

1 **DRAFT Proposed Stormwater Management Bylaw for the**  
2 **Town of Brewster, Massachusetts**  
3 Last revised November 18, 2015  
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6 Chapter 272, **STORMWATER MANAGEMENT BYLAW**

7 § 272-1. **Purpose**

8 The purpose of this Bylaw is to establish minimum stormwater management requirements and  
9 procedures in order to minimize damage to public and private property and infrastructure;  
10 safeguard the public health, safety, environment and general welfare; protect aquatic resources  
11 and wildlife habitat; and conserve groundwater supplies. This Bylaw seeks to meet that purpose  
12 through the following objectives:

- 13 A. Establish decision-making processes surrounding land development and  
14 redevelopment that protect watershed integrity and preserve and/or restore the health  
15 of local water resources, such as Pleasant Bay, tributaries from Namskaket Marsh to  
16 Quivett Creek Cape Cod Bay, freshwater ponds, streams, and groundwater that is  
17 Brewster’s sole source drinking water supply.
- 18 B. Ensure that new development and other land alterations maintain pre-development  
19 runoff characteristics in order to maintain aquatic habitats and prevent flooding,  
20 channel erosion, sedimentation, water quality degradation, a decrease in stormwater  
21 recharge, and property damage.
- 22 C. Improve stormwater management from redevelopment and road repaving in areas of  
23 existing development.
- 24 D. Promote the use of Low Impact Development (LID) approaches, such as reducing  
25 impervious cover, maintaining natural hydrology, preserving open space, and  
26 rainwater reuse.
- 27 E. Establish minimum construction and post-construction stormwater management  
28 standards and design criteria to control stormwater runoff quantity and quality.
- 29 F. Ensure that during construction soil erosion and sediment control measures are  
30 incorporated into the site design process and are implemented and maintained through  
31 the establishment of permanent erosion control measures.
- 32 G. Ensure the long-term function and safety of post-construction stormwater practices.
- 33 H. Establish administrative procedures for: the submission, review, and approval or  
34 disapproval of stormwater management plans; the inspection of approved active  
35 projects; and post construction follow up.
- 36 I. Ensure compliance with requirements of the National Pollutant Discharge  
37 Elimination System (NPDES) General Permit for Stormwater Discharges from Small  
38 Municipal Separate Storm Sewer Systems (MS4) and other applicable State and  
39 Federal mandates.
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§ 272-2. **Authority**

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, pursuant to the Regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Brewster at the 2016 Annual Town Meeting and as amended.

§ 272-3. **Definitions**

The following terms are defined for the purposes of this Bylaw:

**ACRONYMS:**

- LID – Low Impact Development
- MS4 – Municipal Separate Storm Sewer System
- MSWMS – Massachusetts Stormwater Management Standards
- NPDES -- National Pollutant Discharge Elimination System
- SMP – Stormwater Management Permit

**DISCONNECTION:** The redirecting of stormwater runoff away from a drainage system into a pervious area of stormwater management. An example would be putting downspouts into dry wells, or having downspouts drain to a rain garden.

**DIRECT DISCHARGE:** Any pipe, open channel, or concentrated flow path where stormwater runoff is conveyed directly to a waterbody without prior stormwater treatment or volume reduction.

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

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

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

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

- 1 MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS (MSWMS): The latest  
2 version as may be amended of the Stormwater Management Standards and accompanying  
3 Stormwater Handbook issued by the Massachusetts Department of Environmental Protection  
4 pursuant to authority under the Wetlands Protection Act, M.G.L. c.131, §40, and the  
5 Massachusetts Clean Waters Act, M.G.L. c.21, §§26-53. The Stormwater Management  
6 Standards are incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k)  
7 and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a).
- 8 MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM  
9 DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying  
10 stormwater, including, without limitation, any road with a drainage system, street, gutter, curb,  
11 inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or  
12 altered drainage channel, and other drainage structure that together comprise the storm drainage  
13 system owned or operated by the Town of Brewster.
- 14 NEW DEVELOPMENT: Any construction or land disturbance on a lot, or portion of a lot, or  
15 linear right-of-way or easement that is currently in a vegetated state.
- 16 PRE-DEVELOPMENT: The conditions that exist prior to the proposed development. Where  
17 phased development or plan approval occurs (e.g., preliminary grading, roads, and utilities, etc.),  
18 the existing conditions at the time prior to the first plan submission shall establish pre-  
19 development conditions.
- 20 POST-CONSTRUCTION or POST-DEVELOPMENT: The conditions expected to exist after  
21 completion of the proposed development activity in accordance with approved plans on a  
22 specific site or tract of land, and does not refer to or include the construction phase of a project.
- 23 PROJECT AREA: The portion of a parcel of land being developed or redeveloped.
- 24 RECHARGE: The replenishment of groundwater reserves.
- 25 REDEVELOPMENT: Any construction, alteration, improvement, repaving, or resurfacing on a  
26 site that contains impervious cover, provided the activity does not increase net impervious cover.  
27 Portions of a project that increase impervious cover will be treated as new development.
- 28 REVIEW/REVIEWING BOARD: The Planning Board and/or the Conservation Commission of  
29 the Town of Brewster.
- 30 ROAD IMPROVEMENTS: For the purposes of this bylaw, work on existing roads that trigger  
31 stormwater management compliance include resurfacing projects when the sub-base is  
32 intersected, the road is being widened, or when the project includes direct drainage to a beach,  
33 pond, tributary or wetland. Re-grading of unpaved roads does not trigger compliance with  
34 stormwater standards unless the road is being widened, or if it includes a direct discharge to a  
35 beach, pond, tributary or wetland.
- 36 SITE: The entire parcel of land being developed or redeveloped.

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

4 STORMWATER MANAGEMENT PERMIT (SMP): A permit issued by the Reviewing Board  
5 after review of an application, plans, calculations, and other supporting documents.

6 STORMWATER RUNOFF: Rainfall or snowmelt water flowing over the ground surface or  
7 other surface (e.g., rooftop).

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

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14 § 272-4. **Administration**

15 A. For residential projects not requiring an SMP, but subject to the requirements of this  
16 bylaw, Stormwater measures shall be evaluated as part of the Building Permit  
17 process.

18 B. The Planning Board and Conservation Commission (Review Board) shall be the  
19 permit granting authorities for this Bylaw. Any powers granted to, or duties imposed  
20 upon, the Review Board may be delegated in writing by the Review Board to any  
21 Town employee, board, commission, committee or agent, hereby known as the  
22 "Reviewing Agent."

23 C. The Review Board or its Reviewing Agent shall take any of the following actions as a  
24 result of an application for a Stormwater Management Permit (SMP) as specifically  
25 defined within the Stormwater Management Regulations promulgated as a result of  
26 this Bylaw: Approval, Approval with Conditions, or Disapproval.

27 D. A decision of the Review Board or its Reviewing Agent shall be final. Further relief  
28 of a decision by the Review Board or its Reviewing Agent made under this Bylaw  
29 shall be appealed to the Superior Court, in accordance with M.G.L. Ch 249 §4.

30 § 272-5. **Regulations**

31 A. The Planning Board may adopt, and periodically amend, Regulations relating to the  
32 terms, conditions, definitions, enforcement, fees (including application, inspection,  
33 and/or consultant fees), procedures and administration of this Stormwater  
34 Management Bylaw by majority vote of the Planning Board, after conducting a  
35 minimum of two (2) advertised public hearings to receive comments on any proposed  
36 revisions. Should the Planning Board fail to create and disseminate such Regulations  
37 or a court of competent jurisdiction invalidates the Regulations by legal declaration,  
38 this Bylaw shall not be suspended or invalidated.

39 B. The Planning Board will utilize, at a minimum, the policy, criteria, and standards of  
40 the most recent version of DEP's Massachusetts Stormwater Management Standards

1 (MSWMS) and the Town's approved MS4 Permit through EPA Region 1 for  
2 execution of the provisions of this Bylaw, except where the Town of Brewster  
3 specifies more stringent standards.

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5 **§ 272-6. Applicability**

- 6 A. A SMP shall be obtained for all activities, new development, and redevelopment  
7 projects disturbing 2,500 square feet or more of land that has the potential to alter the  
8 quantity or quality of stormwater runoff, except for single and two-family residential  
9 projects or exempt activities pursuant to § 272-6.D of this Bylaw.
- 10 B. The following road improvement projects disturbing 2,500 square feet or more of  
11 land are required to comply with stormwater regulations:
- 12 (a) Projects where the sub-base is intersected during resurfacing of paved roads;
  - 13 (b) When paved or unpaved roads are being widened; or
  - 14 (c) When the project includes a direct discharge to a beach, pond, tributary or  
15 wetland.
- 16 C. A Building Permit or approval from the Building Inspector documenting stormwater  
17 control measures shall be obtained for construction, renovation, or modification of a  
18 single or two-family dwelling and associated accessory structures disturbing 2,500  
19 square feet or more of land.
- 20 D. Exemptions
- 21 1. Normal maintenance and improvement of land in agricultural use as defined by  
22 the Wetlands Protection Act regulation 310 CMR 10.04 and MGL Chapter 40A  
23 Section 3 Zoning Act.
  - 24 2. Emergency repairs to existing utilities.
  - 25 3. Emergency repairs to existing roads or their drainage systems, or to any  
26 stormwater management facility that poses a threat to public health or safety or as  
27 deemed necessary by the Planning Board, Board of Health, Conservation  
28 Commission, or Department of Public Works.
  - 29 4. Any projects subject to review by the Planning Board and/or the Conservation  
30 Commission for which all necessary approvals and permits have been issued  
31 before the effective date of this Bylaw and/or applications have been filed with  
32 the respective entities within ninety (90) days of the effective date of this Bylaw.  
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34 **§ 272-7. Procedures**

35 Permit Procedures and Requirements shall be defined and included as part of any Regulations  
36 promulgated under § 272-5 of this Bylaw.

37 **§ 272-8. Performance Standards**

- 38 A. The Stormwater Management Standards shall be defined and included as part of any  
39 Regulations promulgated under § 272-5 of this Bylaw.

- 1 B. Applicable single or two-family residential activities are not required to obtain a  
2 SMP, but will be required to provide erosion and sediment control during  
3 construction and to minimize off-site stormwater runoff through disconnection, dry  
4 wells, rain gardens, cisterns, or other residential on-site stormwater measures as part  
5 of the process of obtaining a building permit.

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7 **§ 272-9. Waivers**

- 8 A. The Review Board may in its discretion, and after due consideration, decide to waive  
9 and exempt strict compliance with any requirement of this Bylaw or the Regulations  
10 promulgated hereunder, where it makes a written finding that such action is:

- 11 1. Allowed by federal, state and local statutes and/or regulations;  
12 2. In the public interest; and  
13 3. Consistent with the purpose and intent of this Bylaw under § 272-5.

- 14 B. Criteria for granting a waiver shall be defined and included as part of the Regulations  
15 promulgated under § 272-5 of this Bylaw.

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17 **§ 272-10. Stormwater Management**

18 Under certain circumstances where on-site options for stormwater management are limited, or  
19 where off-site options provide better protection, the Review Board may allow the applicant to  
20 implement off-site stormwater management. This may be allowed only where a net public  
21 benefit is clearly demonstrated and documented by meeting or exceeding the purpose and intent  
22 of this Bylaw.

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24 **§ 272-11. Enforcement**

25 Where the Planning Board is the permit issuing authority, the Building Commissioner shall  
26 enforce this Bylaw, Regulations, orders, violation notices, and enforcement orders, and may  
27 pursue all civil and criminal remedies for such violations. The Conservation Commission shall  
28 enforce permits issued under their authority. Enforcement shall be further defined and included  
29 as part of any Regulations promulgated under § 272-5 of this Bylaw.

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31 **§ 272-12. Severability**

- 32 A. The invalidity, unconstitutionality or illegality of any provision of this Bylaw shall  
33 have not any effect upon the validity, constitutionality or legality of any other  
34 provision.  
35 B. This Bylaw shall not interfere with or annul any other bylaw, rule, regulation or  
36 permit when the aforementioned specifically states that it is controlling. However,  
37 when any other bylaw, rule, regulation or permit does not specifically state that it is  
38 controlling, the Stormwater Management Bylaw, if more stringent, shall govern.