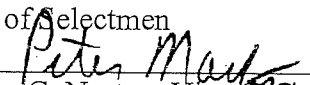
Signed, this 19<sup>th</sup> day of June, 2000.

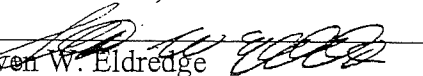
  
\_\_\_\_\_  
John C. Mitchell, Chairman

  
\_\_\_\_\_  
Gregory A. Levasseur

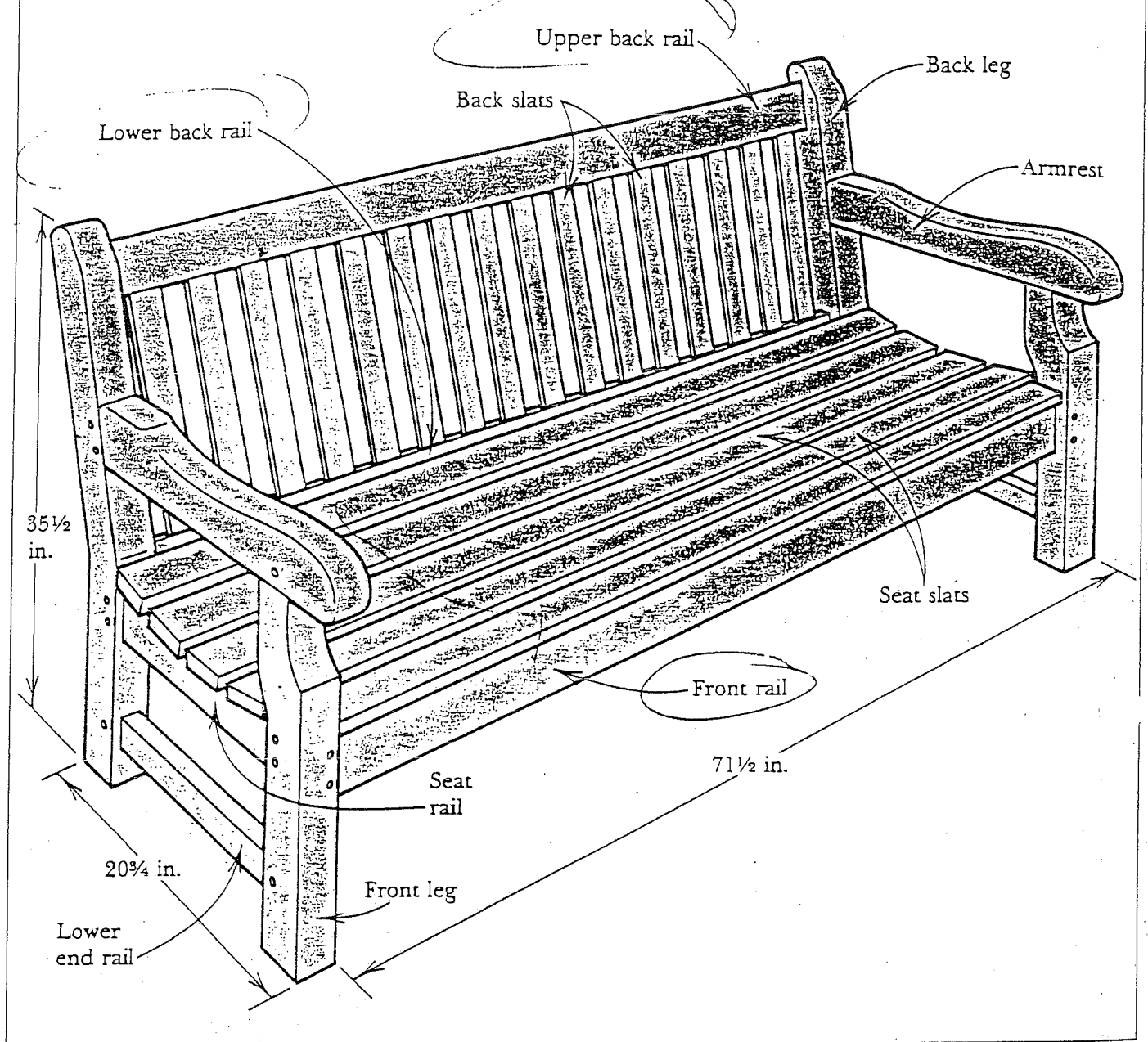
  
\_\_\_\_\_  
Robert B. Hirschman

The Brewster Board of Selectmen

  
\_\_\_\_\_  
Peter G. Norton, Vice Chairman

  
\_\_\_\_\_  
Steven W. Eldredge

10-A Major Anatomy and Dimensions



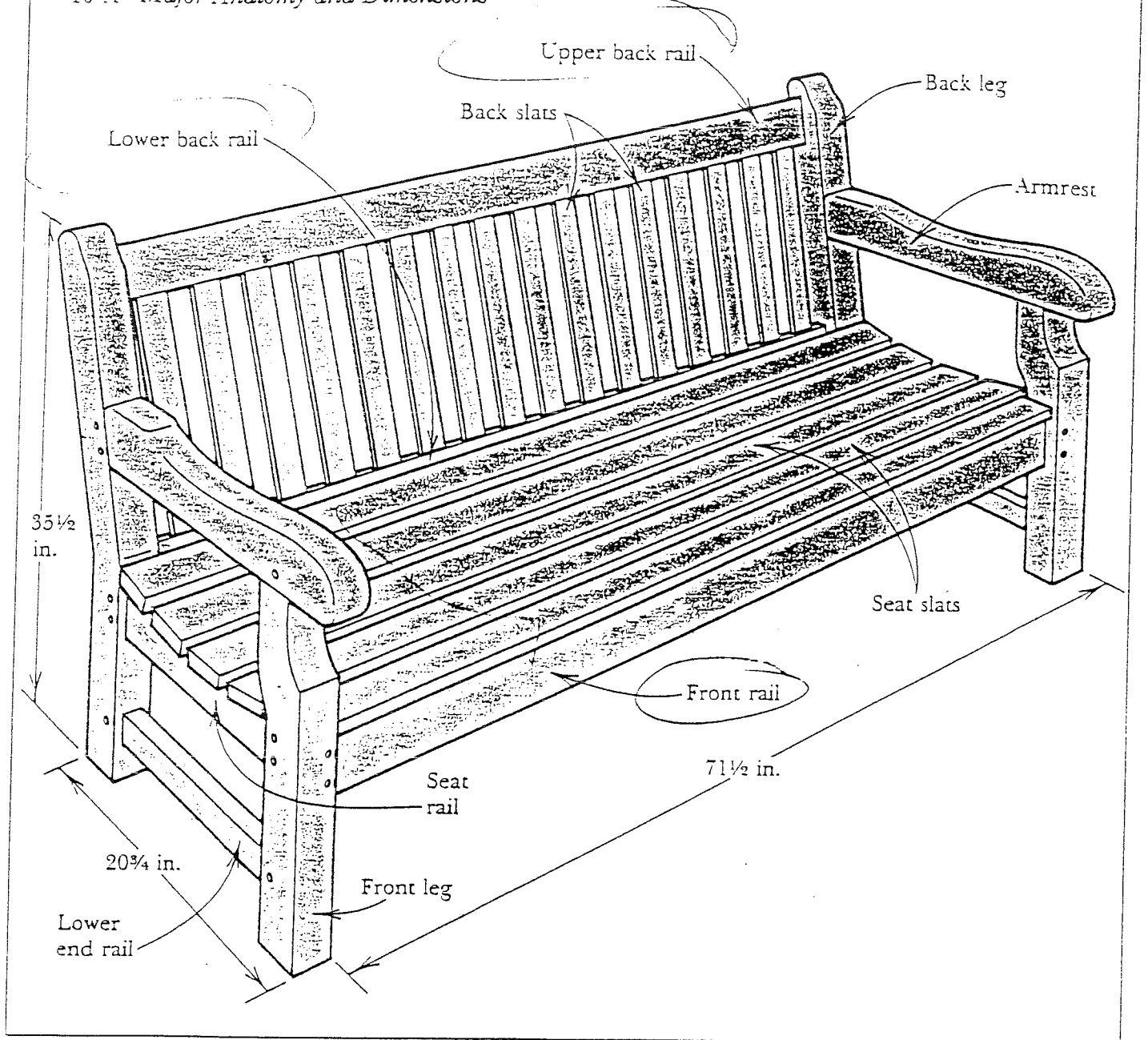
*Cutting Curves*

Both ends of the bench are identical, and I build these subassemblies first. Each end consists of a front leg, a back leg (which extends to support the back of the bench), a lower end rail, a seat rail, and an armrest. Except for the lower end rails, all the parts in the end subassemblies require curved cuts. At this stage, I just need to cut out the back legs, front legs, and armrests. Patterns for these parts are shown in drawing 10-B. The back legs take the most time to lay out because in addition to being curved (at the top of each leg), the part that holds the backrest leans back at an



← I have full plans for making this one

10-A Major Anatomy and Dimensions



Cutting Curves

Both ends of the bench are identical, and I build these sub-assemblies first. Each end consists of a front leg, a back leg (which extends to support the back of the bench), a lower end rail, a seat rail, and an armrest. Except for the lower end rails, all the parts in the end subassemblies require curved cuts. At this stage, I just need to cut out the back legs, front legs, and armrests. Patterns for these parts are shown in drawing 10-B. The back legs take the most time to lay out because in addition to being curved (at the top of each leg), the part that holds the backrest leans back at an



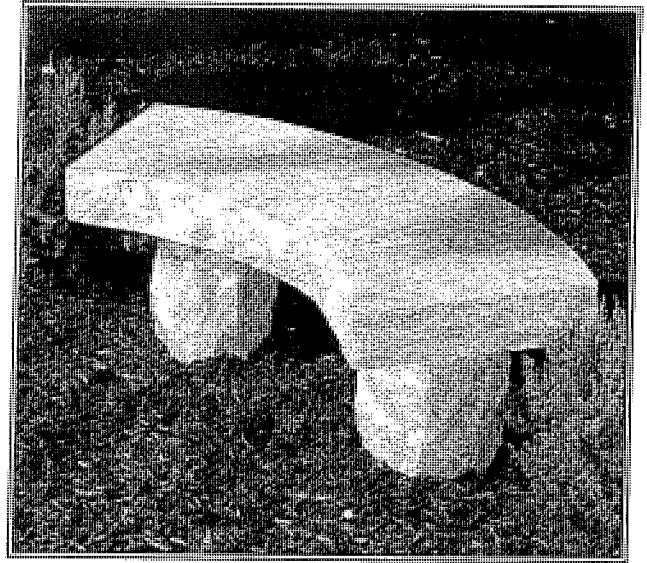
*I have built plans for*

Cape Cod Stone &  
Masonry

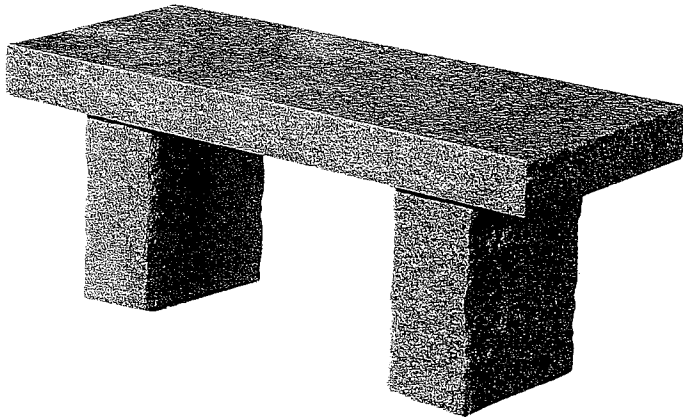
508.240.5700

engraving done on site.

by Nickerson Memorials

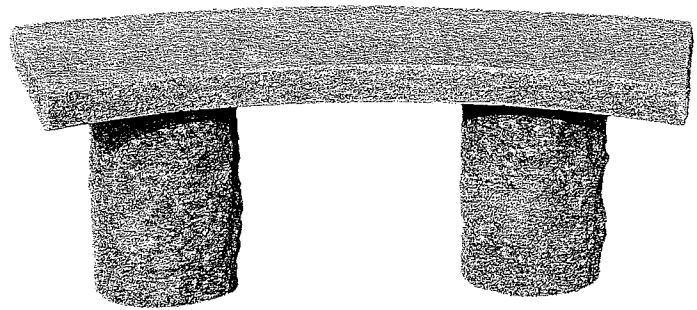


# BENCHES



RECTANGULAR BENCH

40" x 15" \$ 210  
48" x 18" 285  
53" x 18" 356



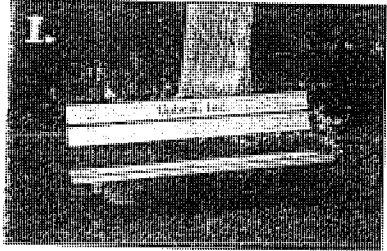
CIRCULAR BENCH

48" x 18"

299



*Notes* For benches with cast aluminum ends see page 100.



**1. 6' Custom Memorial Bench**

Recycled plastic heavy duty park bench provides the opportunity to display specialty advertising, messages or a long lasting memory of a loved one. 3" computerized routed "Laddy Bold" style letters (as shown in picture) in 2 x 6 recycled plastic lumber slats (up to 25 letters per board). Logos can be routed for an additional charge. Call for a price quote. Ships knocks down in two boxes for UPS delivery and easy field assembly (*hardware included*). Specify board color of Cedar, Gray, or Brown. Available with black frame only. 34"H x 15 1/2"W x 72"L. 50% deposit required on any custom order.

		Ship. Wt.	1	6
1. PLC-FP2100G	6' Bench	195 lbs.	\$447	\$434 each
PLC-RC	Routing Charge Per Board		\$62 each board	
PLC-CC	Custom Set Up Charge		\$62 each board	

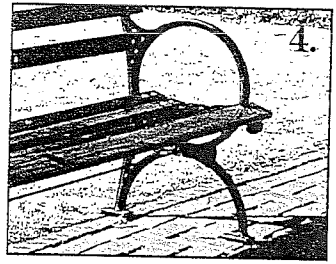
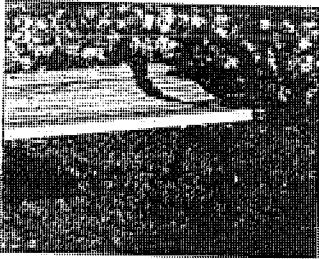
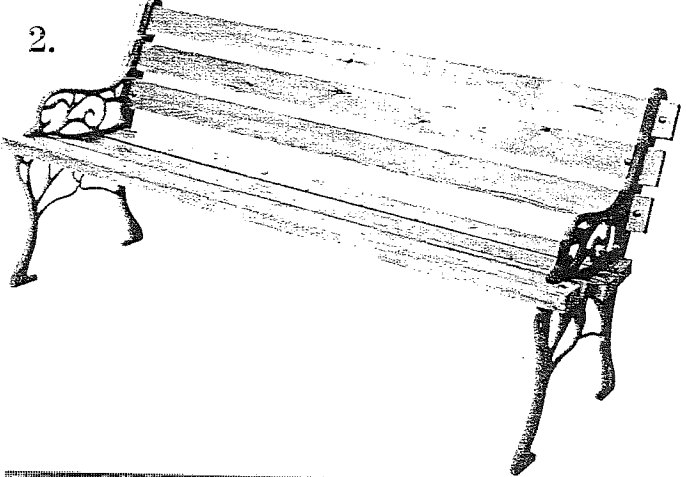
F.O.B. Ohio factory

**2-4. Cast Iron Ends or Complete Bench Kit**

Create your own bench in any size (*max. recommended length is 8'*) with these ornamental cast iron end pieces (set of 2). Primed black oxide plated *hardware is included for assembly*. Mounting holes are positioned in legs for surface installation if desired. Purchase your lumber locally (CBI takes 2 x 4, BMBA takes 1 1/2 x 2 1/2 and BEB takes 1 x 2 1/4), to save on freight charges or buy the whole kit (as shown) including the #1 yellow pine 2 x 4 weatherized slats with rounded edges, 6' long. Holes are all drilled. Bench measures 29" high x 21 1/2" deep. *Assembly required*.

		Ship. Wt.	1	6
2. ABP-KIT	Complete Classic Kit	100 lbs.	\$274	\$266 each
<b>Ends Only - To make a bench with your lumber</b>				
3. ABP-CBI	Classic Ends	58 lbs.	\$ 91	\$ 89 set
4. ABP-BMBA	Flat Armrest Ends	90 lbs.	\$257	\$250 set
4. ABP-BEB	Barrel Ends	82 lbs.	\$278	\$270 set

F.O.B. Alabama factory



**5. New York City Litter Receptacle**

The graceful ring top and slat design makes this the perfect companion to the New York City Park Bench. This 30 gallon receptacle is built with an all steel body, a spun steel funnel top and a semi-rigid polypropylene liner. The funnel top is angled to reduce waste pile up or spillage and has a cable to keep it from "walking" away. The liner has hand holds for easy removal and the units come predrilled for surface mounting. The unit is 27" diameter x 37 1/2" high. Available in Black or Dark Green.

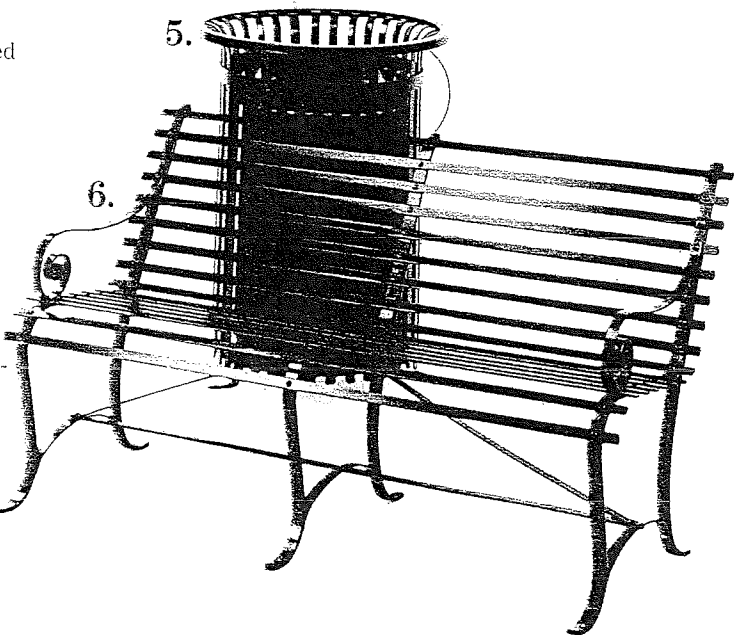
		Ship. Wt.	1	6
SIW-LR100	Receptacle	111 lbs.	\$930	\$902 each

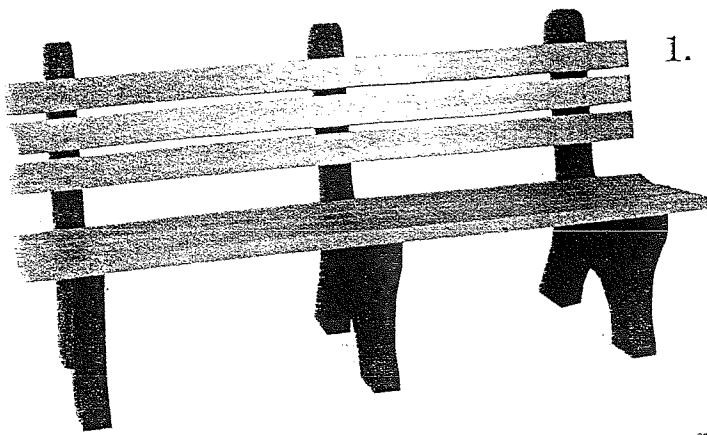
**6. New York City Bench**

This turn of the century favorite is handcrafted with the structural integrity to last a lifetime. The three full support legs add to the design as well as the stability of this bench. Constructed of solid steel, all parts are hot dipped-galvanized and then painted with an acrylic urethane finish. The curve in the feet hides a bolt hole enabling you to surface mount your bench to any firm surface (*mounting hardware not included*). Fully assembled, these benches are mounted on skids before being boxed to assure trouble free shipping. The unit is 31" high x 26" deep and the seat height is 16". Please specify Black or Dark Green.

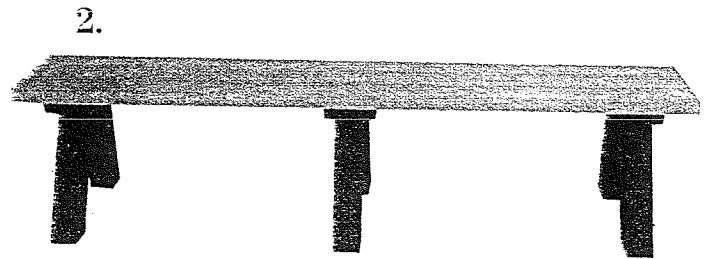
	Length	Ship. Wt.	1	6
6. SIW-NYC5	5' Bench	116 lbs.	\$1,079	\$1,047 each
SIW-NYC6	6' Bench	126 lbs.	\$1,145	\$1,111 each

F.O.B. Kentucky factory





1.



2.

**1-3. Park Benches Manufactured from 100% Recycled Plastic Carry a 50 year limited warranty**

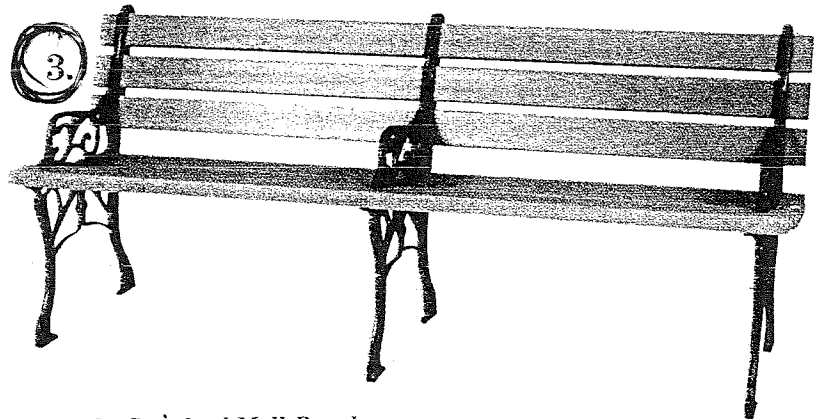
The high density polyethylene is maintenance free, not susceptible to wood destroying organisms or other insects, will never rot and most graffiti washes right off. Environmentally sensitive, these benches use 100% recycled materials without the use of any toxic or corrosive chemicals. The wood like textured surfaces maintain a clear, crisp appearance for many years. All hardware is stainless steel so it won't rust. Some assembly required.

- Board colors: Cedar, Weathered Wood or Gray
- Leg colors: Black, Brown or Dark Green

**1. Deluxe Park Bench**

This bench has a graceful contour designed to fit all body styles comfortably. The seat and back slats are 1 1/2" x 3 1/2". The frame pieces are a full 3" wide. Slats are fastened with stainless steel screws. Bench is portable but may also be surface mounted using "L" shaped brackets (*hardware not included*). Drill holes in the feet for easy surface mounting. Seat height is 17 1/2", overall height 34", front to back 28". Please specify both board and leg colors as listed above.

	# legs	Ship. Wt.	1	6
ECP-DPB400	4' Bench	2	80 lbs.	\$371 \$360 each
1. ECP-DPB600	6' Bench	3	178 lbs.	\$537 \$522 each
ECP-DPB800	8' Bench	4	190 lbs.	\$655 \$636 each



3.

**2. Standard Mall Bench**

A flat bench with a simple design which allows it to complement virtually any architectural style. The seat area is 16" wide x 16" high. The 3" wide legs cover 23" front to back. Available with portable or inground style legs. Inground legs have a 9 1/2" spike to plant into the ground or set in a concrete pad. Portable style may also be surface mounted using "L" shaped brackets (*hardware not included*). Drill holes in the feet for easy surface mounting. Please specify board and leg colors as listed above, and mounting style.

	# legs	Ship. Wt.	1	6
ECP-SMB400	4' Bench	2	55 lbs.	\$198 \$192 each
2. ECP-SMB600	6' Bench	3	78 lbs.	\$280 \$272 each
ECP-SMB800	8' Bench	4	110 lbs.	\$360 \$349 each

**3. Georgetown Bench**

Cast iron ends give this model the antique styling that many settings require. The iron ends as well as the plastic are crafted from 100% recycled materials. The 6' and 8' sizes come with a standard center arm to discourage overnight stays. The seat and back slats are 1 1/2" x 3 1/2". Slats mount easily into the iron end pieces with stainless steel screws. Use as a portable style bench or surface mounted bench. Legs have pre drilled holes to bolt down. (*Mounting hardware not included*) Seat height is 17", overall height 29", front to back 20". Please specify board color as listed above. Iron frame is available in **Black** only.

	# legs	Ship. Wt.	1	6
ECP-GTB400	4' Bench	2	90 lbs.	\$347 \$337 each
3. ECP-GTB600	6' Bench	3	130 lbs.	\$510 \$495 each
ECP-GTB800	8' Bench	4	190 lbs.	\$639 \$620 each

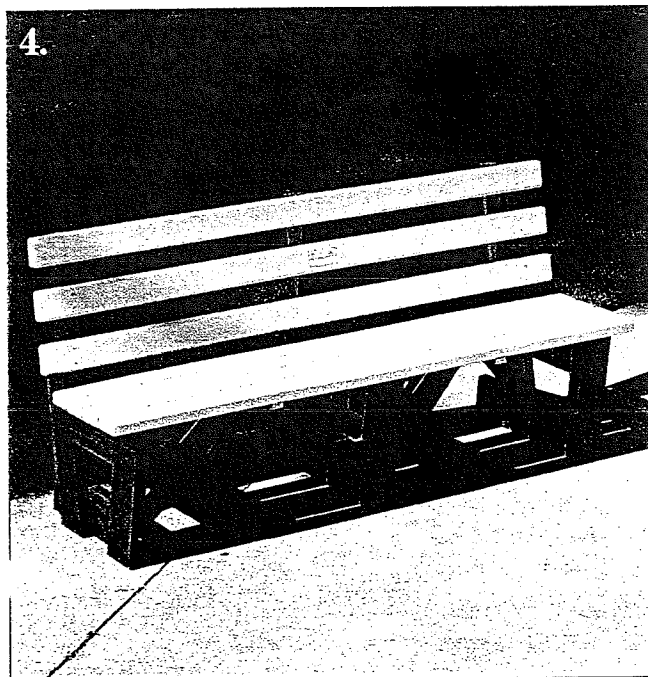
EOB. Illinois factory

**4. 100% Recycled Plastic Bench**

This classic park bench is made from recycled plastics that would normally end up in landfills. Our durable plastic lumber never needs painting and will never rot, splinter or crumble. Vandal resistant, graffiti cleans off easily with commercial cleaners or pressure washers. The seat and back slats are 2 x 4, the framework uses 2 x 6 slats. The fasteners are stainless steel. *Ships fully assembled ready for installation.* Specify top/base colors of Cedar/Brown, Cedar/Hunter Green or Almond/Brown.

	Ship. Wt.	1	6
PLC-FP2020	6' Bench	175 lbs.	\$372 \$361 each

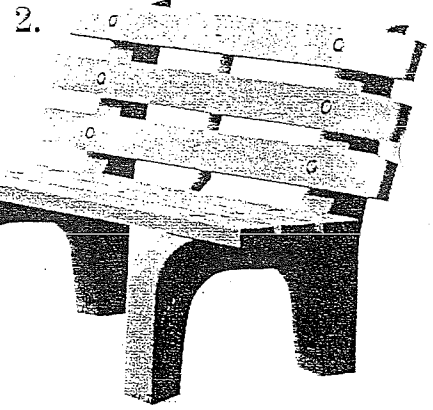
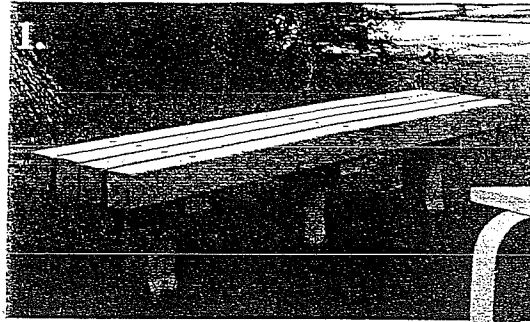
EOB. Ohio factory



4.

## 1. Recycled Plastic Benches

Recycled plastic material is so durable that it carries five year breakage warranty and fifty year warranty against rot and corrosion. Solid color construction requires virtually no maintenance; graffiti, paint and dirt are simply wiped away. Material is also UV light protected for fade resistance. The flat bench is available as Surface Mount with an optional "L" anchor in the leg, Portable or Permanent Inground. The Hi Back Bench is available in surface mount with an optional "L" anchor in the leg or portable. Specify Cobalt Brown or Light Grey. Shipped knocked down for freight savings.



Flat Park Bench	Leg Style	Ship. Wt.	1	6
HPR-DB-4S	4' Portable/Surface	110 lbs.	\$490	\$475 each
1. HPR-DB-4IG	4' Inground	125 lbs.	\$490	\$475 each
HPR-DB-6S	6' Portable/Surface	165 lbs.	\$589	\$572 each
HPR-DB-6IG	6' Inground	190 lbs.	\$589	\$572 each

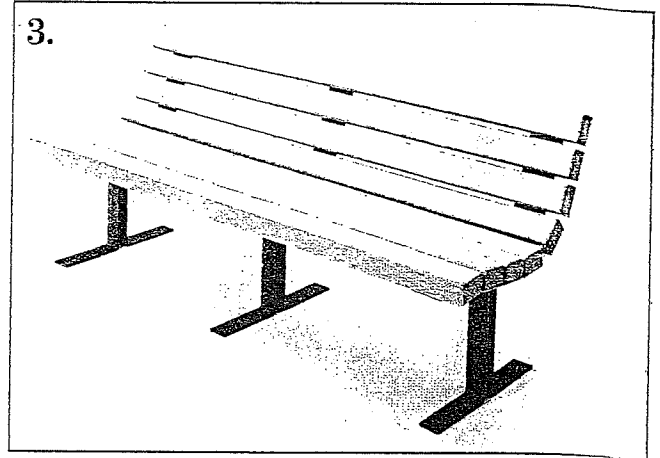
### Hi Back Park Bench

2. HPR-TB-4S	4' Portable/Surface	105 lbs.	\$490	\$475 each
HPR-TB-6S	6' Portable/Surface	165 lbs.	\$589	\$572 each
HPR-L-ANCHOR	(Set of 4 L Anchors-Factory Installed)		\$48	\$46 each

F.O.B. Missouri factory

## 3. Recycled Plastic Contour Bench

6' recycled plastic Contour Bench features a steel frame and a sleek contoured design. Square plastic lumber (3" x 4") slats creates a stylish and comfortable look. All frames are finished with a durable, brown polyester powder coat. Bench seat width is 15". Bench seat height is 16 1/2". Overall dimensions are 32" high x 15 1/2" wide x 72" long. Choose from two leg/mounting options; **Inground** or **Surface Mount**. *Mounting hardware not included. Ships fully assembled.* Specify seat color of Cedar, Gray, Hunter Green or Brown.

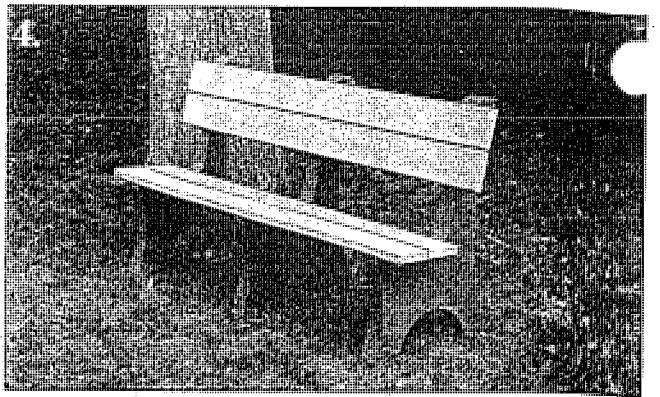


	Leg Style	Ship. Wt.	1	6
1. PLC-FP2040	Surface Mount	245 lbs.	\$829	\$804 each
PLC-FP2045	Inground Mount	245 lbs.	\$829	\$804 each

F.O.B. Ohio factory

## 4. Recycled Plastic Bench

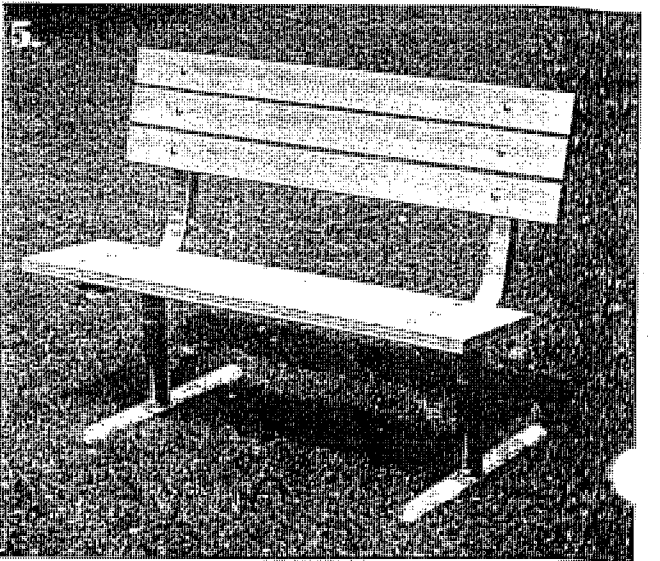
These benches are made completely from high density recycled plastic, using a combination of post consumer and post industrial plastics. The frames are molded into a single, heavy 3" thick piece. The planks are nominal 2 x 6 with routed edges. The color is molded in to prevent fading. Stainless steel screws included and all holes are drilled for easy assembly. The 6' benches have 3 legs for additional support. Seat height is 17 1/2". May be permanently anchored using the ANG-2 anchors (2 pairs needed for 4' bench, 3 pairs for 6' bench).



	Frame/Seat Color	Ship. Wt.	1	6
RJT-RBB/N-4C26	4' Green/Cedar	101 lbs.	\$347	\$336 each
RJT-RBB/W-4C26	4' Brown/Cedar	101 lbs.	\$347	\$336 each
4. RJT-RBB/N-6C26	6' Green/Cedar	152 lbs.	\$515	\$500 each
RJT-RBB/W-6C26	6' Brown/Cedar	152 lbs.	\$515	\$500 each
RJT-ANG-2	Pair of Angle Brackets	1 lb.	\$9	\$8 each

## 5. Recycled Plastic Slat Bench

Extra heavy duty bench uses 2 1/8" die formed steel channels for the seat and back supports. The legs are 2 1/8" O.D. steel pipe. All are welded to withstand rough use and deter vandalism. Frames are hot-dip galvanized for long lasting weather protection. The six foot bench has an extra leg and back support in the center for added strength. The slats are 2 x 4 recycled plastic and are highly resistant to chemicals, insects, fungus and corrosion. UV stabilizers have been added for ultraviolet protection. Improved portable bench frame has flattened bench feet (not shown) with pre-drilled holes to allow surface mounting. The permanent inground mount is designed for installation in a concrete footing. Some assembly required. Planks available in Gray or Cedar color.



	Leg Style	Ship. Wt.	1	6
RJT-SCXB/G-4P24	4' Inground	71 lbs.	\$251	\$243 each
5. RJT-PCXB/G-4P24	4' Portable/Surface	71 lbs.	\$263	\$255 each
RJT-SCXB3/G-6P24	6' Inground	107 lbs.	\$378	\$367 each
RJT-PCXB3/G-6P24	6' Portable/Surface	107 lbs.	\$396	\$384 each

F.O.B. Iowa factory

## Charles Sumner

**From:** Jillian Douglass  
**Sent:** Tuesday, May 28, 2002 1:29 PM  
**To:** Charles Sumner; Allan Tkaczyk; Seth Wilkinson  
**Cc:** Margaret Maguire  
**Subject:** RE: GIFTS OF BENCHES, ETC.

Since you asked, my comment would be not to use plastic coated metal benches. Personally, I find them too modern looking, but on a more practical note, they burn when it's hot and they're alarmingly chilly when it's cold. In particular, I would not recommend the metal benches or picnic tables for beach locations where one's skin may be exposed to the surfaces. I would support their use at newer facilities, ballfields and some of the parks that don't already have benches of another style.

Originally, we had agreed on the "British Estate Style" wooden bench (like the ones at the Drummer Boy) in consultation with the HDC for locations within the Historic District. While very good-looking, only the most expensive of this style is durable enough to stand up to public use. We have discovered that this style is not particularly suited to beach locations because of the un-even sand surfaces and because they require seasonal installation to ensure they are not damaged by storms. The stronger built models of this style seem to do fine on semi-level grassy ground, when secured by chain to one or more buried cinder blocks.

I would suggest recycled plastic "wood" benches and picnic tables (like the ones currently outside the Town Office Building) for durability and comfort at the beach locations, and granite for longer-lasting memorial fixtures at Town buildings and more formal settings. The difficulty of the beach locations is that the spots where people have wanted to locate their memorial benches require seasonal removal and installation. I would suggest that we identify very specific locations at all of our sites for safe, permanent installation, rather than allowing sites that require labor-intensive removal and re-installation. I would further suggest that for the Drummer Boy, we remain consistent with the same "British Estate Style" wooden benches that we have been accepting, using the recycled material picnic tables for the play areas at that location. The benches currently in-place are attractive and meet the HDC's criteria. My further preferences would be as follows: (*Italics indicate changes from the original list*)

- WINGS ISLAND  
WOOD BENCH
  
- DRUMMERBOY PARK  
WOOD BENCH, CONSISTENT WITH CLASSIC-STYLE OF EXISTING BENCHES  
COMPOSITE PICNIC TABLES, CONSISTENT WITH THOSE PURCHASED BY THE PLAYGROUND GROUP  
LANDSCAPING ITEMS
  
- PAINES CREEK BEACH  
WE ALREADY HAVE 3 CLASSIC-STYLE BENCHES, BUT THEY ARE POORLY PLACED. I WOULD REMAIOIN  
CONSISTENT, BUT WOULD LIMIT THE NUMBER DUE TO LOGISTIC SITE CONSTRAINTS
  
- NEW BEACH  
RECYCLED PLASTIC/WOOD BENCH
  
- SAINTS LANDING  
RECYCLED PLASTIC/WOOD BENCH
  
- BREAKWATER LANDING  
RECYCLED PLASTIC/WOOD BENCH
  
- BREAKWATER BEACH  
RECYCLED PLASTIS/WOOD BENCH
  
- CIST PARK (Next to Breakwater Beach)  
PLASTIC COATED METAL BENCH  
PLASTIC COATED METAL PICNIC TABLE  
LANDSCAPING ITEMS
  
- ELLIS LANDING

*RECYCLED PLASTIC/WOOD BENCH*

- LINNELL LANDING  
*RECYCLED PLASTIC/WOOD BENCH*
- CROSBY BEACH  
*RECYCLED PLASTIC/WOOD BENCH*
- NICKERSON PARK- STATE PROPERTY (we can only advise)  
PLASTIC COATED METAL BENCH  
PLASTIC COATED METAL PICNIC TABLE  
LANDSCAPING ITEMS
- MILLSITES/HERRING RUN SITE  
GRANITE BENCH  
LANDSCAPING ITEMS
- TOWN OFFICES PROPERTY  
GRANITE BENCH  
LANDSCAPING ITEMS  
FOUNTAIN
- BREWSTER CEMETERY  
GRANITE BENCH  
LANDSCAPING ITEMS
- CAPTAINS GOLF COURSE  
GRANITE BENCH  
LANDSCAPING ITEMS
- LONG POND BEACH  
PLASTIC COATED METAL BENCH  
PLASTIC COATED METAL PICNIC TABLE
- FREEMANS WAY RECREATION FIELDS  
PLASTIC COATED METAL BENCH  
PLASTIC COATED METAL PICNIC TABLE  
LANDSCAPING ITEMS
- FIRE STATION RECREATION FIELD  
PLASTIC COATED METAL BENCH
- TOWN OFFICES RECREATION FIELD  
PLASTIC COATED METAL BENCH  
PLASTIC COATED METAL PICNIC TABLE  
LANDSCAPING ITEMS
- PUNKHORN PARKLANDS  
*RECYCLED PLASTIC/WOOD BENCH*

-----Original Message-----

From: Charles Sumner  
Sent: Monday, May 13, 2002 3:15 PM  
To: Allan Tkaczyk; Jillian Douglass; Seth Wilkinson  
Cc: Margaret Maguire  
Subject: GIFTS OF BENCHES, ETC.

WELL WE CONTINUE TO RECEIVE PROPOSED GIFTS FROM PEOPLE IN MEMORY OF LOVED ONES, ETC. THE BOS POLICY STATES THAT WE WILL DEVELOP A LIST OF SITES AND ITEMS. THIS IS AN ATTEMPT TO START THAT PROCESS. ANY INPUT. OTHERS ITEMS OR LOCATIONS WOULD BE WELCOME.

- WINGS ISLAND

WOOD BENCH

- DRUMMERBOY PARK  
PLASTIC COATED METAL BENCH  
PLASTIC COATED METAL PICNIC TABLE  
LANDSCAPING ITEMS
- PAINES CREEK BEACH  
PLASTIC COATED METAL BENCH
- NEW BEACH
- SAINTS LANDING
- BREAKWATER LANDING  
PLASTIC COATED METAL BENCH
- BREAKWATER BEACH
- CIST PARK (Next to Breakwater Beach)  
PLASTIC COATED METAL BENCH  
PLASTIC COATED METAL PICNIC TABLE  
LANDSCAPING ITEMS
- ELLIS LANDING  
PLASTIC COATED METAL BENCH
- LINNELL LANDING
- CROSBY BEACH
- NICKERSON PARK  
PLASTIC COATED METAL BENCH  
PLASTIC COATED METAL PICNIC TABLE  
LANDSCAPING ITEMS
- MILLSITES/HERRING RUN SITE  
GRANITE BENCH  
LANDSCAPING ITEMS
- TOWN OFFICES PROPERTY  
PLASTIC COATED METAL BENCH  
PLASTIC COATED METAL PICNIC TABLE  
GRANITE BENCH  
LANDSCAPING ITEMS  
FOUNTAIN
- BREWSTER CEMETERY  
GRANITE BENCH  
LANDSCAPING ITEMS
- CAPTAINS GOLF COURSE  
GRANITE BENCH  
LANDSCAPING ITEMS
- LONG POND BEACH  
PLASTIC COATED METAL BENCH  
PLASTIC COATED METAL PICNIC TABLE
- FREEMANS WAY RECREATION FIELDS

PLASTIC COATED METAL BENCH  
PLASTIC COATED METAL PICNIC TABLE  
LANDSCAPING ITEMS

- FIRE STATION RECREATION FIELD  
PLASTIC COATED METAL BENCH
- TOWN OFFICES RECREATION FIELD  
PLASTIC COATED METAL BENCH  
PLASTIC COATED METAL PICNIC TABLE  
LANDSCAPING ITEMS
- PUNKHORN PARKLANDS

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Incoming mail is certified Virus Free.  
Checked by AVG anti-virus system (<http://www.grisoft.com>).  
Version: 6.0.351 / Virus Database: 197 - Release Date: 4/19/02

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Incoming mail is certified Virus Free.  
Checked by AVG anti-virus system (<http://www.grisoft.com>).  
Version: 6.0.365 / Virus Database: 202 - Release Date: 5/24/02

CS  
M

## Selectmen's Policy on Acceptance of Gifts Of Real Estate Property to the Town

The Town of Brewster welcomes and appreciates that citizens may wish to donate gifts of land to the Town. Gifts of land, as well as, permanent conservation or open space restrictions on land, are tax deductible.

If you have an interest in donating your land or an easement or a permanent restriction on your land for public use or access, please contact the Brewster Selectmen's Office by phone at 508-896-3701, ext. 134, or in writing at 2198 Main Street, Brewster, MA 02631. When you contact our office, we will need the location of your land by Assessors' Map and Lot numbers. We will also need a copy of your deed, which is available from the Barnstable County Registry of Deeds. If you don't have this information, town personnel will help you to get it.

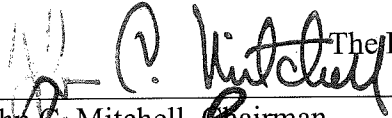
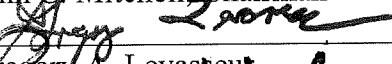

A representative of the Town will visit the site and report back any apparent or potential liabilities that public ownership of the property could represent to the Town. If you have clear title to the land and it is free of hazards and encumbrances, the Selectmen may vote to accept your gift. If the Selectmen vote in the affirmative, an article will be scheduled for the next Town Meeting's warrant. The voters would then be asked to accept your gift, with or without consideration or conditions. If you wish to restrict the future use of your donated property, any restrictions would need to be clarified prior to the printing of the warrant.

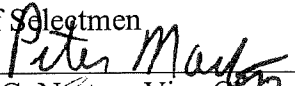
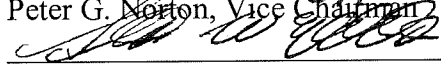
The final step is the legal transfer of your interest in the property to the Town. The Town would assume responsibility for normal fees or legal costs associated with clearing and/or transferring title. If local taxes are outstanding, the Town would assume the costs associated with clearing those liens.

At your request, the Town would be glad to submit a press release to the local papers detailing the gift.

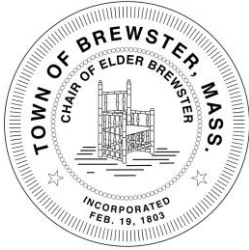
We thank you for your generous consideration of the Town of Brewster.

Signed, this 19<sup>th</sup> day of June, 2000.

  
\_\_\_\_\_  
John C. Mitchell, Chairman  
  
\_\_\_\_\_  
Gregory A. Levasseur  
  
\_\_\_\_\_  
Robert B. Hirschman

The Brewster Board of Selectmen  
  
\_\_\_\_\_  
Peter G. Norton, Vice Chairman  
  
\_\_\_\_\_  
Steven W. Eldredge





**Town of Brewster**  
2198 Main Street  
Brewster, MA 02631  
www.brewster-ma.gov  
Phone: (508) 896-3701  
Email: TownAdmin@brewster-ma.gov

**Policy No: 35**  
**Date Approved:**  
December 17, 2001

**Dates Amended:**  
September 26, 2022

**Select Board Policies on: Email Use, Information Security, and IT Acceptable Use**

**Establishment date, effective date, and revision procedure**

The Town of Brewster Information Technology department shall review this policy at least once a year, and at any additional time when there are changes that may affect management with respect to Information Security. In the event that amendment or repeal of this policy becomes necessary as a result of such review, the Town of Brewster Information Technology department shall prepare a draft and apply for authorization, and with prior confirmation of the Executive(s) in charge of the area(s) that will be affected by amendment or repeal, the Town of Brewster Select Board will authorize the amendment or repeal.

**EMAIL USE POLICY**

**Overview**

**Purpose**

This policy defines the standards and rules for acceptable and unacceptable use of Town of Brewster's email system and ensures proper use of that system.

**Scope**

The policy applies to all uses of Town of Brewster's email system by employees, contractors, agents, volunteers, or any other party authorized for its use.

Use of The Town of Brewster's email system is subject to the terms of this policy in addition to those set forth in the *Acceptable Use* and *Access Control Policies*. Employees and other users are encouraged to familiarize themselves with the terms of these policies.

**Policy**

**Acceptable Uses of Email Accounts**

Town of Brewster provides email accounts primarily for legitimate Town of Brewster business purposes. Personal communication is permitted on a limited basis. Employees have the responsibility to maintain and enhance the organization's public image and to use the organization's email system in a responsible, productive, and lawful manner. This section is not intended to limit protected conduct under the National Labor Relations Act or other law.

**Unacceptable Uses of Email Accounts**

Non-Town of Brewster related commercial use of the Town of Brewster email system is prohibited. Town of Brewster's email accounts may not be used for transmitting, retrieving, viewing, or storage of any communications of an unlawfully discriminatory or harassing nature. Materials that

are obscene or harassment of any kind is prohibited. No messages with derogatory or inflammatory remarks about an individual's protected class including race, age, disability, religion, national origin, physical attributes, genetic information, gender identity, or sexual preference shall be transmitted. No emails shall be sent through the Town of Brewster's email system which unlawfully defame or malign the image, reputation and/or goodwill of the organization and/or any of its employees. Email messages or attachments may also not be used for any purpose that is illegal or otherwise against organization policy or contrary to the organization's best interests. Solicitation of non-organization business, or any use of the Town of Brewster's email system for personal gain, is prohibited.

### **Communications**

Each employee is responsible for the content of all text, audio, or images that he/she transfers to or sends over Town of Brewster's email system. All emails must contain the identity of the sender and may not represent the sender as a different person or someone from another organization. Any messages or information sent by an employee to another individual outside of the organization via an electronic network (e.g., blog, IM, bulletin board, online service, or Internet) are statements that reflect on the organization. All employees who engage in such personal messaging are encouraged to provide a disclaimer clearly stating that any and all opinions expressed are solely those of the employee and are not those of the organization, as provided in the *Acceptable Use Policy*. Employees may not automatically forward emails containing the organization's confidential or sensitive information from Town of Brewster's email system to a third-party email system such as Google or Yahoo except where prior authorization has been obtained or where permitted or protected by law.

All communications sent by employees via Town of Brewster's email system must comply with the organizations *Acceptable Use and Information Security Policies* and must provide appropriate safeguards for the organization's sensitive, confidential, and proprietary information such as strong passwords and approved methods of encryption where appropriate. Such protective measures should be used when sending emails or attachments containing personally identifiable information, protected health information, or other similar information that if lost, misused, or disclosed without authorization, could have an adverse impact on the privacy interests or welfare of others; or when sending confidential or proprietary information such as business, financial, or project strategies. Any questions or concerns regarding encryption of email contents should be directed to the department supervisor or IT department.

### **Privacy**

Emails are not private. Employees shall have no expectation of privacy in anything they store, send or receive on The Town of Brewster email system. Town of Brewster reserves the right to monitor email content to ensure that the email system is used for appropriate business or legally protected purposes. As a result of such monitoring, certain contents of employee emails may be exposed. Employee emails may also be subject to exposure in the event that Town of Brewster's email system is compromised allowing unauthorized persons to gain access to employee email content. Finally, employee email contents may be inadvertently exposed where an email routing error occurs resulting in an email being sent to the incorrect recipient. As a result of this potential for exposure, employees are encouraged to not email any content that they would like to remain confidential.

### **Personal Email Accounts**

Accessing personal email accounts from organization-owned computers is prohibited, as they are a potential source of computer viruses. No organization-related communication is permitted using personal email accounts, as the communication may be subject to the organization's communication retention policy. One exception to this restriction is where such use of personal email accounts for organization-related communications is permitted or protected under the National Labor Relations Act or other law. With prior approval, personal email accounts may be

used for communications in the event the security of The Town of Brewster email system is compromised.

### **Spam**

Sending abusive, unwanted, or harassing email of any kind using a Town of Brewster email account is prohibited, except in limited circumstances where such activity is permitted or protected by law.

### **Copyright Issues**

Employees may not use Town of Brewster's Internet system to violate the copyright protection of materials belonging to entities other than this organization. Please note that non-adherence to this policy puts the organization in serious legal jeopardy and opens the organization up to significant lawsuits and public embarrassment. All employees obtaining access to other organization's or individuals' materials must respect all copyrights and may not copy, retrieve, modify, or forward copyrighted materials, except with permission. Failure to observe copyright or license agreements may result in disciplinary action up to and including termination.

Employees are additionally prohibited from copying, retrieving, modifying, or forwarding copyrighted and other protected materials belonging to Town of Brewster for non-business purposes except where expressly authorized to do so or where limited use of such information is protected by law. Under all circumstances, employees must comply with applicable copyright and other similar intellectual property laws. If there are questions or concerns regarding the protected status of any piece of information, the employee should consult his/her supervisor.

### **Monitoring**

Town of Brewster routinely monitors usage patterns in its Internet communications for legitimate business purposes which include cost analysis, security, bandwidth allocation, and the general management of the organization's gateway to the Internet. All messages created, sent, or retrieved over the organization's Internet are the property of the organization and should be considered public information. In the event that reasonable suspicion exists that sensitive, confidential, or proprietary information belonging to the organization has been downloaded or transferred from Town of Brewster's email system to an employee's personal email account, any related emails within the employee's personal email account may also be subject to limited monitoring or auditing by the organization in order to prevent unlawful use of intellectual property, to assess the degree of any resulting potential data breach, or as part of any related legal proceedings.

Town of Brewster reserves the right to access and monitor the content of all messages and files on the organization's Internet system at any time in the future with or without notice. Employees should not assume electronic communications via Town of Brewster's email system are private and should transmit personal confidential data in other ways. Emails are also considered public records under the Massachusetts Public Records Laws and employees should assume that anything sent using the Town of Brewster's email system will be subject to monitoring and disclosure.

### **Retention**

Organization communications of any kind typically need to be retained the same as any other document. Certain email communications may be subject to specific requirements as per the Massachusetts Municipal Public Records Retention Schedule depending on the subject or purpose of the email.

All emails deleted from an employee's email inbox are still saved on the Town of Brewster email archive server and retained.

## Email Attachments

Attachments with the following file extensions are prohibited, as they are potential security and virus threats:

.bat	Batch processing file used to execute system commands or programs.
.com	Windows command files.
.cpl	Control panel extension.
.exe	Windows binary executable files.
.js	Java script files.
.ocx	Object linking and embedding control.
.pif	Program information file used to tell Windows how to run non-Windows applications.
.scr	Screen saver programs; may include binary code.
.sys	System configuration files.
.vb	Visual Basic script files.

There is also a limit of 25 MB of attachments for any email message. Employees should contact the IT Helpdesk if there is a need to transfer more than 25 MB of files at any one time.

## INFORMATION SECURITY POLICY

### Overview

#### **Purpose**

The purpose of this policy is to describe Town of Brewster's commitment, and the commitment of its management, to preserving the confidentiality, integrity, authenticity, and reliability of business-related information and personal information in the possession or control of the company and/or any of its employees, agents, contractors, subsidiaries, or affiliates, through the establishment of a comprehensive information security program.

#### **Scope**

This policy applies to employees, elected or appointed officials, contractors, consultants, volunteers, temporary and other workers at Town of Brewster. This policy applies to all equipment that is owned or leased by, or otherwise in the custody or control of the Town of Brewster.

This policy applies to the use of all information, electronic and computing devices, and network resources used by Town of Brewster to conduct business or interact with internal networks and business systems, whether owned or leased by, or otherwise in the custody or control of, Town of Brewster, the employee, a subsidiary, or a third party.

#### **Definitions**

*Information Security*: As used in this Policy, *information security* means the preservation of the confidentiality, integrity, authenticity, and reliability of information through safeguards designed to protect against any unauthorized access, use, modification, or disclosure.

#### **Policy**

Town of Brewster recognize the importance of managing information security risk across all levels of the organization in a manner that aligns with organizational principles, goals, and business continuity and processes. Executive management will set the organization's risk tolerance and implement policies and procedures that effectuate the organization's information security interests

and align with its risk appetite. Accordingly, policies and procedures will be enacted that address the following:

1. Management of all user IDs and passwords on IT Assets;
2. Management of all access control lists on all IT Assets;
3. Execution and review of all audit trails;
4. Incident response and reporting; and
5. All other tasks necessary to support this Policy.

The Town may enact additional policies and procedures in its discretion in order to provide the appropriate level of protection to business-related information in the possession or control of the Town and/or any of its employees, agents, contractors, subsidiaries, or affiliates.

### **Framework of Town of Brewster's Information Security Program**

In order to effectively manage risk to information security, Town of Brewster will provide for the following safeguards:

1. Access control and user authentication management. Physical and technological access control will be implemented to provide only authorized users with access to sensitive business information, systems, and networks for legitimate business purposes.
2. System and network monitoring. All systems and networks will be monitored through review of access logs, activity logs, fault logs, and privileged operations in order to detect any suspicious activity that could signal internal abuse of access rights or the presence of an intruder.
3. Ongoing assessment of information security risk. Risk assessments will be conducted to identify newly developed or developing vulnerabilities in systems and networks and to determine what modifications if any should be made to existing information security safeguards. As part of such assessments, information classifications shall be reviewed to ensure such classes are appropriate for the level of risk associated with the information.
4. Employee training and awareness. All employees will be trained on basic information security such as recognition of social engineering schemes (e.g., phishing and spear phishing), ransomware, authorized uses and disclosures of information, and proper transmission, storage, and disposal/destruction of data. Employees will be responsible to secure transmission and storage of sensitive data through encryption or other appropriate means where required by data class or law.
5. Compliance with legal obligations. The information security program will provide an awareness of and comply with federal and state laws and contractual obligations including those related to protection of personal information.
6. Vendor Management. Whenever confidential or sensitive data is released to entities outside of the organization, and a legitimate business reason exists for releasing the information, a written Non-Disclosure Agreement (NDA), requiring the data recipient's agreement to maintain that data in confidence and restrict its use and dissemination, will be obtained before disclosing the data. Ongoing assessment of vendor relationships and vendor compliance with existing NDA's and other agreements will be conducted by the relevant vendor owners.

7. Information security incident preparedness. Detailed procedures will be in place to manage and direct the organization's response to an information security incident including designation of an Incident Response Team and the role of each team member.
8. Business Continuity Plan. Information security will be coordinated to effectuate and further the goals of the organization's business continuity plan.
9. Sanctions for violations. Appropriate warnings or disciplinary action will be brought against any employee, agent, contractor, or affiliate of the organization who violates the terms of any of the organizations information security policies, including possible termination of employment or expulsion from the organization's premises.

Additional safeguards may be necessary to protect assets of greater criticality, or where, after conducting a risk assessment, it is determined that the current information security program is insufficient to protect the organization's information, systems, and/or networks commensurate with the organization's risk tolerance.

### **Information Security Roles and Responsibilities**

Information Security will be primarily managed by Town of Brewster's Information Technology personnel. Individual department managers will be responsible for ensuring that employees within their departments are complying with Town of Brewster information security policies and procedures. Responsibilities of those in information security roles will include:

1. Fostering an organizational climate where information security is prioritized and considered in the context of business continuity and objectives.
2. Defining the security requirements, controls and mechanisms applicable to all covered data.
3. Defining the methods and guidelines used to identify and classify all covered data.
4. Defining the procedures for identifying data owners for all covered data.
5. Defining the labeling requirements for all covered data.
6. Defining all other data security usage, processing, transmission, storage and disposal processes and procedures.
7. Assisting department managers and supervisors to better understand how information security risks associated with their systems translate to organization-wide risk.
8. Providing ongoing assessment of the risk to the organization's information, systems, and networks.
9. Monitoring the organization's systems and networks for questionable activity.
10. Defining the procedures necessary to ensure compliance to this policy by all organization users and vendors.
11. Ensuring Town Administration remains apprised of the organization's information security posture and any developing risks.

12. Assisting in the Town's ongoing compliance with state and federal law and other legal obligations.
13. Working with other Incident Response Team members to respond to, contain, and eradicate information security incidents.

## **ACCEPTABLE IT EQUIPMENT USE**

### **Overview**

Effective information security requires the support and participation of all employees and affiliates of Town of Brewster who deal with company information and/or information systems. All computer users within the Town are responsible for reading and following the guidelines set forth below.

### **Purpose**

This policy describes the acceptable use of Town of Brewster's computer equipment. By complying with the directives set forth below, employees help to protect Town of Brewster from risk of malware attacks, compromise of network systems and services, and legal liability.

### **Scope**

This policy applies to employees, contractors, consultants, elected or appointed officials, volunteers, temporary and other workers at Town of Brewster, and all personnel affiliated with company subsidiaries or third parties. This policy applies to all equipment that is owned or leased by, or otherwise in the custody or control of the Town of Brewster.

This policy applies to the use of all information, electronic and computing devices, and network resources used by the Town of Brewster to conduct business or interact with internal networks and business systems, whether owned or leased by, or otherwise in the custody or control of, Town of Brewster, the employee, a subsidiary, or a third party.

### **Policy**

All employees, contractors, consultants, elected or appointed officials, volunteers, temporary and other workers at Town of Brewster, are responsible for exercising good judgment regarding appropriate and reasonable use of information, electronic devices, and network resources in a manner that complies with Town of Brewster's policies and procedures, and local laws and regulations.

### **General Use and Ownership**

1. Town of Brewster's proprietary information created and/or stored on electronic and computing devices whether owned or leased by, or otherwise in the custody or control of, Town of Brewster, the employee, or a third party, remains the sole property of Town of Brewster.
2. Employees have a responsibility to promptly report the theft, loss or unauthorized disclosure of Town of Brewster proprietary or confidential information such as legally protected private information involving citizens or employees.
3. Employees may access, use or share private information in the Town of Brewster's custody, only to the extent it is authorized and necessary to fulfill their assigned job duties or in limited circumstances where such access, use, or disclosure is protected under the National Labor Relations Act and is compliant with applicable laws.

4. All employees are responsible for exercising good judgment regarding the reasonableness of their personal use. Individual departments are responsible for creating their own guidelines concerning personal use of Internet/Intranet/Extranet systems. In the absence of such guidelines, employees should consult their supervisor or manager.
5. Information considered sensitive or vulnerable may be encrypted. Such information includes but is not limited to employee personal information, private citizen or taxpayer information, and Town of Brewster confidential information.
6. In order to maintain the security and integrity of Town systems and networks, authorized individuals within Town of Brewster may monitor electronic and computing equipment, systems, and network traffic at any time.
7. Town of Brewster reserves the right to audit all electronic and computing equipment, networks, and systems on a periodic basis to ensure compliance with this policy.
8. Employees and users of Town of Brewster equipment are expected to take charge of their own training by attending in-house classes provided by the IT department and reviewing and becoming familiar with software documentation.
9. Nothing in this policy shall be construed to interfere with releasing information to the public as required by the Open Meeting Law or Massachusetts Public Records Laws.

#### **Security and Proprietary Information**

1. Mobile and computing devices that connect to the internal network will be limited to the minimum access necessary to conduct business in order to protect Town of Brewster's sensitive, proprietary, or confidential information from potential compromise. However, nothing in this paragraph shall be construed to interfere with or restrict employee rights under the National Labor Relations Act.
2. All system level and user level passwords must comply with the security requirements of the *Access Control Policy*. Employees are prohibited from providing any other individual access to company networks and systems, either intentionally or through failure to take reasonable steps to secure their access.
3. All computing devices shall be secured with a password-protected screensaver that activates automatically after 10 minutes or less. Employees must manually lock the screen or log off when leaving their computing device unattended.
4. Employees must use extreme caution and comply with the safeguards in Town of Brewster's *Email Policy* when opening e-mail attachments received from unknown senders, which may contain malware.
5. Employees must safeguard all Town of Brewster equipment assigned to their exclusive or shared use, and all Town of Brewster equipment within their work area.
6. Employees traveling with Town of Brewster laptop computers must always carry them in carry-on baggage and not in checked baggage.



## **Unacceptable Use**

The following activities are prohibited. Employees may be exempted from certain restrictions where required to engage in legitimate job responsibilities (e.g., systems administration staff may need to engage in specified restricted activity in order to test company security vulnerabilities or to disable the network access of a host if that host is disrupting production services or police may need to access inappropriate websites as part of an investigation). Employees may also be exempted from specific restrictions in limited circumstances where activities are protected by the National Labor Relations Act.

Employees are prohibited from engaging in any activity that is illegal under local, state, federal or international law while utilizing Town of Brewster-owned resources.

The lists below are not exhaustive, but attempt to provide guidance on what activities fall into the category of unacceptable use.

### *System and Network Activities*

The following activities are strictly prohibited:

1. Violating the rights of any person or company protected by copyright, trade secret, patent or other intellectual property laws and regulations, including, but not limited to, installing or distributing "pirated" or other software products for which the Town of Brewster lacks an appropriate license.
2. Unauthorized and unlawful reproduction of materials protected by copyright including activities such as digitization and distribution of photographs from magazines, books, online databases, or other similar copyrighted sources, copyrighted music, and the installation of any copyright protected software for which Town of Brewster or other end user lacks a valid license.
3. Accessing data, a server or an account for any purpose other than conducting Town of Brewster business or for limited activities protected by the National Labor Relations Act, such as union organizing or other protected concerted activities.
4. Exporting technical information, software, or encryption software or technology, in a manner prohibited by international or regional export control laws. Employees should consult management prior to exporting any material that is in question.
5. Introducing malicious programs into company networks or servers (e.g., viruses, worms, Trojan horses, e-mail bombs, suspicious packers, etc.).
6. Disclosing account passwords to others or allowing others to access and use your account in any manner. This includes access or use by family and other household members when working from home.
7. Using a Town of Brewster computing device to procure or transmit material that is in violation of the organization's anti-discrimination and harassment policies and state and federal laws.
8. Using any Town of Brewster account to make fraudulent offers of products, goods, or services.
9. Making statements about warranty, expressly or implied, of any product, good, or service unless such statements are part of legitimate job duties.
10. Effecting security breaches or disruptions of network communication or services. Security breaches include, but are not limited to, accessing data of which the employee is not an intended

recipient or logging into a server or account that the employee is not expressly authorized to access, unless such activities are within the scope of regular business duties or otherwise permitted by law. For purposes of this section, "disruption" includes, but is not limited to, bulk email or spam, denial of service, packet spoofing, network sniffing, pinged floods, and forged routing information for malicious purposes.

11. Using any form of network monitoring that intercepts data not intended for the employee's host, unless this activity is a part of legitimate job duties.

12. Bypassing user authentication and/or security of any host electronic or computer device, network, or account owned by Town of Brewster.

13. Disabling anti-virus software on workstations or devices.

14. Interfering with or denying service to another user's host (for example, denial of service attack).

15. Sending any messages such as programs, scripts, or commands with the intent to cause interference of, or disable, a user's terminal session, by any means, whether locally or via the Internet/Intranet/Extranet.

16. Disclosing information about, or lists of Town of Brewster's employees to customers, competitors, or other similar parties outside of Town of Brewster.

17. Hacking systems and databases or acting to disrupt systems or cause unnecessary network congestion or application delays.

18. Using remote control or remote access software on any internal or external host personal computers or systems not specifically set up by the IT staff.

19. Using Town of Brewster equipment for personal profit, political fundraising, gambling activity, non-business-related instant messaging or chat room discussions, or downloading or displaying of offensive material, unless such fundraising or messaging activity is for the limited purpose of exercising employee rights under the National Labor Relations Act, such as union organizing or other protected concerted activity.

20. Browsing pornographic, offensive, or otherwise undesired and questionable sites on the internet which may result in introduction of malicious programs into the company's network or server.

#### *Email and Communication Activities*

Employees are perceived to represent the Town when they use Town resources to access the Internet. To avoid confusion, during online communications unrelated to legitimate work responsibilities, whenever employees state an affiliation to the Town of Brewster, they are encouraged to clearly indicate the following: "I do not represent the Town in any manner. Any opinions expressed on this matter are my own and not necessarily those of the Town". However, such disclosure is not required for limited communications protected by the National Labor Relations Act. Questions concerning such disclosures should be addressed to the IT Department or Town Administrator's Office.

The following email activities are strictly prohibited:

1. Sending unsolicited email messages, including the sending of "junk mail" or other advertising material to individuals who did not specifically request such material (email spam), except in

limited circumstances where such communication is protected by the National Labor Relations Act, such as union organizing or other protected concerted activity.

2. Any form of unlawful harassment via email, telephone or texting, whether perceived as harassment through language, frequency, or size of messages.

3. Unauthorized use, misappropriation, or forging of information in email headers.

4. Solicitation of emails for another email address, other than that of the poster's account, with the intent to unlawfully harass or collect replies.

5. Creating or forwarding harassing and unwanted "chain letters", "Ponzi", or other "pyramid" schemes of any type regardless of content, sources, or destinations. Nothing in this paragraph will be construed to limit employees from engaging in legitimate protected concerted activity under the National Labor Relations Act.

6. Posting Town of Brewster proprietary or confidential information to external newsgroups, bulletin boards, or other public forums without authority.

7. Any use of unsolicited emails obtained from within Town of Brewster's networks that were sent by other Internet/Intranet/Extranet service providers on behalf of, or to advertise, services hosted by Town of Brewster or connected via Town of Brewster's network.

8. Posting non-business-related messages to large numbers of Usenet newsgroups (newsgroup spam) or other similar abusive tactics.

## **Blogging**

1. Blogging by employees, whether using Town of Brewster's property and systems or personal computer systems, when used to carry out job responsibilities, is also subject to the terms and restrictions set forth in this Policy. Limited and occasional use of Town of Brewster's systems to engage in blogging related to legitimate job-related responsibilities is acceptable, provided that it is done in a professional and responsible manner, does not otherwise violate Town of Brewster's policy, is not detrimental to Town of Brewster's best interests or image, and does not interfere with an employee's regular work duties. However, nothing in this paragraph shall be construed to limit employees' rights to discuss the terms and conditions of their employment or to engage in other legitimate protected concerted activities under the National Labor Relations Act. Employees should also note that blogging from Town of Brewster's systems is subject to monitoring.

2. Employees shall not engage in any blogging whether during the course of business duties or after working hours that unlawfully defames or maligns the image, reputation and/or goodwill of Town of Brewster and/or any of its employees. Employees are also prohibited from making any discriminatory, disparaging, defamatory, harassing, or otherwise unlawful comments when blogging, or otherwise engaging in any conduct prohibited by Town of Brewster's *Anti-Discrimination and Harassment* policy.

3. Employees may not hold themselves out as representatives of the company or attribute personal statements, opinions or beliefs to Town of Brewster when engaged in blogging or posting to newsgroups, or other social media. If an employee expresses his or her beliefs and/or opinions in blogs or social media posts, the employee is encouraged to disclose the following: "I do not represent the town government in any manner. Any opinions expressed on this matter are my own and not necessarily those of the town government". However, where engaging in limited activity protected by the National Labor Relations Act, such as discussing terms and conditions

of employment, employees need not provide such disclosure. Employees who engage in blogging outside the scope of their job duties assume any and all associated risk.

4. Employees are prohibited from revealing any Town of Brewster confidential or proprietary information, or any other material designated as confidential when engaged in blogging.

5. In addition to following all laws pertaining to the handling and disclosure of copyrighted or export controlled materials, Town of Brewster's trademarks, logos and any other Town of Brewster intellectual property may also not be used in connection with any blogging activity except in limited circumstances where such use is protected by the National Labor Relations Act. In all circumstances, employees must comply with all applicable copyright, trademark, and other similar intellectual property laws.

(See also policy #55-Social Media Use and #56-Facebook Policy)

### **Policy Compliance**

#### **Compliance Measurement**

Compliance with these policies will be verified by the Town of Brewster through various methods, including but not limited to, business tool reports, internal and external audits, and feedback to the IT Department and Town Manager.

#### **Exceptions**

Any exception to these policies must be approved by the Select Board or Town Administrator in advance.

#### **Non-Compliance**

An employee found to have violated these policies may be subject to disciplinary action, up to and including termination of employment.

Approved by the Brewster Select Board on September 26, 2022

*David Whitney*

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David Whitney, Chair

*Edward B Chatelain*

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Edward Chatelain, Vice Chair

*Kari A. Hoffmann*

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Kari Hoffmann, Clerk

*Mary Chaffee*

---

Mary Chaffee

*CA Bingham*

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Cynthia Bingham

OFFICE OF SELECTMEN  
Brewster, MA 02631

CONSERVATION RESTRICTIONS  
STATEMENT OF POLICY  
TOWN OF BREWSTER  
SELECTMEN'S OFFICE


Whereas, the protection of the environment, including clean air, pure water resources, scenic areas, open space, natural habitat of fish, wildlife and plants, is a primary concern of the Town of Brewster; and

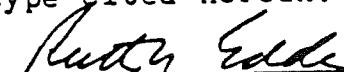
Whereas, the Town prepared an Open Space and Recreation Plan in 1985 to establish a strategy to protect the natural resources cited above; and

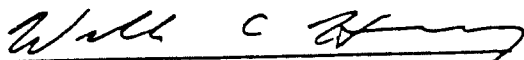
Whereas, conservation restrictions pursuant to Massachusetts General Laws, Chapter 184, Section 31 et seq. are a proper means to implement appropriate objectives of the Open Space and Recreation Plan; and

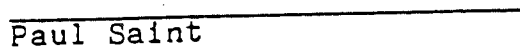
Whereas, the Board of Selectmen and Conservation Commission must evaluate the extent to which a conservation restriction on a particular property will yield significant public benefits by protecting water resources and clean air, preserving open space, forest lands, and natural habitat of fish, wildlife or plants and providing scenic enjoyment, outdoor recreation and education of the public;

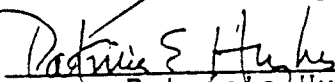
NOW, THEREFORE, the Board of Selectmen declare it to be a policy of the Town of Brewster to accept and/or approve conservation restrictions that provide significant public benefit as enumerated above; and that conservation restrictions may be held by the Town of Brewster or state or federal agencies or qualified conservation restrictions held by the Town will be controlled and enforced by the Conservation Commission; and that approval of conservation restrictions by the Board of Selectmen as required by Massachusetts General Laws, Chapter 184, Section 31 et seq. shall be conclusive confirmation that the same yields significant public benefits of the type cited herein.

  
Rita Lawler, Chairman

  
Ruth Eddy

  
William C. Henchy

  
Paul Saint

  
Patricia Hughes

Dated: October 3, 1989

# Town of Brewster

CONSERVATION COMMISSION



Brewster, Massachusetts  
02631-1898

TOWN OF BREWSTER  
CONSERVATION RESTRICTION PROGRAM

CONTENTS

- I. Board of Selectmen Policy (p. 2)
- II. Conservation Commission Guidelines (pp. 3-7)
- Appendix A. Board of Assessors Tax Reduction Policy
- Appendix B. Model Conservation Restriction
- Appendix C. Secretary of Environmental Affairs Approval

A partnership between the Town of Brewster and private landowners to work for the preservation of the Town and the protection of our natural resources and wildlife.

OFFICE OF SELECTMEN  
Brewster, MA 02631

-----  
CONSERVATION RESTRICTIONS  
STATEMENT OF POLICY  
TOWN OF BREWSTER  
SELECTMEN'S OFFICE

Whereas, the protection of the environment, including clean air, pure water resources, scenic areas, open space, natural habitat of fish, wildlife and plants, is a primary concern of the Town of Brewster; and

Whereas, the Town prepared an Open Space and Recreation Plan in 1985 to establish a strategy to protect the natural resources cited above; and

Whereas, conservation restrictions pursuant to Massachusetts General Laws, Chapter 184, Section 31 et seq. are a proper means to implement appropriate objectives of the Open Space and Recreation Plan; and

Whereas, the Board of Selectmen and Conservation Commission must evaluate the extent to which a conservation restriction on a particular property will yield significant public benefits by protecting water resources and clean air, preserving open space, forest lands, and natural habitat of fish, wildlife or plants and providing scenic enjoyment, outdoor recreation and education of the public;

NOW, THEREFORE, the Board of Selectmen declare it to be a policy of the Town of Brewster to accept and/or approve conservation restrictions that provide significant public benefit as enumerated above; and that conservation restrictions may be held by the Town of Brewster or state or federal agencies or qualified conservation restrictions held by the Town will be controlled and enforced by the Conservation Commission; and that approval of conservation restrictions by the Board of Selectmen as required by Massachusetts General Laws, Chapter 184, Section 31 et seq. shall be conclusive confirmation that the same yields significant public benefits of the type cited herein.

Rita Lawler  
Rita Lawler, Chairman

Ruth Eddy  
Ruth Eddy

William C. Henchy  
William C. Henchy

Paul Saint  
Paul Saint

Patricia E. Hughes  
Patricia Hughes

Dated: October 3, 1989

TOWN OF BREWSTER  
CONSERVATION COMMISSION  
Brewster, Massachusetts 02631

GUIDELINES FOR APPROVAL OF CONSERVATION RESTRICTIONS  
IN THE TOWN OF BREWSTER

**A. GENERAL INFORMATION**

~~The following guidelines outline the procedures for placing~~  
Conservation Restrictions on land in the Town of Brewster, Massachusetts, in order to render the land eligible for a property tax abatement. These guidelines conform with the General Laws, Chapter 184, Section 31-33.

1. A conservation restriction is defined as a property interest which thereafter limits the future use of the land in order to retain it in its natural, scenic, or open condition, or in agricultural or forest use. A conservation restriction is sometimes called a conservation easement.
2. There is no standard form for a conservation restriction. The guidelines serve as a model and are designed to make the process orderly and expedite filing. A model is included in Appendix B.
3. The conservation restriction is a legally enforceable agreement between the landowner and the Town or another eligible grantee, such as the Brewster Conservation Trust, the Massachusetts Audubon Society, or the Museum of Natural History. Title to the land remains with the owner and the public does not necessarily have a right to access without the owner's permission as expressed in the restriction.
4. The owner has the right to use the restricted land as he or she wishes so long as the terms of the agreement are not violated.

**B. BENEFITS TO THE TOWN**

Conservation restrictions may benefit the Town and its citizens and the citizens of the Commonwealth by providing various types of protection to the land. The land so restricted is generally left undisturbed except as specifically stated in the agreement.

1. The purpose of the restriction may include, but is not limited to, one or more of the following:
  - a. to preserve a scenic view, e.g., a "window to the sea"
  - b. to prevent filling of a floodplain or disturbance of wetlands
  - c. to insure that land remains in farming, forestry, or outdoor recreation
  - d. to protect groundwater quality for drinking purposes; to protect marine water quality
  - e. to preserve and protect a trail, shoreline, or beach
  - f. to prevent the cutting of trees or forests
  - g. to preserve important natural habitats and rare species
  - h. to limit or prevent construction on land of natural resource value



2. An additional value of restricted land to the Town is the difference between the cost of potential municipal services against potential tax revenues. Studies have indicated that restricted land generates a substantial net savings to the Town. For this reason, every effort should be made to promote conservation restrictions in the Town.

#### C. BENEFITS TO THE LANDOWNER

~~The landowner is compensated for the decrease in value of the land~~ placed under a conservation restriction by granting tax relief. This compensation may be abatements or exemptions for real estate taxes, estate (death taxes) and income taxes. Real estate tax benefits are set forth in the 1989 Brewster Board of Assessors' Tax Reduction Policy for Conservation Restrictions in Appendix A.

Conservation restrictions may have inherent value to the landowner as well since the owner may thereby be able to maintain larger parcels of land intact. The integrity of land under perpetual restrictions is also maintained after the death of the landowner.

Conservation Restrictions are recorded in the Public Restriction Tract Index at the Barnstable County Registry of Deeds. This places the transaction in a special position of safety.

#### D. REQUIRED FEATURES OF RESTRICTION

The following represent the restrictions required by the Massachusetts General Laws. Other prohibitions and permitted uses may be negotiated to adapt to the particular characteristics of a certain property.

1. No building, road, sign, outdoor advertising display, fence, mobile home, utility pole or other temporary or permanent structure will be constructed, placed or permitted to remain on said parcel.
2. No soil, loam, peat, gravel, sand, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or unsightly or offensive material will be placed, stored or dumped thereon.
3. No loam, peat, gravel, sand, rock or other mineral resource or natural deposit shall be excavated or removed from said parcel in such a manner as to affect the surface thereof.
4. No trees or other vegetation shall be cut or otherwise destroyed.
5. No surface use will be allowed except for agricultural, farming, forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition.
6. There shall be no activity detrimental to drainage, flood control, water quality, water conservation, erosion control or soil conservation.
7. Other optional prohibitions may be negotiated between the landowner and the holder of the restriction. Specificity in the restriction document prevents confusion later over what is

and is not allowed on the parcel.

8. Notwithstanding the required prohibitions contained in paragraphs D.1 through D.6, the owner of record may reserve the right to conduct or permit activities not inconsistent with the intent of the restriction, if specifically stated in the restriction document.

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#### **E. SIZE REQUIREMENT**

A conservation restriction may be offered to all landowners of any lot size, though it is the policy of the Selectmen and the Conservation Commission to require a five acre minimum size, unless the parcel in question has unique attributes, or contains habitat for rare or endangered species. The Board of Selectmen will determine whether land under consideration meets standards of significant public benefit after consultation with the Conservation Commission and other public authorities. (See also the 1988 Board of Assessors' Policy in Appendix A).

#### **F. REASSESSMENT FORMULA**

Properties covered by conservation restrictions are typically granted at least an 85% property tax reduction under a policy adopted by the Board of Assessors in 1989. Additional reduction is granted if public access is allowed. (See Board of Assessors' Policy in Appendix A).

#### **G. TEMPORARY RESTRICTIONS**

Conservation restrictions may be in perpetuity, or for a specified number of at least ten years. The Conservation Commission encourages land owners to place property under a permanent conservation restriction, rather than for a specified term of years for the following reasons:

- a. Federal income tax deductions and estate tax deductions are unavailable to the land owner for temporary conservation restrictions; and
- b. The same amount of legal documentation is involved in both temporary and permanent restrictions, but a permanent restriction provides significantly greater benefits to both the land owner and the Town.
- c. Land under a temporary restriction receives an abatement from property taxes in accordance with a sliding scale adopted by the Board of Assessors. (Please refer to the Board of Assessors' Policy attached as Appendix A).

#### **H. ENFORCEMENT**

All restricted properties must allow on-foot access to officials of the holder of the restriction in order to monitor compliance with the terms and conditions of the restriction. In the case of the Town as the holder of the restriction, the Conservation Commission will be the monitoring agency.

#### **I. ASSESSMENT PERIOD COVERING CONSERVATION RESTRICTIONS**

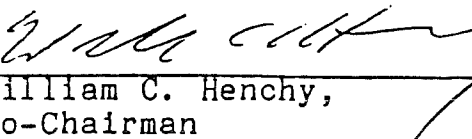
Applications for reassessment will be accepted at any time during the calendar year, but must be submitted to the Board of Assessors prior to January 1st in order to receive tax benefits for the next

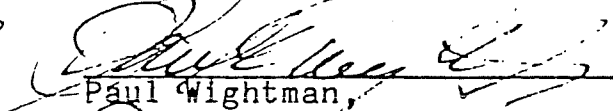
fiscal year. Once a restriction has been recorded, it is not necessary for the landowner to apply for abatement yearly. Property taxes will be reduced automatically for the duration of the restriction.

J. RELEASE OF CONSERVATION RESTRICTION

In order for the community to make proper and accurate land use decisions for the future, it must be able to ensure that protected open space remains protected. For that reason, conservation restrictions are intended to be in effect for the time period agreed at the outset. Only in cases of demonstrated extreme hardship, and after a public hearing, will the Town consider releasing any restriction. Full or partial release of a conservation restriction will also require the approval of the Executive Office of Environmental Affairs and the Legislature. The landowner of a conservation restriction expecting its release is subject to the penalties specified in M.G.L. c. 184, section 32.

Adopted by the Conservation Commission, October 11, 1989.


  
\_\_\_\_\_  
William C. Henchy,  
Co-Chairman

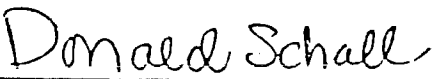
  
\_\_\_\_\_  
Paul Wightman,  
Co-Chairman

\_\_\_\_\_  
Alice Favreau

  
\_\_\_\_\_  
Paul Grueninger

  
\_\_\_\_\_  
Stephen Berrick

  
\_\_\_\_\_  
Peter Peck

  
\_\_\_\_\_  
Donald Schall

TOWN OF BREWSTER  
CONSERVATION COMMISSION  
Brewster, Massachusetts 02631

CONSERVATION RESTRICTION PROCEDURES

Action by Landowner

Action by Town

Owner seeks information on conservation restrictions

Conservation Commission provides owner with information packet

Owner files preliminary application with Conservation Commission

Within 30 days, Conservation Commission considers size, location and environmental value of land and reports to landowner

Final restriction approved by Town and State is recorded at Barnstable County Registry of Deeds, in Public Restriction Tract Index

Owner applies to Brewster Board of Assessor by January 1st for reduction of next year's property tax

Selectmen seek written recommendations from Conservation Commission, Town Counsel and Assessors

Owner secures an appraisal of restricted property if claiming more than \$5,000 deduction on federal income tax

Within 90 days of receipt of agreement, Selectmen vote to approve and sign restriction

Owner deducts value of donated restriction on federal income tax form

Signed restriction is sent to the Secretary of Environmental Affairs in Boston for approval

Holder of restriction may be Town, State, United States, Brewster Conservation Trust or other qualified conservation organization

Assessors vote to grant abatement based on their established policy for reduction; abatement is permanent for duration of restriction and owner does not have to re-file each year

TOWN OF BREWSTER

CONSERVATION COMMISSION

Brewster, Massachusetts 02631

PRELIMINARY APPLICATION FOR CONSERVATION RESTRICTION

1. Name(s) and address(es) of record owner(s) of property for which restriction is sought..

a. \_\_\_\_\_ b. \_\_\_\_\_ c. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Location of Property \_\_\_\_\_

Assessors' Lot No. \_\_\_\_\_ Map \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

3. Size: Total acreage of lot \_\_\_\_\_ Upland acreage \_\_\_\_\_

Wetland \_\_\_\_\_ Acreage of lot to be restricted \_\_\_\_\_

Value: Present full assessed value of land \$ \_\_\_\_\_

4. Deed reference: Book \_\_\_\_\_ Page \_\_\_\_\_ (Attach copies of deed and any recorded plan)

Plan reference (if any): Book \_\_\_\_\_ Page \_\_\_\_\_

5. Intended Holder of Restriction: (check one)

Town of Brewster (Conservation Commission) \_\_\_\_\_

United States (National Park Service) \_\_\_\_\_

Brewster Conservation Trust \_\_\_\_\_

Museum of Natural History \_\_\_\_\_

Other qualified organization (name) \_\_\_\_\_

6. Name, address and telephone number of your attorney or representative:

\_\_\_\_\_  
\_\_\_\_\_

7. Signature of Record Owner(s) (This application is preliminary and non-binding)

a. \_\_\_\_\_ b. \_\_\_\_\_ c. \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

This application, when complete, should be delivered to the Conservation Commission for consideration of the property's environmental values. Within 30 days of receipt, the Conservation Commission will notify you if the proposed restriction is consistent with Town conservation goals.

If you need help completing this form, please contact the Conservation Commission.

OFFICE OF ASSESSORS  
Brewster, Massachusetts 02631

PROPERTY TAX REDUCTION POLICY FOR CONSERVATION RESTRICTIONS

---

In January, 1989 the Board of Selectmen, with the support of the Conservation Commission, Planning Board and Board of Health, issued a policy to encourage property owners to consider the use of conservation restrictions as a means to preserve critical open spaces in Brewster. The Board of Assessors supports this policy and recognizes that legally approved conservation restrictions may reduce the economic value of the restricted property.

Therefore, the Assessor will adjust the real property tax on restriction, properties to reflect the reduced economic value when the following guidelines are met:

1. Authority - Only conservation restrictions approved under M.G.L. chapter 184, section 32 are eligible for tax adjustment under this policy.
2. Significance - The Assessors defer to the Board of Selectmen to determine the significant public benefit provided by its approval of a conservation restriction. Approval by the Selectmen shall constitute conclusive evidence of the significance of the restricted parcel, but by itself does not assure property tax adjustment unless the Assessors' guidelines presented herein are also met.
3. Size
  - a. Vacant parcels, or parcels with no permanent structures, can be of any size to be eligible for property tax adjustment if a conservation restriction is approved for the parcel.
  - b. Improved properties, or properties containing permanent structures, are eligible for property tax adjustment on that portion of the property exclusive of the improved portion of the lot.
4. Description - Any landowner with a conservation restriction who requests a property tax adjustment must submit a plan of land which, in the opinion of the Assessors, adequately depicts the restricted parcel or restricted portion of a parcel. An Assessors' map with boundaries of the restricted portion drawn to scale by a registered surveyor, engineer or architect may suffice. A statement from the said land planning professional attesting to the size (in square feet or the nearest one-hundredth of an acre) of the restricted and unrestricted portions of the property must accompany the plan.

5. Assessment Period - The conservation restriction must be recorded at the Barnstable Registry of Deeds prior to the January 1 preceding the following July 1 - June 30 fiscal period in order to be eligible for adjustment during that following fiscal period. After the restriction is on file with the Assessors, the property tax will be adjust each year for the duration of the restriction. There is no need for the landowner to have to request an adjustment each year. The Assessors must be notified of any recorded modifications or release of the restrictions.
6. Tax Adjustment Formula - The following will be the tax adjustment formula applied to all approved conservation restrictions at the time of filing. The base value will be the current fair market value of the real estate. Although revaluation, as required by state law every three years, may modify the base, the reduction percentage will still apply.

#### Closed to the Public

For the purpose of these guidelines, a property or portion of a property covered by a conservation restriction in perpetuity, and closed to the public, will result in an assessment of no more than 15% (or no less than an 85% reduction) as compared to the fair market value of a similar property unencumbered.

#### Open to the Public

For the purpose of these guidelines, a property or portion of a property covered by a conservation restriction in perpetuity, and open to the public, will result in an assessment of no more than 5% (or no less than a 95% reduction) as compared to the fair market value of a similar property unencumbered.

It is expected that there may be some parcels, which, because of their condition or existing low assessment (wetland, unbuildable land), would warrant divergence from the above figures. The reassessment formula may be modified on an individual basis in these situations.

Any land already subject to statutory agricultural or recreational abatements (M.G.L. c. 61, 61A, 61B) will not be considered eligible for an additional conservation restriction property tax reduction. Landowners with these other abatements, however, may elect to replace their temporary abatement status with a permanent conservation restriction.



## Temporary Restriction

The Brewster Board of Assessors, using the advice of professional appraisers and guidelines developed by other Cape towns, has accepted the following formulas for assessing open land on which ~~the standard conservation restriction has been placed~~ for permanent, 30-year and 20-year periods:

- a. Restriction in perpetuity - yearly reduction 85% of fair case value.
- b. Restriction for 30-year period: Average reduction 63%
- |     |                              |     |                      |
|-----|------------------------------|-----|----------------------|
| 1)  | Current fair cash value less | 80% | for years 1 thru 5   |
| 2)  | " " " " "                    | 75% | for years 6 thru 10  |
| 3)  | " " " " "                    | 70% | for years 11 thru 15 |
| 4)  | " " " " "                    | 65% | for years 16 thru 20 |
| 5)  | " " " " "                    | 60% | for years 21 thru 25 |
| 6)  | " " " " "                    | 50% | for year 26          |
| 7)  | " " " " "                    | 40% | for year 27          |
| 8)  | " " " " "                    | 30% | for year 28          |
| 9)  | " " " " "                    | 20% | for year 29          |
| 10) | " " " " "                    | 10% | for year 30          |
- c. Restriction for 20-year period: Average reduction 50.75%
- |    |                              |     |                      |
|----|------------------------------|-----|----------------------|
| 1) | Current fair cash value less | 70% | for years 1 thru 5   |
| 2) | " " " " "                    | 60% | for years 6 thru 10  |
| 3) | " " " " "                    | 55% | for years 11 thru 15 |
| 4) | " " " " "                    | 50% | for year 16          |
| 5) | " " " " "                    | 40% | for year 17          |
| 6) | " " " " "                    | 30% | for year 18          |
| 7) | " " " " "                    | 20% | for year 19          |
| 8) | " " " " "                    | 10% | for year 20          |
- d. Conservation restriction for fifteen year period.
- |    |                              |     |                     |
|----|------------------------------|-----|---------------------|
| 1) | Current fair cash value less | 70% | for years 1 thru 5  |
| 2) | " " " " "                    | 60% | for years 6 thru 10 |
| 3) | " " " " "                    | 50% | for year 11         |
| 4) | " " " " "                    | 40% | for year 12         |
| 5) | " " " " "                    | 30% | for year 13         |
| 6) | " " " " "                    | 20% | for year 14         |
| 7) | " " " " "                    | 10% | for year 15         |
- e. Conservation Restriction for a ten year period.
- |    |                              |     |                    |
|----|------------------------------|-----|--------------------|
| 1) | Current fair cash value less | 60% | for years 1 thru 5 |
| 2) | " " " " "                    | 50% | for year 6         |
| 3) | " " " " "                    | 40% | for year 7         |
| 4) | " " " " "                    | 30% | for year 8         |
| 5) | " " " " "                    | 20% | for year 9         |
| 6) | " " " " "                    | 10% | for year 10        |

This policy and guidelines may be modified by a future Board of

This policy and guidelines may be modified by a future Board of Assessor following a publicly-advertised meeting.

This policy and guidelines are hereby adopted at a publicly-advertised meeting by the Board of Assessors on October 3, 1989.

Rita A. Lawler  
Rita Lawler, Chairman

Ruth Eddy  
Ruth Eddy

William C. Henchy  
William C. Henchy

Paul Saint  
Paul Saint

Patricia E. Hughes  
Patricia Hughes

APPENDIX B

Town of Brewster

CONSERVATION COMMISSION  
Brewster, Massachusetts 02631

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This model conservation restriction was prepared for use in the Town of Brewster, Massachusetts in conjunction with The Compact of Cape Cod Conservation Trusts, Inc., October, 1989.

CONSERVATION RESTRICTION

Name of address for less than \$1.00 paid, and other good and valuable consideration, grant to the (Town of Brewster) (or, the Trustees of the Brewster Conservation Trust, a Massachusetts corporation with an address at P.O. Box 67, Brewster, Massachusetts, it successors and assigns) (or, other qualified conservation organization( )the "Grantee") a Conservation Restriction on the land located in Brewster, in the County of Barnstable, Massachusetts, and described in Exhibit A, attached hereto and incorporated herein by reference (the "Premises"). Said heirs, devisees, legal representatives, successors and assigns are hereinafter called the "Grantor".

A. The terms of the Conservation Restriction are that, except as set forth in Paragraph B below, the Grantor will not perform or give permission to others to perform the following acts or uses on the Premises:

- 1) The construction or placement of any building, road, sign, billboard, or other advertising display, mobile home, utility pole, tower, conduit or line or other temporary or permanent structure on, above, or under the Premises except as may be necessary and desirable in the best interests of the permissible uses of the Premises. Every such man-made structure (with the exception of fences and buildings erected to secure the Premises) must not materially diminish the scenic qualities of the Premises.
- 2) The excavation, dredging or removal from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit in such manner as to affect the surface thereof, and the placement, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever, except for customary drainage ditching activities relating to mosquito and other insect control.
- 3) Cutting, removing or otherwise destroying trees, grasses, or other vegetation, except for (a) the harvesting of hay, (b) ditching activities and (c) clearing of shrubbery, trees and

other vegetation for the purposes of beautification and maintenance of vistas and existing foot trails.

- 4) Any commercial, industrial or institutional use.

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- 5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, or soil conservation.
- 6) Any use of the Premises and activity thereon which, in the reasonable opinion of the Grantee, is or may become inconsistent with the intent of this grant, being the preservation of the Premises predominantly in their natural condition, the protection of environmental and ecological systems scenic enjoyment, including submission of any definitive or approval not required subdivision plan to the Brewster Planning Board for approval.

B. The provision of Paragraph A notwithstanding, the following uses and activities by the Grantor shall not be prohibited by this Restriction or considered inconsistent with the intent of this grant:

- 1)
- 2)
- 3) (insert here allowed uses as negotiated)
- 4)

The Grantor agrees to notify the Grantee, in writing, before exercising any reserved right the exercise of which may have an adverse impact on the conservation interests associated with the Premises.

The foregoing Conservation Restriction is authorized by Massachusetts General Laws Chapter 184, Sections 31 and 33 and otherwise by law, and is intended to ensure that the Premises will be retained (insert number of years or perpetuity) in their natural, scenic and open condition for conservation purposes and for the protection of natural environment systems.

In the event that a breach of these restrictions by the Grantor or by a third party comes to the attention of the Grantee, the Grantee must notify the Grantor, in writing, of such a breach. The Grantor shall have 30 days after receipt of such notice to undertake actions including restoration of the Premises that are reasonably calculated to correct swiftly the conditions constituting such a breach. If the Grantor fails to take such corrective action, the Grantee shall at its discretion undertake such actions, including appropriate legal proceedings, as are reasonably necessary to effect such corrections; and the costs and legal fees shall be paid by the Grantor, provided the Grantor is determined to be

responsible for the breach.

The Grantor and the Grantee agree that the donation of the Conservation Restriction gives rise for purposes of this paragraph to a property right, immediately vested in the Grantee with a fair market value that is at least equal to the proportionate value that the Conservation Restriction determined at the time of the gift bears to the value of the Premises at that time. That proportionate value of the Grantee's property rights shall remain constant. When a change in conditions gives rise to extinguishment of the Conservation Restriction, the Grantee, on a subsequent sale, exchange or involuntary conversion of the Premises, must be entitled to a portion of the proceeds at least equal to that proportionate value of the Conservation Restriction, unless the laws of the Commonwealth of Massachusetts provide that the Grantor is entitled to the full proceeds from the conversion without regard to the terms of the prior Conservation Restriction. The Grantee shall use its sale of the proceeds in a manner consistent with the conservation purposes set forth herein.

Whenever all or part of the Premises is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by the Conservation Restriction, the Grantor and the Grantee shall join in appropriate actions at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking; all expenses incurred by the Grantor and the Grantee in this action shall be paid out of the recovered proceeds.

The Conservation Restriction hereby conveyed does not grant to the Grantee, to the public, [public access may be allowed if negotiated] or to any other person any right to enter upon the Premises, except as follows: there is hereby granted to the Grantee the right to enter the Premises for the purpose of inspecting the same to determine compliance herewith, of enforcing this Conservation Restriction, or of taking any and all actions with respect to the Premises as may be necessary or appropriate with or without order of court, to remedy or abate any violation hereof.

The burdens of the Conservation Restriction shall run with the Premises and shall be enforceable against the grantor and all future owners and Tenants (insert the number of years in perpetuity). The benefits shall be in gross and assignable but only to a qualified organization within the meaning of Section 170 (h) (3) of the Internal Revenue Code which is organized or operated primarily or substantially for one of the conservation purposes specified in Section 170 (h) (4) (A) of the Internal Revenue Code. Any assignment of benefits by the Grantee (or successor) must require the transferee to carry out the purposes of this Conservation Restriction.

The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for enforcement of the Conservation Restriction.

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ 199

\_\_\_\_\_  
/s/ Landowner

COMMONWEALTH OF MASSACHUSETTS

, ss. \_\_\_\_\_ . 199 .

Then personally appeared the above-named  
and \_\_\_\_\_ acknowledged the foregoing to be his/her free act  
and deed, before me

\_\_\_\_\_  
Notary Public  
My Commission Expires:

ACCEPTANCE BY CONSERVATION COMMISSION  
(to be used only when Town is to be holder)

The CONSERVATION COMMISSION of the TOWN OF BREWSTER, acting pursuant to Chapter 40, Section 8C of the General Laws of Massachusetts, hereby accepts the above Conservation Restriction Deed.

Dated: \_\_\_\_\_  
(signature of majority of the Commission)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPROVAL BY BOARD OF SELECTMEN  
(to be used when Town is to be holder)

The BOARD OF SELECTMEN of the TOWN OF BREWSTER, acting pursuant to Chapter 40, Section 8C of the General Laws of Massachusetts, hereby approve the acceptance of the above Conservation Restriction Deed.

Dated: \_\_\_\_\_  
(signatures of the majority of the Board)

or,

APPROVAL BY BOARD OF SELECTMEN  
(to be used when other entity is to be holder)

The BOARD OF SELECTMEN of the TOWN OF BREWSTER, acting pursuant to Chapter 184, Section 32 of the General Laws of Massachusetts, hereby approve the above Conservation Restriction Deed.

Dated: \_\_\_\_\_  
(signatures of the majority of the Board)

APPROVAL BY THE SECRETARY OF ENVIRONMENTAL AFFAIRS  
(to be used for all Conservation Restrictions)

The Secretary of Environmental Affairs of the Commonwealth of Massachusetts, acting pursuant to Chapter 184, Section 32 of the General Laws of Massachusetts, hereby approves the above Conservation Restriction Deed.

Dated: \_\_\_\_\_  
(signature of Secretary of Environmental Affairs)

Model Conservation Restriction

Required Prohibitions (from M.G.L. c. 184 s. 31)

- a. construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground,
- b. dumping or placing of soil or other substance or material as landfill, or dumping or placing the trash, waste or unsightly or offensive materials,
- c. excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface,

- d. removal or destruction of trees, shrubs, or other vegetation,
- e. surface use except for agricultural, farming, forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition,
- ~~f. activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or~~
- g. other acts or uses detrimental to such retention of land or water uses.

Optional Prohibitions or Allowed Uses

- motor vehicle use, including snowmobiles, ATV's, ORV's, parking area
- hunting, trapping, fishing
- dock, mooring or boating facility
- mobile homes
- pesticide use
- fences
- grazing of domestic animals
- alteration of natural watercourses, shores, marshes or other water bodies or water purity, water level and/or flow
- subsurface sewage disposal systems
- gardens for home consumption
- mosquito control
- hay harvesting including salt marsh hay
- cutting of vegetation for scenic vistas and to prevent disease
- private supply water
- public access for passive recreation, nature study
- approved agriculture and woodland management
- maintenance of foot trails, including cutting of brush, slope stabilization and grading
- improvements of existing structures
- control of predators
- boardwalks and stairs
- signs to denote animal nesting areas, i.e. terns
- other



DIVISION OF CONSERVATION SERVICES  
100 Cambridge Street  
Boston, Massachusetts 02202

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Pursuant to the provisions of M.G.L. c. 184, s. 32, the Secretary of Environmental Affairs is hereby request to approve a conservation restriction as described below.

---

1. MUNICIPALITY: \_\_\_\_\_ DATE: \_\_\_\_\_

2. GRANTOR: \_\_\_\_\_ GRANTEE: \_\_\_\_\_

3. CHECK ONE: New Site \_\_\_\_\_ Addition to Existing Site \_\_\_\_\_

4. TOTAL ACRES COVERED BY RESTRICTION \_\_\_\_\_

5. COVER, acres in: A. Forest \_\_\_\_\_ B. Grass \_\_\_\_\_

C. Swamp \_\_\_\_\_ D. Water \_\_\_\_\_

6. TOPOGRAPHY, acres in: A. Flat \_\_\_\_\_ B. Hilly \_\_\_\_\_

C. Rolling \_\_\_\_\_ D. Mountains \_\_\_\_\_

7. WATERFRONT, feet on: A. Ocean \_\_\_\_\_ B. River \_\_\_\_\_

C. Stream \_\_\_\_\_ D. Lake \_\_\_\_\_

8. DOES PROPERTY HAVE FRONTAGE ON A STREET? Yes \_\_\_\_\_ No \_\_\_\_\_

If "Yes" name of street \_\_\_\_\_

9. WILL ANY BUILDINGS BE SUBJECT TO THE RESTRICTION?

Yes \_\_\_\_\_ No \_\_\_\_\_

If "Yes" how many and estimated value: \_\_\_\_\_

---

10. PURPOSE OF RESTRICTION AND PROPOSED USE OF PROPERTY: \_\_\_\_\_

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11. MAJOR USE(ES) OF THE PROPERTY DURING THE PAST 10 YEARS:

(List present use first) \_\_\_\_\_

---

12. WILL THE PUBLIC BE ALLOWED TO USE THE PROPERTY?

Yes \_\_\_\_\_ No \_\_\_\_\_

13. DESCRIBE HOW THE RESTRICTION FITS INTO YOUR TOWN MASTER PLAN

OR CONSERVATION/RECREATION PLAN: \_\_\_\_\_

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14. APPROXIMATE DATE RESTRICTION WILL BE RECORDED: \_\_\_\_\_

PREPARED BY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

#### ATTACHMENTS

1. Plot plan on map showing total area subject to conservation restriction.
2. Fully executed copy of conservation restriction. This instrument must be prepared in a form suitable for recording. It must be signed by the person (s) granting the restriction, and the signature (s) must be notarized. In the case of a gift, the Selectman's approval must also be obtained.

Appendix C

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
100 Cambridge Street  
Boston, Massachusetts 02202

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PROCEDURES FOR OBTAINING APPROVAL OF A CONSERVATION RESTRICTION  
SECRETARY OF ENVIRONMENTAL AFFAIRS

Submit to the Division of Conservation Services, 100 Cambridge Street, Boston, Massachusetts 02202:

- a. Two copies of completed application form.
- b. One fully executed copy of the conservation restriction prepared in a suitable form for recording, and one xeroxed copy of the document. The restriction must be signed by the person(s) granting the restriction and signatures must be notarized. In any case in which conservation restriction is granted as a gift or is granted to a charitable corporation or trust, the Selectmen's approval must be obtained.
- c. A plot plan showing the total area subject to the conservation restriction.

Copies of the deed and application form and the plot plan will be sent to the Assistant Regional Forest and Park Supervisor. He will contact the person indicated on the application form to arrange for an on-site inspection of the property.

Assistant Regional Forest and Park Supervisor submits his report to the Division of Conservation Service for review.

Restriction is submitted with recommendations for action from the Division of Conservation Services to the Secretary of Environmental Affairs for approval.

The signed document will be returned to the grantee for recording.

The book and page number and date of recording must be sent to the Division of Conservation Services. When recording conservation restrictions, please check with the Registry of Deeds whether or not a restriction tract index in accordance with Section 33 of Massachusetts General Laws Chapter 184 has been established there. If so, restrictions ought to be recorded in the track index.

APPLICATION FOR STATE APPROVAL OF CONSERVATION RESTRICTION  
AFTER TOWN APPROVAL GRANTED:  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS

DIVISION OF CONSERVATION SERVICES  
100 Cambridge Street  
Boston, Massachusetts 02202

---

Pursuant to the provisions of M.G.L. c. 184, s. 32, the Secretary of Environmental Affairs is hereby request to approve a conservation restriction as described below.

---

1. MUNICIPALITY: \_\_\_\_\_ DATE: \_\_\_\_\_
  2. GRANTOR: \_\_\_\_\_ GRANTEE: \_\_\_\_\_
  3. CHECK ONE: New Site \_\_\_\_\_ Addition to Existing Site \_\_\_\_\_
  4. TOTAL ACRES COVERED BY RESTRICTION \_\_\_\_\_
  5. COVER, acres in: A. Forest \_\_\_\_\_ B. Grass \_\_\_\_\_  
C. Swamp \_\_\_\_\_ D. Water \_\_\_\_\_
  6. TOPOGRAPHY, acres in: A. Flat \_\_\_\_\_ B. Hilly \_\_\_\_\_  
C. Rolling \_\_\_\_\_ D. Mountains \_\_\_\_\_
  7. WATERFRONT, feet on: A. Ocean \_\_\_\_\_ B. River \_\_\_\_\_  
C. Stream \_\_\_\_\_ D. Lake \_\_\_\_\_
  8. DOES PROPERTY HAVE FRONTAGE ON A STREET? Yes \_\_\_\_ No \_\_\_\_  
If "Yes" name of street \_\_\_\_\_
  9. WILL ANY BUILDINGS BE SUBJECT TO THE RESTRICTION?  
Yes \_\_\_\_ No \_\_\_\_  
If "Yes" how many and estimated value: \_\_\_\_\_
- 
- 
10. PURPOSE OF RESTRICTION AND PROPOSED USE OF PROPERTY: \_\_\_\_\_
- 
-

11. MAJOR USE(ES) OF THE PROPERTY DURING THE PAST 10 YEARS:

(List present use first) \_\_\_\_\_

---

12. WILL THE PUBLIC BE ALLOWED TO USE THE PROPERTY?

Yes \_\_\_\_\_ No \_\_\_\_\_

13. DESCRIBE HOW THE RESTRICTION FITS INTO YOUR TOWN MASTER PLAN  
OR CONSERVATION/RECREATION PLAN: \_\_\_\_\_

---

---

14. APPROXIMATE DATE RESTRICTION WILL BE RECORDED: \_\_\_\_\_

PREPARED BY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

#### ATTACHMENTS

1. Plot plan on map showing total area subject to conservation restriction.
2. Fully executed copy of conservation restriction. This instrument must be prepared in a form suitable for recording. It must be signed by the person (s) granting the restriction, and the signature (s) must be notarized. In the case of a gift, the Selectman's approval must also be obtained.



**Board of Selectmen  
Town Administrator**

2198 Main Street  
Brewster, Massachusetts 02631-1898  
(508) 896-3701  
FAX (508) 896-8089



POLICY No.: 37  
Date Approved :

**POLICY AND PROCEDURE**

**FOR SUBMISSION OF GRANT APPLICATIONS ON BEHALF OF THE TOWN**

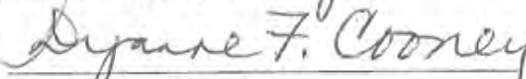
Effective October 24, 2005, all grant applications submitted on behalf of the Town shall require review by the Town Administrator or the Board of Selectmen. Grants applications valued at \$25,000 or less shall be submitted to the Town Administrator for review and comment prior to their final submission to the grant awarding authority. All grant applications valued in excess of \$25,000 shall be submitted to the Board of Selectmen for review and comment prior to their final submission to the grant awarding authority. This is to ensure that potential receipt of funds, materials, aid or equipment is coordinated and incorporated into Town fiscal planning efforts. Due to the time-sensitive nature of grant applications, every effort will be made by the Selectmen and the Town Administrator to ensure that approval to submit and/or comments shall be provided as quickly as possible, so as not to miss grant application deadlines.

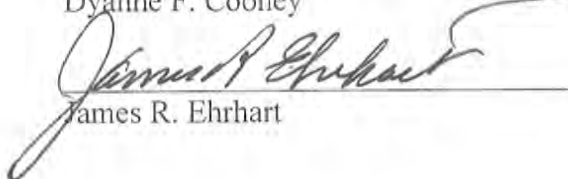
The attached is a sample sign-off sheet for grant application reviews, but alternative documentation may suffice.

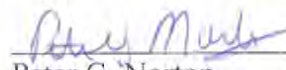
Adopted by the Board of Selectmen

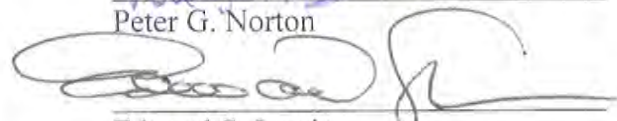
Nov. 7<sup>th</sup>, 2005

  
James W. Foley, Chairman

  
Dyanne F. Cooney

  
James R. Ehrhart

  
Peter G. Norton

  
Edward S. Lewis

**GRANT APPLICATION REVIEW FORM**

Department Seeking Grant \_\_\_\_\_

Source of Grant/  
Awarding Authority: \_\_\_\_\_

Approximate Value of Grant: \_\_\_\_\_

Application Submission **Deadline**: \_\_\_\_\_

Submit applications for **grants valued at \$25,000 or less** to Town Administrator.

Town Administrator's Comments:

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\_\_\_\_\_  
Town Administrator's Signature

Submit applications for **grants valued in excess of \$25,000** to the Board of Selectmen.

Selectmen's Comments:

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\_\_\_\_\_  
Board of Selectmen Chairman's Signature



**Board of Selectmen  
Town Administrator**

2198 Main Street  
Brewster, Massachusetts 02631-1898  
(508) 896-3701  
FAX (508) 896-8089


POLICY No.: 38  
Date Approved : 10/2/06

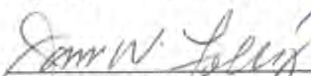
**BETTERMENTS – STANDARD PAYMENT SCHEDULE DEFAULT**


In the event that the owner of a property subject to a betterment fails to notify the Town of their preference for the term of the betterment assessment, the Town shall assess the betterment over the maximum period of time allowed.

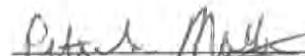
Adopted by the Board of Selectmen

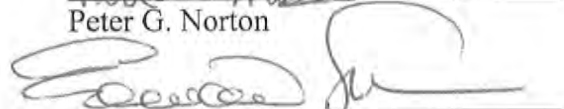
October 2, 2006

  
\_\_\_\_\_  
Dyanne F. Cooney, Chairman

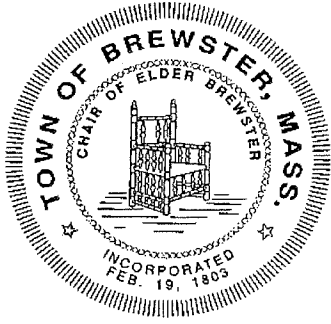
  
\_\_\_\_\_  
James W. Foley

  
\_\_\_\_\_  
James R. Ehrhart

  
\_\_\_\_\_  
Peter G. Norton

  
\_\_\_\_\_  
Edward S. Lewis





**Board of Selectmen  
Town Administrator**

2198 Main Street  
Brewster, Massachusetts 02631-1898  
(508) 896-3701  
FAX (508) 896-8089

***POLICY NO.: 39***

***DATE OF ORIGINAL APPROVAL: 7/7/2008***

***DATE AMMENDED: 07/23/2012***

**POLICY STATEMENT**  
**BREWSTER TOWN GOVERNMENT ACCESS CHANNEL**

The Brewster Government Access Cable Television Channel (Channel 18) is intended solely to provide information to Brewster citizens about issues, services, programs, activities, and events involving or affecting local government and the community.

Any Town policy-making and regulatory board or commission including Town Meeting, may request live and delayed cablecast and webcast. Telecasting of those Boards and Committees listed on the attached sheet shall be automatic as a matter of routine. This list may be amended from time to time by the Town Administrator to reflect changes as the proceedings of different entities are approved for telecasting.

All other Selectmen-appointed advisory committees and commissions, not named on the attached list, but wishing to have meetings or events televised regularly shall submit a written request using the attached application form. Public meetings of other Town committees may be cablecast and/or webcast, if time and resources permit. Applications are also required for requesting video services and/or cablecasting or webcasting of pre-recorded items.. Authorization is subject to approval of the Town Administrator or the Assistant Town Administrator. All public meetings of Town boards and committees which are televised shall be cablecast and/or webcast in their entirety, without editing and without commentary.


Bulletin Board items may be submitted to the Town Administrator by any Brewster government agency or Brewster-based public service organization. Items must be consistent with the intentions of this policy and shall be cablecast at the discretion of the Town Administrator or the Assistant Town Administrator.

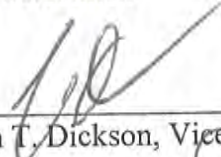
Programming produced by Channel 18 or other entities related to government facilities, services and/or operations, or to issues and events in the public interest, may be cablecast and/or webcast as deemed appropriate by the Town Administrator or Assistant Town Administrator.

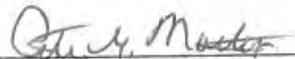
Written permission for the use of copyrighted materials must be received in advance. Programming may be modified or edited as deemed appropriate by the Town Administrator or Assistant Town Administrator.

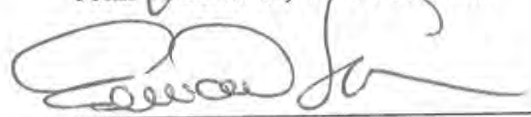
The Brewster Government Access Channel shall not be used to promote a candidate for elective office or advocate any position of a political nature; however, programming in the format of a debate or forum shall be presented subject to the provisions of this policy.

Approved this 23 day of July, 2012  
The Brewster Board of Selectmen

  
\_\_\_\_\_  
R. Dan Rabold, Chairman

  
\_\_\_\_\_  
John T. Dickson, Vice Chairman

  
\_\_\_\_\_  
Peter G. Norton

  
\_\_\_\_\_  
Edward S. Lewis, Clerk

  
\_\_\_\_\_  
James W. Foley

## **List of Entities Eligible for Regular Telecasting on the Brewster Government TV Channel**

Meetings of All Elected Town Boards shall be regularly televised :

- Board of Selectmen
- Board of Health
- Planning Board
- Brewster School Committee

Meetings of Town Policy-Making or Permit-Issuing Committees shall also regularly be televised :

- Finance Committee
- Conservation Commission
- Zoning Board of Appeals

The Golf Commission shall be televised when they meet at the Brewster Town Office Building

The Cape Cod Commission and other Regional Government Entities and Sub Committees shall be televised when they meet or present at the Brewster Town Office Building

**Town of Brewster**  
**Policy Statement**  
**Safe Enhanced Recycling**

The Brewster Select Board policy to maintain safety related to the metal recycling pile:

1. In order to provide a safe environment for all users of the Brewster Recycling Center, picking/scavenging, as defined herein, is prohibited from all areas of the Brewster Recycling Center except for the Swap Shop.
  - a. Picking/scavenging is defined as - to salvage from discarded or refuse material or to remove from an area.
2. The first violation or offense of the picking/scavenging prohibition will result in a warning letter issued by the Town of Brewster Administration Department.
3. The second or subsequent violation or offense of the picking/scavenging prohibition may result in the loss of the Brewster Recycling Center sticker. The loss of the Brewster Recycling Center sticker will be at the discretion of the Town of Brewster Select Board.

**BREWSTER SELECT BOARD:**

*C.A. Bingham*

\_\_\_\_\_  
Cynthia Bingham, Chair

*David Whitney*

\_\_\_\_\_  
David Whitney, Vice Chair

*Edward B. Chatelain*

\_\_\_\_\_  
Edward Chatelain, Clerk

*Mary Chaffee*

\_\_\_\_\_  
Mary Chaffee

*Kari A. Hoffmann*

\_\_\_\_\_  
Kari Hoffmann

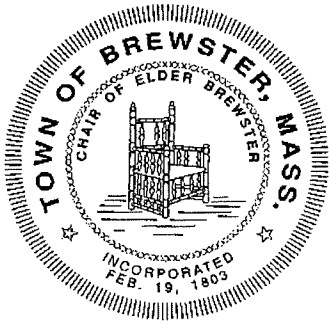
**Town of Brewster  
Board of Selectmen's Policy No. 41  
on the  
Installation and Replacement of Street Signs on Private Ways**

The Board of Selectmen, acting as the Department of Public Works (DPW) Commissioners, in the names of public safety hereby adopt this policy (see note 1):

1. The overall goal of this policy is to protect the public safety of the Town's inhabitants by improving public safety response.
2. That street name signs at all intersections be erected at public expense and maintained by the DPW.
3. That the street intersection signage shall include both private and town owned streets.
4. That in locating the street signs the DPW Superintendent use appropriate NHTSA and Manual of Uniform Traffic Control Devices (MUTCD) standards for the height of signs and the size and color of signs.
5. That the DPW Superintendent has 2 (two) calendar years for completing the town-wide signage project, beginning on July 1, 2009.
6. That the DPW Superintendent, in conjunction with the Police Chief and Fire Chief, agree on a consistent location at street intersections throughout the town for the location of the street signs.
7. In order to finance this project the Town will create an initial special appropriation article in the amount of \$10,000.00 at the 2009 Annual Town Meeting.
8. This policy will only pertain to street name signs for private roads and not other type of signs, such as stop, yield, slow signs, which may appear on private roads.

Note 1 – The development of this policy was predicated on the legal opinion written by Zisson & Veara, Brewster's Town Counsel dated September 19, 2008, which is included as an addendum to this policy statement.

Originally Adopted by the Board of Selectmen on December 1, 2008.



**Board of Selectmen  
Town Administrator**

2198 Main Street  
Brewster, Massachusetts 02631-1898  
(508) 896-3701  
FAX (508) 896-8089

***POLICY NO: 42***

***DATE APPROVED: 06/18/2012***

***AMENDED:***


***TOWN OF BREWSTER***

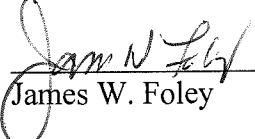
***PREFERENCE FOR RECYCLED PRODUCTS  
WHEN PURCHASING GOODS  
SUPPLIED TO THE TOWN***

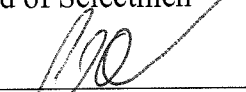
In accordance with the terms and conditions of the Mass Department of Environmental Protection Sustainable Materials Recovery Program of a roll-off container to be located at the Brewster Transfer Station to assist in the diversion of municipal solid waste from disposal, the Brewster Board of Selectmen hereby expresses a preference to have the Town purchase and utilize recycled products and products containing a post-consumer recycled content, when such products are available, of a quality and functional specification equivalent to, or superior to, those products which are not recycled and/or do not have a recycled content. In accordance with the provisions and intent of State Procurement Laws, the Town shall pay not pay in excess of 10% more for recycled-content products than it would for non-recycled-content products of similar quality.

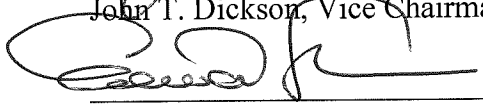
Approved this 18 day of JUNE, 2012  
The Brewster Board of Selectmen

  
\_\_\_\_\_  
R. Dan Rabold, Chairman

  
\_\_\_\_\_  
Peter G. Norton

  
\_\_\_\_\_  
James W. Foley

  
\_\_\_\_\_  
John T. Dickson, Vice Chairman

  
\_\_\_\_\_  
Edward S. Lewis, Clerk



# Brewster Fire Department

1657 Main Street

Brewster, MA 02631

Phone 508-896-7018 Fax 508-896-4245



9

TO: Board of Selectmen  
CC: Town Administrator Charles Sumner  
DATE: 12/5/13  
RE: Ambulance Bill Waiver Policy

At this time there is no standardized method by which the Fire Chief or Selectmen approve a written hardship request to release a customer from paying ambulance fees. The process creates a subjective environment that is based on undocumented financial information. This creates situations in which the Board of Selectmen and the Fire Chief are not provided accurate information vital to making a clear and objective analysis of the hardship request.

In order to afford my office and the Selectmen an independent environment from which these requests can be evaluated and decided upon I am recommending the following process.

- Upon receipt of a written hardship relief request the Fire Chief will send a letter to the individual requesting of a copy of their prior year Federal tax return.
- The Fire Chief will use the tax returns to verify the annual income of the individual and/or family. The income level will be evaluated against the 125% category of annual Federal Poverty Guidelines set each January. (see attached).
- If the individual and/or family's income falls below the Federal level the Fire Chief will recommend full relief to the Selectmen.
- If the individual and/or family's income is above the Federal level the Fire Chief will recommend the establishment of a monthly payment plan through our ambulance billing service.
- The Selectmen shall retain the right to vacate the recommendation of the Fire Chief based on their review of the submitted documentation and/or extenuating circumstances provided in the written request.
- Following the vote of the Selectmen the Fire Chief shall provide written notification to the individual and return the federal tax documents provided for income verification.

2013 Federal Poverty Level Guidelines (prepared by MLRI, January 2013)

100%			
Family Size	Annual	Monthly	Weekly
1	\$11,490	\$958	\$221
2	\$15,510	\$1,293	\$298
3	\$19,530	\$1,628	\$376
4	\$23,550	\$1,963	\$453
5	\$27,570	\$2,298	\$530
6	\$31,590	\$2,633	\$608
7	\$35,610	\$2,968	\$685
8	\$39,630	\$3,303	\$762
Each Add'l	\$4,020	\$335	\$77

115%			
Family Size	Annual	Monthly	Weekly
1	\$13,214	\$1,101	\$254
2	\$17,837	\$1,486	\$343
3	\$22,460	\$1,872	\$432
4	\$27,083	\$2,257	\$521
5	\$31,706	\$2,642	\$610
6	\$36,329	\$3,027	\$699
7	\$40,952	\$3,413	\$788
8	\$45,575	\$3,798	\$876
Each Add'l	\$4,623	\$385	\$89

125%			
Family Size	Annual	Monthly	Weekly
1	\$14,363	\$1,197	\$276
2	\$19,388	\$1,616	\$373
3	\$24,413	\$2,034	\$469
4	\$29,438	\$2,453	\$566
5	\$34,463	\$2,872	\$663
6	\$39,488	\$3,291	\$759
7	\$44,513	\$3,709	\$856
8	\$49,538	\$4,128	\$953
Each Add'l	\$5,025	\$419	\$97

187.5%			
Family Size	Annual	Monthly	Weekly
1	\$21,544	\$1,795	\$414
2	\$29,081	\$2,423	\$559
3	\$36,619	\$3,052	\$704
4	\$44,156	\$3,680	\$849
5	\$51,694	\$4,308	\$994
6	\$59,231	\$4,936	\$1,139
7	\$66,769	\$5,564	\$1,284
8	\$74,306	\$6,192	\$1,429
Each Add'l	\$7,538	\$628	\$145

200%			
Family Size	Annual	Monthly	Weekly
1	\$22,980	\$1,915	\$442
2	\$31,020	\$2,585	\$597
3	\$39,060	\$3,255	\$751
4	\$47,100	\$3,925	\$906
5	\$55,140	\$4,595	\$1,060
6	\$63,180	\$5,265	\$1,215
7	\$71,220	\$5,935	\$1,370
8	\$79,260	\$6,605	\$1,524
Each Add'l	\$8,040	\$670	\$155

300%			
Family Size	Annual	Monthly	Weekly
1	\$34,470	\$2,873	\$663
2	\$46,530	\$3,878	\$895
3	\$58,590	\$4,883	\$1,127
4	\$70,650	\$5,888	\$1,359
5	\$82,710	\$6,893	\$1,591
6	\$94,770	\$7,898	\$1,823
7	\$106,830	\$8,903	\$2,054
8	\$118,890	\$9,908	\$2,286
Each Add'l	\$12,060	\$1,005	\$232



**POLICY NO:** 44

**DATE APPROVED:** 02/03/2014

**AMENDED:** \_\_\_\_\_

**TOWN OF BREWSTER**

**POLICY RELATED TO COORDINATION OF  
ROAD IMPROVEMENT PROJECTS  
WITH TOWN COMMITTEES**

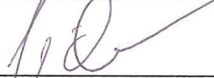
In order to maximize planning coordination and implementation efficiency, and to incorporate measures to enhance the safety of pedestrian and bicyclists, the Brewster Board of Selectmen, acting as the Commissioners of the Department of Public Works, request that all plans for the upgrade or improvement of any public ways or roads be circulated amongst all departments and Town Boards and Committees, including but not limited to the following:

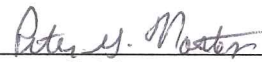
- The Brewster Police Department
- The Brewster Fire/Rescue Department
- The Brewster Planning Board
- The Brewster Bikeways Committee
- The Brewster All Citizens Access Committee
- The Brewster Chamber of Commerce

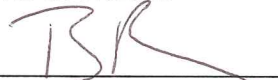
The circulation of plans is intended to solicit comment and incorporate input into the design and planning of road way improvements.

Signed this 3<sup>rd</sup> day of February, 2014

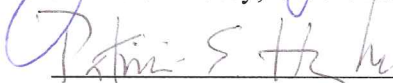
The Brewster Board of Selectmen

  
\_\_\_\_\_  
John T. Dickson, Chairman

  
\_\_\_\_\_  
Peter G. Norton

  
\_\_\_\_\_  
Benjamin deRuyter

  
\_\_\_\_\_  
James W. Foley, Vice Chairman

  
\_\_\_\_\_  
Patricia E. Hughes



## Town of Brewster

2198 Main Street  
Brewster, MA 02631-1898  
Phone: (508) 896-3701  
Fax: (508) 896-8089

Office of:  
Select Board  
Town Administrator

**Policy no. 45**  
**Date adopted: 12/16/13**  
**Amended: 06/10/22**

### REMOTE PARTICIPATION POLICY

#### Minimum Requirements for Remote Participation

- (a) Members of a public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other;
- (b) A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location, as required by M.G.L. c. 30A, sec 20(d);
- (c) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of M.G.L. c. 39, sec. 23D.

The All Citizens Access Committee shall be exempt from these provisions.

Since Brewster has adopted the provisions of 940 CMR 29.10(2), a member of a public body shall be permitted to participate remotely in a meeting, in accordance with the procedures described in 940 CMR 29.10(7), if the chair or, in the chair's absence, the person chairing the meeting, determines that the member's physical attendance would be unreasonably difficult. The chair shall be responsible for ensuring that a quorum is physically present at the meeting location. Members should not select a chair that regularly expects to participate remotely.

#### Frequency of Remote Participation

- (a) Individual members of any public body shall be permitted to participate remotely in meetings but must be physically present for at least 50% of meetings of that public body in a given fiscal year. Members of regulatory boards (Planning Zoning Board of Appeals, Board of Health, Conservation Commission, Historic District Committee, and Select Board) must be physically present for at least 75% of meetings of that public body in a given fiscal year.

- (b) The Town will strive to provide opportunities for both in-person and remote participation at Board and Committee meetings to the greatest extent practicable.
- (c) All board and committee meetings will be broadcast on BGTV Channel 18 and/or livestreamed on the Town website to the greatest extent practicable.

### Technology

- (a) Remote participants shall use video conferencing media (ie. Zoom).
- (b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.
- (c) The chair or, in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged, wherever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.

### Procedures for Remote Participation

- (a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.
- (b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely. This information shall also be recorded in the meeting minutes.
- (c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.
- (d) A member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the public body.
- (e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants, in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall

be part of the official record of the meeting, and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, sec. 22.

Approved by the Brewster Select Board on June 13, 2022

*David Whitney*

\_\_\_\_\_  
David Whitney, Chair

*Kari A. Hoffmann*

\_\_\_\_\_  
Kari Hoffmann, Clerk

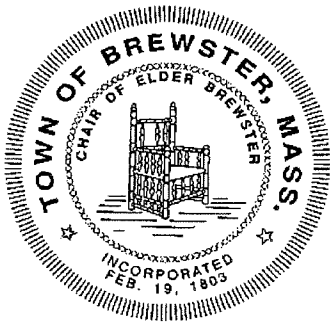
*Edward B Chatelain*

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Ned Chatelain, Vice Chair

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Mary Chaffee

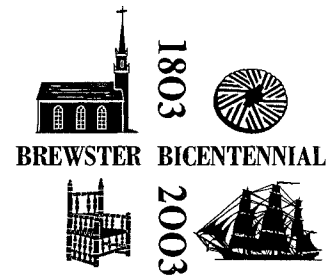
*CA Bingham*

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Cindy Bingham



**Board of Selectmen  
Town Administrator**

2198 Main Street  
Brewster, Massachusetts 02631-1898  
(508) 896-3701  
FAX (508) 896-8089



**POLICY NO: 46**

**DATE APPROVED: 12/15/2014**

**TOWN OF BREWSTER  
POLICY FOR EMPLOYMENT LEAVE RELATED TO VIOLENT OR ABUSIVE SITUATIONS**

**I. Introduction**

On August 8, 2014, “An Act Relative to Domestic Violence” was enacted as Section 10 of Chapter 260 of the Acts of 2014 (the “Act”). MGL Chapter 149, Section 52E is the resultant law related to “Employment Leave for Victims and Family Members of Abusive Behavior”(the “Law”). The Law requires an employer to provide up to 15 days of paid or unpaid leave for a qualifying employee to seek or obtain medical attention, counseling, victim services or legal assistance; secure housing; obtain a protective order from a court; appear in court or before a grand jury; meet with a district attorney or other law enforcement official; or attend child custody proceedings or address other issues directly related to the abusive behavior against the employee or family member of the employee.

Abusive behavior includes, but is not limited to: threatening; assaulting; striking; harassing; stalking; causing physical harm or emotional pain; perpetrating violence; destroying property; kidnapping; forcing a person to do things against their will; etc.

The Attorney General’s Office (AGO) is responsible for enforcement and is authorized to seek injunctive relief or other equitable relief in order to enforce the Law. If you feel your rights under this law have been violated, you may contact the AGO at 1-617-727-2200 or at [www.mass.gov/ago](http://www.mass.gov/ago) for consultation.

**II. Covered Individuals**

The Law applies to public and private employers who employ 50 or more employees in Massachusetts. The Town of Brewster is a covered Employer. An employee is defined as an individual “who performs services for and under the control and direction of an employer for wages or other remuneration”. A “family member” is defined in the statute as:

- i.) A parent, step parent, child, step child, sibling, grandparent or grandchild;
- ii.) A married spouse
- iii.) Persons in a substantive dating or engagement relationship and who reside together;

- iv.) Persons having a child in common, regardless of whether they have ever married or resided together;
- v.) Persons in a guardian relationship.

### III. Responsibility of Employers

#### A. Notification

Employers must notify each employee of his/her rights and responsibilities under the Law. The Town of Brewster, by adoption of this policy via a public hearing held December 15<sup>th</sup>, 2014 and posting of this policy on the Town's website ( [www.brewster-ma.gov](http://www.brewster-ma.gov), select the "Archives" tab for "documents and forms", select "Personnel & HR", and then "Policies") and by posting of paper copies of this policy on conspicuous bulletin boards in the break areas within its workplaces, hereby notifies its employees of this Law and the Town's responsibilities under the Law.

#### B. Leave

An employer must permit an employee to take up to 15 days of paid or unpaid leave from work within a 12-month period if the following criteria are met:

- i) The employee or a family member of the employee, is a victim of abusive behavior as defined by the Law;
- ii) The employee is using the leave from work to : to seek or obtain medical attention, counseling, victim services or legal assistance; secure housing; obtain a protective order from a court; appear in court or before a grand jury; meet with a district attorney or other law enforcement official; or attend child custody proceedings or address other issues directly related to the abusive behavior against the employee or family member of the employee; and
- iii) The employee is not the perpetrator of the abusive behavior.

The Town of Brewster will grant unpaid leave for absences qualified under the Law if an eligible employee has no other paid personal, sick or vacation leave available to him/her. If unpaid leave must be granted, the absence is to be recorded under the general category of "other" on the employee's payroll and attendance records.

#### C. Confidentiality of Documents

An employer may request that an employee provide documentation evidencing that the employee or the employee's family member has been a victim of abusive behavior, and that the leave is or has been taken consistent with the Law. The types of documentation an employee can provide are described in Section IV of this Policy, below.

An employer is required to keep confidential all information related to the employee's leave under the Law. This information shall not be disclosed by the employer, except to the extent that disclosure is:

- i) Requested or consented to, in writing, by the employee;
- ii) Ordered to be released by a court;
- iii) Otherwise required by applicable federal or state law;
- iv) Required in the course of an investigation authorized by law enforcement ; or
- v) Necessary to protect the safety of anyone employed at the workplace.

Any documentation provided to an employer under the Law may be maintained by the employer in the employee's employment record, but only for as long as required for the employer to make a determination as to whether the employee is eligible for leave under the Law.

#### IV. Responsibility of Employees

##### A. Notice

Except in cases of imminent danger to the health or safety of an employee, an employee seeking leave from work under this section of the Law must provide appropriate advance notice of the leave to the employer. The Town of Brewster will accept notice in the form of any communication by the employee to the employee's immediate supervisor. The supervisor must relay the request confidentially, on behalf of the requesting employee, to the Town Administrator, or the Assistant Town Administrator for verification of eligibility under the Law.

In cases of threat of imminent danger to the health or safety of an employee or the employee's family member, the employee is not required to provide advance notice of leave, but must notify the employer within 3 workdays that the leave was taken or is being taken under the Law. Such notification may be communicated to the employer by the employee, a family member of the employee or the employee's counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the employee in addressing the effects of the abusive behavior on the employee or the employee's family member.

The employee or individual authorized to communicate to the employer that the leave was taken or is being taken under the Law, may do so by telephone, in person, in writing or any other reasonable means to communicate notice.

##### B. Required Documentation

An employer may request that an employee provide documentation evidencing that the employee or employee's family member has been a victim of abusive behavior and that the leave is taken under the Law. An employee must provide such documentation to the employer within a reasonable period after the employer requests documentation relative to the employee's absence. However, an employer cannot require the employee to show evidence of an arrest, conviction, or other law enforcement documentation of such abusive behavior. An employee can satisfy the request for required documentation by providing any one of the following to the employer:

- i.) A protective order, order of equitable relief or other documentation issued by a court of competent jurisdiction as a result of abusive behavior against the employee or the employee's family member;
- ii.) A document under the letterhead of the court, provider or public agency which the employee attended for the purposes of acquiring assistance as it relates to the abusive behavior against the employee or the employee's family member;
- iii.) A police report or statement of a victim or witness provided to police, including a police report, documentation the abusive behavior reported by the employee or the employee's family member;
- iv.) Documentation that the perpetrator of the abusive behavior against the employee or family member or the employee has; admitted to sufficient facts to support a finding of guilt of abusive behavior; or has been convicted of, or has been adjudicated a juvenile delinquent by reason of ,

any offense constituting abusive behavior and which is related the abusive behavior that necessitated the leave under this section.

- v.) Medical documentation of treatment as a result of the abusive behavior reported by the employee or the employee's family member;
- vi.) A sworn statement, signed under the penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the employee or the employee's family member in addressing the effects of the abusive behavior;
- vii.) A sworn statement, signed under the penalties of perjury, from the employee attesting that the employee has been the victim or abusive behavior is the family member of a victim of abusive behavior.

## V. Leave

### A. Duration

An employer must permit an employee to take up to fifteen (15) days of paid or unpaid leave from work during the 12-month period following the first absence documented as qualifying under the Law. The employee must first exhaust all annual paid personal, sick, or vacation leave available to him/her, before taking unpaid leave. The employer shall have sole discretion to extend an unpaid leave beyond the fifteen (15) days.

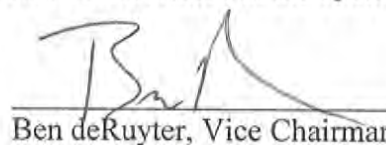
### B. Employment Protections

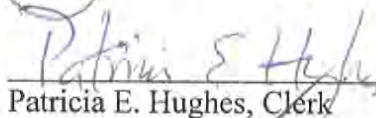
An employer cannot discharge or in any other manner discriminate against an employee for exercising the employee's rights under the Law. Upon the employee's return from such leave, the employee is entitled to all benefits accrued prior to and during the absence related to the Law. The employee is entitled to restoration to the employee's same job or to an equivalent position upon return from leave related to the Law.

If an unscheduled absence occurs, an employer cannot take any negative actions against the employee if the employee, within thirty (30) days from the unauthorized absence; or in the instance of consecutive days of unauthorized absence, within thirty (30) days from the last unauthorized absence; provides any of the documentation required under the Law.


Adopted and signed here, by the Brewster Board of Selectmen at the open meeting held December 15<sup>th</sup>, 2014

  
James W. Foley, Chairman

  
Ben deRuyter, Vice Chairman

  
Patricia E. Hughes, Clerk

  
Peter G. Norton

  
John T. Dickson



*Policy Number:* 47  
*DATE APPROVED:* 06.01.15  
*AMENDED:* 06.18.18

*TOWN OF BREWSTER*

*REGULATIONS GOVERNING ROADSIDE PARKING ON TOWN WAYS  
NEAR TOWN LANDINGS*

The Select Board of the Town of Brewster, acting pursuant to the authority set forth in Massachusetts General Laws, Chapter 40, §22 and Chapter 90, Section 20A 1/2 (the provisions of which were accepted by the Town of Brewster on 9/21/1981), hereby adopts the following Regulations pertaining to parking on Town Ways near Town Landings.

Purpose

Whereas, the Select Board finds that, between the Saturday before Memorial Day and Labor Day each year, numerous residents and visitors park motor vehicles, boats and trailers along the Town Ways leading to Town Landings in the Town of Brewster.

Whereas, the Select Board finds that this increase in parking during the summer months presents a danger to vehicular and pedestrian traffic going to and from the Town Landings and, further, presents a hazard to emergency response efforts.

Now therefore, in order to protect the public safety and provide for the reasonable regulation of parking on these Town Ways, the Brewster Select Board hereby adopts the following Regulations governing roadside parking on Town Ways near Town Landings.

II. Definitions

"Road Layout" shall mean the formal layout of the Town Way as described in the legal instrument creating the Town Way.

"Town Way" shall mean a way, legally laid out by the Town of Brewster in the manner prescribed by statute.

"Traveled Portion" shall mean that part of the Road Layout that is improved for travel by paving or otherwise.

### III. Regulations

Between the Saturday before Memorial Day and Labor Day of each year, parking of motor vehicles, boats and trailers shall be prohibited from parking within the Traveled Portion of the Road Layout of the following Town Ways within the Town of Brewster:

**Paines Creek Road** as it extends from Lower Road to the Beach Parking Lot;

**Robbins Hill Road** for the entire length of the Road Layout;

**Breakwater Road** for the entire length of the Road Layout;

**Point of Rocks Road** as it extends from Cathedral Road to the designated parking spaces at the end of Point of Rocks Road where it terminates at the Beach;

**Foster Road** as it extends from Cathedral Road to the designated parking spots at the end of Foster Road where it terminates at the Beach;

**Ellis Landing Road** for the entire length of the Road Layout;

**Linnell Landing Road** for the entire length of the Road Layout;

**Crosby Lane** for the entire length of the Road Layout;

**Drake Way** for the entire length of the Road Layout;

**Hillbourne Terrace** for the entire length of the Road Layout;

**Crowell's Bog Road** for the entire length of the Road Layout; and

**Fisherman's Landing Road** as it extends from Harwich Road (Route 124) to the designated parking at Sheep Pond.

### VI. Violations. Penalties and Enforcement

Pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 22, whoever shall violate the provisions of this Regulation shall be subject to a fine in the amount of (\$40.00) Forty Dollars per occurrence.

Fines shall be issued in accordance with the provisions of Massachusetts General Laws, Chapter 90, §20A<sup>1/4</sup>, wherein it shall be the duty of every police officer who takes cognizance of a violation hereunder, to forthwith give the offender a notice, which shall be in tag form as provided in said Section 20A<sup>1/4</sup>, to appear before the Brewster Town Clerk at any time during regular office hours, not later than twenty-one (21) days after the date of such violation. Said tag shall be affixed securely to the motor vehicle and shall contain, but shall not be limited to, the following information: the make, color and registration number of the vehicle involved and the

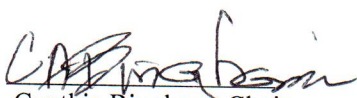
state of issuance of said registration number, the date, time and place of the violation, the specific violation charged, the name and badge number of the officer and his division, a schedule of established fines, instructions for the return of the tag and a notice which reads: "This notice may be returned by mail, personally or by an authorized person. A hearing may be obtained upon the written request of the registered owner. Failure to obey this notice within twenty-one days after the date of violation may result in the non-renewal of the license to drive and the registration of the registered owner."


The Brewster Police Department shall also have authority to tow the motor vehicle in the event it is not removed within four (4) hours of the issuance of the fine, or in the event the enforcing officer determines the vehicle is causing a public safety hazard.

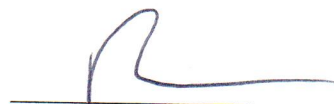
The Brewster Town Clerk, as duly appointed Parking Clerk for the Town of Brewster, shall maintain a docket of all such notices to appear. Any person notified to appear before the Parking Clerk, as provided herein, may appear before such parking clerk, or his designee, and confess the offense charged, either personally or through an agent duly authorized in writing or by mailing to such Parking Clerk the notice accompanied by the fine provided therein. Payment of the fine established shall operate as a final disposition of the case.

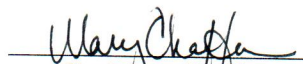
Should any person fail to pay the fine, or having appeared desire not to pay the fine, the Parking Clerk shall forthwith schedule a hearing. Written notice of the date, time and place of said hearing shall be sent by first-class mail to the registered owner. Said hearing shall be informal, the rules of evidence shall not apply and the decision of the hearing officer shall be final subject to judicial review as provided by section fourteen of chapter thirty A of the General Laws.


Whereby, after a duly noticed public hearing, the foregoing Regulation is adopted by the Brewster Board of Selectmen on this 1st day of June, 2015 and shall take effect immediately and amended on this 18<sup>th</sup> day of June 2018.

  
Cynthia Bingham, Chair

  
David Whitney, Vice Chair

  
Benjamin deRuyter, Clerk

  
Dr. Mary Chaffee

  
John Dickson



# Town of Brewster

2198 Main Street  
Brewster, MA 02631-1898  
Phone: (508) 896-3701  
Fax: (508) 896-8089

Office of:  
Board of Selectmen  
Town Administrator

POLICY No.: 48  
Date Approved : 11/2/15

## POLICY AND PROCEDURE

### REQUESTS FOR PRIVATE USE OF TOWN LANDINGS FOR CONSTRUCTION ACCESS

This document is intended to clarify and itemize the established process for requesting the use of Town Landings by private entities for staging and or access to undertake construction activities on private waterfront properties and shall be used in conjunction with "PUBLIC BEACH ACCESS PERMIT REQUEST."

All work within wetland or water natural resource areas within Brewster must be reviewed by the Brewster Conservation Commission. Additional approvals may be required. Approval by the Conservation Commission or any other permit granting authority does not constitute or replace the requirement for approval from the Board of Selectmen for use of, or exclusive access over, public lands under the control of the Board of Selectmen.

#### WRITTEN REQUEST

Applicants seeking use of, or access over, public lands must notify the Board of Selectmen in writing a minimum of twenty one (21) days prior to the desired commencement of the use or access and no later than the second Friday of April. The 21-day requirement is intended to accommodate the Selectmen's regular meeting schedule of every other week. Emergency Access may be granted by special vote of the Board of Selectmen. All requests must be made in writing. Under no circumstance does permission for use of Town Landings imply authorization to cross over private property that lies between the landing and the work site. No construction activities shall be allowed between May 1 and Columbus Day. The written request must include the following information:

- 1.) Name, address, and contact information for the agent requesting use
- 2.) Name, address, and contact information for the owner of the property upon which the work will be taking place
- 3.) Name, address, and contact information for the contractor who will be performing the work
- 4.) A detailed description of the work that is proposed
- 5.) A detailed description of the nature of the use and/or access for which permission is sought
- 6.) A list of owners of abutting
- 7.) Specific dates, times and duration for which the access and/or use is desired shall be included with the application and also sent to each abutting property owner by certified mail.

#### WRITTEN CONDITIONAL APPROVAL


If other Town permits have been obtained, copies of the approvals and conditions issued by the other permit-issuing authorities should accompany the written request. Approval or allowance by the Board of Selectmen shall not supersede approvals or conditions stipulated by other permit issuing authorities. The following conditions shall apply to all access or use permissions granted unless specifically waived or exempted by the Board of Selectmen:

- 1.) Access shall be granted for a specified period of time, typically not to exceed two weeks. The Board does not grant “ongoing” permission. Each work event shall require separate and specific approval.
- 2.) The contractor shall provide a certificate of insurance that shall certify valid liability insurance coverage in the minimum amount of \$1,000,000 throughout the duration of the use of the landing. For those instances when construction activity requires vehicles crossing the drainage culvert at Breakwater and concrete catch basin at Ellis Landing, the contractor shall provide a \$20,000 performance assurance check to be held by the Town.
- 3.) The contractor shall conclude waterfront construction activities no later than May 1.
- 4.) The contractor shall provide a \$10,000 performance assurance check to be held by the Town to cover the potential cost of reparations of any damage to the Town’s property.
- 5.) The contractor shall be required to provide photographs taken prior to the start of any construction work, showing the pre-construction conditions of the parking and landing area and the public beach. These photos shall be submitted to both the Conservation Department and the Selectmen’s Office.
- 6.) Prior to the use of the landing, a minimum six inch (6”) sand cover (exact depth to be determined at the site visit) must be spread over the asphalt pavement in order to protect the integrity of the asphalt. In addition, steel plates and a 3 foot (3’) deep sand cover must be placed over any groins or drainage pipes for protection. This sand cover, as well as the sand cover to be utilized for beach re-nourishment or to bury any fiber rolls, shall be “Mason Grade” sand, compatible in color and texture to that material which naturally exists on the beach. No work is to be done within thirty-six inches (36”) of the edge of a catch basin or drain
- 7.) All excess sand cover shall be cleared from the landing upon completion of the work, or utilized to restore base-line beach profiles if doing so would be consistent with an Order of Conditions issued by the Conservation Commission in relation to the project.
- 8.) The Town Administrator’s office (in addition to the Conservation Commission Office) shall be notified when “on-site” phase meetings are scheduled. Advance notice of a minimum of 24 hours shall be provided to the Selectmen/Town Administrator’s Office prior to staging and commencement of work.
- 9.) Advance notice of a minimum of 24 hours shall be provided to the Selectmen/Town Administrator’s Office prior to staging and commencement of work. The contractor or owner agent shall schedule a pre-mobilization meeting on-site with the Town Administrator, the Conservation Administrator, and the DPW Superintendent.
- 10.) No equipment or materials shall be delivered to or stored on Town premises until written approval has been issued by the Board of Selectmen.
- 11.) The Town Administrator’s office, in addition to the Conservation Commission Office, shall be notified when “on-site” phase meetings are scheduled.


Adopted by the Board of Selectmen, this 2 day of November, 2015.

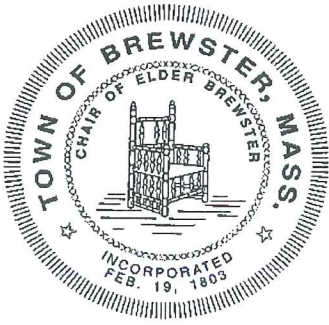
  
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Benjamin deRuyter, Chairman

  
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Peter G. Norton

  
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James W. Foley

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Patricia E. Hughes

  
\_\_\_\_\_  
John T. Dickson



**Town of Brewster**  
2198 Main Street  
Brewster, Massachusetts 02631-1898  
(508) 896-3701  
FAX (508) 896-8089

**POLICY NO:**

49

**DATE ADOPTED:**

4.4.16

**AMENDED:**

\_\_\_\_\_

***TOWN OF BREWSTER  
ANTI-FRAUD POLICY***

The Town recognizes the importance of protecting the Town, its operations, its citizens, its taxpayers, its employees and its assets against financial risks and unethical activities. It is the policy of the Town to institute and clearly communicate a fraud prevention policy in an effort to prevent and deter all forms of fraud that could threaten the security of our assets and our reputation.

The Town has a ***Zero Tolerance*** policy with regard to fraud and is committed to undertake the following steps as part of its anti-fraud policy:

1. Education
2. Prevention
3. Detection
4. Investigation
5. Corrective Action

**Education**

The most effective way to reach most employees is through education. Actively fighting fraud means implementing policies and procedures that prevent and detect fraud. The Town's goal is to establish and maintain an environment of fairness, ethics and honesty. To maintain such an environment requires the active assistance of every employee, every day.

**Definition of Fraud**

Fraud is defined as a deception deliberately practiced to secure unfair or unlawful gain. The term includes such acts as: bribery, deception, embezzlement, extortion, false representation, forgery, the concealment of material facts, the misappropriation of money or assets and collusion or conspiracy to commit any or all of the above acts. Acts of fraud may include:

- Breach of fiduciary duty;
- Bribery;

- Concealment of material facts;
- Theft of money or physical property;
- Theft of secrets or intellectual property; and;
- Other statutory offenses.

### **Fraud**

Fraud, as defined by this policy, includes any misuse or attempt to misuse a Town asset for personal gain or purposes unrelated to Town business. It may include, but is not limited to:

### **Misappropriation of Assets**

- Forgery, alteration or misappropriation of cash, checks, bank drafts, promissory notes, securities or any other financial document
- Unauthorized use or disposition of funds or property
- Falsifying timesheets or payroll records
- Falsifying travel expenses and /or utilizing Town funds to pay for personal expenses or for personal benefit
- Theft
- Embezzlement
- Fictitious reporting of receipt of funds
- Falsification of expenses and invoices

### **Profiteering**

- Offering, giving, soliciting and/or accepting an inducement or reward that may improperly influence the action of an employee of the Town and School Department.

### **Related Policies**

This is a Town wide policy that is designed to augment Chapter 268A - “The Conflict of Interest Law”. It is not intended to replace or preclude it in any way.

### **Internal Controls/Investigations**

The Town Administrator and Auditor or designee shall be responsible for developing internal controls to aid in preventing and detecting fraud or financial impropriety or irregularity. Reports of suspected fraudulent activities shall be investigated in a manner that protects the confidentiality of the parties and avoid unfounded accusations. Employees involved in the investigation shall be advised to keep information about the investigation confidential.

If a preliminary investigation substantiates occurrence of a fraudulent activity, the department head or designee shall issue a report to the Town Administrator. Final disposition of the matter and any decision to file a criminal complaint or refer the matter to the appropriate law enforcement and/or regulatory agency for independent investigation shall be made in consultation with legal counsel. Results of the investigation shall not be disclosed to or discussed with anyone other than those individuals with a legitimate need to know, or in accordance with a requirement to disclose under the provisions of the Public Records Law.

### **General Policy and Responsibilities**

The Town Administrator or his/her designee is responsible to investigate any suspected acts of fraud or misappropriation of property. An objective investigation will be conducted of any person, group or organization reasonably believed to have committed fraud, regardless of: position, job title, and length of service or relationship with the Town. Department heads are responsible for instituting and maintaining programs and



controls to prevent deter and detect fraud.

All Town employees, upon discovery of any violation of this policy, must notify his/her supervisor of the violation through the normal chain of command.

The Town Administrator or his/her designee has the primary responsibility for overseeing the investigation of all suspected fraudulent acts as defined in this policy. The Town Administrator will involve such individuals, but not limited to: the Finance Director, Town Treasurer, Town Law Enforcement, Legal Counsel and others deemed appropriate.

Upon conclusion of the investigation, the results will be reported to the Town Administrator or his/her designee. If there are reasonable grounds to believe that a fraud may have occurred, the Town Administrator may report the incident(s) to the appropriate authorities. Whatever action is taken by such appropriate authorities will not preclude the Town from taking disciplinary action where it believes discipline is warranted. Every reasonable effort will be pursued to recover Town assets.

**Security of Evidence**

Once a suspected fraud is reported, immediate action to prevent the theft, alteration, or destruction of relevant records shall be initiated. The records will be adequately secured until the investigation is complete.

**Confidentiality**

All participants and all persons questioned in a fraud investigation will keep the details and results of the investigation confidential so as not to violate an individual's expectation of privacy.

**Personnel Actions**

If a suspicion of fraud is substantiated by the investigation the Town Administrator shall take disciplinary action, up to and including dismissal and appropriate legal action. Such disciplinary action may be taken independent of any findings and conclusions reached by any appropriate authority to which the fraud allegations are reported.

If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the originator. If however, the allegation was made in bad faith or without a justifiable basis, appropriate disciplinary action may be taken against the individual making the erroneous allegation up to and including termination.

Adopted this 4<sup>th</sup> day of April, 2016

BREWSTER BOARD OF SELECTMEN

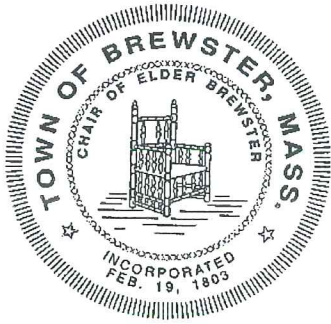
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Benjamin deRuyter, Chair

Peter G. Norton  
Peter G. Norton, Clerk

John T. Dickson  
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Patricia E. Hughes  
Patricia E. Hughes, Vice Chair

James W. Foley  
James W. Foley



**Town of Brewster**  
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**POLICY NO:** 50

**DATE ADOPTED:** 4.4.16

**AMENDED:** \_\_\_\_\_

**TOWN OF BREWSTER  
WHISTLEBLOWER PROTECTION POLICY**

A. This policy is adopted pursuant to and in accordance with the Massachusetts Whistleblower Protection Act, 1992, Massachusetts General Laws, Chapter 149 (the "Act") and is designed specifically to protect such conduct and provide such remedies as are set forth in the Act. It is the policy of the Town:

1. To encourage the reporting by its employees of improper governmental action taken by Town officers or employees; and
2. To protect Town employees who have reported improper government actions in accordance with this policy.

B. The Town encourages the reporting of improper governmental action taken by any Town officers or employees and the reporting of retaliatory actions for such reporting. The Town encourages initial reporting to the Town Administration to allow for expeditious resolution of all such matters and to minimize any adverse impacts of the improper action. This policy states the Town's procedures for reporting improper governmental action and for protecting employees against retaliatory actions.

C. Town employees who obtain knowledge of facts demonstrating improper governmental actions shall raise the issue **first** with their department head, the Town Administrator or the appropriate governmental agency responsible for investigating such improper action. The employee shall submit a written report to the Town stating in detail the basis for the employee's belief that an improper governmental action has occurred.

D. In instances where allegations could involve an employee's department head, or the Town Administrator, an employee may report the improper governmental action directly to a person or entity that is not the person's department head, the Town Administrator, or other governmental agency. In all other cases, the employee must first follow the reporting procedure outlined above.

E. An employee is not required to comply with the above procedure if he/she:

1. Is reasonably certain that the activity, policy, or practice is known to one or more supervisors of the Town and the situation is urgent, time- or safety-sensitive in nature (meaning lapse of time would jeopardize safety or cause potentially irreparable harm);
2. Reasonably fears physical harm as a result of the disclosure provided; or
3. Makes the disclosure to a public body for the purpose of providing evidence of what the employee reasonably believes to be a crime.

F. Town employees who fail to make a good-faith attempt to follow this policy in reporting improper governmental action shall not receive the protections provided under this policy or the Act. Employees who make false reports may be subject to the disciplinary action up to and including termination.

G. The department head or the Town Administrator shall take prompt action to assist the Town in properly investigating the report of improper governmental action. Town officials, department heads and employees involved in the investigation shall keep the identity of reporting employees confidential to the extent possible under the law, unless the employee authorizes the disclosure of his or her identity in writing. After an investigation has been completed, the employee reporting the improper governmental action shall be advised of the summary of the results of the investigation. Personnel actions taken as a result of the investigation may be kept confidential.

H. Town officials, department heads and employees are prohibited from taking retaliatory action against the Town employee because he or she has in good faith reported an improper governmental action in accordance with this policy.

I. Employees who believe that they have been retaliated against for reporting an improper governmental action should advise their department head and the Town Administrator. Town officials and department heads shall take appropriate action to investigate and address complaints of retaliation. If the department head or the Town Administrator does not satisfactorily resolve an employee's complaint that he or she has been retaliated against in violation of this policy, the employee, in accordance with the Act, may, within two years, institute a civil action in the superior court. Any party to said action shall be entitled to claim a jury trial. All remedies available in common law tort actions shall be made available to prevailing plaintiffs. These remedies are in addition to any legal or equitable relief provided herein.

J. The Town Administrator is responsible for implementing the Town's policies and procedures: (1) for reporting improper governmental actions, and (2) for protecting employees

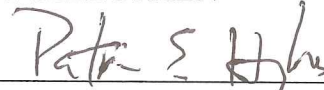
against retaliatory actions. Town officials and department heads are responsible for insuring that this policy is fully implemented within their areas of responsibility. Violations of this policy may result in appropriate disciplinary action, up to and including termination.

Adopted this 4<sup>th</sup> day of April, 2016

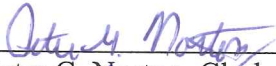
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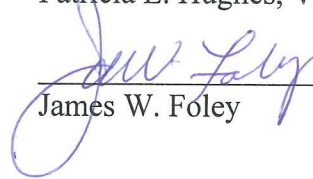
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**Town of Brewster**  
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**POLICY NO:**

51

**DATE ADOPTED:**

4.4.16

**AMENDED:**

## **TOWN OF BREWSTER WORKPLACE VIOLENCE PREVENTION POLICY**

### **Purpose:**

The Town of Brewster intends to provide a professional environment that is free of violence, threats of violence, harassment, intimidation or other disruptive behavior by establishing preventative measures, providing training and education, providing assistance and support to those who have been exposed to workplace violence, and holding those responsible for workplace violence. It is intended that all management tools be employed to accomplish the goal of avoiding or at the very least reducing the effect of workplace violence on the victim(s) and providing consequences to those who commit workplace violence. Management will utilize available resources such as the Town's Employee Assistance Program, law enforcement, and all applicable personnel policies and procedures to accomplish these goals.

### **Policy:**

The Town maintains a zero tolerance policy toward workplace violence or the threat of violence by or against any of its employees, elected or appointed officials, volunteers working for the Town, customers, the general public, and/or anyone who conducts business with the Town. It is the intent of the Town to provide a safe, healthy workplace, which is free of violence, threats of violence, harassment, intimidation or other disruptive behavior.

The best way to prevent workplace violence is to raise the awareness of all employees, and encourage early reporting and resolution of problem behavior before it escalates into violence. All employees are responsible for helping maintain a violence-free workplace. To that end, each employee is required to govern themselves accordingly. In addition, any employee experiencing or witnessing an act of violence is strongly encouraged to report it to their immediate supervisor and/or the Town Administrator.

Each act or threat of violence will be investigated, and appropriate action will be taken. Any such act or threat may lead to discipline, up to and including termination.

**Definitions:**

**Workplace violence** is any act committed by or against an employee or other affected individual within the context of that individual's involvement with the Town, that creates a hostile work environment and negatively affects the individual, either physically or psychologically and includes, but is not limited to harassment, stalking, coercion, intimidation, threats, physical attack, or property damage.

An **employee or other affected individual** refers to any individual who serves in the capacity of an elected official, appointed member to a board, commission or committee, volunteer working for the Town, employee of the Town, consultant or contractor retained by the Town, or visitor who is engaged in some form of business or activity with the Town.

**Harassment** is behavior that intimidates, disturbs, upsets or threatens a person.

**Intimidation** is an act intended to frighten, coerce or induce duress or fear.

A **threat** is the expression of an intent to cause physical or mental harm regardless of whether the person communicating the threat has the present ability to carry out the threat and regardless of whether the threat is contingent, conditional or future. A threat of violence includes, but is not limited to any act of physical aggression, any verbal or written statements, harassing telephone calls, harassing email messages, gestures, expressions, or behaviors such as stalking that could be perceived as an intention to cause physical or mental harm to any employee or other affected individual.

**Physical attack** is intentional, unwanted hostile physical contact with another person such as hitting, fighting, pushing, shoving, sexual assault, assault with a weapon or other device used as a weapon, or throwing objects.

**Property damage** is intentional damage to property, which includes property owned by the Town, elected officials, appointed board, commission, or committee members, employees, volunteers, visitors, vendors, consultants, or contractors.

**Weapons** are defined to include all devices that are intended to threaten, inflict harm, injury or death to an individual, such as, but are not necessarily limited to, firearms, knives, throwing devices, chemical and inert sprays or agents, stun guns, clubs, or types of devices that are designed to discharge some type of projectile, as well as any other type of device used to inflict injury to another individual, or to threaten to do so.

**Workplace Violence Takes Several Forms:**

- ***Violence by strangers*** – involves verbal threats, threatening behavior or physical assaults by an assailant who has no legitimate business relationship with the Town.
- ***Violence by customers*** – the assailant who is doing business with the Town.
- ***Violence by co-workers*** – the assailant has some employment related involvement with the workplace such as former employee, co-worker, administrator, or board member.
- ***Violence by personal relationship*** – including spouse, partner, former spouse, former partner, friend, acquaintance.

## **Prevention of Workplace Violence:**

The Town subscribes to the concept of a safe work environment and supports the prevention of workplace violence. Prevention efforts include, but are not limited to informing employees of this policy, instructing employees regarding the dangers of workplace violence, communicating the sanctions imposed for violating this policy, and providing a reporting hierarchy within to report incidents of violence without fear of reprisal.

## **Procedure for Reporting Threat:**

Each incident of violent behavior, whether the incident is committed by another employee or an external individual such as a customer, vendor, or citizen, must be reported to the Department Head and the Town Administrator. The Town Administrator will work with the Department Head and the Chief of Police to assess and investigate the incident and determine the appropriate action to be taken. The Town Administrator will inform the victim of his/her right to have the Police Department notified.

In critical incidents in which serious threat or injury occurs, emergency responders such as Police, Fire and/or Ambulance personnel must be promptly notified. As necessitated by the seriousness of the incident, the Town Administrator may assemble a Response Team consisting of staff from the affected Department, Town Staff, Town Administrator, Police, Town Counsel/ Labor Council and may include the Employee Assistance Program, Emergency Response, and others as deemed necessary.

The Response Team is responsible for establishing the protocol in the event of a threat or violent incident that may include but is not limited to:

- Evaluating the potential violence problems;
- Assessing an employee's fitness for duty (through mental health professionals);
- Establishing a plan for the protection of co-workers and other potential targets;
- Coordinating with affected parties such as victims, families, employees, media, or law enforcement personnel;
- Referring victims to appropriate assistance and community service programs; and
- Assuring that immediate (within 24 hours) and on-going counseling is available to traumatized individual.

Any employee who acts in good faith by reporting real or implied violent behavior will not be subjected to any form of retaliation or harassment. Any action of this type resulting from a report of violence must be reported to the appropriate management staff for investigation and decision regarding proper action.

Employees who report incidents of workplace violence may request to do so confidentially. Such requests will be honored to the degree reasonable under the circumstances; however, there is no guarantee of complete confidentiality. The Town shall be sensitive to the employee's fear of reprisal. Information will be released only on a need-to-know basis in order to thoroughly investigate and resolve the matter. The identity of the individual making the report will be protected as much as is practical.

It is a violation of this policy to engage in any act of workplace violence. Any employee who has been determined to be in violation of this policy will be subject to disciplinary action up to and including termination and, depending upon the violent act, may be subject to criminal sanctions. Should an employee commit an act of violence and it is determined in the investigation that the employee did in fact, commit the violent act, s/he may be referred to the EAP by the Town Administrator. In these cases, failure by the employee to keep the initial appointment with the EAP and follow through with the prescribed program will result in disciplinary action including termination of employment.

Should an employee become the victim of an incident of workplace violence, the Department Head or the Town Administrator may offer additional referral services to assist in coping with any effects of the incident.

### **Authorized Exceptions to Weapons:**

An employee may only possess a weapon during the course of working hours under the following circumstances:

Used by a sworn police officer of the Brewster Police Department in the line of duty.

Required as a part of the employee's job duties with the Town of Brewster.

In compliance with Massachusetts General Laws and specific written authorization by the Board of Selectmen and the Town Administrator where the employee has a demonstrated need to possess a weapon while at work. Prior to an authorization being granted the Chief of Police will be notified as to the request. If a request is granted, the Chief of Police will be notified in writing prior to authorization.

This permission will be granted for a specific period of time and will be subject to reassessment on a periodic basis.

All municipal employees, except sworn police officers and the animal control officer, who are seeking to possess a weapon in the workplace, must demonstrate the need and obtain written permission, which is to be filed in the employee's personnel file.

### **Violations:**

Any violation of this policy will result in disciplinary measures, up to and including termination of employment and, depending upon the violent act, may be subject to criminal sanctions.

Employees are strongly encouraged to immediately report any violation of this policy to his or her immediate supervisor or the Assistant Town Administrator.

All reported violations of this policy will be investigated by the Town and/or the appropriate authority.

### **Inspections:**

Town property furnished to anyone covered by this policy is subject to inspection with or without notice. This includes, but is not limited to, desks, telephones, cell phones, computers, lockers, vehicles, etc. The Town also reserves the right to enter or inspect work areas.



**Questions:**

If you have any questions regarding this policy, please contact the Town Administrator.

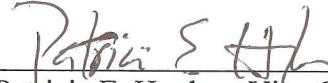
**THE TOWN RESERVES THE RIGHT TO AMEND, REVOKE, SUSPEND, TERMINATE, OR ALTER ANY OR ALL PARTS OF THIS POLICY AT ANY TIME WITHOUT PRIOR NOTICE. EMPLOYEES ARE ADVISED THAT CERTAIN VIOLATIONS OF THIS POLICY MAY ALSO CONSTITUTE A VIOLATION OF STATE OR FEDERAL LAW.**

Adopted this 4 day of April, 2016

**BREWSTER BOARD OF SELECTMEN**



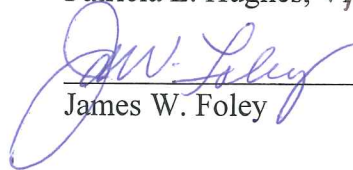
Benjamin deRuyter, Chair



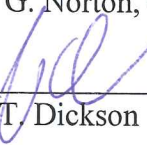
Patricia E. Hughes, Vice Chair



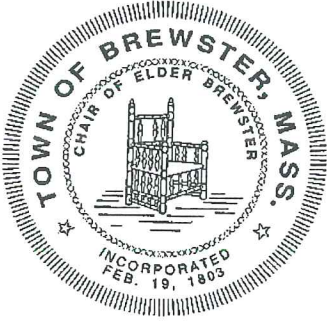
Peter G. Norton, Clerk



James W. Foley



John T. Dickson



**Town of Brewster**  
2198 Main Street  
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**POLICY NO:**

52

**DATE ADOPTED:**

4-4-16

**AMENDED:**

***TOWN OF BREWSTER***

**HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT (HIPAA)  
COMPLIANCE POLICY**

A. The Town will comply with the Privacy Regulations of the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996. The Town shall limit the use of and access to Protected Health Information which is held by the Town or its lawful agents. Protected Health Information is any written, oral or electronic form of information relating to a person's past, present or future health condition, delivery or payment of health services that identifies an individual or where there is a reasonable basis to believe the information could be used to identify an individual. Administrative, technical and physical safeguards established to limit use and access to protected health information are stated as an integral part of this policy, established as part of daily operating procedures and will be maintained by all responsible staff and representatives of lawful agents and business associates of the Town.

B. To assure this commitment to compliance the Town Administrator designates the Town Treasurer as the Privacy Contact who shall have the responsibility:

1. To ensure that the Town Administrator is kept informed of all changes, updates, requirements, responsibilities, claims, etc. concerning the HIPAA privacy regulations;
2. To ensure that documentation of the Town's efforts to comply with HIPAA privacy regulations is maintained;
3. To ensure that the Town's group health plan subscribers are sent privacy notices and new enrollees receive said notices;
4. To ensure that any protected health information disclosures are tracked;
5. To ensure that authorizations for disclosure and use of protected health information are properly processed;
6. To resolve complaints from participants about possible privacy violations;

7. To ensure that appropriate Town liaisons are maintained with the group health insurance program third party administrator, relevant business associates, and health insurance carriers, communicating the Town's commitment and securing the commitment of these entities to the privacy and security of protected health information;
8. To ensure that all required authorizations, agreements, etc. relative to the protected health information of group health insurance program participants are maintained; and
9. To monitor the Town's compliance with HIPAA privacy regulations on a regular basis.

C. Only those Town officials with a legitimate business purpose and bona fide need to know may be given access to protected health information in order to legally perform the position duties and administer the program.

D. As an employer, the Town may use protected health information in its possession without specific authorization from the employee for treatment, payment, quality assessment, medical review and auditing, studies to improve the group's health care quality or reduce health care costs, compiling civil/criminal proceedings, and any other use required by law for public health, communicable disease, abuse or neglect, or food and drug administration purposes.

E. Information which is normally maintained in the employment record which is not classified as protected health information includes all forms, responses, inquiries and data relative to the Family Medical Leave Act, drug screenings, fitness for duty, workers compensation, disability, life insurance, the Occupational Safety and Health Act and sick leave.

F. Protected employee health information may be released for other purposes only by the employee's authorization. The use and/or disclosure of protected health information is limited to the specific information for the specific purpose, to and from the specific individual and/or entity for a specific time period as delineated by the employee's authorization. Group health insurance program participants are allowed to review their protected health information that is held by the Town and to correct errors.

G. The Town separates protected health information from the employment record and retains such information in a locked file accessible only to authorized personnel. All entities which could receive protected health information (third party administrator, ambulance billing company, fully insured plan providers, legal counsel, actuaries and consultants) must enter into a business associate agreement with the Town committing to compliance with the HIPAA Privacy Regulations and providing satisfactory assurances that the business associate will appropriately safeguard the protected health information.

H. Participants that believe they have been aggrieved by the use or disclosure of protected health information may file a written grievance with the Privacy Contact within sixty (60) calendar days of the use or disclosure of the protected health information or within fifteen (15) calendar days of their knowledge of said use or disclosure. The grievance must delineate the specifics of the complaint, including but not limited to:

1. What unauthorized protected health information was released;
2. Who received the protected health information and/or is knowledgeable of the protected health information;

3. When was the protected health information released and/or when did the complainant become aware of the unauthorized knowledge of the protected health information; and
4. What was the result of the release of the unauthorized protected health information.

I. The Privacy Contact will meet with the complainant as soon as possible after the receipt of the grievance. During this meeting the Privacy Contact will discuss the issue brought forward with the complainant. The Privacy Contact will investigate the allegations of the complaint with the full support and assistance of Town management and, if necessary, legal counsel. The Privacy Contact will provide a written report of his/her findings and recommended action, if warranted, to the Town Administrator and the complainant within thirty (30) calendar days from the date of the meeting with the complainant. If for some reason the Privacy Contact is unable to conduct this meeting and/or investigation the Town Administrator shall appoint an alternate senior manager to perform these duties.

J. Complainants may also contact the Federal Department of Health and Human Services for assistance.

K. The Town will comply with the Privacy Regulations established by the Federal Government and requires its employees to observe and comply with this policy and the use of the proper procedures and policy documents. Employees found to have breached protected health information security will be subject to disciplinary action, up to and including termination.

Adopted this 4 day of April, 2016

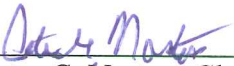
BREWSTER BOARD OF SELECTMEN



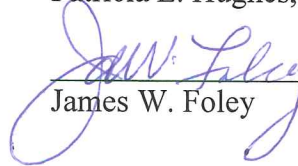
Benjamin deRuyter, Chair



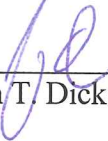
Patricia E. Hughes, Vice Chair



Peter G. Norton, Clerk



James W. Foley



John T. Dickson

# **Town of Brewster Health Plans**

## **Notice of Privacy Practices under Health Insurance Portability and Accountability Act (HIPAA)**

### **Your Information. Your Rights. Our Responsibilities.**

---

This notice describes how medical information about you may be used and disclosed and how you can get access to this information. **Please review it carefully.**

#### **Your Rights**

You have the right to:

- Get a copy of your health and claims records
- Correct your health and claims records
- Request confidential communication
- Ask us to limit the information we share
- Get a list of those with whom we've shared your information
- Get a copy of this privacy notice
- Choose someone to act for you
- File a complaint if you believe your privacy rights have been violated

#### **Your Choices**

You have some choices in the way that we use and share information as we:

- Answer coverage questions from your family and friends
- Provide disaster relief
- Market our services and sell your information

#### **Our Uses and Disclosures**

We may use and share your information as we:

- Help manage the health care treatment you receive
- Run our organization
- Pay for your health services
- Administer your health plan
- Help with public health and safety issues
- Do research
- Comply with the law
- Respond to organ and tissue donation requests and work with a medical examiner or funeral director
- Address workers' compensation, law enforcement, and other government requests
- Respond to lawsuits and legal actions

## **Your Rights**

When it comes to your health information, you have certain rights. This section explains your rights and some of our responsibilities to help you.

### **Get a copy of health and claims records**

- You can ask to see or get a copy of your health and claims records and other health information we have about you. Ask us how to do this.
- We will provide a copy or a summary of your health and claims records, usually within 30 days of your request. We may charge a reasonable, cost-based fee.

### **Ask us to correct health and claims records**

- You can ask us to correct your health and claims records if you think they are incorrect or incomplete. Ask us how to do this.
- We may say “no” to your request, but we’ll tell you why in writing within 60 days.

### **Request confidential communications**

- You can ask us to contact you in a specific way (for example, home or office phone) or to send mail to a different address.
- We will consider all reasonable requests, and must say “yes” if you tell us you would be in danger if we do not.

### **Ask us to limit what we use or share**

- You can ask us not to use or share certain health information for treatment, payment, or our operations.
- We are not required to agree to your request, and we may say “no” if it would affect your care.

### **Get a list of those with whom we’ve shared information**

- You can ask for a list (accounting) of the times we’ve shared your health information for six years prior to the date you ask, who we shared it with, and why.
- We will include all the disclosures except for those about treatment, payment, and health care operations, and certain other disclosures (such as any you asked us to make). We’ll provide one accounting a year for free but will charge a reasonable, cost-based fee if you ask for another one within 12 months.

### **Get a copy of this privacy notice**

You can ask for a paper copy of this notice at any time, even if you have agreed to receive the notice electronically. We will provide you with a paper copy promptly.

### **Choose someone to act for you**

- If you have given someone medical power of attorney or if someone is your legal guardian, that person can exercise your rights and make choices about your health information.
- We will make sure the person has this authority and can act for you before we take any action.

### **File a complaint if you feel your rights are violated**

- You can complain if you feel we have violated your rights by contacting us using the information on page 1.
- You can file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights by sending a letter to 200 Independence Avenue, S.W., Washington, D.C. 20201, calling 1-877-696-6775, or visiting [www.hhs.gov/ocr/privacy/hipaa/complaints/](http://www.hhs.gov/ocr/privacy/hipaa/complaints/).
- We will not retaliate against you for filing a complaint.

## **Your Choices**

**For certain health information, you can tell us your choices about what we share.** If you have a clear preference for how we share your information in the situations described below, talk to us. Tell us what you want us to do, and we will follow your instructions.

In these cases, you have both the right and choice to tell us to:

- Share information with your family, close friends, or others involved in payment for your care
- Share information in a disaster relief situation

*If you are not able to tell us your preference, for example if you are unconscious, we may go ahead and share your information if we believe it is in your best interest. We may also share your information when needed to lessen a serious and imminent threat to health or safety.*

In these cases we *never* share your information unless you give us written permission:

- Marketing purposes
- Sale of your information

## **Our Uses and Disclosures**

### **How do we typically use or share your health information?**

We typically use or share your health information in the following ways.

#### **Help manage the health care treatment you receive**

We can use your health information and share it with professionals who are treating you.

*Example: A doctor sends us information about your diagnosis and treatment plan so we can arrange additional services.*

### **Run our organization**

- We can use and disclose your information to run our organization and contact you when necessary.
- We are not allowed to use genetic information to decide whether we will give you coverage and the price of that coverage. This does not apply to long term care plans.

*Example: We use health information about you to develop better services for you.*

### **Pay for your health services**

We can use and disclose your health information as we pay for your health services.

*Example: We share information about you with your dental plan to coordinate payment for your dental work.*

### **Administer your plan**

We may disclose your health information to your health plan sponsor for plan administration.

*Example: Your company contracts with us to provide a health plan, and we provide your company with certain statistics to explain the premiums we charge.*

## **How else can we use or share your health information?**

We are allowed or required to share your information in other ways – usually in ways that contribute to the public good, such as public health and research. We have to meet many conditions in the law before we can share your information for these purposes. For more information see:

[www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/index.html](http://www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/index.html).

### **Help with public health and safety issues**

We can share health information about you for certain situations such as:

- Preventing disease
- Helping with product recalls
- Reporting adverse reactions to medications
- Reporting suspected abuse, neglect, or domestic violence
- Preventing or reducing a serious threat to anyone's health or safety

### **Do research**

We can use or share your information for health research.



## **Comply with the law**

We will share information about you if state or federal laws require it, including with the Department of Health and Human Services if it wants to see that we're complying with federal privacy law.

## **Respond to organ and tissue donation requests and work with a medical examiner or funeral director**

- We can share health information about you with organ procurement organizations.
- We can share health information with a coroner, medical examiner, or funeral director when an individual dies.

## **Address workers' compensation, law enforcement, and other government requests**

We can use or share health information about you:

- For workers' compensation claims
- For law enforcement purposes or with a law enforcement official
- With health oversight agencies for activities authorized by law
- For special government functions such as military, national security, and presidential protective services

## **Respond to lawsuits and legal actions**

We can share health information about you in response to a court or administrative order, or in response to a subpoena.

## **Our Responsibilities**

- We are required by law to maintain the privacy and security of your protected health information.
- We will let you know promptly if a breach occurs that may have compromised the privacy or security of your information.
- We must follow the duties and privacy practices described in this notice and give you a copy of it.
- We will not use or share your information other than as described here unless you tell us we can in writing. If you tell us we can, you may change your mind at any time. Let us know in writing if you change your mind.

For more information see: [www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/noticepp.html](http://www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/noticepp.html).

## **Changes to the Terms of this Notice**

We can change the terms of this notice, and the changes will apply to all information we have about you. The new notice will be available upon request and we will mail a copy to you.

- October 7, 2013
- Lisa L. Vitale, Treasurer/Collector, Town of Brewster, 2198 Main Street, Brewster, MA 02631
- 508-896-3701x1117



**Town of Brewster**  
2198 Main Street  
Brewster, Massachusetts 02631-1898  
(508) 896-3701  
FAX (508) 896-8089

*POLICY NO:* 53

*DATE ADOPTED:* 4.25.16

*AMENDED:* \_\_\_\_\_

## **TOWN OF BREWSTER MOBIL DEVICE POLICY**

### **Use of Personal Phones and Mobile Devices**

While working, employees should strictly limit, in both frequency and duration, use of personal telecommunication devices. This includes incoming, as well as outgoing calls and electronic messages. Personal telecommunications should be made during authorized work breaks only. Personal telecommunications should not interfere with an employee's performance of duties or the duties of others in the organization, and must not impact employee productivity.

Employees' first and foremost responsibility is attending to safety. The use of Town or personal telecommunications equipment while driving is forbidden. Texting or e-mailing while driving is illegal.

### **Town of Brewster Owned Mobile Devices**

The use of a smartphone in connection with Town of Brewster's business is a privilege granted to employees through approval of the Town Administrator. The Town of Brewster reserves the right to revoke these privileges in the event that users do not abide by the policies and procedures set forth below.

The following policy is aimed to protect the integrity of Town of Brewster data and ensure it remains safe and secure under Town of Brewster's control. Please note that there may be limited exceptions to these policies resulting from device limitations between vendors.

References to the word "device" below includes but is not limited to, Android, BlackBerry, iPhone, iPad, tablet, Windows mobile or other smartphones.

### **Criteria for issuance of a Town mobile communications device**

In order for an employee to be eligible to receive a Town-issued mobile communications device the

employee must meet at least one or more of the following criteria:

1. Employee may be required to be on-call on a 24 X 7 basis
2. Employee's principal job function requires regular travel and is considered a mobile employee or an employee with field duties
3. Employee is a member of the Brewster Emergency Management Team as established by the Emergency Management Director
4. Certain employees assigned to attend specific functions, events or meetings may be eligible for a Town-issued mobile communications device
5. Under other circumstances as authorized by the Town Administrator

**Procedure for obtaining a mobile communications device**

Any employee or department head requesting a Town-issued mobile communications device must adhere to the following procedure:

1. The department head must submit a Mobile Communications Device Request form to the Information Technology Department. This form is available on the Town's Human Resources Portal or in the Information Technology Department.
2. The Mobile Communications Device Request form must be completed fully.
3. The form must be signed by the Department Head submitting the request, the Director of Information Technology and the Town Administrator.
4. The employee must sign the Mobile Communications Policy acknowledging their understanding of the acceptable use of mobile communication devices.

**Access**

Employee will need prior authorization from the office of the Town Administrator for the purchase of a mobile device and implementation of a voice and/or data plan. The device will be procured through the Office of the Town Administrator;

Regardless of security precautions stated here, you are expected to use your device in an ethical manner and in accordance with Town of Brewster Information Technology Acceptable Use Policy;

The employee is to protect their government-issued device from theft, damage, abuse, and unauthorized use;

The Town of Brewster reserves the right to recall/disconnect Town-provided mobile devices due to budget restrictions or changes to deployment priorities.

## **Security**

Lost or stolen devices must be reported to the Town of Brewster Information Technology department within 1 hour or as soon as practical after you notice the device is missing. Please notify Information Technology by sending an email to [klambert@brewster-ma.gov](mailto:klambert@brewster-ma.gov). This will alert IT via text message. On the subject line of the email, enter "Lost Cell Phone" with a short description in the body of the message. The Town Of Brewster Information Technology department will then notify the Town's mobile carrier immediately upon loss of a device and will seek to have the carrier remotely wipe the device to factory default settings.

**Town issued devices must be returned to the Town when upon termination of employment with the Town of Brewster. Use of a Town-issued device may be cancelled if the Town detects a data or policy breach or virus. It is recommended you regularly backup any data saved to the mobile device such as images or documents.**

## **Tampering**

Using your device in ways not designed or intended by the manufacturer is not allowed. This includes, but is not limited to tampering as in 'jailbreaking' or 'rooting' your smartphone.

## **Liability**

The employee must abide by any state law governing the use of mobile cell phones and/or smartphones while driving (e.g., hands-free use and/or texting);

## **Monitoring of Mobile Communications**

To help insure compliance with this Policy, the Town reserves the right for authorized Town representatives to monitor the use of the Town's Systems. This may include, but not be limited to, reviewing account activity, changing passwords and listening to stored voice-mail messages.

All mobile communications usage will be monitored quarterly by the Information Technology Department. The Town of Brewster reserves the right to discipline any employee who fails to comply with the Mobile Communications Policy. Employees shall be held personally responsible for any costs incurred related to improper or uncontrolled communications on town-issued devices or systems.

## **Privacy Expectations**

Town of Brewster employees do not have a right, nor should they have an expectation, of privacy while using Town of Brewster provided devices at anytime, including accessing the Internet, using e-mail and voice communications. To the extent that employees wish that their private activities remain private, they should avoid using the government provided device for personal use. By acceptance of the government provided device, employees imply their consent to disclosing and/or monitoring of device usage, including the contents of any files or information maintained or passed -through that device.

## **Records Retention and Public Records**

Electronic mail/text messages, electronic files, and other electronically stored information concerning official Town business are generally considered "public records" that are subject to disclosure under the Massachusetts Public Records Law, unless an exemption applies. [M.G.L. c. 66, § 10; M.G.L. c. 4, s. 7(26)]

Public records include all "books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of the Town, unless such materials are exempt from disclosure under the Massachusetts Public Records Law. [M.G.L. c. 4, s. 7(26)]

Like all other correspondence dealing with official Town business, electronic mail messages must be printed and filed in accordance with existing public record filing procedures and retention standards. In addition, electronic mail/text messages and electronically stored information should be retained in an electronic format as required by the Massachusetts Public Records Law. Please consult the Public Records Division of the Office of the Secretary of the Commonwealth for details regarding how this law affects your particular file, document, electronic mail/text message, or record.

**Additional Guidelines**

Town of Brewster employees are permitted ONLY limited use of Town of Brewster mobile devices for personal needs. Use must not interfere with official business and impose no additional expense to the Town of Brewster.

Since voice minutes on the government's plan are limited, personal phone calls should be limited to brief occasional calls. Limited personal Internet use is permitted and must be in compliance with Town of Brewster acceptable use policies.

**Town of Brewster Information Technology Responsibility**


The Town of Brewster Information Technology will assist in the configuration and use of only Town-issued software and devices.

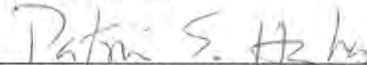
Adopted this 25 day of April, 2016

BREWSTER BOARD OF SELECTMEN

  
\_\_\_\_\_  
Benjamin deRuyter, Chair

  
\_\_\_\_\_  
Peter G. Norton, Clerk

  
\_\_\_\_\_  
John T. Dickson

  
\_\_\_\_\_  
Patricia E. Hughes, Vice Chair

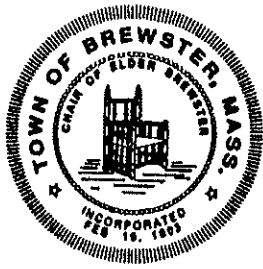
  
\_\_\_\_\_  
James W. Foley

**TOWN OF BREWSTER OWNED MOBILE DEVICE  
USER ACKNOWLEDGMENT AND AGREEMENT**

It is the Town of Brewster's right to restrict or rescind computing privileges, or take other administrative or legal action due to failure to comply with the above referenced Policy. Violation of these rules may be grounds for disciplinary action up to and including termination. It is understood that accessing my device should be accomplished during normal working hours unless otherwise directed.

Employee Name: \_\_\_\_\_

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_



# Town of Brewster

2198 Main Street  
Brewster, MA 02631-1898  
Phone: (508) 896-3701  
Fax: (508) 896-8089

Office of:  
Board of Selectmen  
Town Administrator

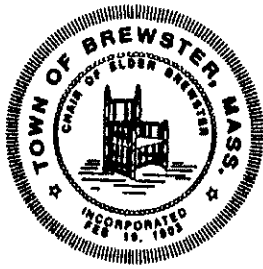
POLICY NO: 54

DATE ADOPTED: 12-19-16  
AMENDED:

## TOWN OF BREWSTER

### BOARD OF SELECTMEN'S LONG POND BEACH USE POLICY

1. All Groups of ten (10) or more must obtain a group permit from the Recreation Department.
2. Town of Brewster Taxpayer/Resident Groups (i.e., Day Care, Church Group, Camp) may apply starting April 1; all other groups after May 31. All permits will be issued on a first come, first served basis, after the Town and State Programs are complete. Permits will be on going.
3. Applications must be submitted at least five business days prior to first requested date.  
Applications are submitted to:  
Brewster Recreation Department  
2298 Main St  
Brewster, MA 02631
4. An American Red Cross Certified Waterfront Lifeguard, or equivalent, must accompany a group of ten or more. If the group is greater than twenty; two lifeguards must accompany the group. Groups must provide their own rescue tube.
5. Copies of Waterfront Lifeguard Certification and a copy of that individual's ID must accompany application for a permit. This person must accompany the group during their visit to Long Pond.
6. Adult-to-Child ratio must meet established Massachusetts regulations for Camps.
7. All Beach Rules and Regulations will be adhered to by all groups. (See Selectmen Policy 22)
8. No Group will attain entrance to the beach without a permit. Groups will show permit to the Lifeguards on duty or Brewster Recreation staff.
9. All parking permit requirements will be strictly enforced; buses are not allowed to park or idle in the parking lot.
10. No fee will be charged for the group permit.
11. State Law: Christian's Law – Massachusetts General Law c.111, s 127A1/2 – effective October 2012 – If a child is a NON-Swimmer, the group will provide a Coast Guard Approved Life Jacket for all municipal, recreational programs, or licensed camps. User group requesting the permit will submit the follow with application:



# Town of Brewster

2198 Main Street  
Brewster, MA 02631-1898  
Phone: (508) 896-3701  
Fax: (508) 896-8089

Office of:  
Board of Selectmen  
Town Administrator

- a. The name of the Water Safety Instructor, with copy of certification, who has conducted the necessary testing of each child.
  - b. List of all participants and ability of swimmer as reported by WSI.
  - c. Will provide a red wrist band for non-swimmers and a yellow wrist band for swimmers.
  - d. Permit holder is responsible for ensuring proper fit of PFD's the entire time they are at Long Pond. The Town will not provide any PFD's to any permit holder.
12. Groups may request multiple dates on one application. Requested dates guidelines:
- a. Monday – Friday only
  - b. Afternoons only
  - c. Maximum of Two, non-consecutive days per week
13. The Town may approve a group, or combination of groups, of up to forty people per day.
14. Approved dates will not be rescheduled due to weather
15. The Town does not guarantee lifeguards or toilet services.
16. Beach Parking Permits are required June 15 through the Sunday of Labor Day weekend.

John Dickson

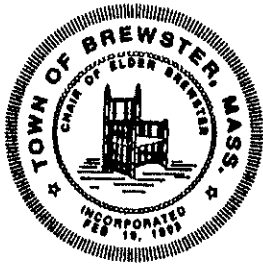
Peter Norton

James Foley

Cynthia Bingham

David Whitney





# Town of Brewster

2198 Main Street  
Brewster, MA 02631-1898  
Phone: (508) 896-3701  
Fax: (508) 896-8089

Office of:  
Board of Selectmen  
Town Administrator

## Town of Brewster Long Pond Beach Group Permit Application

Name of Group: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Organization Contact Name: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

On-Site Supervisor Contact Name: \_\_\_\_\_

Phone: \_\_\_\_\_

I have read the attached list of requirements and I fully understand my responsibility.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Please submit all required paperwork with this completed application for a Beach Permit. If approved, a permit will be issued to your group listing all approved dates.

Date Requested	Total Number of Participants	Number of Minors	If date not available, Alt. Date.

\*If more space is needed, please attach separate page.

Date Received: \_\_\_\_\_

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

## **Town of Brewster Social Media Employee & Volunteer Participation & Use Policy**

This document formalizes the policy for employees that are managers, non-union employees and contractors (“users”) within the Town of Brewster on the use of social media sites. “Social media sites” refers to websites that facilitate user participation, networking, and collaboration through the submission of user generated content. Social media in general includes tools such as: blogs, wikis, microblogging sites, such as Twitter™; social networking sites, such as Facebook and LinkedIn™; video sharing sites, such as YouTube™; and bookmarking sites such as Del.icio.us™.

It is the responsibility of any person subject to this policy that uses a social media to read, understand, and follow this policy. In addition, users are expected to exercise reasonable judgment in interpreting this policy and in making decisions about the use of social media identities. Any person with questions regarding the application or meaning of this policy should seek clarification from appropriate management. Failure to observe this policy may subject individuals to disciplinary action, including termination of employment.

The Town of Brewster may use new social media outlets to communicate with citizens. A social media identity is a specific user identity that has been registered on a third party social media site and is associated with the Town, a town Department or, an official at the Town, or a designated employee. Government social media sites or identities typically provide forums for commentary or news on topics related to the government agency that hosts the social media site or has secured the social media identity. A typical social media site (whether hosted by the Town or a third party) combines text, images, and links to other websites including blogs, wikis, and other media related to the topic and enables readers to leave comments in an interactive format.

This document outlines the policy for Brewster employees’ conduct while contributing to or moderating this Agency’s social media sites or providing comments or updates to the Agency’s social media identities.

In addition to the topics addressed here, social media content must be in compliance with the Brewster’s relevant policies, including its harassment and discrimination policies, confidentiality policies, ethics rules, code of conduct, and other policies.

### **Social media Guidelines**

**Creating a new social media site.** Contact the Town of Brewster Information Technology department before creating any social media website to confirm that the site and hosting service adheres to applicable local, state, and federal policies and laws. No social media site shall be launched until an official and customized user policy for the social media site is written and approved by the selectmen. This policy must be posted on the social media site at launch.

**Create a separate account at the social media outlet for official business using your official town email address.** To avoid confusion between personal and official

communications and protect personal privacy, town employees contributing to social media sites should not use their personal account if any at that site.

**Considerations When Speaking on Behalf of the Town.** Identify yourself—name and, when relevant, role at the town—when you discuss agency or agency-related matters on your agency social media website or in connection with the town’s social media identity. Write in the first person. It is important to make clear when you are speaking for yourself, and when you are speaking on behalf of the town. Only speak on behalf of the town when your commentary is based on the law governing your town, or on the town’s explicit written standards, policies, and practices, or you have received prior permission from your supervisor to address a particular topic in a particular way. When faced with an ambiguous question on a social media site, make clear, as you would if speaking in person or over the phone, that you are offering your opinion on a matter, not the town official position.

**Understand Users’ First Amendment Rights.** Although the Town of Brewster can moderate the social media sites that accept comments from the public (such as blogs and wikis) to restrict speech that is obscene, threatening, discriminatory, harassing, or off topic, we cannot use the moderation function to restrict speech with which the Town merely disagrees (i.e. subject matter restrictions). Users have some First Amendment rights in posting content to public social media. Moderators must respect those rights by posting all comments other than those excluded for specific legitimate reasons, such as those identified in the Website Use and Social Media Use policies

**Do Not Comment on Social Media Sites about Town Business Outside the Town’s Social Media Sites or Identities.** Do not publish content to any website outside of the town’s website or social media sites that has to do with town-related matters.

**Respect Copyright Law.** Brewster social media participants must abide by laws governing copyright and fair use of copyrighted material owned by others. Never reprint whole articles or publications without first receiving written permission from the publication owner. Never quote more than a short excerpt of someone else’s work and, if possible, provide a link to the original.

**Protect Confidential Information.** Don't provide your agency’s confidential information. Never post legally protected personal information that you have obtained from your agency (e.g., information that is not public record under the Public Records Law, Mass. Gen. L. ch. 66, sec. 10 or whose dissemination is restricted under the Commonwealth’s Privacy Act, Mass. Gen. L. ch. 66A, Executive Order 504, or under other Federal or State privacy laws or regulations). Ask permission to publish or report on conversations that occur within your agency. Never post information about policies or plans that have not been finalized by your agency, unless you have received explicit permission from your supervisor to post draft policies or plans on the agency social media for public comment.

**Open Meeting Law Implications.** Members of town committees are cautioned that participation in any social media site may be subject to the Massachusetts Open Meeting

Law. The Open Meetings Law applies to meetings of governmental bodies in which a quorum of the body convenes to deliberate on any public business or policy within its jurisdiction. The terms meeting, governmental body, deliberation, and quorum are specifically defined in the Open Meetings Law. M.G.L. c. 39, §23A. As a guiding principle, deliberations will have ensued when a “quorum knows what a quorum thinks”, regardless of the forum of communications. Thus, a series of individual postings on a social media site which cumulatively convey the position of a quorum of the governmental body regarding a subject within its jurisdiction could constitute deliberations and in turn violate the requirements of the Open Meetings Law. This applies to official and unofficial use of social media sites including blogs, message boards, email, and email listservs.

**Personal Use of Social Media outside of Work.** Employee’s personal use must not be attributable to the agency or employee’s job function at agency. While an employee’s use and comments made at social media sites are subject to First Amendment protections, as well as permissible restrictions, any personal use made of social media sites outside of work must not be attributable to the agency or the employee’s job function at the agency. For example, personal use of such sites should be done with a separate personal account and must not refer to or enable other users at the site to clearly identify the posting employee’s job title or role at the agency, and must not disclose or refer to the work of the agency, or its issues, plans, activities, or meetings.

## **Town of Brewster Facebook Policy**

### **Purpose of the Town of Brewster Facebook Pages:**

The purpose of Town of Brewster Facebook pages is to facilitate an ongoing dialogue between the public and the Town of Brewster. We encourage your comments, ideas and concerns and hope that you will find the information here helpful in understanding what your government is doing and what you can do to help. This may be a moderated site, thus comments may be reviewed for compliance with our policies. We recognize that the web is a 24/7 medium, and your comments are welcome at any time. However, given the need to manage resources, in those cases where the site is moderated, the moderating and posting of comments will occur during regular business hours Monday through Friday. Comments submitted after hours or on weekends will be reviewed as early as possible; in most cases, this means the next business day.

This is a place for collecting suggestions and new ideas and to encourage conversations between and among citizens and their government, not a substitute channel for services or general questions.

Do not submit unsolicited proposals, or other business ideas or inquiries to this site. This site is not to be used for contracting or commercial business.

This Facebook page may not be used for the submission of any claim, demand, informal or formal complaint, or any other form of legal and/or administrative notice or process, or for the exhaustion of any legal and/or administrative remedy.

This Facebook page is not to be used to report criminal activity. If you have information for law enforcement, please contact your local police agency.

### **Comment Policy**

We expect conversations to follow the rules of polite discourse and we ask that participants treat each other, as well as our employees, with respect. The following comments may be removed:

- Profanity and vulgar or abusive language
- Threats of physical or bodily harm
- Sensitive information (for example, information that could compromise public safety)
- Offensive terms that target protected classes, such as ethnic, racial sexual orientation, transgendered, or religious groups.
- Personal information

For the benefit of robust discussion, we ask that comments remain "on-topic." This means that comments must relate to the topic that is being discussed within the Facebook Page. Comments will not be posted that include:

- Off-topic comments (If you have off-topic comments that are relevant to the agency, please email them to [brewrec@town.brewster.ma.us](mailto:brewrec@town.brewster.ma.us).)
- Questions from the media
- Identical posts by the same user (please don't submit over and over expecting the post to show up faster) or multiple users (a group of people sending identical messages or one person submitting under different aliases). In the case of identical posts, the agency may only post the first submission.

### **Third Party Terms of User, Privacy, and Security Policies**

The technology supporting this site is provided by Facebook, a commercial internet service not controlled by or connected to the Town of Brewster, MA and this site is subject to website policies of that provider including its Privacy Policy <http://www.facebook.com/policy.php> and Terms of Use <http://www.facebook.com/terms.php> The Town of Brewster has no control over Facebook's terms of service, privacy policy, advertising policy, appearances of advertising, or postings on other sections of Facebook's internet services.

To protect your own privacy and the privacy of others, please do not include personally identifiable information, such as social security number, phone numbers or email addresses in the body of your comment. If you do voluntarily include personally identifiable information in your comment, your comment may be from the Facebook page. If your comment remains posted, your name will not be redacted or removed. Information retained by Facebook is not under the control of the Town of Brewster and users should familiarize themselves with Facebook's policies before they choose to participate.

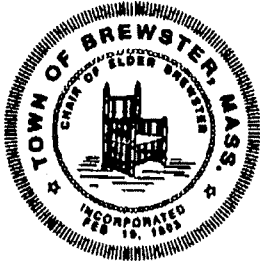
### **Intellectual Property**

Comments provided on pages is licensed under a Creative Commons Attribution 3.0 License. Content includes all materials posted by the Town of Brewster. In addition, visitors to these pages agree to grant a non-exclusive, irrevocable, royalty-free license to the rest of the world for their submissions to this site under the Creative Commons Attribution 3.0 License. A copy of this license is available online at <http://creativecommons.org/licenses>.

### **Record Retention Law**

Please note, that the Records Retention Law of the Commonwealth requires the Town of Brewster to preserve records created or received by a town employee. Pursuant to this

retention requirement comments posted or messages received via an official municipal page on a third-party website (such as an official department page on a social media network) will be treated as governmental records and may be permanently archived. Information that you submit voluntarily through social media sites associated with this department where such information is publicly available, including your name, city or town, and the substance of anything that you post may be disseminated further by being posted online at this website or be publicly discussed by a member of the administration.



Town of Brewster  
2198 Main Street  
Brewster, MA 02631-1898  
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Fax: (508) 896-8089

Office of:  
Select Board  
Town Administrator

Policy 57  
Date Approved 03-22-18

## **PREGNANT WORKERS FAIRNESS ACT**

### Introduction:

On April 1, 2018, the Pregnant Workers Fairness Act ("the Act") became effective. The Act amends the current statute prohibiting discrimination in employment, G.L. c. 151B, §4, enforced by the Massachusetts Commission Against Discrimination (MCAD) by expressly prohibiting employment discrimination on the basis of pregnancy and pregnancy-related conditions. It also describes employers' obligations to employees that are pregnant or lactating and the protection these employees are entitled to receive. Employers may not treat employees or job applicants less favorably than other employees based on pregnancy or pregnancy-related conditions and have an obligation to accommodate pregnant workers.

### Under the Act:

An employer must accommodate conditions related to pregnancy, including post-pregnancy conditions such as the need to express breast milk for a nursing child, unless doing so would pose an undue hardship on the employer. "Undue hardship" means that providing the accommodation would cause the employer significant difficulty or expense.

Once an employee requests an accommodation, the employer has an obligation to communicate with the employee in order to determine a reasonable accommodation for the pregnancy or pregnancy-related condition. This is called an 'interactive process' and it must be done in good faith. A reasonable accommodation is one that allows the employee or job applicant to perform the essential functions of the job while pregnant or experiencing a pregnancy related condition, without undue hardship to the employer.

An employer cannot require a pregnant employee to accept a particular accommodation, or to begin disability or parental leave if another reasonable accommodation would enable the employee to perform the essential functions of the job without undue hardship to the employer.

An employer cannot refuse to hire a pregnant job applicant or applicant with a pregnancy-related condition, because of the pregnancy or pregnancy-related condition, if an applicant is capable of performing the essential functions of the position with a reasonable accommodation.

An employer cannot deny an employment opportunity or take adverse action against an employee because of the employee's request for or use of a reasonable accommodation for a pregnancy or pregnancy related condition.



An employer cannot require medical documentation about the need for an accommodation if the accommodation request is for; (1) more frequent restroom, food or water breaks; (2) seating; (3) limits on lifting no more than 20 pounds; (4) private, non-bathroom space for expressing breast milk.

Definitions:

“Condition related to pregnancy” – A condition related to pregnancy can be during or after pregnancy. Examples include, but are not limited to, morning sickness, lactation, or the need to express breast milk.

“Reasonable accommodation” – A reasonable accommodation is a modification or adjustment that allows an employee to perform the “essential functions” of the employee’s position. Some examples of reasonable accommodations are; (1) more frequent or longer breaks; (2) time off; (3) providing equipment or seating; (4) temporary transfer to a less strenuous or hazardous job; (5) job restructuring

“Undue hardship” – An undue hardship is an action requiring significant difficulty or expense on the part of the employer. Some factors considered include; (1) the nature and cost of the needed accommodation; (2) the employer’s financial resources; (3) the overall size of the business; and (4) the effect on expenses and resources of the accommodation on the employer.

The foregoing is a synopsis of the requirements under the Act, and employees and are encouraged to read the full text of the law available on the General Court's website here:  
<https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter54>.

If you believe you have been discriminated against on the basis of pregnancy or a pregnancy-related condition, you may file a formal complaint with the Massachusetts Commission Against Discrimination (MCAD). You may also have the right to file a complaint with the Equal Employment Opportunity Commission if the conduct violates the Pregnancy Discrimination Act, which amended Title VII of the Civil Rights Act of 1964. Both agencies require the formal complaint to be filed within 300 days of the discriminatory act.

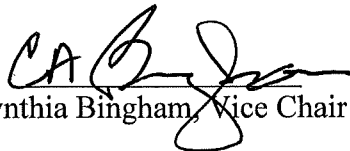
**MCAD**

Boston Headquarters: One Ashburton Place, Room 601, Boston, MA 02108 (617) 994-6000  
New Bedford: 128 Union Street, Suite 206, New Bedford, MA 02740 (774) 510-5801  
Worcester: 484 Main Street, Room 320, Worcester, MA 01608 (508) 453-9630  
Springfield: 436 Dwight Street, Room 220, Springfield, MA 01103 (413) 739-2145

Adopted and signed here, by the Brewster Select Board, at a public meeting held on March 22, 2018.



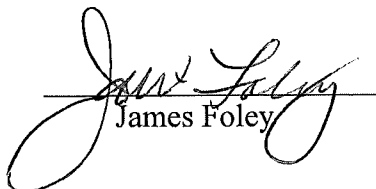
Peter Norton, Chair



Cynthia Bingham, Vice Chair



David Whitney, Clerk



James Foley

John Dickson



## Town of Brewster

2198 Main Street  
Brewster, MA 02631-1898  
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Fax: (508) 896-8089

Office of:  
Select Board  
Town Administrator

Policy #58  
Adopted January 28, 2019

### TOWN OF BREWSTER PUBLIC ENGAGEMENT POLICY

#### INTRODUCTION

The Town of Brewster:

- Is committed to open and honest communication with residents, businesses, employees, and visitors.
- Recognizes that municipal decisions are improved by engaging residents and other stakeholders as appropriate.

#### PURPOSES

This policy's purposes are to:

- Ensure the Town of Brewster facilitates public input into decision-making.
- Promote a well-informed community.
- Improve the quality and responsiveness of municipal decisions.
- Create an environment that encourages community participation.
- Forge a bond of trust and accountability between Town government and the public.

#### PUBLIC ENGAGEMENT DEFINITION

Methods through which members of the public become more informed about, and have the opportunity to influence, government decisions and projects.

#### TYPES OF PUBLIC ENGAGEMENT

- **Public Information/Outreach:** Characterized by one-way government communication to inform residents and others about a public issue or policy matter. Examples include press releases, video-recorded meetings, and presentations.
- **Public Consultation:** Characterized by two-way communication; includes public officials inviting individuals to express their views or recommendations about proposed public actions and decisions. Examples include public meetings, community outreach meetings, surveys, and listening sessions.

#### ROLES

- **Decision-makers should:**
  - Seek to gain a sound understanding of views expressed by the public.
  - Consider public input as part of the decision-making process.
  - Explain the rationale for decisions.



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### TOWN OF BREWSTER PUBLIC ENGAGEMENT POLICY

- **The Public should:**
  - Become as informed as possible about the issue under consideration.
  - Recognize that multiple factors, including public input, will shape municipal decisions.

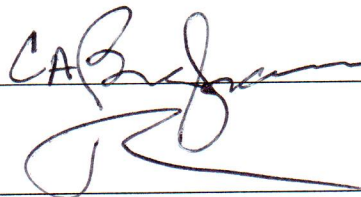
#### **APPLICATION**

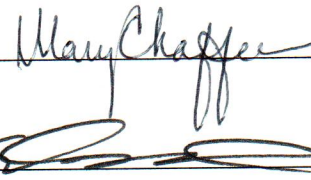
Public engagement:

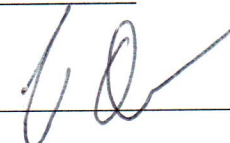
- Should be integrated into planning for new policies, programs, capital projects, fee changes, and services at the earliest feasible point or at a pre-regulatory stage as appropriate.
- Should take place if significant changes to or elimination of an existing program, project, or service, are proposed.
- May be necessary at multiple points in certain more consequential government activities such as coastal retreat projects, road projects, or parcel purchases.
- Should include public review at the 30% design stage in projects where engineering or other designs are being developed, with design elements identified that were made as a result of any earlier public input.
- May take place in response to a community-initiated request.
- May include discussion of options, as well as points of consensus and disagreement.
- Will be enhanced by posting notices of engagement activities at Town Hall, on the Town website and social media, and other locations including local cable television.
- May be enhanced in some circumstances by use of a facilitator.
- May be enhanced in some circumstances with voluntary notification of abutters.

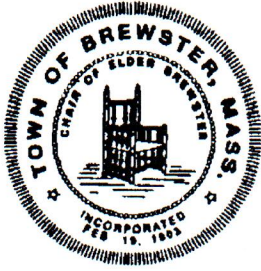
#### **RESPECTFUL PUBLIC DISCUSSION**

For public engagement to be effective, discussion should be conducted in a respectful and safe manner by all participants.

  
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## SELECT BOARD POLICY #59 ON RESPONDING TO COMMUNICATIONS FROM THE PUBLIC

### A. PURPOSE

1. The Select Board encourages communications from the public to the Board.
2. This policy describes how Select Board members may respond to comments from members of the public.

### B. OPEN MEETING LAW IMPLICATIONS:

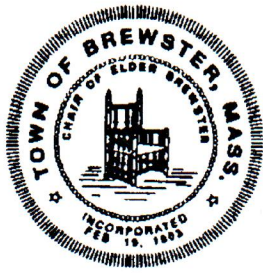
1. The Massachusetts Open Meeting Law limits how Select Board members (or members of any public body) may handle inquiries or comments from the public. The purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based.
2. A "deliberation" is defined as an "oral or written communication through any medium including electronic mail between or among a quorum of a public body on any public business within its jurisdiction." A quorum of the Brewster Select Board is three members.

### C. CITIZEN'S FORUM

1. Citizen's Forum is an opportunity for the public to address the Select Board in a public meeting.
2. Citizen's Forum generally appears as the first meeting agenda item. Any individual wishing to speak may indicate so by raising their hand.
3. When recognized by the Chair, the speaker should be seated at the front table, and state their name, street address, and the topic they will speak about into the microphone.
4. The Chair generally limits remarks to topics that do not appear on the meeting's agenda.
5. Remarks are most effective when they are concise and to the point. The Chair has discretion to limit each speaker to not more than 3-5 minutes.
6. Citizen's Forum is not a dialogue. The Select Board regrets it is generally unable to respond to or discuss a matter raised during Citizen's Forum. To do so would be a violation of the Open Meeting Law.
7. The Chair may place a topic raised at Citizen's Forum on a future meeting agenda where the Board would be able to discuss it.

BREWSTER TOWN CLERK

19 JUL 2 9:04AM



# Town of Brewster

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Town Administrator

## D. COMMUNICATIONS TO THE SELECT BOARD BY POSTAL MAIL OR EMAIL

### 1. COMMUNICATION ABOUT A PROBLEM WHERE ASSISTANCE FROM A TOWN DEPARTMENT IS NEEDED

- a. When a member of the public contacts the Select Board about a problem involving a municipal department, e.g., a tree fallen into a town street or a septic system showing signs of failure, then the problem will be referred to the Town Administrator or his designee so it can be directed to the appropriate department for action.

### 2. COMMUNICATIONS EXPRESSING THE WRITER'S VIEWS ON TOWN POLICY OR PROPOSED POLICY

#### a. EMAIL

##### i. Email to the Entire Select Board

- a) An individual Board member may opt to reply individually to a writer, but that member should not copy other members of the Board in the reply.
- b) If the replying Board member wishes to discuss with other Board members the response that the Board member provided to a writer, the topic must be added to a meeting agenda for public discussion.
- c) Alternatively, the replying Board member may have a copy of the reply included in the Select Board's meeting packet. However, it can't be provided to the other Board members before it is provided to the public.
- d) A Board member must not "reply all" in any response; this would be a violation of Open Meeting Law.

##### ii. Email to an Individual Board member

- a) An individual Board member may reply to a member of the public.



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## b. POSTAL MAIL

- i. Letters mailed to the Select Board are distributed to the members in their mailboxes in the Town Administrator's office at Town Hall.

## E. MEETING AGENDA

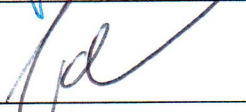
1. If a member of the Select Board wishes to discuss an issue raised by a member of the public in any forum or process, the member may ask the Board Chair to add the topic to a meeting agenda for a public discussion.

Date Approved: July 1 2019

  
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Mary Chapin  
\_\_\_\_\_

  
\_\_\_\_\_

  
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CA Brennan  
\_\_\_\_\_

TOWN OF BREWSTER  
POLICY NO. 60

MUNICIPAL DRINKING WATER ACCESS AND  
SINGLE-USE PLASTIC BOTTLE POLICY

The Select Board of the Town of Brewster, acting pursuant to the authority set forth in Massachusetts General Laws, Chapters 40 and 41, and Town of Brewster bylaws, to protect the health, safety and environment of the community, hereby adopts the following Policy pertaining to use of single-use plastic bottles by the Town on Town property.

A. Purpose

1. The purpose of this Policy 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. Findings

1. Whereby, single-use plastic bottles, if not properly recycled, become a burden on a community's solid waste program, its economy, and the environment; and
2. Whereby, the Brewster Recycling Commission was directed by the Select Board and Town Meeting voters to study the issue and develop a policy aimed at reducing the Town's use of single-use bottles; and
3. Whereby, certain uses of single-use plastic water bottles, in particular, are reasonable when properly recycled; and
4. Whereby, the Brewster Recycling Commission studied current uses of all single-use plastic bottles on Town property and identified opportunities to reduce single-use plastic bottle use; and
5. Whereby, providing access to tap water should be offered as an alternative to bottled water, in particular;
6. Now therefore, to continue Brewster's long record of environmental stewardship, the Brewster Select Board hereby adopts the following Regulations.

C. Definitions

1. Single-use plastic bottle: Shall mean a formed or molded container comprised predominantly of plastic resin not intended for re-use.
2. Town: Shall mean Town of Brewster, Massachusetts.

3. 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.
4. 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.

#### D. 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 policy.
2. This Policy does not restrict personal use by Town personnel.

#### E. Enforcement

1. Enforcement of this Policy shall be the responsibility of the Town Administrator or his/her designee.

#### F. Suspension of the Policy

1. If the Town Administrator determines that the cost of implementing and enforcing this policy 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 Policy. Following the public hearing, the Select Board may continue this policy in force, modify it or suspend it permanently or for such length of time as it may determine.

#### G. Exceptions

1. Single-use plastic bottled beverages may be used on municipal property:
  - i. 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.
  - ii. In given situations to protect the public health, safety, and welfare, and no reasonable alternative to bottled beverages regulated by this Policy will serve the same purpose.
  - iii. 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 Policy until seven days after such declaration has ended.

#### H. New Leases, Permits, and Agreements

1. 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 policy. This requirement shall also apply to any such permit renewed, extended, or materially amended after the effective date of this policy.

I. Waivers

1. An entity or individual may request a waiver of this Policy 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.
  - i. Such waiver can only be granted provided 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.

J. 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-filing 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.

K. Implementation

1. Nothing in this Policy 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.

L. Severability

1. If any provision of this Policy 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 Policy, which shall remain in full force and effect.

M. Effective Date

1. This policy is effective September 1, 2020.



# Town of Brewster

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Office of:

Select Board  
Town Administrator

## Town of Brewster Complete Streets Policy

**Select Board Policy #61  
Approved January 6, 2020**

### Vision and Purpose:

The fifteen towns of Barnstable County make up a distinctive region known for its coastlines, historic villages, and environmental resources. It can be challenging to accommodate all users on narrow roadways that follow colonial layouts and are constrained by historic buildings and environmental resources, especially when the volume of users swells during the summer tourist season. Recognizing this context, the town of Brewster's Complete Streets policy aims to make sure that all users and resources are considered when designing roadway improvements, accommodating a variety of users while protecting the elements that are important to both the character and the economy of the town and the region.

Complete Streets are designed and operated to provide safety, comfort, and accessibility for all the users of our roadways, trails, and transit systems, including pedestrians, bicyclists, transit riders, motorists, commercial vehicles, and emergency vehicles. "All users" includes users of all ages, abilities, and income levels. Furthermore, Complete Streets principles contribute toward the safety, health, economic viability, and quality of life in a community by improving the pedestrian and vehicular environments in order to provide safe, accessible, and comfortable means of travel between home, school, work, recreation and retail destinations. Complete Streets also furthers equity objectives by providing safe forms of travel for residents of all income levels.

The purpose of the town of Brewster Complete Streets policy, therefore, is to accommodate all users by creating a context-sensitive roadway network that meets the needs of individuals utilizing a variety of transportation modes. It is the intent of the town of Brewster to formalize the plan, design, operation and maintenance of roadways so that they are safe for all users of all ages and abilities and all income levels as a matter of routine. This Policy directs decision-makers to consistently plan, design, construct, and maintain roadways to accommodate all anticipated users including but not limited to pedestrians, bicyclists, motorists, transit riders and vehicles, emergency vehicles, and freight and commercial vehicles.

### Core Commitment:

The town of Brewster recognizes that users of various modes of transportation, including but not limited to pedestrians, cyclists, transit and school bus riders, motorists, delivery and service personal, freight haulers, and emergency responders, are legitimate users of streets and deserve safe facilities. "All users" includes users of all ages, abilities, and income levels.



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The town of Brewster recognizes that all projects, including new construction, maintenance and reconstruction, are potential opportunities to apply Complete Streets design principles. The town will, to the maximum extent practical, design, construct, maintain and operate all streets to provide for a comprehensive and integrated street network of facilities for people of all ages and abilities.

Complete Streets design recommendations shall be incorporated into all publicly and privately funded projects, as appropriate and practicable. All transportation infrastructure and street design projects requiring funding or approval by the town of Brewster, as well as projects funded by the State and Federal government, including but not limited to Chapter 90 funds, Transportation Improvement Program (TIP), the MassWorks Infrastructure Program, Capital Funding and other state and federal funds for street and infrastructure design shall adhere to the town of Brewster Complete Street Policy. Private developments and related roadway design components that are designed and constructed after adoption of this Policy shall also adhere to the Complete Street principles. In addition, to the extent practical, state-owned roadways will comply with the Complete Streets Policy, including the design, construction and maintenance of such roadways within town boundaries.

Town departments will use best judgment regarding the desirability and feasibility of applying Complete Streets principles for routine roadway maintenance and projects such as repaving, restriping, and so forth.

### Exemptions:

Transportation infrastructure projects, including but not limited to roadway reconstruction, roadway reconfigurations, or subdivisions may be excluded upon approval by the Select Board with consultation from the appropriate town departments where documentation and data indicate that any of the following apply:

- Private ways.
- Roadways where specific users are prohibited by law, such as limited access highways. An effort will be made in these cases for accommodations elsewhere.
- Where it is demonstrated that costs or impacts of accommodation are excessively disproportionate to the need or probable future use.
- Other town policies, regulations or requirements contradict or preclude implementation of Complete Streets principles.



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## Best Practices:

The town of Brewster Complete Streets policy will focus on developing a connected, integrated network that serves all users. Complete Streets will be integrated into policies, planning, and design of all types of public and private projects, including new construction, reconstruction, rehabilitation, repair, and maintenance of transportation facilities on streets and redevelopment projects. As practicable, recommendations from the appropriate town departments for incorporating complete streets elements will occur in projects' beginning stages prior to design.

Implementation of the town of Brewster Complete Streets Policy will be carried out cooperatively within all departments in the town of Brewster with multi-jurisdictional cooperation and, to the greatest extent possible, among private developers and state, regional and federal agencies.

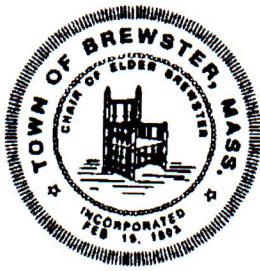
The town of Brewster will work cooperatively with neighboring communities and regional entities in an effort to strengthen regional connectivity options for all users.

Complete Streets principles include the development and implementation of projects in a context-sensitive manner in which project implementation is sensitive to the community's physical, economic, and social setting. The context-sensitive approach to process and design includes a range of goals by giving significant consideration to stakeholder and community values. It includes goals related to livability with greater participation of those affected in order to gain project consensus. The overall goal of this approach is to preserve and enhance scenic, aesthetic, historical, and environmental resources while improving or maintaining safety, mobility, and infrastructure conditions.

The town of Brewster recognizes that "Complete Streets" may be achieved through single elements incorporated into a particular project or incrementally through a series of smaller improvements or maintenance activities over time.

The latest design guidance, standards and recommendations available will be used in the implementation of Complete Streets, including the most up-to-date versions of:

- The Massachusetts Department of Transportation Project Design and Development Guidebook
- American Association of State Highway Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets
- The United States Department of Transportation Federal Highway Administration's Manual on Uniform Traffic Design Controls
- The Architectural Access Board (AAB) 521 CMR Rules and Regulations



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- The Cape Cod Commission's Complete Streets/Living Streets Design Manual
- Cape Cod Metropolitan Planning Organization's Cape Cod Regional Transportation Plan
- Documents and plans created for the town of Brewster, including but not limited to:
  - Local Comprehensive Plan
  - Vision Plan
  - Open Space and Recreation Plan
  - Downtown Improvement or Historic District plans
  - Pavement Management Plan.

The town of Brewster will implement a balanced and flexible approach to Complete Streets implementation that utilizes the latest design guidance, standards and recommendations while providing flexibility to best accommodate all users and modes given the unique characteristics of the surrounding community.

## Evaluation of Effectiveness:

The town will develop performance measures to periodically assess the rate, success, and effectiveness of implementing the Complete Streets Policy. The town will determine the frequency of assessment and utilize appropriate metrics for analyzing the success of this policy. These metrics may include:

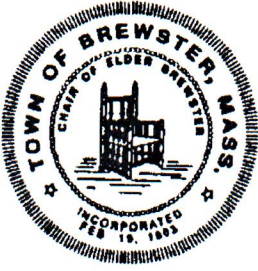
- total miles of new on-street bicycle routes defined by enhanced travel shoulders, lane markings, and/or signage,
- linear feet of new pedestrian accommodation,
- number of new curb ramps or other retrofitted pedestrian facilities,
- increase in the number of users of public transportation,
- decrease in the number of traffic accidents involving vehicles, bicycles and pedestrians in Complete Streets areas.

These metrics will be compiled into a report by the town and presented as needed, but no less than annually, to the Bikeways Committee, All Access Committee, and Select Board.

Implementation strategies will be adjusted as needed based on the findings in these reports.

## Implementation:

The Department of Public Works will be primarily responsible for the implementation of this policy, which shall be done in close coordination with the town's Pavement Management Plan. The town shall make Complete Streets practices a routine part of everyday operations, shall approach every transportation project and program as an opportunity to improve streets and the



# Town of Brewster

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Office of:  
  
Select Board  
Town Administrator

transportation network for all users, and shall work in coordination with other departments, agencies, and jurisdictions to achieve Complete Streets.

The Planning Department shall integrate Complete Streets principles in all new planning documents, as applicable (master plans, open space and recreation plan, etc.), laws, procedures, rules, regulations, guidelines, programs and templates, and make recommendations for zoning and subdivision codes to encourage contextual design of complete streets policies, respecting the presence of important scenic, environmental and historic resources.




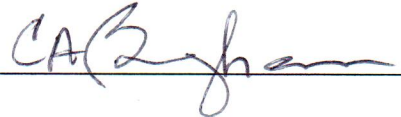
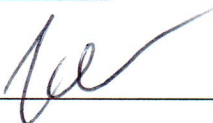
The town shall maintain a comprehensive inventory of pedestrian and bicycle facility infrastructure that will highlight projects that eliminate gaps in the sidewalk and bikeway network.

The town will evaluate projects within the Capital Improvement Plan to encourage implementation of this Policy.

The town will secure training for pertinent town staff and decision-makers on both the technical content of Complete Streets principles and best practices, as well as community engagement methods for implementing the Complete Streets Policy. Training may be accomplished through workshops and other appropriate means.

The town will utilize inter-department coordination to promote the most responsible and efficient use of resources for activities within the public way.

The town will seek out appropriate sources of funding and grants for implementation of Complete Street policies.

  
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Select Board and  
Town Administrator

**SELECT BOARD LIAISON POLICY**

Policy no. 62  
Date adopted: July 6, 2020  
Amended: \_\_\_\_\_

**A. PURPOSE.** Brewster Select Board members act as liaisons to Town boards, committees, and commissions to facilitate effective communication between those groups, the Select Board, and Town administration.

**B. LIAISON ROLE.** A Select Board Liaison will:

1. Establish a working relationship with the chair of each public body to which they are assigned and be available for consultation as needed.
2. Announce board, committee, and commission activities likely to be of interest to the public during "Select Board Announcements and Liaison Reports" at Select Board meetings.
3. Participate in board, committee, and commission meetings when that participation facilitates communication and action, when feasible.
4. Provide guidance to boards, committees, and commissions to facilitate progress on activities.
5. Serve as a resource to their assigned boards, committees, and commissions.
6. Inform the Town Administrator of board, committee, or commission issues and activities that the Town Administrator should be aware of or engaged in.
7. Not be a voting member of the board, committee, or commission unless so specified.
8. Speak as an individual Select Board member when participating in board, committee, or commission meetings, and not representing the voice of the full Select Board.
9. Be included on the meeting agenda distribution list for the public bodies they are assigned to.

**C. APPOINTMENTS.**

1. Following reorganization of Select Board leadership after an annual Town election, the Select Board Chair will make liaison assignments.
2. Select Board members will be invited to request specific assignments and the Chair will accommodate requests where possible.
3. When assignments are made, Select Board members are encouraged to contact the chair of each assigned group to inform that chair of the liaison assignment.

Approved by the Brewster Select Board July 6, 2020

*Mary Chaffee*

\_\_\_\_\_  
Mary Chaffee, Chair

*CABingham*

\_\_\_\_\_  
Cynthia Bingham, Clerk

*Benjamin deRuyter*

\_\_\_\_\_  
Benjamin deRuyter, Vice Chair

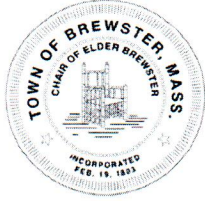
*David Whitney*

\_\_\_\_\_  
David Whitney

*Edward B Chatelain*

\_\_\_\_\_  
Edward Chatelain





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Office of:  
Select Board and  
Town Administrator

## **BREWSTER SELECT BOARD RULES OF ORDER**

Policy No. 63  
Date Adopted: July 6, 2020  
Amended: \_\_\_\_\_

### **A. PURPOSE**

1. The purpose of this policy is to guide how Brewster Select Board meetings are conducted so:
  - i. Meetings are fair and organized,
  - ii. Public engagement is encouraged,
  - iii. Civil discourse is maintained,
  - iv. Meeting participants are aware of how to participate,
  - v. Brewster Town business is conducted efficiently, and
  - vi. The Board complies with legal requirements.

### **B. TRANSPARENCY**

1. The Select Board will promote openness and transparency in government by operating in compliance with Massachusetts Open Meeting Law (M.G.L. ch. 30A, § 18-25).
2. The purpose of the Open Meeting Law is to ensure transparency in deliberations where public policy is developed.
3. Select Board members will familiarize themselves with the Open Meeting Law and will complete all state education and certification requirements.
4. With certain exceptions, all Select Board meetings will be open to the public.

### **C. MEETING AGENDA**

1. The meeting agenda will be developed by the Select Board Chair in consultation with the Town Administrator.
2. The Select Board meeting materials (the "Select Board packet") will generally be distributed, and made available to the public, at least a day prior to the meeting. However, meeting documents may not be available until closer to a meeting. In those cases, the packet is distributed as soon as possible.
3. General order of business (may be adapted at the discretion of the Chair):
  - i. Call to order
  - ii. Declaration of a quorum
  - iii. Meeting participation statement (full remote meetings only)
  - iv. Recording statement
  - v. Pledge of Allegiance (in person meetings)

- vi. Public announcements and comment (Members of the public may address the Select Board on matters not on the meeting's agenda for a maximum 3-5 minutes at the Chair's discretion. Under the Open Meeting Law, the Select Board is unable to reply but may add items presented to a future agenda.)
- vii. Select Board announcements and liaison reports
- viii. Town Administrator's report
- ix. Consent agenda (routine business grouped for a single vote)
- x. Business item #1, #2, and as needed.
- xi. "For your information" items (provided for information only; not for action)
- xii. Matters not reasonably anticipated by the Chair
- xiii. Questions from the media
- xiv. Next meetings
- xv. Adjournment

#### D. NOTICE

1. The agenda, serving as the meeting notice, will be posted at least 48 hours prior to a meeting in compliance with Massachusetts Open Meeting Law.
2. The agenda will include the date, time, and place of the meeting, and it will be marked with the date and time it was posted.
3. The agenda may be revised once posted, with the time and date of the revision noted.
4. Agenda topics will be specific enough that the public can understand the nature of the issues to be discussed and proposed action to be taken.

#### E. MEETING TYPES

1. **Regular:** A meeting occurring on an ongoing basis at a standard date, time, and place.
2. **Special:** A meeting planned with a special focus, e.g., capital planning.
3. **Joint:** A meeting conducted in collaboration with another Town board or committee when a matter of joint jurisdiction or interest is addressed.
4. **Emergency:** A meeting held to address a sudden, generally unexpected occurrence or set of circumstances demanding immediate action that does not permit 48 hours' notice. Notice of an emergency meeting will be posted as soon as reasonably possible prior to the meeting.
5. **Hearing:** A type of public meeting intended primarily to obtain public testimony or comment before significant decisions are made, generally where required by law.

#### F. EXECUTIVE SESSION

1. All meetings will be held in public except for an executive (closed) session.
2. The Select Board will enter into an executive session that is closed to the public when handling subject areas specified in M.G.L. ch. 30A, § 21 of the Open Meeting Law.
3. The Board will begin a meeting in open session before going into executive

session.

4. The Chair must state all the subjects concerning the purpose that can be revealed without compromising the purpose of the executive session.
5. The motion to enter executive session must be reasonably specific.
6. The vote to enter executive session and all votes taken in executive session will be taken by roll call, and the Board will specify whether it will return to open session upon completion of the executive session.

## **G. PUBLIC PARTICIPATION AND HEARINGS**

### **1. Participation:**

- i. Members of the public and media may speak at a regular Select Board meeting at the discretion of the Chair.
- ii. The public may speak during "Public Announcements and Comment" within the time limit set by the Chair.
- iii. Members of the public generally do not speak during other agenda items but may request the Chair provide them permission to speak.

### **2. Public hearings:**

- i. A public hearing is conducted to obtain public testimony before a significant decision is made.
- ii. When the Board convenes a public hearing where a statute entitles the public to be heard, such as for a license application, a member of the public has the right to speak when recognized.
- iii. A public hearing must be held when a statute or local regulation requires.
- iv. The Board may opt to hold a public hearing on a matter where public input is desired.
- v. Relevant testimony by witnesses and exhibits will be allowed.
- vi. Some hearings may require an oath to be taken by a witness; the oath will be administered by the Chair.

## **H. ROLE OF THE CHAIR**

1. **Agenda:** The chair prepares the meeting agenda in consultation with the Town Administrator. Generally, the Chair will honor the request of a member to place an item on the agenda.
2. **Order of agenda items.** The Chair may take items out of order to facilitate the Board's business, except for a public hearing with a specified starting time.
3. **Meetings:** The Chair presides over meetings including calling agenda items, recognizing parties to speak, keeping the meeting moving efficiently, and ensuring all members have a chance to be heard.
4. **Decorum:** The Chair is responsible for preserving decorum at meetings and seeing that all persons and matters are treated fairly.
5. **Inappropriate comments and behavior.**
  - i. The Chair may rule inappropriate comments out of order and issue warnings.
  - ii. If unruly behavior continues, the Board may recess.

- iii. State law permits the Chair to order a person to leave a public meeting for unruly conduct, and if the party does not leave, to order a constable or other officer to remove the party from the meeting (M.G.L. ch. 30A, § 20(f)).
- iv. If all efforts fail to resolve the situation, the Board may adjourn the meeting to another date.

**I. ROLE OF THE VICE CHAIR**

1. In the absence or unavailability of the Chair, the Vice Chair will assume the Chair's duties.

**J. ROLE OF THE CLERK**

1. The Clerk is responsible for reviewing meeting minutes to ensure accuracy prior to the Board's approval, and certain other administrative duties.
2. In the absence or unavailability of the Chair and Vice Chair, the Clerk will assume the Chair's duties.

**K. MEETING MINUTES**

1. The Select Board will record and maintain accurate meeting minutes that set forth the date, time, place, members present or absent, and actions taken.
2. Minutes will contain a summary of the discussions on each subject, a list of all documents and exhibits used at the meeting, and the name of any member who participated remotely.
3. Meeting minutes will be created and approved in a timely manner. Under the Open Meeting Law, a "timely manner" is defined as within the next three public body meetings or 30 days whichever is later unless good cause for delay exists.
4. Members may vote to approve meeting minutes if they participated in the meeting or reviewed the draft minutes or meeting recording.
5. Minutes for executive sessions are maintained separately from open session minutes. Once disclosure would no longer defeat the purpose of the executive session, the minutes should be disclosed unless they fall within an exemption.

**L. REMOTE (VIRTUAL TECHNOLOGY) PARTICIPATION BY AN INDIVIDUAL**

**MEMBER:** During routine business conditions, a member may participate by virtual technology in accordance with Town policy if physical attendance would be unreasonably difficult.

**M. REMOTE (VIRTUAL TECHNOLOGY) PARTICIPATION BY THE FULL BOARD:**

When authorized by the Governor, the full Board may conduct meetings using virtual meeting technology. These meetings will be carried out in compliance with State direction.

**N. CONFLICTS OF INTEREST**

1. Massachusetts conflict of interest law prohibits a Board member from using their official position for any personal benefit for themselves, their family, or

- employer.
2. A member with an actual or potential perceived conflict of interest, should obtain guidance from the Massachusetts Ethics Commission or Town Counsel if needed and take appropriate action. Action may include recusal from deliberations, filing a disclosure of a potential perceived conflict with a statement that the member can perform their duties fairly and objectively, or in rare circumstances, invocation of the rule of necessity.<sup>1</sup>

## O. MEETING RULES OF ORDER

### 1. Sources of Standing Rules

- i. In the Commonwealth, local government meetings may be conducted following Robert's Rules of Order, Bell's Rules, the Massachusetts Municipal Association's Suggested Rules of Parliamentary Procedure, or local rules established through practice and custom.
- ii. The Brewster Select Board will use the following standing rules derived from Robert's Rules, the Massachusetts Municipal Association's Suggested Rules of Parliamentary Procedure, and local custom.

### 2. General Standing Rules (See Appendix A)

- i. **Quorum:** A quorum of three members representing a majority of the Board must be present to conduct business. Fewer than three members may convene solely for the purpose of continuing a meeting to a future date and time certain.
- ii. **Motions:** Any member including the Chair can make a motion, second a motion, speak to a motion, and vote on a motion (presuming there is no conflict of interest).
- iii. **Second:** A second is required for action on a motion to proceed.
- iv. **Discussion/debate:** Once seconded, a motion is open for discussion.
- v. **Recognition by the Chair:** A member must be recognized by the Chair to speak. First-time speakers on a motion should be recognized before those who have already spoken.
- vi. **Amendments:** A motion to amend the main motion must be seconded in order to be discussed. It must then be settled by a vote of the Board before returning to discussion of the main motion.
- vii. **Majority vote:** The Board acts by majority of those present and voting, except where a different quantum of vote is required by law.
- viii. **Ending debate:** Any member may ask to end debate. If seconded the motion to end debate may be debated and must be voted on before returning to the main motion. If the motion to end debate passes, the main motion must then be voted on.
- ix. **Voting by proxy:** Members may not vote by proxy.
- x. **Remote (virtual technology) voting:** When one or more members of the Board are participating by virtual technology, each vote will be a

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<sup>1</sup> Rule of necessity: An elected member ordinarily disqualified by the conflict of interest law from participating in a matter before the board is permitted to participate when legally required and the board could not otherwise act because it does not have a quorum of members available to vote. Available: <https://www.mass.gov/advisory/advisory-05-05-the-rule-of-necessity>

roll call vote.

- xi. **Ties:** If a tie vote results, the motion fails.
- xii. **Suspending the rules:** The Board may vote to suspend the rules.
- xiii. **Mullin Rule:** The Town of Brewster has adopted M.G.L ch. 39, § 23D which allows a member who has missed a single adjudicatory hearing session (e.g., whether to revoke a liquor license) to vote on that matter under the so-called Mullin rule.
- xiv. **Courtesy to the Chair:** Members may state "Through the Chair," when addressing another member or party before the Board but it is not mandatory.

### 3. **Process of Moving a Motion**

- i. **Affirmative Motion.** A member makes, or offers, a motion in the affirmative, e.g., "I move we provide funding for the project" and not "I move we don't provide funding for the project." If the motion is offered in wording that is not clear, it is the duty of the Chair to see the motion is put into a clear form.
- ii. **Second.** Another member seconds the motion. If no member seconds a motion, the Chair must be sure the members heard the request for a second, otherwise, the motion is rejected.
- iii. **Placement before the Board.** The Chair places the motion before the Board (e.g., "The motion has been moved and seconded and is now open to discussion.")
- iv. **Debate.** Members may debate the motion.
- v. **Preparing to vote.** The Chair puts the question to the Board (e.g., "Is the Board ready to vote on the motion?" or "I would entertain a motion.").
- vi. **Conducting the vote.** The Chair shall conduct the vote on a motion by stating words to the effect:
  - 1. "All those in favor say aye (or yes)."
  - 2. "All those opposed say nay (or no)."
  - 3. "Any abstaining."
- vii. **Chair's vote.** The Chair will call for the other Board members' votes prior to voting themselves and is not obligated to vote.
- viii. **Outcome.** The Chair will declare the result of each vote.

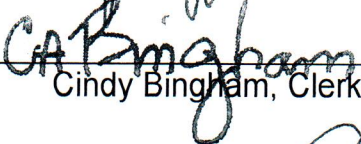
## P. **SELECT BOARD POLICIES**

- 1. As the Town's executive leadership, policies approved by the Brewster Select Board are enacted under a variety of legal authorities contained in state statutes, special laws (special acts), and Town's bylaws.
- 2. When new or revised Select Board policies are adopted, they will be published using a standard template. (See Appendix B)

Approved by the Brewster Select Board on July 6, 2020

  
\_\_\_\_\_  
Mary Chaffee, Chair

\_\_\_\_\_  
Ben deRuyter, Vice Chair

  
\_\_\_\_\_  
Cindy Bingham, Clerk

  
\_\_\_\_\_  
David Whitney

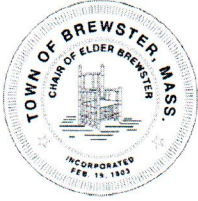
  
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Ned Chaffee

## APPENDIX A: Brewster Select Board Standing Rules for Meeting Motions

Motion	Purpose	Statement (After Recognition by Chair): "Madame/Mister Chair..."	Notes
Adjournment	To end a meeting.	"I move to adjourn."	
Amend a Motion	To change some of the wording of a pending motion.	"I move that the motion be amended by (a) adding _____, (b) striking out _____, or (c) striking out and replacing the following words: _____"	
Amend Something Previously Adopted	To amend a motion made and acted on at a PREVIOUS meeting.	"I move to amend something previously adopted" and describe decision.	For action at a prior meeting; use "Reconsider" for action at current meeting.
Call for Vote	To end discussion.	"I call for a vote" or "I move the question."	
Lay on the Table	To temporarily set aside the pending motion to attend to a pressing matter.	"I move to lay _____ on the table."	
Limit Debate	To wrap up a lengthy debate.	"I move to limit discussion to [e.g., two minutes per speaker or three minutes total]."	
Main Motion	To propose a new idea or action	"I move that _____"	
Parliamentary Inquiry	To determine correct parliamentary procedure.	"Parliamentary inquiry" and ask a question.	
Point of Information	To request information.	"Point of information" and ask a question.	May interrupt speaker.
Point of Order	To make sure proper rule is followed.	"Point of order" and explain circumstance.	May interrupt speaker.
Point of Privilege	To notify the Chair of an issue impeding conduct of the meeting.	"Point of personal privilege" and explain the issue [e.g., "I can't hear the speaker due to noise in the room."]	May interrupt speaker.
Postpone Definitely	To provide additional time to consider a question under discussion by postponing to a definite time or day.	"I move to postpone the question until _____."	
Postpone Indefinitely	To end debate without intention to return to it.	"I move to postpone this motion indefinitely."	
Recess	To briefly interrupt meeting.	"I move to recess for _____ minutes."	
Reconsider	To re-vote an issue previously decided at a meeting underway.	"I move to reconsider our action relative to _____."	For action at current meeting; use "Amend Something Previously Adopted" for action at prior meeting.
Refer	To refer an idea or proposal being discussed that needs more study or investigation.	"I move that the issue be referred to _____ for further study."	May be referred to an individual or group.
Rescind	To repeal previous action.	"I call to rescind the previous vote."	2/3 majority required
Suspend the Rules	To permit action not possible under rules.	"I move to suspend the rules to so we may _____."	
Take up from the Table	To return to consideration of a tabled matter.	"I move to take from the table _____."	
Withdraw a Motion	To withdraw a motion before it is voted on.	"I move to withdraw my motion."	



**APPENDIX B: Template for Brewster Select Board Policies**



**Town of Brewster**  
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Office of:  
Select Board and  
Town Administrator

**TITLE OF POLICY**

Policy no. \_\_\_\_\_  
Date adopted: \_\_\_\_\_  
Amended: \_\_\_\_\_

**A. PURPOSE**

- 1. Purpose of policy.
- 2. Additional purposes if any.

**B. SECTION TITLE**

- 1. Section content.
- 2. Section content as needed.

**C. SECTION TITLE**

- 3. **Subheading Title (if needed)**
  - i. Section content.
  - ii. Continue as needed.
- 4. **Subheading Title (if needed)**
  - i. Section content.
  - ii. Continue as needed.

*[Add sections as needed]*

Approved by the Brewster Select Board on \_\_\_\_\_ [insert date]

\_\_\_\_\_  
[Insert name], Chair

\_\_\_\_\_  
[Insert name], Vice Chair

\_\_\_\_\_  
[Insert name], Clerk

\_\_\_\_\_  
[Insert name]

\_\_\_\_\_  
[Insert name]



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## **SELECT BOARD POLICY FOR FIRST LIGHT BEACH (RESIDENT ONLY)**

Policy no. 64  
Date adopted: 06/13/22

**A. PURPOSE:** The Town of Brewster purchased the Cape Cod Sea Camps Bay parcel in November 2021. In order to allow residents beach access for the 2022 season, the Town has created designated parking for up to 50 residents at the Bay Parcel. This will be the Town's first resident only beach and requires regulations that are specific to the former Cape Cod Sea Camps property. The Select Board has policy making authority over Town beach locations. The Public Beach area includes the beach, parking lot, and adjacent dunes and flats. Further, Town Meeting placed this entire property under the care, custody, and control of the Select Board.

### **B. RULES AND REGULATIONS:**

1. Resident vehicle permits are required for access to resident parking at First Light Beach. Vehicles will enter through the main entrance off Route 6A and stop at the gate house to verify they have a valid resident parking permit. The gate attendant will limit the number of cars that are admitted to the maximum capacity of the new parking lot. Once the lot has reached capacity, additional vehicles will not be admitted and temporary signage to notify residents will be posted on Route 6A. The lot will reopen at the discretion of the gate attendant (ie. not one-for-one).
2. Parking is allowed in designated spaces only with valid resident permit. Vehicles must use the designated entrance and exit ways to enter and exit the beach. Vehicles are not permitted to park in any location other than the designated beach parking lot. Parking is only permitted in marked spaces. Parking is prohibited from blocking entrances to beach, walkways to beach, and emergency access, including on or adjacent to the access roads.
3. The beach and parking area will be open from 8am to 8pm. No new vehicles will be allowed into the property after 6pm. Vehicles that remain in the parking lot after 8pm will be towed at owner's expense.

4. Visitors are allowed to enter the property on foot or by bicycle and should check in at the gate house. All visitors must exit the property by 8pm. Pedestrian and/or bicycle entry may be restricted by appropriate Town Agents as needed.
5. The entire parcel is not open for public use at this time. Accessing and/or using the property, other than the beach and related facilities, is prohibited. Exemptions to these parking and access restrictions apply to special events hosted by the Town.
6. Spruce Hill access: Visitors accessing First Light Beach from Spruce Hill must have a valid parking permit and must park in a designated space. These visitors must use the existing path at Spruce Hill to access the beach.
7. The Natural Resources Department shall manage kayak racks at First Light Beach in a manner consistent with existing Town-wide regulations.
8. THERE IS NO LIFEGUARD ON DUTY, SWIM AT YOUR OWN RISK. Please supervise children at all times within the public beach area, including in the water and on the flats.
9. Please keep off dune areas. These are areas which are subject to erosion from wind, water or traffic. Do not pick or disturb Sea Lavender, Beach Grass or other vegetation. Be aware of poison ivy, which is abundant. No feeding of waterfowl is allowed.
10. Per Board of Health Regulation, Smoking is prohibited on all public bathing beaches, Town owned parks, playgrounds, playing fields and walking trails.
11. Per Board of Health Regulation, Animals and/or pets are not permitted at public ponds, landings beaches and tidal flats and the associated parking areas, or in unattended vehicles from May 15 to September 15. At all other times, owners are responsible for keeping pets leashed and for the removal of animal waste.
12. The possession and/or consumption of alcoholic beverages is prohibited on Town property. It is unlawful for any person to consume alcoholic beverages on public highways or in public parking places, including vehicles thereon, within the Town of Brewster.
13. Littering is prohibited. All refuse and recycling must be placed in a rubbish or recycling container. Please separate your refuse recycling into the provided appropriate containers. Glass containers are not allowed on beaches. Household refuse may not be disposed of in beach refuse or recycling containers.

14. No person shall disturb the peace and tranquility of others. No lewd, obscene, profane, or indecent acts or language or excessive noise are permitted on Town property.
15. The damaging, defacing, or removing of any building, structure, or sign on Town property is not allowed. Violators will be prosecuted.
16. Selling, advertising, or giving away of goods or services on Town property is not allowed, except with written permission from the Select Board.
17. Tents, travel trailers, campers or other recreational vehicles are not allowed overnight on Town property. Vehicles over 22 ft are not permitted. Vehicles must fit within the painted lines.
18. Use of open fires or the use of fireworks is prohibited at all times, per the Fire Department.
19. Access to Town owned beach parking areas may be restricted at the discretion of the appropriate Town Agents at any time.

Approved by the Brewster Select Board:

*David Whitney*

\_\_\_\_\_  
Dave Whitney, Chair

*Kari A. Hoffmann*

\_\_\_\_\_  
Kari Hoffmann, Clerk

*Edward B Chatelain*

\_\_\_\_\_  
Ned Chatelain, Vice Chair

\_\_\_\_\_  
Mary Chaffee

*CA Bingham*

\_\_\_\_\_  
Cynthia Bingham



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Email: [townmanager@brewster-ma.gov](mailto:townmanager@brewster-ma.gov)

Office of:  
Select Board  
Town Manager

**SELECT BOARD POLICY FOR BREWSTER COMMUNITY POOL (RESIDENT ONLY)**

Policy no. 65  
Date adopted: 4/03/23

**A. PURPOSE:**

The Town of Brewster purchased the former Cape Cod Sea Camps Bay parcel in November 2021 and the Community Pool opened to Brewster residents in the summer of 2023. This is the Town's first resident only pool and requires regulations that are specific to this property and the pool facilities. The Select Board has policy making authority over this Town location. The pool area includes the pool, parking lot(s), pavilion, bathrooms, and changing area.

**B. RULES AND REGULATIONS:**

1. Resident vehicle beach permits are required for access to resident parking at the pool. Vehicles will enter through the main entrance off Route 6A and stop at the gate house to verify they have a valid resident parking permit. Visitors are allowed to enter the property on foot or by bicycle and should check in at the gate house. Town staff may restrict foot and/or bicycle entry as needed.
2. Parking is allowed in designated spaces only with valid resident beach parking permit. Vehicles must use the designated entrance and exit ways to enter and exit the pool. Parking is only permitted in marked spaces next to the basketball court or in front of the administrative building. Parking is prohibited from blocking entrances to pool, walkways to pool, and emergency access, including on or adjacent to the access roads. The pool and parking area will be open from 7am to 6pm.
3. Resident must show their pool pass to the pool attendant in order enter the pool area. The pool attendant will check pool passes and will count the number of people that are admitted. When pool capacity has been reached, a sign will be posted at the gate house.

4. Visitors that are using the pool can also use the adjacent basketball court.
5. There are two bathrooms as well as an ADA porta-potty on site. A changing area with multiple changing stations is located on site.
6. Per Board of Health Regulation, smoking is prohibited on all public bathing beaches, Town owned parks, playgrounds, pool, playing fields and walking trails.
7. Pets are not allowed at the Community pool with the exception of service animals.
8. No food will be allowed into the pool area, only outside the fenced area and in the pavilion.
9. The possession and/or consumption of alcoholic beverages is prohibited on Town property.
10. Littering is prohibited. All refuse and recycling must be placed in a rubbish or recycling container. Please separate your refuse recycling into the provided appropriate containers. Glass containers are not allowed in the pool area. Household refuse may not be disposed of in pool refuse or recycling containers.
11. No person shall disturb the peace and tranquility of others. No lewd, obscene, profane, or indecent acts or language or excessive noise are permitted on Town property. No persons will be allowed to play music on devices such as tablets, phones or portable speakers.
12. The damaging, defacing, or removing of any building, structure, or sign on Town property is not allowed. Violators will be prosecuted.
13. Selling, advertising, or giving away of goods or services on Town property is not allowed, except with written permission from the Town Manager.
14. Tents, travel trailers, campers or other recreational vehicles are not allowed overnight on Town property. Vehicles over 22 ft are not permitted. Vehicles must fit within the painted lines.
15. Access to Town owned pool parking areas may be restricted at the discretion of the appropriate Town staff at any time.

***\*Brewster Recreation has Community pool rules and regulations that will be posted on site and may be amended periodically.***

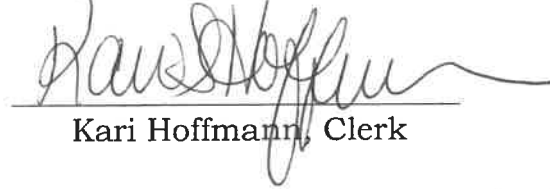
Approved by the Brewster Select Board on:



Dave Whitney, Chair



Ned Chatelain, Vice Chair



Kari Hoffmann, Clerk



Mary Chaffee



Cynthia Bingham