



Town of Brewster Chapter 40B Housing Production Plan

January 2017

Supported by a District Local Technical Assistance (DLTA) grant from the Cape Cod Commission to the Town of Brewster

Brewster Housing Production Plan

2017-2021

Table of Contents

1. Introduction.....	1
2. Housing Needs	5
Key Findings	5
Demographic Profile	7
Housing Characteristics & Trends	16
Housing Affordability	26
Development Constraints & Barriers.....	27
3. Housing Goals	57
4. Implementation Strategies	61
Regulatory Reform	65
Funding and Assets.....	66
Education and Advocacy Strategies	69
Local Policy and Planning Strategies.....	70
Appendix A: Glossary	73
Appendix X. “Safe Harbor” Status through Housing Plan Certification	81
Appendix X. Affirmative Fair Housing Marketing Plan Requirements.....	83
Appendix X. Town of Amherst: Tax Incentive Legislation for Affordable Housing	89
Appendix X. Town of Provincetown: Rental Housing Fund	91
Appendix H. Town of Provincetown: Tax Exemptions for Affordable Housing	95

List of Tables

Table 2.1. Population by Age	8
Table 2.2. Population by Race & Ethnicity	8
Table 2.3. Educational Attainment for Population 25 Years and Older.....	11
Table 2.4. Household Type	12
Table 2.5. Families by Household Size	12
Table 2.6. Household Type: By Household Size: Nonfamily	14
Table 2.7. Household Income	14
Table 2.8. Units in Structure.....	18
Table 2.9. Occupied Housing Value	19
Table 2.10. Contract Rent.....	22
Table 2.11. Brewster Subsidized Housing Inventory	25
Table 2.12. Low & Moderate Income Limits and Affordable Housing Costs.....	26
Table 2.13. Low- and Moderate-Income Households and Housing Cost Burden	27
Table 3.1. Five-Year Brewster Housing Production Targets	59



1. Introduction

The Town of Brewster is located within what is commonly referred to as Lower Cape Cod. Bordered to the north by Cape Cod Bay, to the east by the Town of Orleans, to the west by the Town of Dennis and to the south by the Town of Harwich, Brewster consists of about 22.5 square miles of land. It is a very pretty town with distinctive New England architecture and abundant open space. As characterized in its 2013 *Open Space and Recreation Plan*, Brewster's greatest assets are its rural character, beaches, the Cape Cod Bay, Route 6A, open space, and ponds.

Many of the conditions that existed when Brewster prepared its last Housing Production Plan (2009) remain true today. Since this plan updates and builds upon the 2009 plan, it makes sense to take a look back at where the Town was seven years ago and what, if anything, has substantively changed. In 2009, the "Great Recession" had caused a perceptible slowdown in housing production and housing sales, and while New England's housing market may not have been affected as badly as in other parts of the United States, the crisis had taken a toll. Nevertheless, even as the market in many parts of the region has improved if not recovered, the description of Brewster in 2009 is not much different than it is today.

- **Preserved Open Space.** More than one-third of Brewster's land has been reserved for conservation, watershed protection, open space, and recreational purposes. The achievements of the Town and open space organizations have a lot to do with Brewster's beauty and environmental quality, yet the same achievements contribute to the shortage and cost of housing.
- **Housing Growth and Density.** Cape Cod has continued to grow, but much of the housing growth occurring here is a direct response to seasonal and vacation housing demand.
- **The Seasonal Housing Market.** About 43 percent of Brewster's housing stock is occupied intermittently by seasonal or occasional residents as compared to 36 percent for Barnstable County as a whole.¹ In the summer, Brewster's resident population increases dramatically, and this puts substantial pressure on Town services and the long-term, permanent population. Local estimates indicate that the total number of visitors is approximately 30,000. This

¹ Cape Cod Commission, Barnstable Area Regional Trends (BART): *Seasonal Homes on the Cape*.

temporary population, however, has bolstered the local economy and employment has increasingly focused on servicing these temporary residents.

Seasonal workers have also encountered significant challenges finding decent and affordable housing in Brewster and throughout the Cape and Islands. Together, seasonal workers, vacationers, and year-round residents compete for the inadequate supply of affordable housing that exists in Brewster.

- **Older Population.** Brewster’s population is older, with a median age of 54.7 years as opposed to 50.8 and 39.1 years for the County and state, respectively.

WHY PREPARE THIS PLAN?

The main purpose of a Housing Production Plan is to help a community make steady progress toward the 10 percent statutory minimum. In doing so, the HPP creates an opportunity to:

- Assess demographic and housing data;
- Identify local housing needs;
- Recognize a community’s ongoing efforts;
- Identify housing development barriers;
- Identify specific locations and sites that meet sustainability criteria for affordable and mixed-income housing development; and
- Potentially guide future mixed-income housing development to optimal sites and locations.

With a DHCD approved HPP in place, Brewster may be in the best possible position to manage the flow of new Chapter 40B proposals.

- **What Makes Affordable Units “Count” on the Chapter 40B Subsidized Housing Inventory (SHI)? Units must be:**
 - Affordable to households with incomes at or below 80 percent of the Area Median Income. For Brewster, this means the Barnstable County HUD FMR Area.
 - Approved by a housing subsidy agency as eligible for a comprehensive permit or as “Local Action Units” (developed without a comprehensive permit).
 - Protected by a long-term affordable housing restriction; **and**
 - Marketed and sold or rented under a DHCD compliant Affirmative Fair Housing Marketing Plan (AFHMP). (See Appendix X for minimum AFHMP requirements).

PUBLIC PARTICIPATION

As part of the overall HPP, the Town included a public engagement process to bring in diverse opinions on the production and retention of affordable housing in Brewster. Public workshops were designed to be interactive and allow community members the opportunity to interact with each other and the consultant team to help inform the process. Input provided by participants in these workshops has been used to direct the plan in several key ways. Brewster's HPP has benefited from thoughtful input from the Housing Partnership, Community Preservation Committee, and other town officials, and interested residents who participated in community workshops on November 2 and November 19, 2016.



Brewster residents gather for the second of two community meetings for the Housing Production Plan (November 19, 2016).

ABOUT THE USE OF DATA

Information for the Brewster Housing Production Plan comes from a variety of sources, including the Town, previous plans and studies, the Cape Cod Commission, state agencies, proprietary data, the U.S. Department of Housing and Urban Development, and Bureau of the Census. Since "the Census" encompasses different surveys and datasets, information has been drawn from the following census products:

- The Census of Population and Housing (decennial census): mainly Census 2000 and Census 2010, though some tables and charts in the plan draw from much earlier decades.

- The American Community Survey (ACS). This Census Bureau program provides demographic and housing estimates for large and small geographic areas every year. Although the estimates are based on a small population sample, a new survey is collected each month, and the results are aggregated to provide a similar, “rolling” dataset on a wide variety of topics. In most cases, data labeled “ACS” in this plan are taken from the most recent five-year tabulation: 2010-2014 inclusive. Note: population and household estimates from the ACS may not align as well as one would like with local census data collected by the Town. However, to allow for a consistent basis of comparison between Brewster and other communities, this HPP relies on ACS estimates.
- HUD Consolidated Planning/Comprehensive Housing Affordability Strategy (CHAS) Data. Created through a combined effort of the U.S. Department of Housing and Urban Development (HUD) and the Census Bureau, this dataset is a “special tabulation” of ACS. According to the HUD guidance, “these special tabulation data provide counts of the numbers of households that fit certain combinations of HUD-specified criteria such as housing needs, HUD-defined income limits (primarily 30, 50, and 80 percent of median income) and household types of particular interest to planners and policy-makers.” The most recent CHAS Data are based on the ACS 2008-2012 estimates.

This plan has benefited immeasurably from local knowledge shared by many residents, representatives of housing and social service organizations, clergy, Town committees and departments, and others who participated in small-group interviews.



2. Housing Needs

KEY FINDINGS

POPULATION AND HOUSEHOLD TRENDS

- Between 1970 and 2000, Brewster's population increased by more than four-fold.
- According to population projections provided by the Donohue Institute, by 2035 Brewster's population could decline to 7,888 from an existing population of 9,858.
- The population of older individuals is growing in Brewster, while the population of young individuals between the ages of 25 and 44 is shrinking.
- Brewster's population is predominantly white, with a small percentage of residents identifying as African American or Two or More Races.
- The median household income for Brewster is \$66,306 which is less than the state median, but greater than that of the Lower Cape overall.
- Nearly 58 percent of the housing stock was built after 1980, indicating that Brewster's housing inventory is fairly young.
- Approximately 8 percent of Brewster households live below the poverty line.

HOUSING MARKET AND AFFORDABILITY

- Town-wide, Brewster's median single family sales price in 2015 was \$389,750, and the median condominium sales price, \$201,500.
- As a seasonal destination for tourists, Brewster has a large percentage of seasonal housing. The Census Bureau classifies nearly 44 percent of all housing units in Brewster as vacant most of the year and held for seasonal or recreational use.

- According to the Massachusetts Department of Housing and Community Development (DHCD), Brewster has 250 affordable housing units on the state's Subsidized Housing Inventory (SHI), or 5.2 percent of the town's year-round housing supply.
- The foreclosure ratio has declined in the past six years. Shortly after the financial crisis, the foreclosure ratio in Brewster ran as high as 24 percent in 2010, but it had fallen to 8 percent in 2015.²

PRIORITY AFFORDABLE HOUSING NEEDS

- **Low-Income Rental Housing for Families.** The renters with the most severe housing cost burdens in Brewster and the surrounding towns are small families with very low incomes and larger families with low incomes. Brewster's SHI currently includes very few apartments for families, which helps to explain the large percentages of cost-burdened families reported in the housing needs assessment. Deeply subsidized multi-family garden-style units would help to address the needs of small family households, and townhouse-style units or single-family homes would provide suitable housing for larger families. The Town could use CPA funds and other sources to purchase existing single-family homes for management by the Brewster Housing Authority (which is overseen administratively by the Mashpee Housing Authority).
- **Rental Housing for Single People.** There are local and regional needs on Cape Cod for studio units and single-room occupancy (SRO) units for single people with low and extremely low incomes. Brewster has twelve units of group home housing for adults with severe disabilities, and some of the public housing units owned by the Brewster Housing Authority can be leased to people with disabilities who can live independently. However, there is limited rental housing appropriate for single people without disabilities. Populations served by very small, affordable units range from young citizens entering the workforce to divorced or separated individuals with limited means, very-low-income women who formerly qualified as displaced homemakers and are now living alone, and very-low-income seniors. Low-income one-person households have the second highest incidence of housing cost burdens in Brewster. DHCD made a similar finding about single, low-income renter households throughout the state in the most recent Five-Year Consolidated Plan.
- **Subsidized Rental Housing for the Elderly.** There is a two- to four-year waiting list for senior apartments owned by the Brewster Housing Authority. The existing senior housing has helped to reduce housing cost burdens for elderly renters. As Brewster's population continues to age, however, growth in demand for affordably priced apartments will place further stress on the small inventory of elderly housing. In fact, Brewster already needs more deeply subsidized apartments for seniors because the incidence of housing cost burdens among elderly homeowners is very high (47 percent).
- **Acquisition and Rehabilitation of Substandard Housing.** Brewster has some older, small houses that could be acquired as they come on the market and turned into affordable units. They are the same homes that traditionally gave young couples an affordable path to

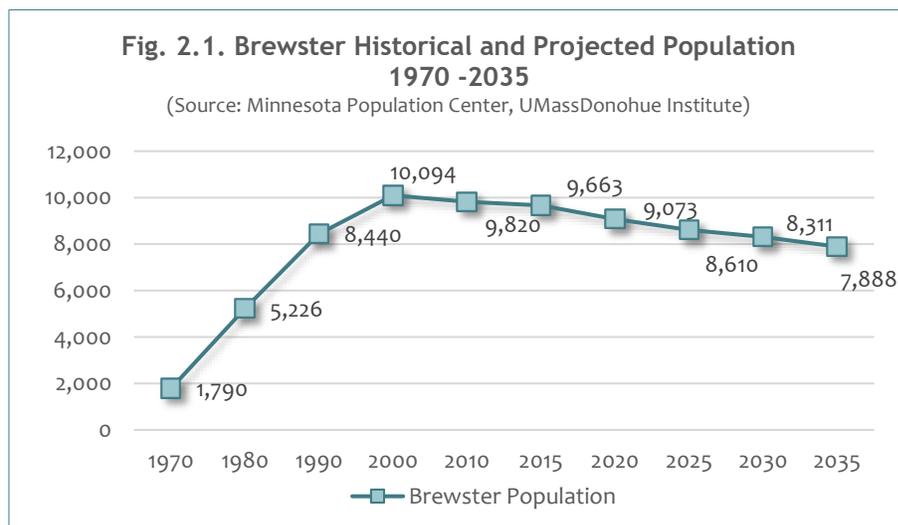
² Town Stats, The Warren Group.

homeownership. Acquiring and rehabilitating some of these dwellings and reselling them as shared equity homeownership units can give Brewster a relatively low-impact strategy for creating more SHI-eligible units.

DEMOGRAPHIC PROFILE

POPULATION TRENDS

Brewster experienced tremendous growth between 1970 and the year 2000. The year-round population grew by nearly 464 percent, surging from 1,790 residents to 10,094. The population peaked in 2000 and has steadily declined since then. Figure 2.1 illustrates Brewster's population trends. According to the American Community Survey (ACS), Brewster's present population is 9,858. Brewster is expected to continue its slow decline in population, falling to an estimated 7,888 people by 2035 (a 20 percent decrease).³



POPULATION AGE

Brewster experienced significant change in population age groups between ACS periods 2005-2009 and 2010-2014. The most striking change occurred in the population between 35 and 44 years, which declined 26 percent. Currently, 9 percent of the population falls within the 35 to 44 age group, as compared to 9 percent across the Lower Cape, and 13 percent in statewide. There also was a drastic decline in the population between 25 and 34 years, an age group that experienced a 24 percent decrease between ACS periods 2005-2009 and 2010-2014. At present, this group accounts for 5 percent of the total population, while state-wide the same age group accounts for

³ Minnesota Population Center. National Historical Geographic Information System: Version 2.0. Minneapolis, MN: University of Minnesota (2011); UMass Donohue Institute Population Projections Program, Massachusetts Population Projections 2010 to 2035; U.S. Department of Commerce, Bureau of the Census, "Total Population," B01003; and American Community Survey (ACS) Five-Year Estimates 2010-2014.

13 percent of the population.⁴ This illustrates the lack of young people living in Brewster today, as shown in Table 2.1.

TABLE 2.1. POPULATION BY AGE

	Brewster	Lower Cape	Massachusetts
Total Population	9,858	28,192	6,657,291
0 to 19 years	18%	17%	24%
20 to 24 years	5%	5%	7%
25 to 34 years	5%	6%	13%
35 to 44 years	9%	9%	13%
45 to 54 years	14%	14%	15%
55 to 64 years	20%	18%	13%
65+ years	29%	30%	14%

Source: ACS 2010-2014, B-1001, "Sex by Age", and RKG Associates, Inc.

Seniors include people 65 years and older. They are a growing population in Brewster and most communities on Cape Cod. Between the ACS periods of 2005-2009 and 2010-2014, the rate of growth for this demographic was 9 percent, and today, the senior population accounts for 29 about percent of the total year-round population in Brewster. Across the Lower Cape, the senior population accounts for 30 percent, while for the state it accounts for 14 percent of the total. Both Brewster and the Lower Cape in general have a significant and growing senior population.⁵

RACE, ETHNICITY, AND CULTURE

Brewster has limited racial and ethnic diversity, and the minority population appears to be decreasing. According to the Census Bureau, the minority population in Brewster declined 49 percent between ACS periods of 2005-2009 and 2010-2014. Presently, the town is 98 percent White. Among the racial groups present in town, 1 percent of the population is Black and 1 percent identifies as two or more races. The Lower Cape is slightly more racially diverse, with 95 percent of the population identifying as White, but the state is significantly more diverse, with a 20 percent minority population.⁶ (Map 2.1)

TABLE 2.2. POPULATION BY RACE & ETHNICITY

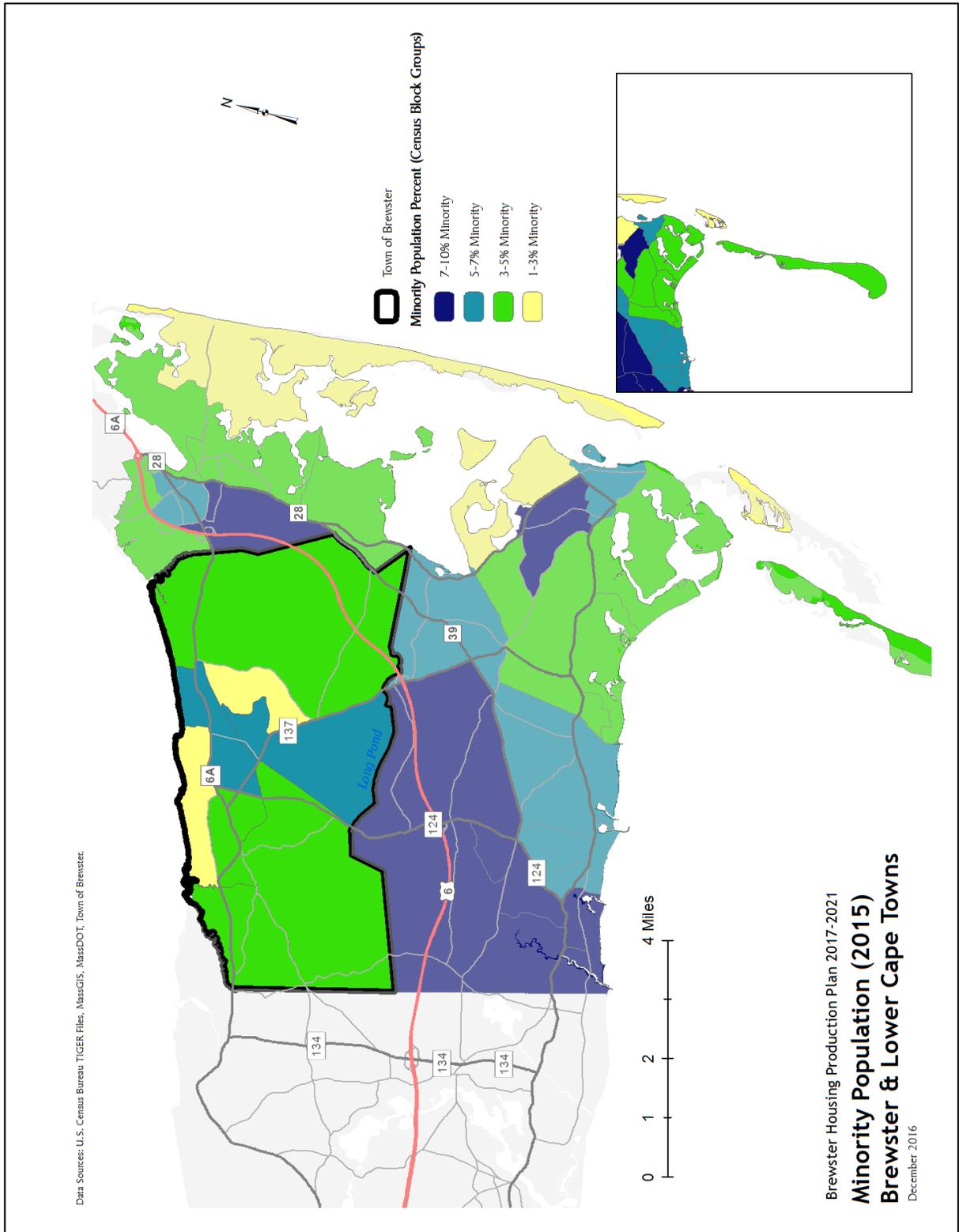
	Brewster	Lower Cape	Massachusetts		Brewster	Lower Cape	Massachusetts
Total Population	9,858	28,192	6,657,291	Asian	0%	1%	6%
White	98%	95%	80%	Some Other Race	0%	0%	3%
Black	1%	2%	7%	Two+ Races	1%	1%	3%
Am. Indian	0%	0%	0%	Hispanic/Latino	1%	2%	10%

Source: ACS 2010-2014, B02001, "Race", B03002, "Hispanic or Latino Origin," and RKG Associates, Inc.

⁴ ACS 2010-2014, "Sex by Age," B01001, and RKG Associates, Inc.

⁵ Ibid.

⁶ ACS 2010-2014, "Race," B02001, and RKG Associates, Inc.



The Latino population accounts for 1 percent of the total population. Brewster's Latino population lags significantly behind the comparison communities. For example, the Lower Cape has a Latino population of 2 percent, while the state has 10 percent.⁷

EDUCATION

Educational levels in Brewster are higher than the comparison communities, with 50 percent of the adult population possessing at least a Bachelor's degree. Across the Lower Cape, 46 percent of the adult population has at least a Bachelor's degree, while the same can be said for 40 percent of Massachusetts adults. Brewster's population is clearly well educated. In fact, only 22 percent of the population has a high school equivalent or less, whereas the Commonwealth for the same demographic is 37 percent.⁸

TABLE 2.3. EDUCATIONAL ATTAINMENT FOR POPULATION 25 YEARS AND OLDER

	Brewster	Lower Cape	Massachusetts
Total Population 25 Years and Older	7,620	21,976	4,561,346
Less than 9th Grade	0%	1%	5%
9th - 12th Grade, No Diploma	2%	3%	6%
High School Graduate (and equivalent)	20%	22%	26%
Some College, No Degree	19%	19%	16%
Associate Degree	9%	9%	8%
Bachelor's Degree	31%	27%	23%
Graduate/Professional Degree	19%	19%	17%

Source: ACS 2010-2014, B15003, "Educational Attainment for the Population 25 Years and Older", and RKG Associates, Inc.

HOUSEHOLD CHARACTERISTICS

Different **household** types often have different housing needs and preferences. The size and composition of a community's households can indicate how well suited the existing housing inventory is to residents. The number and type of households and their spending power within a community correlate with housing demand. **A household is one or more people forming a single housekeeping unit and occupying the same housing unit.**

The Census Bureau divides households into two broad classes: families and non-families. A **family household** includes two or more related people living together in the same housing unit, and a **non-family household** can be a single person living alone or two or more unrelated people living together. On a town-wide basis, non-families comprise nearly 39 percent of all households in Brewster.⁹ Compared with surrounding cities and towns, Brewster's rate of family households (61 percent) trends closely to the comparison communities but is lower than both the

⁷ ACS 2010-2014, "Hispanic or Latino Origin by Race," B03002, and RKG Associates, Inc.

⁸ ACS 2010-2014, "Educational Attainment for the Population 25 Years and Older," B15003, and RKG Associates, Inc.

⁹ ACS 2010-2014, B11001, "Household Type (Including Living Alone)," and RKG Associates, Inc.

Lower Cape and state. Married couples comprise the majority of families in Brewster, accounting for nearly 53 percent.¹⁰

TABLE 2.4. HOUSEHOLD TYPE

	Brewster	Lower Cape	Massachusetts
Households	4,262	12,447	2,538,485
Married couple families	53%	52%	47%
Single-parent families	8%	10%	17%
Nonfamily households	39%	39%	36%

Source: ACS 2010-2014, B11001, "Household Type (Including Living Alone)," and RKG Associates, Inc.

HOUSEHOLD SIZES

Based on estimates provided by the ACS, the majority of family households in Brewster are two-person households (60 percent), while across the Commonwealth two-person households account for 42 percent of all family households. The higher concentration of two-person households in Brewster and the Lower Cape region as a whole (59 percent) can be attributed to the older and retired population that resides locally and in the region. (Map 2.2.)

TABLE 2.5. FAMILIES BY HOUSEHOLD SIZE

	Brewster	Lower Cape	Massachusetts
Total families	2,592	7,652	1,615,062
2-person household	60%	59%	42%
3-person household	16%	20%	24%
4-person household	16%	14%	22%
5-person household	5%	4%	9%
Household with 6+ people	3%	3%	4%

Source: ACS 2010-2014, B11016, "Household Type by Household Size," and RKG Associates, Inc.

Of the nonfamily households in Brewster, nearly 78 percent were one-person households. Compared to the other geographies, Brewster is nearly in alignment with them as the percent of one-person households across the Lower Cape is 83 percent, while across the Commonwealth it is 79 percent. Among two-person nonfamily households, Brewster maintains 19 percent, which is slightly more than the other geographies of the Lower Cape and Commonwealth.¹¹

¹⁰ Ibid.

¹¹ ACS 2010-2014, B11016, "Household Type by Household Size," and RKG Associates, Inc.

TABLE 2.6. HOUSEHOLD TYPE: BY HOUSEHOLD SIZE: NONFAMILY

	Brewster	Lower Cape	Massachusetts
Total Nonfamily households	1,670	4,795	923,423
Single people living alone	78%	83%	79%
2-person household	19%	15%	17%
3-person household	1%	1%	3%
4-person household	2%	1%	1%
5-person household	0%	0%	0%
6-person household	0%	0%	0%
7-or-more person household	0%	0%	0%

Source: ACS 2010-2014, B11016, "Household Type by Household Size," and RKG Associates, Inc.

HOUSEHOLD AND FAMILY INCOMES

Household income directly influences the ability of residents to support their families, local businesses, and town services. Lower household incomes can equate to a lower threshold for spending on housing and goods and services while people with higher income households can afford to spend more. The median household income in Brewster, \$66,306, is roughly in the middle compared to the Lower Cape and state as a whole.¹²

TABLE 2.7. HOUSEHOLD INCOME

	Brewster	Lower Cape	Massachusetts
Households	4,262	12,447	2,538,485
<\$15,000	9%	8%	11%
\$15,000 - \$24,999	11%	10%	9%
\$25,000 - \$34,999	7%	7%	8%
\$35,000 - \$49,999	12%	12%	11%
\$50,000 - \$74,999	18%	19%	16%
\$75,000 - \$99,999	13%	15%	13%
\$100,000 - \$149,999	17%	15%	17%
\$150,000 - \$199,999	8%	7%	8%
\$200,000+	6%	6%	8%
Median HH Income	\$66,306	\$65,646	\$67,846

Source: ACS 2010-2014, B19001, "Household Income", B19013, "Median Household Income in the Past 12 Months (In 2014 Inflation-Adjusted Dollars), and RKG Associates, Inc.

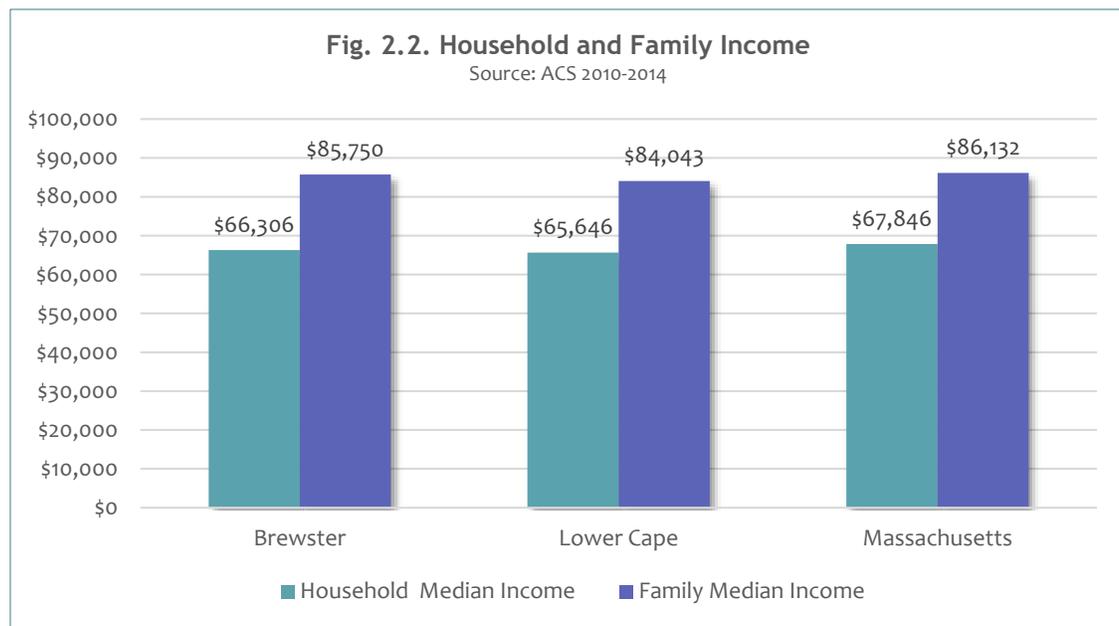
The median household income in Brewster grew between ACS periods 2005-2009 and 2010-2014 by 4 percent.¹³ The Lower Cape grew by 1 percent, while the state median income shrunk by 5

¹²ACS 2010-2014, "Household Income," B19001, "Median Household Income in the Past 12 Months (In 2014 Inflation-Adjusted Dollars)," and RKG Associates, Inc.

¹³ ACS 2010-2014, "Median Household Income in the Past 12 Months (In 2014 Inflation-Adjusted Dollars), and RKG Associates, Inc.

percent.¹⁴ The growth in median household income in Brewster is illustrative of the influx of individuals moving to Brewster.

A significant difference exists between median household income and family income across all observed geographies. This is not all that surprising because people living alone and non-family households generally tend to have lower incomes than family households. For Brewster, the median family income (\$85,750) is nearly 29 percent greater than the median household income (\$66,306).¹⁵ Of the comparison communities, Brewster has the largest difference in real terms. For the Lower Cape of which Brewster is included, the median family income was 28 percent greater than household income, while across the Commonwealth it was 27 percent greater.¹⁶ Figure 2.2 illustrates the differences in incomes between households and families.



POVERTY

Approximately 8 percent of Brewster's households live below the federal poverty line.¹⁷ The population poverty rate is similar to that of the Lower Cape (also 8 percent), but much less than that of the Commonwealth (12 percent).¹⁸ Poverty levels within a community can be hallmarks of a lack of economic or housing opportunities. Poverty within a community also has impacts on social services and other amenities. In the case of Brewster, while the town experiences a lower poverty rate than the rest of the Commonwealth, poverty is still an issue because there is in general

¹⁴ Ibid.

¹⁵ ACS 2010-2014, B19013, "Median Household Income in the Past 12 Months (In 2014 Inflation-Adjusted Dollars)", B19113, "Median Family Income in the Past 12 Months (In 2014 Inflation-Adjusted Dollars),"and RKG Associates, Inc.

¹⁶ Ibid.

¹⁷ ACS 2010-2014, B17017, "Poverty Status in the Past 12 Months by Household Type by Age of Householder"

¹⁸ Ibid.

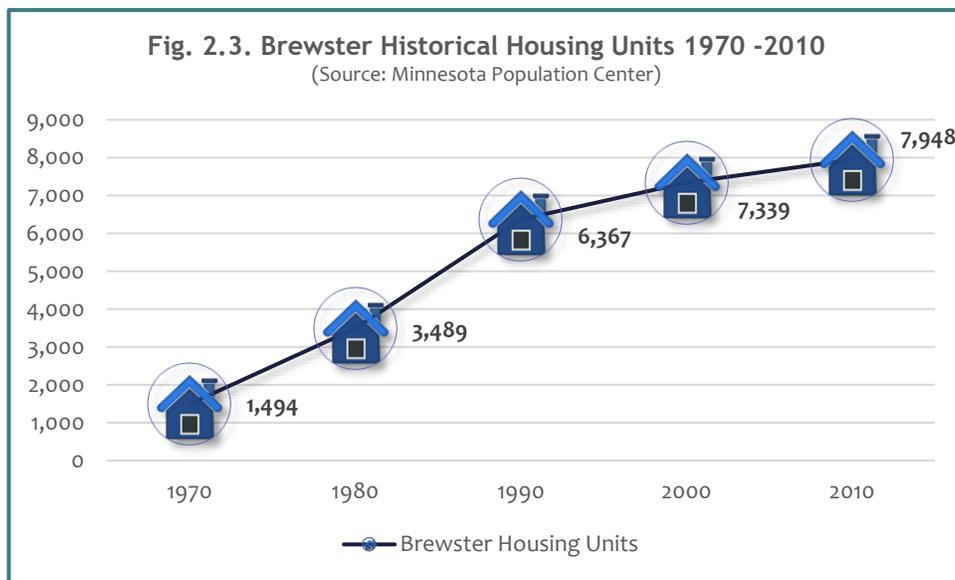
an overall lack of well-paying jobs in the area because of the seasonal tourist economy. Many individuals that live year round in Brewster string together multiple jobs throughout the year to make ends meet.

HOUSING CHARACTERISTICS & TRENDS

HOUSING TYPE AND AGE

According to the ACS 2010-2014 data, there are 7,931 housing units located in Brewster. Of the housing units in Brewster, 76 percent are single-family homes, while 52 percent of the housing across Massachusetts are single-family. The Cape has different development constraints, and as such, is very different than the rest of Massachusetts; the Lower Cape region has 83 percent of its housing units as single family homes. Within Brewster the next largest segment of housing were 3 to 4 unit developments which accounted for 10 percent of the total housing stock.

The historical growth of housing units within Brewster has been tremendous. Between 1970 and 2010, the number of housing units increased by more than four-fold.¹⁹ Figure 2.3 highlights the historical growth pattern of housing units in Brewster. The growth rate was particularly sharp between 1970 and 1990, rising by over 300 percent, but in recent years the rate of growth has begun to taper off.²⁰

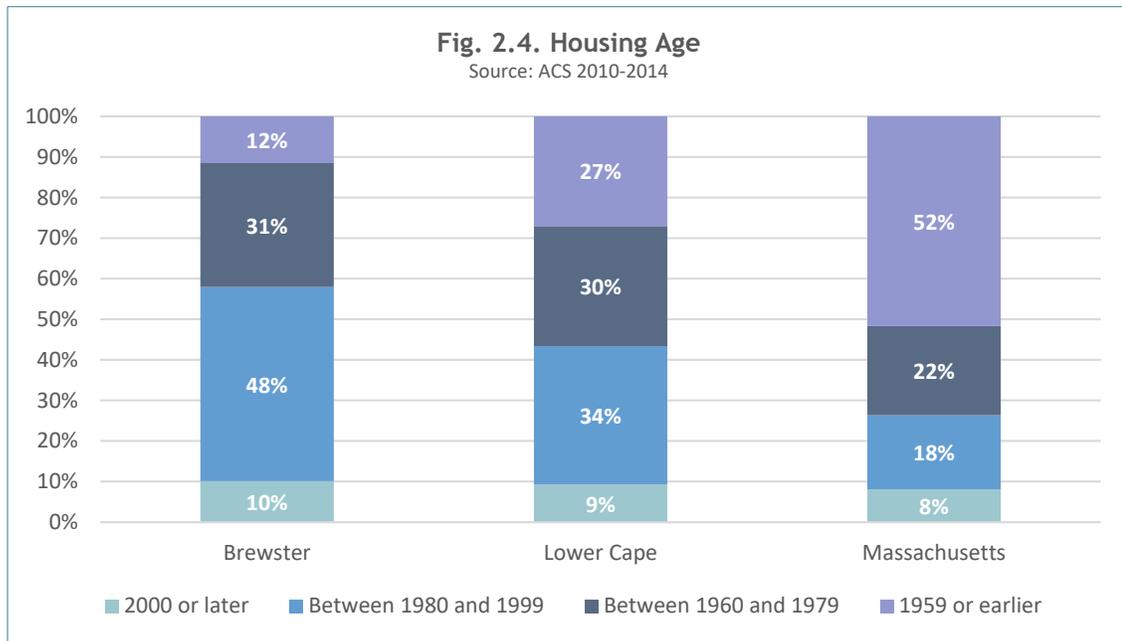


The housing stock in Brewster is quite young as compared to the other communities. Of the housing located in Brewster, 58 percent of the housing was built after 1980. In comparison, across the Lower Cape 43 percent of housing was built after 1980; while across the state of Massachusetts

¹⁹ Minnesota Population Center. National Historical Geographic Information System: Version 2.0. Minneapolis, MN: University of Minnesota 2011.

²⁰ Ibid.

only 26 percent was built after 1980. The relatively young composition of housing stock is an advantage for Brewster, and also highlights the population and housing growth that took place over the last number of decades. Figure 2.4 illustrates the housing age in Brewster.



HOUSING TYPES

The housing types found in Brewster and the Cape in general are mostly single family homes. Traditionally, single family homes were the norm along the Cape. As interest in the region blossomed a greater number of multifamily units were built. Within Brewster, nearly 76 percent of the housing stock are single family homes. The Lower Cape Region has a greater percentage of single family homes with 83 percent. Compared to the state as a whole, the Cape communities have a greater proportion of single family homes as the state only has 52 percent of its housing stock.²¹

Multi-family homes within Brewster are not as prevalent as they are on the rest of the Lower Cape. Brewster lacks developments that are larger than 10 units, in-part because the town does not have sewer infrastructure. Without sewers, larger, densely designed housing developments are difficult to build unless it is feasible to construct a private wastewater disposal system. The associated capital and operating expenses make it difficult for developers to rationalize the cost. Due to the infrastructure constraints found on the Lower Cape, the state out-performs the region with regard to diversified housing because nearly 14 percent of the housing stock in Massachusetts is in structures with more than ten units.²²

²¹ ACS 2010-2014, "Units in Structure," B25024, and RKG Associates, Inc.

²² Ibid.

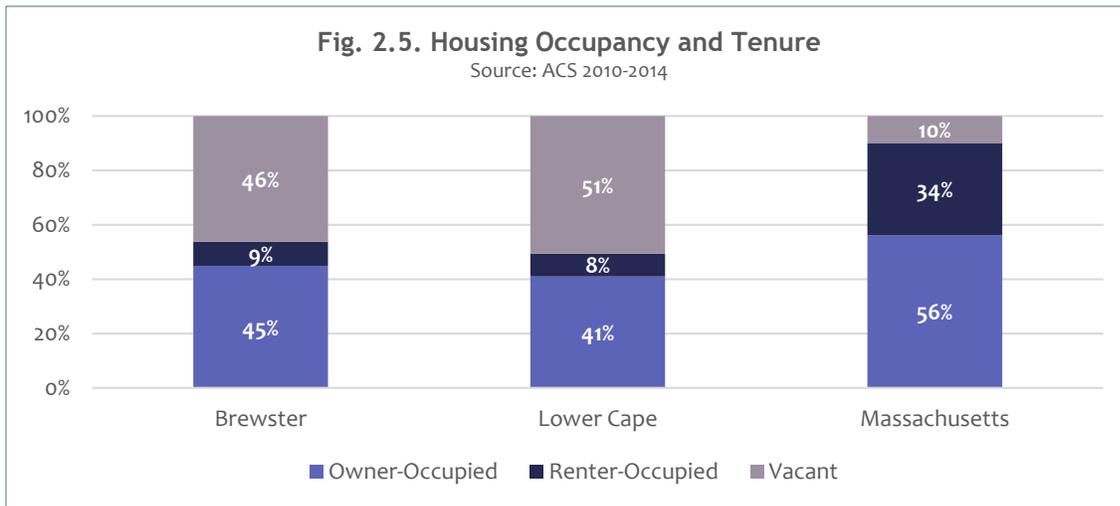
TABLE 2.8. UNITS IN STRUCTURE

	Brewster	Lower Cape	Massachusetts
Housing Units	7,931	25,165	2,816,875
Single-family detached	76%	83%	52%
Single-family attached	3%	2%	5%
2 Units	3%	3%	10%
3 or 4 Units	10%	5%	11%
5 to 9 Units	4%	3%	6%
10 to 19 Units	2%	3%	4%
20 to 49 Units	1%	1%	4%
50 or More Units	1%	1%	6%
Other	0%	0%	1%

Source: ACS 2010-2014, B25024, "Units in Structure", and RKG Associates, Inc.

TENURE AND VACANCY

Since most of Brewster’s housing consists of detached single-family homes, most of its households are homeowners. About 45 percent of the housing units in Brewster are owner-occupied and 9 percent, renter-occupied, with a vacancy rate of 46 percent.²³ Brewster compares similarly to the Lower Cape region because both geographies have seasonal economies dependent on tourism. The state of Massachusetts figures on tenure and vacancy are quite different than those of the communities located on the Cape. About 56 percent of the housing units in Massachusetts are owner-occupied and 34 percent, renter-occupied, with a vacancy rate of 10 percent.²⁴ Figure 2.5 illustrates occupancy status of homes in Brewster and the comparison communities.



²³ ACS 2005-2009 and 2010-2014, B25002 and B25003, "Occupancy Status" and "Occupied Housing Units"

²⁴ Ibid

The high vacancy rate within Brewster and the Lower Cape is attributed to the region's seasonal housing inventory. Many homes along the Cape are summer homes or second homes that are rented to tourists. The year-round population is less in the off-season than during the summer.

HOUSING MARKET

Occupied housing values in Brewster are high compared to the Lower Cape region and state. The Census Bureau estimates that 40 percent of the housing in Brewster has a market value greater than \$500,000.²⁵ The value of housing found in Brewster outstrips the median income of the town, resulting in a lack of affordability. The Lower Cape region as a whole has about 46 percent of its homes valued at more than \$500,000, while the state only has 21 percent.²⁶

TABLE 2.9. OCCUPIED HOUSING VALUE

	Brewster	Lower Cape	Massachusetts
Owner Occupied Housing Units	3,565	10,320	1,580,938
Less than \$100,000	2%	3%	4%
\$100,000 - \$149,000	2%	1%	5%
\$150,000 - \$199,999	2%	2%	9%
\$200,000 - \$249,999	3%	5%	12%
\$250,000 - \$299,999	9%	9%	13%
\$300,000 - \$399,999	25%	26%	23%
\$400,000 - \$499,999	17%	17%	13%
\$500,000 - \$749,999	23%	20%	13%
\$750,000 - \$999,999	10%	8%	4%
Greater than \$1,000,000	7%	8%	4%
Source: ACS 2010-2014, B25075, "Value", and RKG Associates, Inc.			

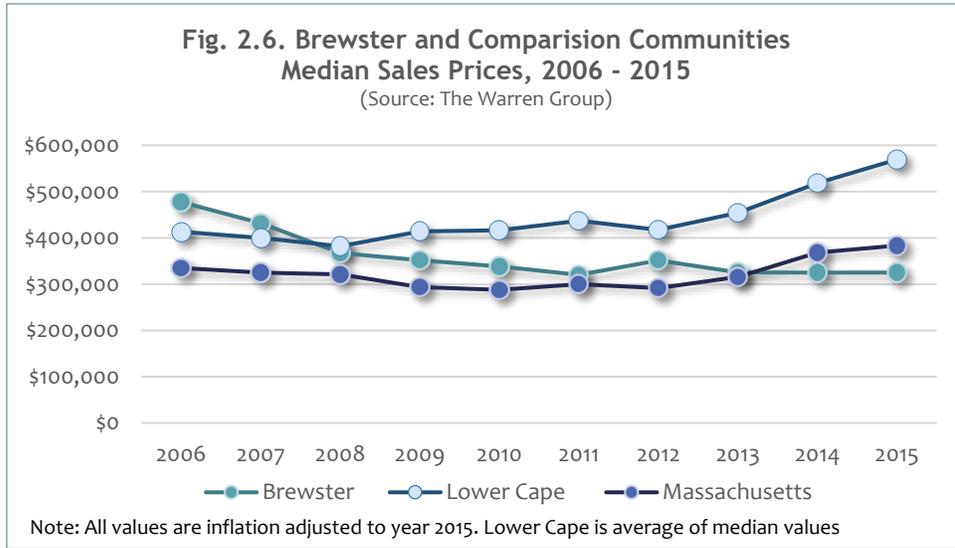
HOUSING SALE PRICES

Over the last ten years the median sales price in Brewster has fallen or remained flat in real (inflation adjusted) terms. Between 2006 and 2015, the median sales price for a home in Brewster fell by 32 percent. Much of the fall in housing prices can be attributed to the Great Recession that occurred in 2008 and carried onwards until 2011. A recovery in median sales prices has taken hold in Brewster and across the state, however, sales prices are still far from the peak experienced in 2006. In 2015, the median sales value for a home in Brewster was \$325,000.²⁷ Comparatively, across the Lower Cape the median sales value was \$569,655, while the state median was \$383,500. Looking at this information, it is noted that Brewster lags behind both of the comparison communities. Additionally, between 2013 and 2015 the median sales price has remained relatively flat in contrast to both the Lower Cape region and state which are experiencing an upward trend. Figure 2.6 illustrates the median sales price in Brewster and the comparison communities.

²⁵ ACS 2010-2014, "Value," B25075, and RKG Associates, Inc.

²⁶ Ibid.

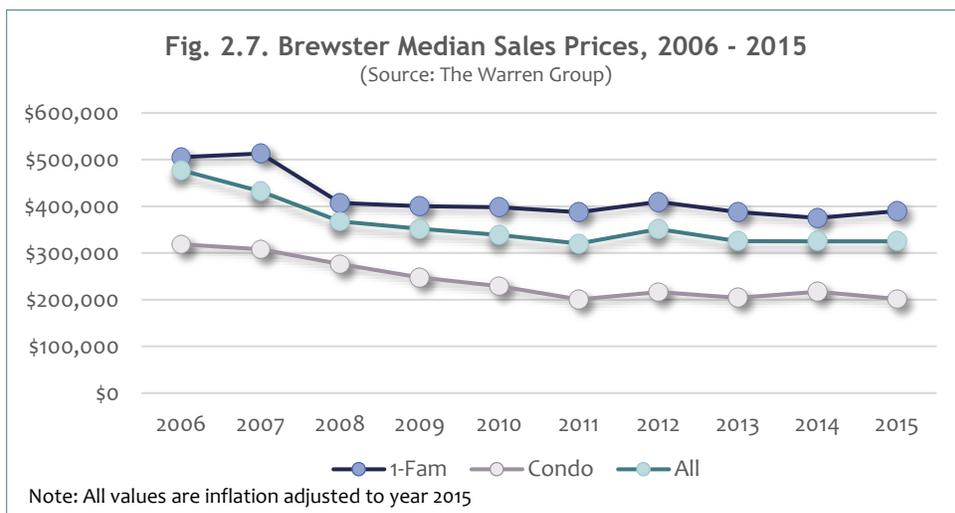
²⁷ The Warren Group, 2016



Further parsing the data, the median sales prices for a single family home is \$389,750, while the price of a condo is 201,500.²⁸ Some of the difference in price between single family homes and condominiums is the monthly fee associated with a condominium development. In many cases, the month fees for maintenance and landscaping are significant expenses. The sales data in Brewster shows that housing price appreciation has leveled off or declined since 2012, indicating that the supply of available homes exceeds demand. Figure 2.7 illustrates median sales prices by housing type in Brewster.

FORECLOSURES

Since the Great Recession, a general trend nationwide was that foreclosure proceedings and actions began to rise after the year 2008. This is true with regards to Brewster which is a tourism

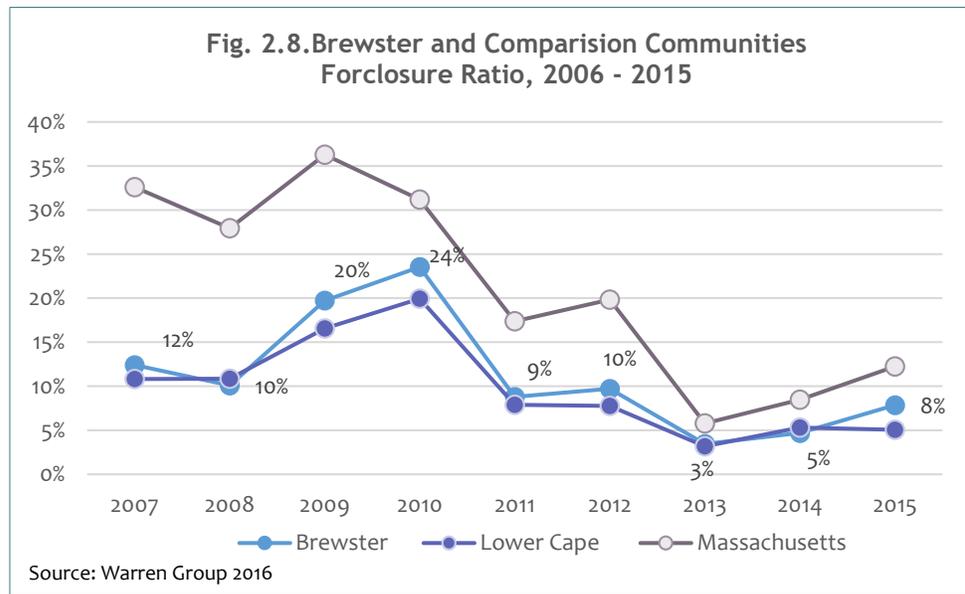


²⁸ Ibid.

destination town that has a substantial seasonal and second home population. Based on data provided by the Warren Group, Brewster experienced an uptick in its foreclosure ratio. The foreclosure ratio is the ratio between the foreclosure petition and the property's sale. A high ratio indicates that a foreclosure was acted upon and the bank has taken possession.

Before the Recession took full effect in 2008 the foreclosure rate in Brewster was 8 percent. During the peak period during the recession, the foreclosure rose to a high of 24 percent in 2010.²⁹ Which translates into nearly one-quarter of the homes on which foreclosure paper work was pending actually reverted back to the lender financial institution. At present the foreclosure ratio is at 8 percent, slightly less than what it was at the beginning of the financial crisis.

Brewster was slightly hit harder with regard to foreclosures than the Lower Cape. Based on Figure 2.8, the trend line indicates that even though Brewster had a greater foreclosure ratio than the Lower Cape, it still did not exceed that of the state in general which had a much higher rate. At the height of the recession, the state had a foreclosure ratio of 36 percent, which is nearly 50 percent greater than the highest ratio seen in Brewster.³⁰ Even though an economic recovery has taken place foreclosure rates are an important consideration especially since Brewster is in a tourist based economy.



²⁹ The Warren Group, 2016

³⁰ Ibid.

MARKET RENTS

While Brewster does not have a significant number of year-round rental units compared to the number of single family homes, rents are relatively in line with those on the Lower Cape as a whole. For a household at the region's median, \$66,306, an affordable monthly rent (30 percent of monthly income) would be \$1,658, including utilities. Based on ACS contract rent data, the median contract rent in Brewster is \$907 per month, making it appear there is some semblance of affordability in the area.³¹ However, this does not take into consideration rental prices during the tourist season, which are significantly more than rents found during the rest of the year. Because of the disparity in rents for four months of the year, it is hard for individuals to find permanent year-round housing. It also does not take into account the propensity of renters to have lower household incomes than homeowners. Finally, the low contract rent in Brewster seems to mirror the very short supply of rental housing because the median is depressed by the inventory of subsidized rentals.

TABLE 2.10. CONTRACT RENT

	Brewster	Lower Cape	Massachusetts
Total Paying Contract Rent	678	1,914	909,680
Less than \$100	0%	0%	1%
\$100-\$249	7%	5%	6%
\$250-\$499	13%	11%	10%
\$500-\$749	17%	16%	16%
\$750-\$999	28%	26%	20%
\$1,000 - \$1,249	14%	20%	17%
\$1,250-\$1,499	13%	13%	11%
\$1,500-\$1,999	9%	8%	12%
Greater than \$2,000	0%	0%	7%

Source: ACS 2010-2014, B25056, "Contract Rent", and RKG Associates, Inc.

PROPERTY TAXES

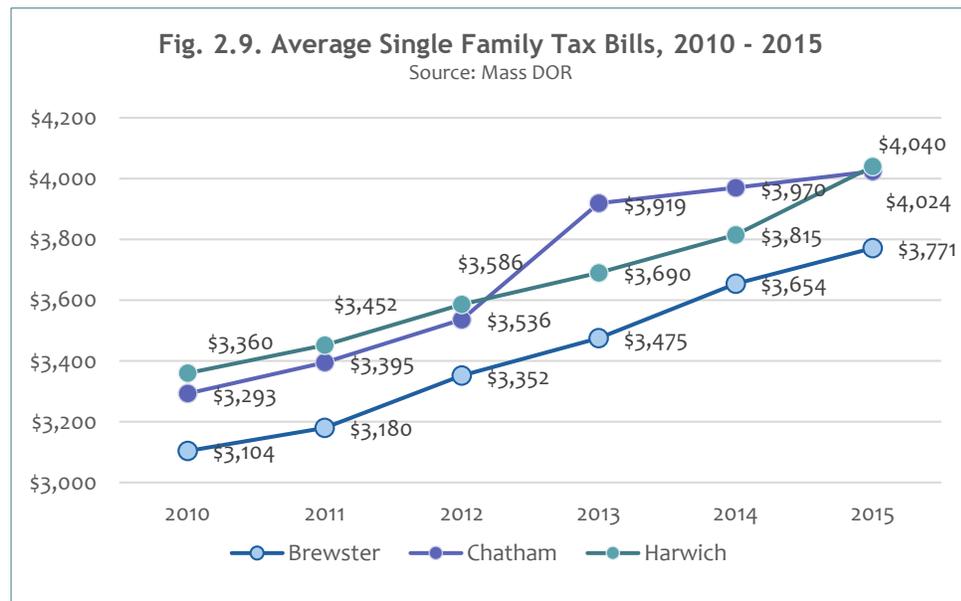
Prospective residents consider not only the cost of purchasing a home when deciding where to live, but also property taxes. Massachusetts towns are particularly dependent on real estate taxes to fund local government service such as schools, public safety, and public works, and residential property invariably accounts for the largest percentage total assessed value in cities and towns. Communities can shift some of the residential tax burden to commercial and industrial property, within limits, but the practice of doing so varies tremendously throughout the state.

Within Brewster the average single family tax bill is less than that of the comparison communities of both Chatham and Harwich. For the year 2015, the average property tax bill for a single family home in Brewster was \$3,771, while the average bill in both Chatham and Harwich was over \$4,000 per year.³² However, just because the average tax bill is lower in Brewster does not mean that the

³¹ ACS 2010-2014, "Median Contract Rent (Dollars)," B25058, and RKG Associates, Inc.

³² Massachusetts Department of Revenue, 2016, and RKG Associates, Inc.

tax rate is lower. In fact, the residential tax rate for Brewster in 2015 is \$8.26 per \$1,000 in assessed value, as compared to the Chatham (\$4.99) and Harwich (\$8.97). Due to the general lack of commercial properties in Brewster, much of the municipal property tax revenue comes from residents. In addition, communities like Chatham have larger percentages of seasonal housing, and the seasonal properties generate considerable tax revenue. Figure 2.9 illustrates the average single family tax bills across the Lower Cape communities.



Single-family tax bills in Brewster increased about 21 percent between 2010 and 2015.³³ The rate of increase was in-line with comparative communities around Brewster. Additionally, Brewster has a relatively low tax burden as compared to surrounding communities making the town competitive for buyers. A low tax burden is also helpful to a senior population that is on a fixed income.

HOUSING PRODUCTION IN BREWSTER

BUILDING PERMITS

Building permits are a good indicator of housing activity within a town because in order for a development to be undertaken, projects must go through a regimented permitting process. The process typically involves making sure the development complies with local zoning and other requirements. According to the State Data Center, the only types of structures permitted in Brewster over the past ten years were single-family homes. Between 2006 and 2015, the Town issued building permits for a total of 195 single family units.³⁴ Since the Great Recession, there has

³³ Massachusetts Department of Revenue, 2016, and RKG Associates, Inc.

³⁴ Massachusetts Data Center, 2016

been a slow tapering down of building permits in Brewster. For example, in 2006 there were a total of 38 permits, but by 2015 production had declined to 15 permits.³⁵ Brewster was not spared from the housing construction slowdown. Additionally, given the geographic and ecological constraints and prevalence of marginal land in Brewster, there are fewer and fewer buildable lots that exist for developer to convert into housing.

PLAN APPROVALS

Based on data from the Planning Department, both the Planning Board and Zoning Board of Appeals (ZBA) are busy with development review and permitting work. In 2016 (year to date), the Planning Board has processed eighteen applications for site plan review (including waiver requests), special permits, and Approval Not Required (ANR) endorsements.³⁶ Except for the ANR plans, most of the other applications involved commercial, municipal, or institutional projects. By contrast, the ZBA has processed quite a few requests for relief, mainly involving extensions or alterations of non-conforming single-family homes. Since 2000, the ZBA has revised and acted upon anywhere from fifteen to over forty applications per year for some type of approval. This includes comprehensive permits for Cape View Development LLC (Brewster Landing), Habitat for Humanity, and Frederick Court Development (Wells Court).

CHAPTER 40B SUBSIDIZED HOUSING INVENTORY AND EXPIRING USE RESTRICTIONS

G.L. c. 40B, §§ 20-23 (Chapter 40B) is a state law that went into effect in 1969. Its purpose is to provide for a regionally fair distribution of affordable housing for people with low or moderate incomes. Affordable units created under Chapter 40B retain their affordability over time, even under strong market conditions, because an affordable housing deed restriction limits resale prices and rents for many years, if not in perpetuity. Another type of affordable housing - generally older, moderately priced dwellings without deed restrictions, and which lack the features and amenities of new, high-end homes - can help to meet housing needs, too, but only as long as the market allows. Both types of affordable housing exist in Brewster, and both types matter. The key difference is that the market determines the price of unrestricted affordable units while a recorded legal instrument determines the price of deed restricted units. There are other differences, too. For example, any household - regardless of income - may purchase or rent an unrestricted affordable unit, but only a low- or moderate-income household is eligible to purchase or rent a deed restricted unit.

Chapter 40B establishes a statewide goal that at least 10 percent of housing units in every city and town will be deed restricted affordable housing. It authorizes the Zoning Board of Appeals (ZBA) to grant a comprehensive permit to qualified developers to build affordable housing. A comprehensive permit is a unified permit, i.e., a single permit that incorporates all of the local approvals required under zoning and other local bylaws and regulations. Under Chapter 40B, the ZBA can approve, conditionally approve, or deny a comprehensive permit, but in communities that do not meet the 10 percent minimum, developers may appeal to the state Housing Appeals Committee (HAC).

³⁵ Ibid.

³⁶ Brewster Planning Department, October 2016.

The 10 percent statutory minimum is based on the total number of year-round housing units in the most recent federal census. For Brewster today, the 10 percent minimum is 481 units, or 10 percent (rounded) of the 4,803 year-round units reported in Census 2010. Brewster currently does not meet the 10 percent statutory minimum due to a number of development constraints. There are 250 units on Brewster's SHI, or 5.2 percent. Since Brewster is below the 10 percent minimum, it risks exposure to comprehensive permits that may not fit well with the character and scale of the neighborhood.

TABLE 2.11. BREWSTER SUBSIDIZED HOUSING INVENTORY

Development	Location	Type	Units
Belmont Park	Belmont Park Drive	Ownership	20
Great Fields Affordable Housing	Great Fields Road	Ownership	2
Habitat for Humanity	James Burr Road	Ownership	4
LCCDC HOR Program FY 00	Governor Bradford Road	Ownership	1
LCCDC HOR Program FY 02	Topco Road	Ownership	1
LCCDC HOR Program FY 02	Ebenezer Lane	Ownership	1
LCCDC HOR Program FY 02	Bassett Lane	Ownership	1
LCCDC HOR Program FY 02	Whiffletree Avenue	Ownership	1
LCCDC HOR Program FY 02	Fiddlers Lane	Ownership	1
LCCDC HOR Program FY 03	Greenland Pond Road	Ownership	1
LCCDC HOR Program FY 03	Route 39	Ownership	1
LCCDC HOR Program FY 03	South Orleans Road	Ownership	1
Yankee Drive II	Yankee Drive	Ownership	0
Yankee Village	Signal Hill Circle	Ownership	12
DDS Group Homes	Confidential	Rental	12
Eagle Point	151 Turning Mill Rd	Rental	3
Frederick Court expansion	Wells Court	Rental	24
Huckleberry Lane	Huckleberry Lane	Rental	12
Huckleberry Lane	Huckleberry Lane	Rental	12
King's Landing	Underpass Road	Rental	108
n/a	Frederick Court	Rental	32
Brewster SHI Total			250
Census 2010 Year-Round Units			4,803
Percent SHI			5.21%

Source: Massachusetts Department of Housing and Community Development, 2016

*Note: As of the date of this housing plan, Brewster Landing had not been added to the SHI. According to the Town, the state list is incomplete because there are units in other developments that have not yet been counted toward Brewster's 10 percent minimum.

COMPREHENSIVE PERMITS

Based on data provided by Brewster Planning Department, between 2001 and 2015, the ZBA reviewed several applications for Comprehensive Permits.³⁷ Six were granted, one was dismissed, and the other one was withdrawn.³⁸ Of the developers undertaking Comprehensive Permit projects, Habitat for Humanity and Frederick Court Development were the largest builders of housing. According to data compiled by the Cape Cod Commission, approximately 25 percent of the affordable units in Brewster were created with comprehensive permits.³⁹

HOUSING AFFORDABILITY

HOUSING COST BURDEN

Rapid growth in housing prices coupled with sluggish growth or an outright decline in incomes contributes to a housing affordability problem known as housing cost burden. The U.S. Department of Housing and Urban Development (HUD) defines **housing cost burden** as the condition in which low- or moderate-income households spend more than 30 percent of their gross income on housing. When low- or moderate-income households are spending more than half of their income on housing costs, they are said to be severely housing cost burdened.⁴⁰ Housing cost burden – not Chapter 40B – is the key indicator of affordable housing need in cities and towns. Table 2.12 reports HUD’s current housing program income limits by family size for Barnstable County and the maximum housing payment that is affordable in each tier. “Low” and “moderate” incomes are based on percentages of the HUD Area Median Family Income (HAMFI), adjusted for household size, in Barnstable County (which includes Brewster).

TABLE 2.12. LOW & MODERATE INCOME LIMITS AND AFFORDABLE HOUSING COSTS

Household Size (Number of People)	Low Income		Moderate Income	
	Income Limit	Maximum Affordable Housing Payment	Income Limit	Maximum Affordable Housing Payment
1	\$29,750	\$744	\$47,550	\$1,189
2	\$34,000	\$850	\$54,350	\$1,359
3	\$38,250	\$956	\$61,150	\$1,529
4	\$42,450	\$1,061	\$67,900	\$1,698
5	\$45,850	\$1,146	\$73,350	\$1,834
6	\$49,250	\$1,231	\$78,800	\$1,970

Source: U.S. Department of Housing and Urban Development, FY 2016 Income Limits.

³⁷ Brewster Zoning Board of Appeals, 2016

³⁸ Ibid.

³⁹ Cape Cod Commission, “Barnstable County Chapter 40B Study: Summary of Findings, September 1, 2012.”

⁴⁰ For homeowners, “housing cost” includes a mortgage payment, property taxes, and insurance. For renters, “housing cost” includes monthly rent and utilities.

In Brewster, 960 low- or moderate-income residents are housing cost burdened (62 percent) and 575 are severely cost burdened (37 percent).⁴¹ Table 2.13 summarizes the incidence of housing cost burden in Brewster and surrounding communities.

TABLE 2.13. LOW- AND MODERATE-INCOME HOUSEHOLDS AND HOUSING COST BURDEN

Geography	Low-Income Households	% Cost Burdened	Moderate-Income Households	% Cost Burdened	Cost Burdened Homeowners	Cost Burdened Renters
Brewster	955	71%	585	47%	60%	67%
Chatham	585	69%	465	24%	51%	45%
Harwich	1,270	73%	710	50%	68%	60%

Source: HUD, Comprehensive Housing Affordability Strategy (CHAS) Data 2009-2013, and RKG Associates, Inc.

DEVELOPMENT CONSTRAINTS & BARRIERS

The focus of this section is development constraints that may affect Brewster’s ability to address affordable housing and year-round housing needs. This includes environmental constraints, infrastructure capacity, and regulatory barriers. Except where noted, the information presented here is based on the Town of Brewster’s *2013 Open Space & Recreation Plan (2013 OSRP)*. The principal constraints in Brewster are the lack of public sewer service, the prevalence of ecologically sensitive areas, protected open space that has reduced the land supply, and local regulations.

ENVIRONMENTAL CONSTRAINTS

Housing development can be affected by land and water conditions: landscape character, geology, soils, topography, groundwater, freshwater ponds and lakes, coastal and estuarine resources, plant communities and wetlands, rare and endangered species, critical habitat, scenic views, and hazardous waste sites, as further described below.

LANDSCAPE CHARACTER

Brewster has an abundance of natural resources and miles of both coastal and freshwater shorelines. Residents and visitors make heavy use of the natural resources in Brewster and across Cape Cod, including the beaches and ponds for swimming and picnicking; the salt marshes for canoeing, kayaking, and shellfishing; and salt hay for gardens. Brewster also has enormous sand flats that extend at least a mile into the Cape Cod Bay. People of all ages enjoy “walking the flats.” Brewster’s resources also provide refuges for wildlife and plant species.

Brewster lies within the Cape Cod Watershed, which extends 70 miles into the Atlantic Ocean, and is surrounded by Buzzards Bay, Cape Cod Bay, the Atlantic Ocean, and Nantucket Sound. The Town encompasses six embayment watersheds, which it shares with neighboring jurisdictions, including Cape Cod Bay, Herring River, Namskaket Creek, Pleasant Bay, Quivett

⁴¹ CHAS 2009-2013

Creek, and Stony Brook watersheds. Brewster also contains a very small portion of the Bass River watershed. Brewster shares many of its resources with neighboring communities, and protection and maintenance of these resources often requires regional collaboration.

GEOLOGY & TOPOGRAPHY

Brewster's landforms are a product of glacial ice, ocean influence, wind, and erosion. Brewster and the Cape were first formed 17,000 to 21,000 years ago by glacial action near the end of the Wisconsin stage of the Pleistocene epoch. As ice withdrew from the area of Martha's Vineyard and Nantucket, it came to rest where the Cape is presently located, depositing several hundred feet of unconsolidated material ranging in particle size from clay to boulders. Most of Brewster is composed of sandy glacial deposits designated as the Harwich Outwash Plain, with limited areas of more varied topography and pockets of wetlands, bogs, and clay. This glacial past explains its topography. Ultimately, it also explains Brewster's soils, vegetation, wildlife, visual beauty and basic character.

Glaciers left behind two major types of drift formations: moraine and outwash plain. The moraine is a ridge of debris that accumulated when the glacier remained more or less stationary for a long period of time. The outwash plain is composed of sand and gravel washed out of the moraine by meltwater streams during this period. In contrast to the relatively flat outwash plain areas, the higher land (up to 141 feet above mean sea level) in the north western part of town (north of the Mill Ponds and along Stony Brook) is characterized by less well sorted sediments of varying particle sizes, including many boulders. Both the Stony Brook area and the more consistent deposits of the Harwich Outwash Plain are both simply classified as Sand and Gravel deposits. While moraine and ice contact deposits are of different origin, they are both characterized by relatively steep and varied topography with a wide range of particle sizes and abundant boulders.

Along the immediate northern shore of Brewster (Cape Cod Bay) are located fine-grained deposits of glacio-lacustrine (wind-blown) origin. After the ice-contact deposits and the outwash deposits were laid down, the ice front had receded to a position well north of the Cape and melt water from that continually receding ice was temporarily trapped by the glacial deposits of the Cape to form a glacial lake in roughly the current position of Cape Cod Bay. The low energy environment of the lake allowed finer silt and clay sized particles to settle out, creating the lacustrine deposits currently exposed along Brewster's northern shoreline. Wind driven dune deposits and marshlands comprise the most-recent, post-glacial sediment deposits in town.

SOILS

Wet soils, low permeability soils, wetlands, and surface waters make up 25 percent of the soils in Brewster, which means that 25 percent of the Town is unsuitable for development just on the basis of soil type. However, while these soils and water areas limit development, they provide drinking water through groundwater recharge, natural habitat of major importance, and widely used recreational opportunities.

- Soils in Brewster more suited for residential uses:

- Carver Association – highly permeable and comprises more than 75 percent of the town's soils. The loose coarse lower layer's act as a vast reservoir for underground water replenished by precipitation. This coarse-textured, highly permeable soil is quite stable during both dry and wet conditions, and therefore makes for good building sites. Town well tests indicate large amounts of drinkable water in both the eastern and western sectors of Brewster. However, the permeability that allows between fifteen and twenty inches of water per year to recharge the groundwater system also allows septage, landfill leachate, contaminated road runoff and other pollutants, such as oil or gas from leaking underground storage tanks, to quickly flow through the soil into the drinking water supply.
- Plymouth-Barnstable-Nantucket-Barnstable Association - excessively drained and well-drained, sandy, loamy soil. Like Carver, these soils can present severe problems with septic fields, since they allow the effluent to percolate into the groundwater without being sufficiently filtered.
- Soils in Brewster least suited for residential uses:
 - Plymouth-East Chop-Carver-Boxford Association - excessively well-drained, however these sandy soils have the addition of clay. There are apt to be pockets of perched water where these soils form. These soil areas have previously been considered unsuitable for building and for septic systems. However, with the decreasing availability of developable parcels, many previously unwanted lots are now getting a closer look.
 - Freetown Sandy Muck Association - can be classified as wetland/bog, and comprises approximately 7 percent of the town. These soils can be used successfully for cranberry bogs, and there are several important wildlife habitat areas associated with these soils.
 - Ipswich-Pawcatuck-Matunuck Association - the major soil type found in boggy areas near the shore. The soils are poorly drained peats formed in marine and sandy deposits.
 - Agawam Association - approximately 3 percent of town. While important for certain wildlife and plant species, are again unsuitable for development because these soils are too wet or impermeable for proper septic tank functioning

Almost all of this “wet” land is unsuitable for residential, commercial or industrial use because of wetness and instability.

- **Agricultural Soils.** As noted in Brewster's *2013 Open Space and Recreation Plan*, 496 acres (about 3 percent) of the town's land area are classified as prime agricultural soils. Prime agricultural soils are mainly concentrated in the north / northwestern portion of Brewster. Although there are a few active agricultural lands located on prime agricultural soils, most existing active agricultural areas are not (The Association to Preserve Cape Cod, 2011).⁴²

⁴² Association to Preserve Cape Cod (APCC), *Agricultural Land Use on Cape Cod: Looking to the Future* (2011).

GROUNDWATER

Brewster's groundwater system, like the whole of Cape Cod, is replenished entirely by precipitation. The level of the water table fluctuates seasonally due to evaporation, precipitation and water withdrawals. Brewster's potable drinking water supply source is its underground sole source aquifer. The town's groundwater resources are part of the "Monomoy Lens," an aquifer that extends to five towns: Brewster, Orleans, Harwich, and Dennis. Brewster's public water supply wells are located in large undeveloped areas in and around Nickerson State Park and the Punkhorn Parklands.

Groundwater is the primary source of Brewster's existing and future drinking water supply. The Town currently has excellent water quality across its public drinking water wells, and most of its private wells. This is a result of planning for water supply protection through land acquisition and land use regulation over the last twenty to thirty years. The Town owns the land of the Zone I's to all of its drinking water wells. (Zone I is the protective radius required around a public water supply well or wellfield, or 400 feet in Brewster because the wells have approved yields of over 100,000 gallons per day.). The Zone II areas in Brewster represent approximately 4,360 acres (excluding surface water ponds), of which 40 percent, or 1,740 acres, are protected by conservation.⁴³ Conservation lands include a combination of town and state-owned properties, conservation restrictions, and other conservation mechanisms.

Map 2.3 illustrates the types and extent of inland and coastal water resources in Brewster.

FRESHWATER PONDS & LAKES

Freshwater ponds are a major defining feature of Brewster. Over 10 percent (or over 2,000 acres) of the town's surface area is covered by fresh water ponds, providing Brewster with the largest pond area on the Cape. Brewster has approximately eighty ponds and of them, fifty-three are greater than one acre and twenty-eight are greater than ten acres (Great Ponds). The 743-acre Long Pond shared with Harwich is the Cape's largest, while Cliff Pond with a depth of 84 feet is the deepest. In recent years, local concerns about the water quality of Brewster's ponds have often become focused by algal blooms, fish kills, and concerns related to the impacts from population growth.

Nine major freshwater ponds are interconnected in the Stony Brook watershed, which ultimately discharges into Cape Cod Bay at the mouth of Paines Creek. These ponds include Elbow, Slough, Pine, Walkers, Smith, Canoe, Upper Mill, Lower Mill and Schoolhouse Ponds. This hydraulic system is the core of the over 800-acre Punkhorn Parklands. Some of Brewster's ponds are coastal plain ponds, which are freshwater bodies that occupy glacially formed depressions in the sandy soil found on Cape Cod.

⁴³ A Zone II is the area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (i.e., 180 days of pumping at approved yield with no recharge from precipitation). Any contamination of groundwater in a Zone II could impact drinking water quality at the public well drawing water from that area.

About fourteen ponds are regularly stocked with fish by the Massachusetts Division of Fish and Wildlife and at least 11 ponds support public swimming. Ponds in the Stony Brook and Herring River watersheds provide essential habitat for anadromous fish like alewife and blueback herring, which migrate from salt to fresh water to spawn, and catadromous fish like eels that spawn in salt water and live in fresh water.

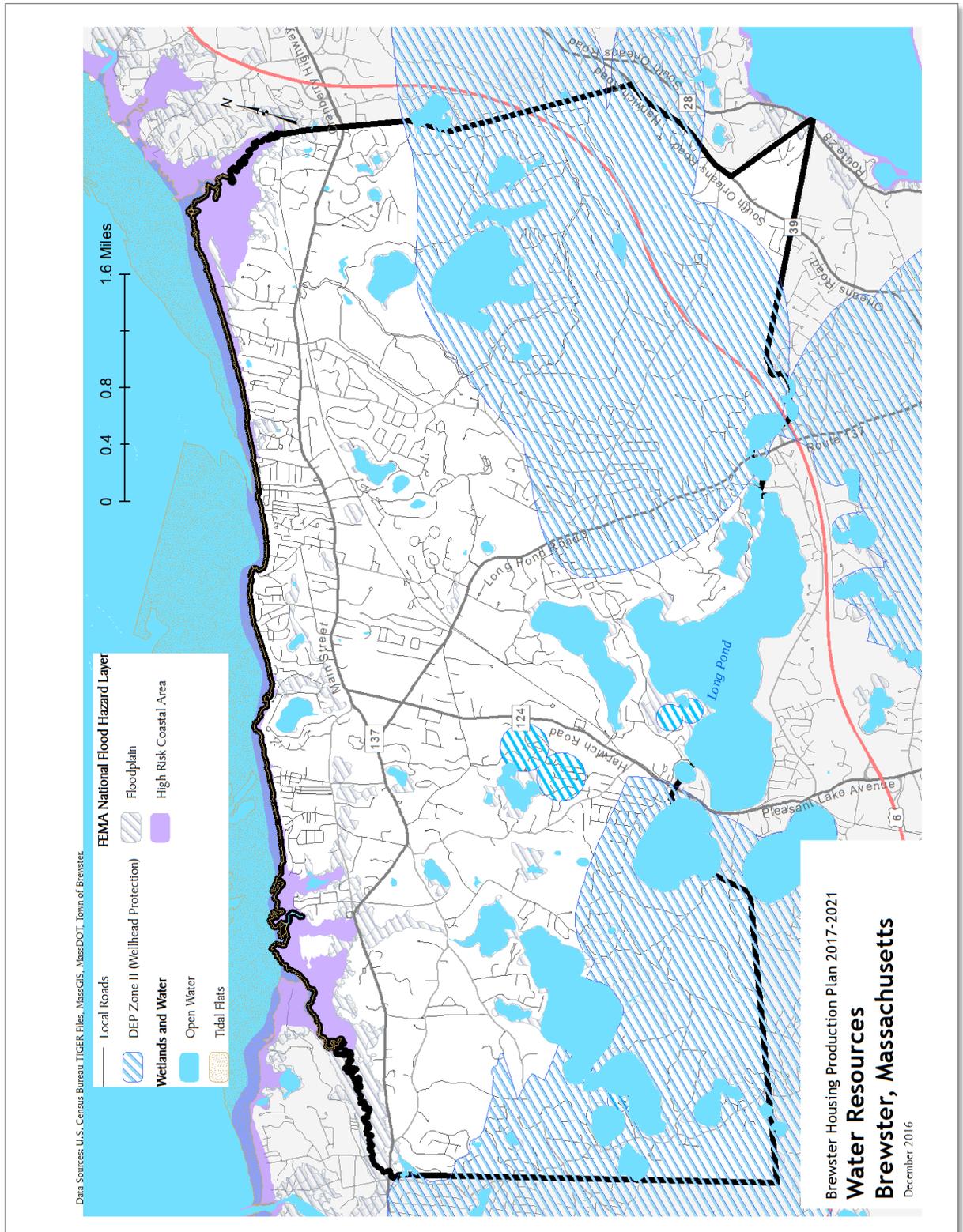
Several complex man-made hydrologic networks consisting of many miles of ditches and intermittent streams course through Brewster and are maintained by the Barnstable County Mosquito Control Commission. The Consodine Ditch system was developed to remove surface water from low-lying wetlands and acts as a flood relief system, which discharges water at Breakwater Beach. A second extensive ditch network flows through the Stony Brook watershed and discharges through Freemans Pond and Paines Creek.

COASTAL & ESTUARINE RESOURCES

Coastal resources in Brewster exist primarily on the north shore along Cape Cod Bay. There is a small section of Brewster bordering Pleasant Bay (approximately forty feet of frontage) to the south, but there is no landing there. While there are no large estuaries in Brewster, there are some substantial creeks including Paine's, Quivett and Namskaket. At low tide, Brewster's beaches become a part of expansive tidal flats that extend at least a mile out into Cape Cod Bay.

Ten saltwater beaches are located along Cape Cod Bay. Each is accessible from a street connecting to Main Street (Route 6A). These provide miles of swimming, sunbathing, beach strolling, fishing, and boating access. Water quality at eight of Brewster's most popular bathing beaches is monitored throughout the summer by the Barnstable County Department of Health and the Environment. The beaches generally have excellent water quality.

Water quality in Pleasant Bay has been degraded from excessive nitrogen loading within its watershed, a portion of which is in Brewster. As fertilizers account for 16 percent of the watershed nutrient load in Pleasant Bay, The Pleasant Bay Alliance recently created a Fertilizer Management Plan that provides strategies with the potential to reduce overall controllable nitrogen by up to 7.2 percent. The Town has also developed an Integrated Resource Management Plan with specific action items to reduce nitrogen loading to Pleasant Bay, such as regulatory controls on septic systems and storm water management. Some of the creeks and rivers in Brewster have demonstrated poor water quality, too, including Quivett Creek, Namskaket Creek, Herring River, and Bass River. The town is looking at ways to manage these surface water resources as well.



Data Sources: U.S. Census Bureau TIGER Files, MassGIS, MassDOT, Town of Brewster.

Brewster Housing Production Plan 2017-2021
Water Resources
Brewster, Massachusetts
December 2016

PLANT COMMUNITIES & WETLANDS

Brewster contains a number of diverse vegetative communities which are ecologically significant, and which help to define the visual character of the town. There is a wide diversity in the size, successional stage and vulnerability to development of these communities. These plant communities perform many critical functions. Plant species moderate weather extremes, help maintain the quality of the soil and air, protect against erosion, and absorb runoff, therefore protecting groundwater supplies. Vegetation provides useful habitats for wildlife, including shelter and food, breeding and overwintering habitat. Some wild plants, such as those producing berries, provide food for humans. Trees, shrubs and groundcover have aesthetic value, and are a major component of Brewster's visual quality.

The Massachusetts Natural Heritage & Endangered Species Program (NHESP) maintains a list of all Massachusetts Endangered Species Act (MESA)-listed species observed and documented in each town. In total, Brewster has twenty MESA-listed species, six of which are threatened species and six are endangered.

With funding from the Massachusetts Executive Office of Energy and Environmental Affairs (EEA), NHESP developed a BioMap to identify and delineate the most important areas for the long-term viability of terrestrial, wetland, and estuarine elements of biodiversity in Massachusetts. Similarly, the goal of the NHESP Living Waters project, completed in 2003, was to identify and delineate the rivers, streams, lakes, and ponds that are important for freshwater biodiversity in the Commonwealth. Both BioMap and Living Waters delineate "Core Habitats" that identify the most critical sites for biodiversity conservation across the state. Significantly, BioMap core habitat areas cover approximately 50 percent of the Town of Brewster, in two main areas: Nickerson State Park and its surrounds extending southeast to the town boundary and northeast to include Namskaket Creek, and the Punkhorn Parklands area, the Mill Ponds, the herring run, and the entire Paine's Creek area.

Erosion and the need for beach re-nourishment resulting from shoreline development are ongoing challenges in Brewster. Beach grass and other xerophytes (plants adapted to living in drying conditions) are important for stabilizing dunes and protecting the shoreline. They are capable of collecting sand, thus building dunes while their strong root systems protect them from excessive wind erosion.

Brewster has relatively large areas of un-fragmented second growth pine-oak forest compared to other Cape towns. As the title implies, second growth pine/oak forest has sprung up on formerly cultivated lands that once were forested, prior to clearing by the Cape's original settlers. The pines and oaks are often thirty to fifty years old and are found on most undeveloped sites on the Cape. These areas are considered to be the Cape's prime developable land and also provide important upland wildlife and plant habitat. Brewster is fortunate to have at least three such significantly sized (by Cape standards) un-fragmented second growth forests designated as protected open space:

Wetlands cover more than 20 percent of Brewster's land area. Saltwater wetlands consist of 12,840

acres, which include salt marshes, tidal flats and barrier beaches. Freshwater wetlands, consisting of 553 acres, include sensitive Atlantic White Cedar, Red Maple and shrub swamps, bogs, vernal pools and other wetlands. There are also about twenty certified vernal pools in Brewster. These wetland resource areas provide a number of important ecological services. They provide habitat for terrestrial and aquatic plants and animals, they filter pollutants before they enter water bodies or groundwater, and in many cases they provide a buffer against storm damage.

The Brewster Wetlands Protection By-law and Regulations are more stringent than the State Wetlands Protection Act in several distinct areas. The Brewster Wetlands Protection By-law extends the wetland values protected in the By-law to include: groundwater quality, water quality in the numerous ponds of the town, erosion and sedimentation control, and aesthetics and historic values. The town also extends applicability to include land subject to inundation by groundwater or surface water, which goes beyond the state's regulations.

HISTORIC & CULTURAL RESOURCES

Historic and cultural resources are an integral part of Cape Cod's past, and Brewster's cultural and historic areas characterize the town. Brewster maintains historic Native American burial grounds as well as a historic "Old Indian Well" adjacent to Quivett Creek. Historic homes, municipal buildings, and landscapes are also an important part of Brewster's heritage. Again the following sections are excerpted from the 2013 OSRP, unless otherwise noted.

HERITAGE RESOURCES

Scenic heritage landscapes are those special places and spaces that help define the character of a community and reflect its past. They are the result of human interaction with the natural resources of an area, which influence the use and development of land. A comprehensive list of the town's heritage landscapes, including descriptions and action strategies for each, can be found in the *2007 Brewster Reconnaissance Report - Cape Cod Commission Landscape Review and Massachusetts Heritage Landscape Inventory Program (2007 BRC)*.⁴⁴ In Brewster, heritage landscapes come in many forms, including:

- Nickerson State Park and its surrounds extending southeast to the town boundary and northeast to include Namskaket Creek
- Cemeteries
- Commons/Village Centers
- Mill sites
- Parks
- Buildings/Estates
- Farms/Cranberry bogs
- Camps

⁴⁴ 2007 Brewster Reconnaissance Report - Cape Cod Commission Landscape Review and Massachusetts Heritage Landscape Inventory Program (2007 BRC), http://www.capecodcommission.org/resources/historicpreservation/Brewster_2007HeritageLandscapeInventory.pdf

■ Scenic roads

The Brewster Town Commons or Village Center is generally considered to be the confluence of Routes 137, 124 and 6A, which is where the first church gathered in 1700. This is also the site of the Old General Store, which has served as a meeting place for Brewster residents for many years.

Stony Brook Grist Mill and its associated Mill Ponds are also important to the town's scenic and historic heritage. In 1940, the Town acquired the property encompassing the Herring Run, Grist Mill, and the remains of Factory Village on Stony Brook Road. Brewster's Drummer Boy Park is also important for its scenic, historic and recreational opportunities and it is an important asset to the town. The 17-acre park located along historic Route 6A with scenic views of Cape Cod Bay includes well-tended lawns, attractive tree-planting, a children's playground, and the historic restored 18th century Higgins Farm Windmill and historic home and blacksmith shop on the adjacent Historical Society and Brewster Conservation Trust properties.

Historic homes and estates are also a significant part of Brewster's scenic heritage. Over 99 sea captains made their home in Brewster in the 18th and 19th centuries. Many of their homes are still standing and have been renovated or restored to their original beauty. Several of the historic homes are available to visit, as they form a major part of the Brewster economy, as charming country inns and quaint bed and breakfasts.

Brewster is also marked by scenic agricultural lands, including farmsteads, pastures, fields, woodlots, and cranberry bogs. In addition to their scenic properties, these agricultural operations also provide local healthy food for residents. There are also farms that provide recreational opportunities, such as horseback riding. A scenic and recreational asset, Nickerson State Park, offers family outings, camping, hiking, swimming, and boating. There are over four hundred campsites for which the Park will accept reservations, and there is also a stocked year-round pond for freshwater fishing.

Historic Route 6A began as a Native American trail and evolved into a principal east-west cart path for early Cape farmers and other settlers. In the late 17th century it became an extension of the Plymouth Colony's "King's Highway." The historic route extends across Cape Cod, and it serves as Brewster's Main Street as it traverses the town.

The railroad right-of-way that is now the Cape Cod Rail Trail is also an important scenic heritage landscape, dating from the Early Industrial Period (1830-1870).

HISTORIC RESOURCES

The Massachusetts Historical Commission's (MHC) Inventory of Historic and Archaeological Assets documents 360 historic resources in Brewster ranging from the turn of the 18th century to the early 20th century, with the exception of one building erected in 1965. In 1973 the Old King's Highway Regional Historic District was created, following Route 6A and covering portions of Brewster and five other Cape towns. Individual properties were not inventoried as part of the district's creation.

The Town of Brewster's National Register of Historic Places program began in 1975 with the listing of the Old Higgins Farm Windmill. In 1995, inventory work along Route 6A was updated to support creation of the Brewster Old Kings Highway National Register District, which covers the heart of the Old Kings Highway District in Brewster. Additional inventory work was completed in 1999 to support the Stony Brook/Factory Village National Register District, listed on the Register in July of 2000. There are two other individual listings on the National Register: the Dillingham House and Nickerson Mansion- Fieldstone Hall. No significant survey work has been conducted since 1999.⁴⁵

SENSITIVE ARCHAEOLOGICAL AREAS

Brewster has identified archaeological sites within Nickerson State Park and Native American sites along many water bodies, including:

- Nickerson State Park - Former house sites that are now represented by cellar holes, foundations, bottle dumps;
- Nickerson State Park - Site Southern Edge Flax Pond;
- Wing Island;
- Old Indian Well –adjacent to Quiet Creek; and
- Site between Upper and Lower Mill Ponds

According to the 2013 OSRP, the Archaeological Sensitivity Overlay Map, developed in 1989, triggers archaeological review for applications which are reviewed under the Wetlands Protection By-Law and the Environmental Impact Review By-Law. This overlay district indicates potential archaeologically sensitive sites as a factor to be considered prior to the issuance of a building permit. The creation of this overlay map generated increased public interest in preserving undisturbed sites, and especially to enable obtaining invaluable and irreplaceable information on Brewster's pre-history prior to construction.

As described in the Town of Brewster's Archaeological Resources Map, Brewster has areas of primary, secondary, and tertiary archaeological sensitivity – meaning that the likelihood that artifacts are present is rated according to location in the following three areas:

- **Primary** - (1,000-foot protective buffer zone): This area generally includes all areas within 1,000 feet of a marine ecosystem, particularly those areas within close proximity to fresh water. These areas have a high probability of containing prehistoric archaeological sites. The four most important areas for management consideration based upon available data are: Namskaket Creek and marsh, the Cape Cod Bay shoreline, Stony Brook Valley, and the major ponds of the Herring River Drainage System.
- **Secondary** - (500-foot protective buffer zone): This area generally includes all areas within 500 feet of a water body greater than 3 acres in size that are not a part of the Herring

⁴⁵ 2007 Brewster Reconnaissance Report - Cape Cod Commission Landscape Review and Massachusetts Heritage Landscape Inventory Program (2007 BRC), http://www.capecodcommission.org/resources/historicpreservation/Brewster_2007HeritageLandscapeInventory.pdf

- River or Stony Brook drainage systems. These areas are likely to contain prehistoric archaeological sites, particularly as they intersect areas of primary sensitivity.
- **Tertiary:** This area generally includes all areas within a protective zone that skirts wetlands of any size and water bodies less than three acres in size. Developments that may disrupt the natural character or inhibit public safety are prohibited in this protective zone. The delineation of the protection zone is defined in the Town of Brewster's Wetlands Conservancy District Bylaw and are subject to the regulations that constitute the Wetlands Protection act, MGL.c.131, --40, as amended. Archaeological sites may exist within these environments.

INFRASTRUCTURE CAPACITY

This section reviews the Town's infrastructure capacity including drinking water, wastewater, transportation, and schools. This section is based on information and direct excerpts from the 2013 OSRP, unless otherwise noted.

DRINKING WATER

Drinking water in Brewster comes from the Cape Cod Aquifer, a sole source aquifer, through public wells owned and operated by the Brewster Water Department, and a number of private wells, owned and operated by individual homeowners and businesses. The Cape Cod Aquifer is comprised of six lenses, including the Monomoy Lens, the second largest of the Cape Cod groundwater lenses. The Monomoy Lens is 66 square miles with a maximum elevation of 30 feet, and provides water to the Town of Brewster, but also to the towns of Dennis, Harwich, Chatham, and Orleans.

As stated in the *Brewster Water Department 2014 Annual Water Quality Report*, the Town has five groundwater wells pumping water from the Monomoy Lens. (See Map X) Each of the well sites has large Town owned tracts of land surrounding them for water quality protection. Activity is restricted to passive recreation on Town wellfield acreage. The Town treats the water for corrosion control and to remove iron and manganese. Between 2008 and 2013, Brewster acquired a number of priority sites or obtained easements for wellheads. The town has also acquired parcels or obtained easements for lands within Zone IIs to its own drinking water supply wells, as well as to neighboring towns' drinking water supply wells.

In addition to acquisition of lands for the protection of drinking water supplies, the town has also developed regulations that further the protection of these lands. Most notable is Brewster's Water Quality Protection zoning bylaw, which restricts development within Zone I and Zone II areas and imposes performance standards on development within Zone I, Zone II, and the District of Critical Planning Concern (DCPC). Brewster's DCPC, designated by the Cape Cod Commission in 2008, is a powerful planning tool that allows a town to adopt special rules and regulations to protect natural resources.

WASTEWATER

Wastewater discharges in Brewster are mostly from individual onsite septic systems. Brewster is not served with public sewers or private sewage treatment facilities. However, the Tri-Town Sewage Treatment Facility in Orleans provides a receiving facility for the disposal of septage from Brewster, Orleans, and Eastham.

Pollutants in wastewater, mainly from nitrogen and phosphorous, can affect groundwater quality and contribute to the degradation of fresh water ponds and coastal water resources. Nitrogen causes problems with marine resources and phosphorus is the primary pollutant affecting fresh water ponds. Both nitrogen and phosphorus act as a fertilizer, contributing to excess growth of aquatic plants and algae, changing natural ecosystems and leading to the loss of fish and shellfish habitat.

Pleasant Bay is a moderately impaired waterbody under Section 303(d) of the federal Clean Water Act. Accordingly, the Massachusetts Department of Environmental Protection (DEP) has issued a Total Maximum Daily Load (TMDL) report for the watershed, setting nitrogen loads and reductions for both current and buildout conditions. Septic systems located within the watershed to Pleasant Bay provide the main source of nitrogen impacts to the Bay. According to the Cape Cod Area Wide Water Quality Management Plan Update, Brewster contributes approximately 14 percent of the attenuated wastewater nitrogen load to the Pleasant Bay watershed.

Some of Brewster's ponds (e.g., The Mill Pond Complex) have historically been degraded by nutrients and pathogens coming from the farms at a time when there was no vegetative cover to prevent nutrients from entering the ponds. Today, septic systems discharging effluent and fertilized lawns contribute nutrients close to the pond shores. Managing the impacts of wastewater-associated pollutants on groundwater and surface water resources is a major priority in Brewster. To address these impacts, the town has been involved in a multi-phase Integrated Water Resource Management Plan (IWRMP), which provides a comprehensive assessment of wastewater management alternatives in Brewster.

TRANSPORTATION

PUBLIC TRANSIT

The Cape Cod Regional Transit Authority (CCRTA) provides public transportation services for all fifteen Cape Cod communities. In Brewster, CCRTA offers fixed route and limited demand bus service within town and to other Cape communities, linking passengers to rail, air, and ferry service from Hyannis and other Cape towns. According to the *2013 OSRP*, 6,700 riders boarded buses in Brewster in 2011.

The Flex bus provides daily service throughout the Cape. The Flex picks up and drops off passengers at designated stops, including the Cape's beautiful beaches, and also flexes off its route by reservation up to $\frac{3}{4}$ of a mile to serve those who have difficulty getting to a regular bus stop. The Flex travels to Brewster on Route 6A and connects with the CCRTA H2O Bus Line in Orleans and Harwich, and in the summer connects with the Provincetown/North Truro Shuttle. It also

connects with the Plymouth & Brockton bus service to Boston.⁴⁶

DART Service (demand response Paratransit) is a fare-based door-to-door, ride by appointment transportation service that is offered by the CCRTA within Brewster Monday through Saturday, to Harwich Monday through Saturday, to Orleans Monday through Friday, to Chatham on Saturday, and to Hyannis and towns in between Monday through Saturday.⁴⁷

ROADWAYS

Brewster is located midway on Cape Cod and is accessible by major highways (Route 6, 6A, 124 and 137). Route 6A extends the length of Brewster and is Brewster's Main Street. It is a designated scenic road and also registered as the Old King's Highway National Register District, which further protects it from pressure to accommodate increased traffic that would extinguish the roadway's historically valuable character. Pressure increases each year to expand the roadway in order to accommodate bike traffic, and to reconfigure some intersections where left hand turns cause back-ups in traffic. Attempts to expand the paved width of roads in order to accommodate pedestrian, bike and skate traffic have been opposed by abutters to the roads.

SIDEWALKS & PEDESTRIAN PATHS

Brewster does not have many public sidewalks, and the sidewalks that exist are incomplete. Many pedestrian paths run along portions of these roads; however, shoulders tend to be narrow and somewhat steep, with utility poles, trees, and smaller vegetation interrupting the pathways and sidewalks. Brewster also has four walking trails as well as a number of informal walkways throughout its conservation land. Most walkways and pathways in Brewster are useful mainly for recreational purposes. It is not likely that these pathways will provide alternative means of transportation, as most of do not lead to destination points or conveniently connect with other links or modes of transportation. According to the *2013 OSRP*, linking these recreational resources and facilities with safe pedestrian or bike paths could eliminate a significant amount of vehicular traffic in the future.

The Cape Cod Pathways Program is an effort by Barnstable County and the Cape Cod Commission to create a network of walking trails that will extend from Provincetown to Falmouth and Bourne and provide a connection between the seashore and the Cape's wooded areas and villages. One third of the Pathway's east-west trail between Provincetown and the Upper Cape is now dedicated.⁴⁸ As part of the Cape Cod Pathways Program, Brewster's Pathways has a goal of a walking path from Dennis to Orleans, with connections to Harwich and "fingers" extending into various parts of town. Pathways through Nickerson State Park and on to Orleans have already been dedicated, as well as a pathway connection routed through the Punkhorn Parklands.

⁴⁶ The Flex, Regional Transit Authority, <http://www.capecodtransit.org/flex-route.htm#outbound>

⁴⁷ DART Information for Brewster, Cape Cod Regional Transit Authority, <http://capecodrta.org/b-bus-schedules/brewster.htm>

⁴⁸ Cape Cod Commission, "About Cape Cod Pathways."

BIKEWAYS

As stated in the 2013 *OSRP*, the 22-mile Cape Cod Rail Trail (CCRT) provides passage through the Brewster from Dennis to South Wellfleet. About six miles long in Brewster, it is the only designated bike path in town. This trail is heavily used by cyclists, roller-skaters, rollerbladers, skate-boarders, cross-country skiers, walkers and occasionally equestrians. It is a major step toward promoting alternative types of transportation. It serves as a primary corridor, allowing the town to bring bicyclists, horseback riders and walkers to interesting destinations with connector trails. Thousands of bicyclists, hikers and riders use the trail each year. Nickerson State Park also has an eight-mile bike path, which connects to the CCRT.

Bikes are also ridden along local roads using non-delineated trails. Road shoulders in Brewster tend to be narrow and somewhat steep, and impediments such as vegetation and utility poles limit bicycle and pedestrian access even more. Despite these impediments, bike traffic along Route 6A is encouraged to travel on the unpaved shoulders or the sidewalks, instead of in the vehicular lanes. This is dangerous and illustrates a serious need for local and roadside bike lanes.

SCHOOLS

The Town of Brewster's public schools consist of two elementary schools: Eddy Elementary School (serving grades 3-5) and Stony Brook Elementary School (serving grades PK-2). Located off Underpass Road, Stonybrook Elementary was built in 1973. In 1999, the town constructed Eddy Elementary on Main Street to meet increased student enrollment and projections. Brewster is part of the Nauset Regional Public School System for middle school and high school, both of which are located in other towns. Nauset Regional Middle School serves grades 6-8 and is located in Orleans. Nauset Regional High School serves grades 9-12 and is located in Eastham. It consists of more than 1,000 students from the four towns that comprise the region (Brewster, Eastham, Orleans, and Wellfleet), together with tuition agreement students from Provincetown and Truro and school choice students from others towns on the Cape.⁴⁹

Three independent, private schools are located in Brewster as well. The Laurel School serves children ages fifteen months to grade 6. The Latham School serves boys and girls ages 8 to 22 years with special needs.⁵⁰ The Salt Box School, part of the Family Schools, offers two five-day programs for children ages four through seven.

ENROLLMENT

According to a 2014 article in *Cape Cod Today*, enrollment across the Cape has continued to decline, with a loss of 21.54 percent since 2001. Several elementary schools in the mid-Cape area have closed, along with the consolidation of Chatham/Harwich and the loss of Provincetown High School. While the enrollment at Brewster's two elementary schools grew in 2014 by 1.71 percent (and 2016-2017 enrollment numbers as of August 10, 2016 also show an increase from the previous

⁴⁹ Nauset Regional High School, Nauset Public Schools, <http://www.nausetschools.org/NRHS.cfm?subpage=703088>

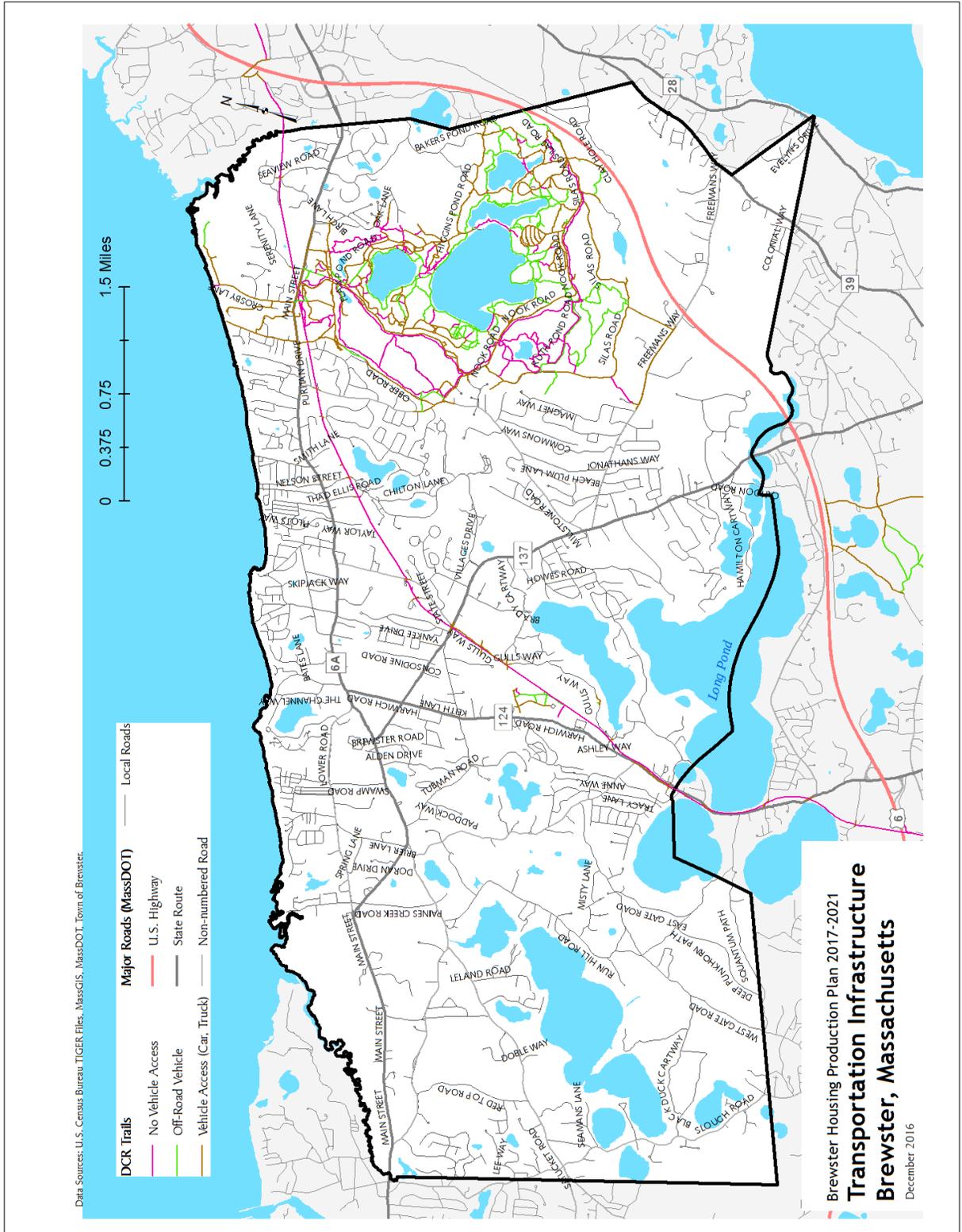
⁵⁰ Who is Latham Centers, <http://www.lathamcenters.org/what-we-do/latham-school/#>

year's enrollment figures)⁵¹, the schools have lost 30.9 percent of their students since 2001.⁵² Current school enrollment figures in Brewster across its two elementary schools are as follows:⁵³

⁵¹ See Table 2.XXX: Brewster Public School Enrollment 2015-2017

⁵² Brooks, Walter, "Cape Cod school enrollment drops again," Cape Cod Today, February 7, 2014, <http://www.capecodtoday.com/article/2014/02/07/23991-Cape-Cod-school-enrollment-drops-again>

⁵³ Town of Brewster school enrollment figures, as of August 10, 2016, provided by the Town of Brewster.



- **Total for Grades K-2: 225**
 - Kindergarten: 73
 - Grade 1: 73
 - Grade 2: 79
- **Total for Grades 3-5: 235**
 - Grade 3: 82
 - Grade 4: 75
 - Grade 5: 78
- **Total Enrollment: 460**

SPECIAL NEEDS

The Brewster Elementary Schools do not appear to have disproportionate over-representation of special needs populations. At Stony Brook Elementary School (serving grades PK-2), approximately 13.5 percent of the student population has disabilities, and 17.9 percent of the student population at Eddy Elementary (serving grades 3-5), compared with 17.2 percent statewide. At Stony Brook, there is an estimated 2.2 percent English Language Learner population, and an estimated 3.6 at Eddy, compared with 9 percent statewide. About 25.1 percent of the Stony Brook student population is economically disadvantaged, and 22.4 percent of the Eddy student population, compared with 27.4 percent statewide.⁵⁴

PROJECTIONS & CAPACITY

According to a September 12, 2016 interview with David Telman of the Brewster School Committee, the town is currently exploring plans to consolidate all elementary students into one school (Stonybrook) due to the overall decrease in enrollment. The town is looking to turn Eddy Elementary into a town recreation center and dedicated space for the Council on Aging.⁵⁵

REGULATORY BARRIERS

This section describes land use and environmental regulations that affect residential development including zoning and state and local wetlands regulations.

ZONING

The Brewster Zoning Bylaw includes minimal provisions to encourage the creation of affordable housing or multifamily housing. Section 179-.42.1 of Article IX, Special Regulations, defines the conditions for creating affordable housing units, which may include affordable accessory single family dwelling units (AADU), affordable accessory commercial dwelling units (AACDU), and affordable multifamily dwelling units (AMFDU). However, a conflict in the zoning bylaw related to AADUs and a former provision for accessory apartments or “in-law” apartments appears to have unintentionally hampered the development of affordable accessory dwelling units in the past ten years in Brewster.

⁵⁴ Massachusetts Department of Elementary and Secondary Education, School/District Profiles: Stony Brook Elementary (00410005) and Eddy Elementary (00410010), accessed 9/13/16.

⁵⁵ In-person interview with David Telman, Brewster School Committee, September 12, 2016.

The bylaw’s affordable housing provisions present Fair Housing considerations, as they limit the number of bedrooms per unit and occupancy by bedroom. These policies may be considered discriminatory towards families with children, a protected class as defined by the Fair Housing Act.⁵⁶ This is discussed in more detail below.

■ Residential Uses Permitted

The Brewster Zoning Bylaw includes three residential districts that range in minimum lot size requirements from about one and a third acre to two and a third acres. The C-H and VB districts allow residential and commercial uses, and the I districts allow residential, wholesale, manufacturing, and industrial uses. Map 2.5 is Brewster’s present zoning map (unofficial version).

Residential & Mixed-Use Districts	Area Regulations		Residential Use Permitted	
	Minimum Lot Size*	Max Bldg. Coverage of Lot Area**	By Right	By Special Permit
R-R (Residential Rural)	100,000 sq. ft., plus 100,000 sq. ft. for the second dwelling unit of a duplex	15% of lot area	One family detached dwelling unit; Accessory residential building; Affordable accessory single-family dwelling units (AADU)	Cluster residential development; Major residential development; Subsidized elderly housing
R-L (Residential Low Density)	60,000 sq. ft., plus 60,000 sq. ft. for the second dwelling unit of a duplex	20% of lot area	One family detached dwelling unit; Accessory residential building; Affordable accessory single-family dwelling units (AADU)	Cluster residential development; Major residential development; Planned residential development; Subsidized elderly housing
R-M (Residential Medium Density)	60,000 sq. ft., plus 60,000 sq. ft. for the second dwelling unit of a duplex	25% of lot area	One family detached dwelling unit; Accessory residential building; Affordable accessory single-family dwelling units (AADU)	Cluster residential development; Major residential development; Planned residential development; Subsidized elderly housing

⁵⁶ The Fair Housing Act, which is the federal law governing housing discrimination, includes the following seven protected classes: race, color, religion, national origin, sex, disability, and familial status. Additionally, in Massachusetts, the Massachusetts Anti-Discrimination Act (MGL c.151B s.1) includes the following protected classes: race, religious creed, color, national origin, sex, gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, age, genetic information, ancestry, or marital status of such person or persons or because such person is a veteran or member of the armed forces, or because such person is blind, or hearing impaired or has any other handicap.

Residential & Mixed-Use Districts	Area Regulations		Residential Use Permitted	
	Minimum Lot Size*	Max Bldg. Coverage of Lot Area**	By Right	By Special Permit
C-H (Commercial High Density): multifamily dwellings; Row house or town house	130,000 sq. ft., plus 10,000 sq. ft. per bedroom	40% of buildable uplands within lot area; except 25% of buildable uplands within lot area for multifamily dwellings	Accessory residential building; Affordable accessory commercial dwelling unit (AACDU); Affordable accessory single-family dwelling units (AADU); Affordable accessory multifamily dwelling units (AMFDU); One-family security dwelling unit	Major residential development; Multifamily dwelling; Row or town houses; Subsidized elderly housing
VB (Village Business)	15,000 sq. ft.	30% of buildable uplands within lot area	One-family detached dwelling unit; Accessory residential building; Affordable accessory commercial dwelling unit (AADU); Affordable accessory single-family dwelling units (AADU); One-family security dwelling unit	-
I (Industrial)	20,000 sq. ft.	50% of lot area	Affordable accessory commercial dwelling unit (AADU); Affordable accessory single-family dwelling units (AADU); One-family security dwelling unit	-
Notes:				
<p><i>* In general, only one permitted structure shall be permitted on one lot. The exceptions are planned residential developments, row commercial development, subsidized elderly housing, planned business developments, community facilities, and public utilities. Also, residential lots may contain two single-family units, if the lot is twice that required by the Table of Area Regulations for single-family residences in that district and if each unit is provided paper street access.</i></p>				
<p>** Maximum Permitted Height for all Residential & Mixed-Use Districts = 30 feet</p>				

■ Other Residential Uses Permitted

Assisted Living Facilities and Nursing Homes are allowed in all three residential districts through a special permit and they are permitted by right in the C-H district. Assisted Living Facilities are defined in the Brewster Zoning Bylaw as a “combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living....” Nursing Homes are defined as a “home for the aged, chronically ill, persons requiring care or incurable persons in which three or more persons, not of the immediate family, are received, kept or provided with food and shelter or care for compensation....”

Lodging Houses are allowed in all three of the residential zoning districts through a special permit and they are permitted by right in the C-H and V-B districts. Lodging Houses are defined in the Brewster Zoning Bylaw as a “structure originally designed for single-family use which may be converted to provide rooms (not more than twelve) for the use of one or more individuals not living as a single housekeeping unit and may provide a common dining facility. It shall include boardinghouse, tourist homes and rooming houses but does not include motels or hotels.”

■ Affordable Accessory Dwelling Units (AADUs) and Multifamily Dwelling Units

Section 179-42.1 under Article IX allows for the creation of affordable accessory commercial dwelling units (AACDU) and affordable accessory single-family dwelling units (AASDU) and provides the following definitions for each provision.

Affordable accessory commercial dwelling units (AACDU) - permitted by right in C-H, V-B, and I districts:

Affordable housing as an accessory use in a commercial district. It shall have a maximum of one bedroom and a maximum of 600 square feet of area.

Affordable accessory single-family dwelling units (AASDU) - permitted by right in all residential and mixed-use districts: R-R, R-L, R-M, C-H, V-B, and I districts:

Affordable housing, either attached or detached, as an accessory use to a single-family dwelling. It shall have a maximum of two bedrooms and a maximum of 900 square feet of area.

Affordable multifamily dwelling units (AMFDU) - permitted by right in the C-H district:

More than two but no more than four affordable housing units within a building unit. Each affordable housing unit shall have a maximum of two bedrooms and a maximum of 900 square feet of area.

Multifamily dwelling - permitted by special use permit in the C-H district:

A building containing three or more dwelling units.

According to town officials, however, there appears to be limited, if any, development opportunity in the C-H district that permits multifamily development, including affordable multifamily dwelling units.

FAIR HOUSING CONCERNS

Brewster's affordable housing provisions present some Fair Housing considerations due to the limitations placed on number of bedrooms per unit and occupancy by bedroom. While these policies may not have been intended to have a discriminatory effect, they may have a disparate impact on families with children, a protected class as defined by the Fair Housing Act.⁵⁷ The definition of AACDU limits affordable units to no more than one bedroom, AASDU limits affordable units to no more than two bedrooms and AAFMDU limits affordable units to no more than two bedrooms. In addition, Section 179-42.1 under Article IX provides the general conditions and standards of "affordable housing" in Brewster, which restrict occupancy in such units to two persons per bedroom rather than tying the number of persons per bedroom to minimum size of bedroom.

CONFLICTING PROVISIONS

According to town officials, the affordable accessory dwelling unit provisions have been used very infrequently since 2007, when the zoning bylaw was amended from the "accessory dwelling unit bylaw" to the "affordable accessory dwelling unit bylaw." The lack of use of this affordable housing provision appears to be related to a conflict that exists in the bylaw - Note 13 in Table 2.2: Area Regulations and Minimum Required Lots. This note identifies who is permitted to live in an accessory apartment; however, this definition is left over from when the bylaw permitted non-affordable accessory apartments, also referred to as "in-law apartments" at times throughout the bylaw. The note clarifies that such an apartment is allowed by a special permit granted by the Board of Appeals and restricts the use of the apartment to "... the property owner's immediate family, including in-laws (mother, father, brother, sister), and/or a health care professional providing a service to the above family...."

This conflict in the zoning bylaw presents a large problem in terms of the creation of affordable housing in Brewster; the intent of the amended bylaw was to encourage the development of affordable units, but this does not appear to be happening because of the conflict of language in the code. Additionally, according to town officials, property owners have chosen to develop accessory units under the older clause as a special permit instead of the by-right AADU option, so as to avoid controlling the future market rental of the unit. Enforcement of these units is also a challenge, as there are no protocols in place at the town-level to terminate or enforce the conditions of these non-rented units.

■ Cluster, Major, and Planned Residential Development

Section 179-35 under Article IX allows for cluster residential development, which is intended to allow flexibility in lot sizes and building arrangements, while maintaining the existing character of the town. Cluster residential development, however, is only permitted by special use permit granted by the Planning Board. Any parcel of at least ten acres in size in the R-R, R-L, and R-M districts may be used for a cluster development and divided into lots for a single-family residential

⁵⁷ Disparate Impact - practices or services that appear neutral on the surface, but, in practice, disadvantage protected class members and/or perpetuate segregated housing patterns

use, and the basic number of dwelling units shall not exceed the number of units which could be developed with a conventional plan for land in the R-R, R-L, or R-M districts.

Section 179-35.2 under Article IX allows for major residential development, permitted by special use permit from the Planning Board. The Planning Board may authorize flexible development within a major residential development, including the provision that each lot shall have an area of at least half that required under Table 2.2 of Section 179-16 – Area Regulations. The Planning Board may also approve a density bonus for major residential developments for up to 15 percent more units than the basic number of maximum dwelling units to encourage development of affordable units. Such an approval must be satisfactory to the Brewster Housing Authority and include long-term income eligibility restrictions that meet the guidelines of state or federal housing programs. Subsidized elderly housing is also allowed in a major residential development.

Section 179-36 under Article IX allows for the planned residential development (PRD), which is intended to provide an alternate pattern of land development to that permitted in the R-M and R-L Residential zones, while encouraging a greater mixture of housing types. Planned residential development is only permitted by special permit in the R-M and R-L Residential districts. Single-family attached or detached dwellings, as well as two-family or multifamily dwellings are permitted within a planned residential development and there is no minimum lot size, no minimum percentage of lot coverage and no minimum lot width in a planned residential development, thus allowing for greater density.

According to town officials, they have permitted roughly a half-dozen of these types of projects in recent years.

DEVELOPMENT RATE/BUILDING PERMIT LIMITATION

Major residential development is allowable only by special permit from the Planning Board, which may require a development schedule limiting the rate of development. According to town officials, the Planning Board has the authority to define such a schedule on a case-by-case basis to ensure that the town has the ability to phase-in incremental public services and the community's cost to expand and absorb these impacts (i.e. school capacity, water usage, vehicle and pedestrian traffic, emergency services, etc.). In no event can a development be limited to fewer than six lots or dwelling units per year or be obliged to spread development out over more than eight years.

SPECIAL DISTRICTS

- **Floodplain District** – The purpose of this overlay district is to regulate development in areas subject to coastal storm flowage, particularly high hazard velocity zones, in order to minimize threats to public safety, potential loss of life, personal injury, destruction of property, and environmental damage inevitably resulting from storms, flooding, erosion and relative sea level rise. All uses otherwise permitted in the underlying district are allowed, however, where the Floodplain District Bylaw imposes additional or conflicting regulations, the more stringent local regulations shall prevail. All development in the

Floodplain District must be in compliance with the Massachusetts State Building Code dealing with construction in floodplains and coastal high hazards.

- **Wetlands Conservancy District** – The purpose of these districts is to preserve and maintain the groundwater table; to protect coastal and inland waters; to protect public health and safety; to protect persons and property from the hazards of flood and tidal waters; and to conserve the natural character of the environment, wildlife, and open space for the general welfare of the public. No residential or commercial structures, sewage disposal systems, storage tanks or other potential sources of substantial pollution are permitted in this district.
- **Water Quality Protection District** – Article XI establishes the Water Quality Protection District, which ensures an adequate quality and quantity of drinking water for the residents, institutions, and businesses of Brewster. The provisions of this Article are superimposed over all zoning districts and all land within Brewster and function as an overlay district. The construction of ten or more dwelling units in the Water Quality Protection District requires a special permit from the Planning Board. No building permit or certificate of occupancy will be issued by the Building Commissioner unless a certificate of water quality compliance has been applied for or obtained by the owner of a property from the Water Quality Review Committee.

HISTORIC DISTRICTS

In 1973 the Old King’s Highway Regional Historic District was created, following Route 6A and covering portions of Brewster and five other Cape towns. Individual properties were not inventoried as part of the district’s creation. Towns may establish local historic districts to protect historic resources. Property owners must submit any exterior changes that are visible from a public way, park, or body of water to the Old King’s Highway Regional Historic District Commission for approval. A variety of exterior features are often exempt such as air conditioning units, storm doors, storm windows, paint color, and temporary structures. The decision on which features are exempt from review depends on the specifics of the local bylaw.



3. Housing Goals

With the affordability gap widening on Cape Cod and an increasing need both for affordable housing and year-round housing at all market levels, Brewster faces a significant challenge. Through this Housing Production Plan, Brewster has the opportunity to plan strategically and creatively about how to address its affordable housing needs. The ideas generated by residents and others at public meetings and in interviews for this plan have helped to further articulate Brewster's planning goals and an overall direction for affordable housing.

To develop the goals of this Housing Production Plan, the Brewster Housing Partnership sponsored community meetings on Wednesday, November 2 and Saturday, November 19, 2016. The purpose of these workshops was to engage residents and others with an interest in Brewster in an interactive process that served to inform people and solicit their ideas. The meetings included two components:

- **Information:** A presentation gave participants an introduction to the purpose of a Housing Production Plan including Chapter 40B statutory and regulatory requirements, affordability criteria, and indicators of housing need.
- **Public input:** Participants examined and commented on seven draft housing goals and helped to identify potential strategies (discussed further in Chapter 4).

An important concern of participants at the community workshops was this: How can Brewster provide for more affordable housing - which inherently means increasing density - while protecting the Town's natural resources and visual character? Many Brewster residents support affordable housing and see it as an important goal, and they want to encourage both housing affordability and housing choice. Many are concerned about the impact that development could have on the town, both in terms of architectural harmony and loss of open space. With these concerns in view, Brewster's HPP is guided by the following seven goals.

1. Increase the supply of year-round market-rate and affordable rental housing for all types of households, such as young singles and couples, families, and seniors.

2. Build support for addressing housing needs through partnerships with conservation groups and non-profit and for-profit developers, and increased commitment of local funds such as Community Preservation Act (CPA) revenue.
3. Create housing that is affordable and appropriate for very low-income seniors and people with disabilities.
4. Increase local capacity to plan, advocate for, and create affordable housing, preserve the affordability and condition of existing affordable units, and monitor affordable housing restrictions.
5. Increase the variety of mixed-income housing choices in Brewster, particularly in or near commercial areas in order to support Brewster's economy and to accommodate household growth.
6. Create and provide programs to support struggling homeowners, such as a housing rehabilitation program to help lower-income homeowners and seniors with extraordinary maintenance and repairs.
7. Provide at least 10 percent of Brewster's year-round housing units as affordable housing in order to meet local and regional needs.

By preparing an affordable housing plan and increasing its supply of low- or moderate-income units, Brewster may gain eligibility for a flexible approach to managing the comprehensive permit process. In order to qualify for the flexibility that a DHCD-approved Housing Production Plan offers, Brewster needs to meet an affordable housing production standard - a minimum numerical target - and obtain certification from DHCD that standard had been met. The minimum target is 0.5 percent of the Town's year-round housing inventory as reported in the most recent decennial census, and the target has to be met within a single calendar year. If DHCD finds that Brewster has met the annual standard, the one-year certification will take effect as of the date that Brewster actually achieved the numerical target for that calendar year. If the Town's new affordable housing production is equal to or greater than the 1 percent of its year-round housing inventory, the certification will remain in effect for two years.

Wherever possible, it will be important for affordable units produced under this HPP to be eligible for listing in the Chapter 40B Subsidized Housing Inventory (SHI). For non-comprehensive permit units, this means making sure the units meet the requirements of DHCD's Local Initiative Program (LIP) by virtue of a qualifying local action, such as:

- Zoning approval, such as "by right" or special permits for affordable housing;
- Funding assistance, such as CPA;
- Provision of land or buildings that are owned or acquired by the Town and conveyed at a price that is substantially below-market value.

In order to be counted as part of the Subsidized Housing Inventory, the units must meet the following criteria:

- A result of municipal action or approval;
 - Sold or rented based on procedures articulated in an affirmative fair marketing and lottery plan approved by DHCD;
 - Sales prices and rents must be affordable to households earning at or below 80 percent of area median income; and
 - Long-term affordability is enforced through affordability restrictions, approved by DHCD.
- Additionally, a Subsidized Housing Inventory New Units Request Form must be submitted to DHCD to insure that these units get counted.

With these basics in mind, Table 3.1 provides affordable housing production goals for the five-year period in which this plan will remain in effect. It is understood that Brewster may not produce 24 units in each year, but the overall five-year target of 120 units is the goal that ultimately guides this HPP.

TABLE 3.1. FIVE-YEAR BREWSTER HOUSING PRODUCTION TARGETS

CALENDAR YEAR	2017	2018	2019	2020	2021	Five-Year Overall Goal
Total Year-Round Units (Census 2010)	4,803	4,803	4,803	4,803	4,803	
New SHI-Eligible Units	24	24	24	24	24	120
Chapter 40B SHI	257*	281	305	329	352	377
Revised Chapter 40B %	5.2%	5.8%	6.2%	6.8%	7.3%	7.8%
10% Requirement	481	481	481	481	481	
Gap	224	200	176	152	129	104

Notes:

*2017 SHI includes the 250 SHI units of record and the seven at Brewster Landing that have not yet been added to the SHI as of the effective date of this plan.

*The Town’s Census 2010 housing count, 4,803 units, has been carried though 2021 for purposes of this plan. It is understood that the year-round housing base is likely to change with Census 2020 and that Brewster’s SHI percentage will change accordingly.



4. Implementation Strategies

DHCD encourages cities and towns to prepare, adopt, and implement a Housing Production Plan that demonstrates an annual increase in Chapter 40B units equal to or greater than 0.50 percent of the community's year-round housing units. By systematically increasing its low- and moderate-income housing inventory, Brewster will have more flexibility in the future to decide when, where, and how much affordable housing should be built and to encourage Chapter 40B comprehensive permits in the best possible locations.

As noted elsewhere in this plan, however, Brewster's housing needs go beyond Chapter 40B. Notably, Brewster does not have enough housing to accommodate demand from seasonal and year-round homebuyers and renters. Since seasonal buyers typically have better means to compete for the housing supply that does exist, the demand they generate has a disproportionate impact on pricing, affecting not only low- and moderate-income households but also middle-income households who cannot find reasonably priced year-round housing. Removing regulatory barriers to housing production in areas that can support even modest increases in development and investing resources in public education about Brewster's varied housing needs will all be critical components of a successful, comprehensive housing strategy. Brewster's economic health and social well-being will depend on reducing pressures on the year-round housing market by increasing supply and having enough housing for people of all ages and incomes.

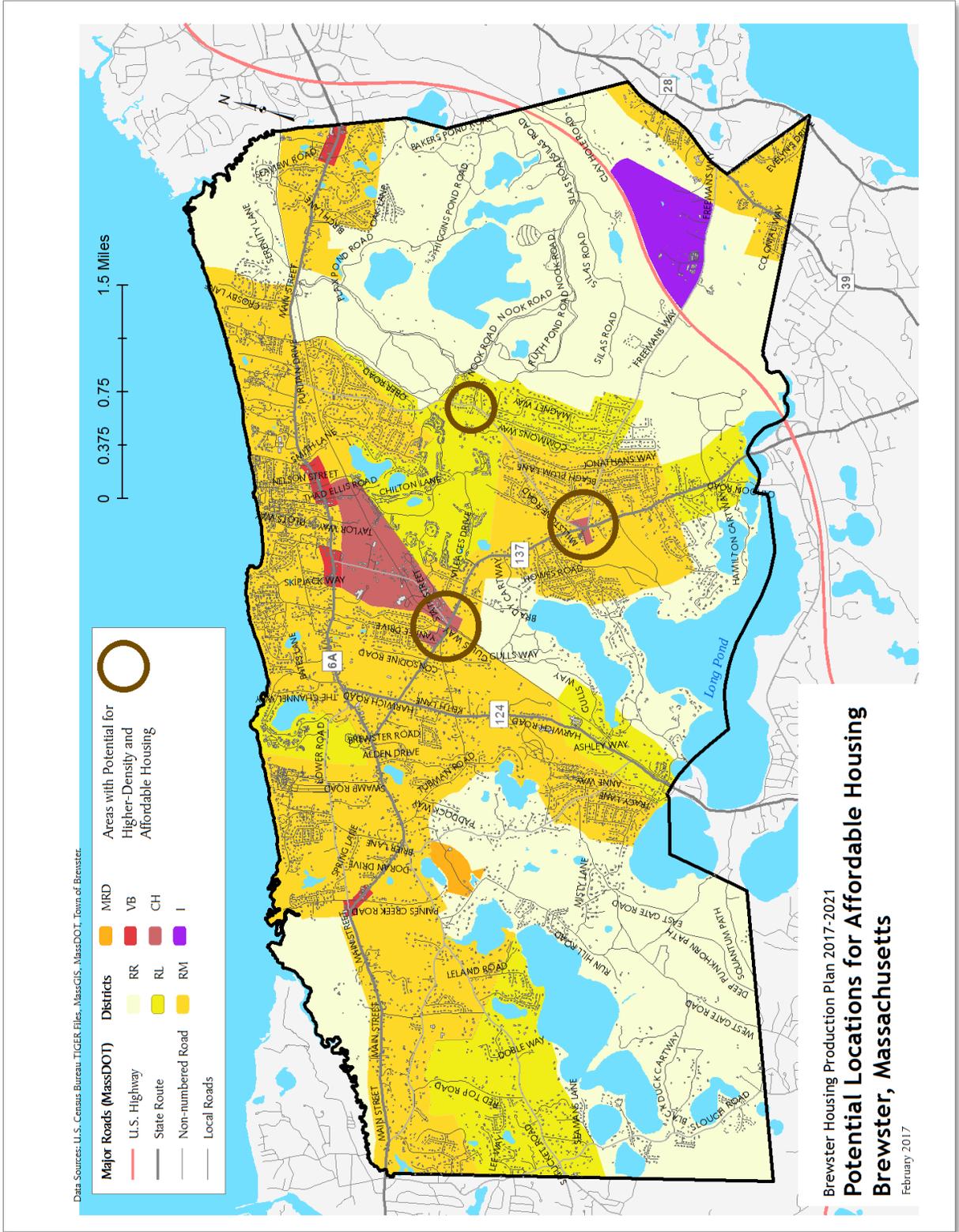
Several housing production strategies emerged from this HPP planning process. Fortunately, Brewster has choices for working toward the 10 percent statutory minimum under Chapter 40B. The strategies fall into four broad categories:

- **Regulatory Reform:** These strategies have potential to make a significant impact. They involve tools that make permitting more efficient, allow more housing development, and allow more types of housing in Brewster,
- **Funding and Assets:** The focus of these strategies is to protect existing affordable housing and pursue specific ways to expand local funds.

- **Education and Advocacy:** Brewster can combine strategies into an education platform that captures key decision makers, property owners, neighbors, and people most at risk from the effects of limited housing choices.
- **Local Planning and Policy:** The Town could be strategic in pursuing partnerships and creating a more welcoming environment for housing development in Brewster.

These categories dovetail well with DHCD’s requirements for HPP strategies, as shown below.

760 CMR 56.03	4(d)(1)	4(d)(2)	4(d)(3)	4(d)(4)	4(d)(5)
DHCD Housing Production Plan Regulatory Requirement	The identification of zoning districts or geographic areas in which the municipality proposes to modify current regulations for the purposes of creating SHI Eligible Housing developments to meet its housing production goal.	The identification of specific sites for which the municipality will encourage the filing of Comprehensive Permit applications.	Characteristics of proposed residential or mixed-use developments that would be preferred by the municipality for example, infill development, cluster developments, adaptive re-use, transit-oriented housing, mixed-use development, and/or inclusionary zoning.	Identification of municipally owned parcels for which the municipality commits to issue requests for proposals (RFP) to develop SHI Eligible Housing, including information on appropriate use of the site, and a timeline for the issuance of an RFP.	Participation in regional collaborations addressing housing development.
Regulatory Reform	★		★		
Funding & Assets				★	★
Education & Advocacy	★	★			★
Local Planning & Policy	★	★	★	★	



REGULATORY REFORM

Brewster needs to update and revise its Zoning Bylaw to respond to the housing needs of year-round residents. Participants in the planning process for this HPP recognize that in order to expand and diversify the housing supply, Brewster's zoning must be made more responsive to the Town's immediate and longer-term needs. Zoning should be amended to allow and provide incentives for development of a broader range of housing types, target development of particular housing types to agreed-upon locations, and encourage development of housing that is affordable to a range of household incomes.

Strategy 1: Amend the Zoning Bylaw to facilitate creation of accessory apartments.

Brewster needs to resolve the conflict that exists between the affordable accessory single family dwelling units (AADU) provision under Section 179-42.1 and a lingering footnote in the Table of Uses from a similar bylaw that has been rescinded. Although it is very difficult for accessory units to "count" on the SHI, they provide options that matter to homeowners and renters alike. In modifying 179-42.1 (C), the Town could consider the following measures:

- Eliminate the troublesome footnote 13 in the Table of Uses.
- Clarify that while accessory units must comply with an affordable housing rent limitation such as the Department of Housing and Community Development's (DHCD) Chapter 40B Guidelines, a unit may qualify for AADU approval regardless of whether it is eligible for the SHI. (The goal should be units that are actually affordable, SHI-eligible or not.)
- Instead of limiting occupancy per bedroom as a zoning matter, defer to the State Sanitary Code for occupancy restrictions.
- Remove the additional land area minimum for AADUs. Instead of requiring eligible lots to have at least 125 percent of the minimum area in order for an AADU to be allowed by right, extend the opportunity to a lot that conforms to the dimensional requirements for the zoning district. Provide a special permit option for smaller lots.

Strategy 2: Make it as easy as possible to create apartments over commercial space in business-zoned areas such as the Village Business District and Underpass Road.

- Reconsider the existing limitations on affordable accessory commercial dwelling units, specifically the number of units per lot and resident owner requirements.
- Consider allowing top-of-shop units that are not accessory to first-floor commercial space but can actually be divided from it and owned separately.

Strategy 3: Allow small affordable units on nonconforming lots that are otherwise unbuildable.

The units may also require some form of subsidy, but making additional land available could support production of scattered-site units by mission-based organizations like Habitat for

Humanity, the Community Development Partnership, or the Housing Assistance Corporation of Cape Cod.

Strategy 4: Provide effective incentives to create affordable housing, e.g., by providing for multifamily dwellings with realistic density and in exchange, requiring affordable units, or requiring proposed buildings over a certain size to include affordable housing as a condition of approval.

The Town could activate what is currently a “reserved” provision in the Zoning Bylaw, Section 179-42.1(C)(3), Affordable multifamily dwelling units. In doing so, Brewster would need to revisit the limitation on number of bedrooms in the definition of “Affordable Multifamily Dwelling Units (AMDU)” in Section 179-2, in order to eliminate potential fair housing conflicts. In general, the Town should amend its dimensional regulations to facilitate production of multifamily housing through mixed-use development in commercial areas, along bus transportation routes, and other smart growth locations. Doing so will require the following steps:

- Conduct a town-wide parcel analysis to determine opportunity for multifamily housing development given existing minimum lot size standards.
- Consider a visual density study for a sample of potential sites to facilitate development appropriate to neighborhood context.

Strategy 5: Overhaul and update existing, underutilized provisions such as Section 139-35.2, Major Residential Development or Section 179-36, Planned Residential Development, in order to encourage a mix of residential uses, including affordable units.

Strategy 6: Remove local regulatory barriers to reusing and redeveloping existing properties for affordable housing.

As recommended in Brewster’s 2009 Housing Production Plan, the Town can consider regulatory strategies – mainly zoning incentives – to promote smart development through special permit incentives for adaptive reuse of existing structures, construction on small lots (e.g., Strategy 2 above) and multifamily dwellings in locations along major roads. Creation of these development opportunities could be targeted for year-round housing through zoning requirements and conditions of the special permit.

FUNDING AND ASSETS

Strategy 7: Establish a Municipal Housing Trust by adopting the provisions of G.L. c. 44, § 55C.

Many communities with CPA funds vote to adopt a Municipal Affordable Housing Trust Fund (AHTF) to help foster the utilization of CPA community housing funds and any other potential local housing funds. A Municipal Affordable Housing Trust created under G.L. c. 44, § 55C is the most flexible and effective tool for local initiatives to create and preserve affordable housing. Such

initiatives can include providing financial support for the creation and preservation of affordable housing. The benefit of having an AHTF is that resources can be allocated to the trust and can be expended by the board of trustees without a lengthy approval process. Readily available funds that can be accessed efficiently, like those in an AHTF, are highly beneficial when land or property the town deems suitable for affordable housing re/development becomes available or affordable housing becomes at risk and resources are needed for preservation.

The Community Preservation Committee (CPC) currently makes CPA funds available for affordable housing on a project-by-project basis. However, the CPC could propose to appropriate each year's CPA affordable housing funds for use by a Municipal Affordable Housing Trust and allow the Trust to do its job: to create and preserve affordable housing, and to do so efficiently. This approach would go a long way toward establishing and supporting an annual housing fund for the Affordable Housing Trust and building the Trust's capacity to create affordable units.

As the Community Preservation Coalition explains:

The CPA law states specifically in Section 5(f) that "A city or town may appropriate money in any year from the Community Preservation Fund to an affordable housing trust fund." Such trusts can have the power to purchase, sell, lease, manage, and improve real property for the purpose of creating and preserving affordable housing. At least 11 communities have appropriated CPA funds to an affordable housing trust.

CPA funds can be appropriated to both affordable housing trusts . . . as long as any ultimate expenditure of those funds is for CPA-eligible uses. Therefore, it is recommended that CPA appropriations to these trust funds be tracked separately from monies generated from other sources to ensure proper accountability.

If there is concern about accountability, the CPC could use a system of grant agreements to provide blocks of funding to the Affordable Housing Trust, e.g., a block of funding to develop group homes, leaving it to the Trust to work with group home non-profits to secure sites for special needs housing.

Strategy 8: Explore possibilities for local property tax incentives to help fund the creation and preservation of affordable housing.

Affordable housing production will not happen without predictable, adequate funding for acquisition, pre-development, development, management, and monitoring. Although Brewster has had some comprehensive permit applications, Chapter 40B has a weak track record in Brewster. Housing development throughout Cape Cod is distorted by the seasonal market and lack of high-wage employment opportunities. Even though housing sale prices are fairly high, Brewster does not attract many Chapter 40B developers. Like other vacation and resort areas around the country, Brewster has to be pro-active and initiate affordable and mixed-income housing development. Some potential sources to be considered: a transfer fee on seasonal housing sales (such as Provincetown has proposed) and a reduction or outright waiver of property taxes for an owner who rents a home or an apartment to a low- or moderate-income year-round resident.

There is growing interest in Massachusetts (and beyond) in using local government tax policy as a mechanism for creating affordable housing. While there are very few models available, a few cities have established tax incentive programs and recently, the Town of Amherst secured passage of a home rule petition with broad powers to allow special incentives and tax increment financing agreements (TIF) for production of affordable units. (See Appendix X.) Brewster should consider the potential instituting a similar approach and target it to encourage sustainable projects that can be difficult to carry out, e.g., redevelopment/reuse projects or intensification of existing uses, or to encourage development of employer-assisted housing. Another option is to provide property tax exemptions to owners who rent units to low- or moderate-income households, similar to a program that has existed in Provincetown for several years. (See Appendix X.)

Strategy 9: Work with nearby communities on the Cape by pooling CPA funds and other revenue to construct affordable housing in suitable locations throughout the region and meet regional housing needs.

The Town can join with other Cape Cod communities to fund housing development that meets mutual needs and achieves better “smart growth” outcomes than an individual town can accomplish on its own. As noted by the Community Preservation Coalition:

The emphasis on regional projects is contained in Section 5(b)(1) of the Community Preservation Act legislation, which reads:

The community preservation committee shall study the needs, possibilities and resources of the city or town regarding community preservation, including the consideration of regional projects for community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the board of park commissioners and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies.

Most notably, communities on Martha’s Vineyard have pursued a number of regional projects which boast widespread benefits to residents across the island . . .

Strategy 10: Develop and carry out a plan to preserve Brewster’s existing affordable units, especially SHI units with restrictions that expire in the next few years.

According to DHCD, 119 of Brewster’s 257 affordable units are subject to affordability restrictions that will expire by 2020. They include:

- Kings Landing, 108 rental units (2017)
- Eagle Point, 3 rental units (2020)
- Various addresses, Housing Rehabilitation Program, Community Development Partnership, 8 units (2017-2019)

It may be that the rental development owners will renew their affordable housing subsidies, but the Town needs to be vigilant and work with the owners to protect the units from market-rate

conversion wherever possible. Some Massachusetts communities have successfully used CPA funds and revenue from inclusionary housing fees to extend the term of affordability for expiring use projects. Because preservation of affordable housing can be very complicated, it is a classic example of why communities need the kind of affordable housing capacity that comes with a municipal housing trust and a professional housing coordinator (Strategy 11).

Strategy 11: Advocate for adoption of special legislation to create a seasonal rentals excise.

Today, any city or town in Massachusetts is authorized by state law to “impose a local excise tax upon the transfer of occupancy of any room or rooms in a bed and breakfast establishment, hotel, lodging house or motel located within such city or town by any operator at a rate up to, but not exceeding, 6 percent of the total amount of rent for each such occupancy” (G.L. c. 64G, § 3A). However, the law does not extend to taxing occupancy of seasonal rental property. Multiple attempts to allow for taxation of seasonal properties have been proposed recently, not only by Brewster but also Wellfleet and Provincetown, and Nantucket is weighing it as well. With special legislation, Brewster could not only obtain authority to impose a room tax on seasonal rentals but also to invest all or a substantial portion of the new revenue in affordable housing assistance. The City of Somerville is currently considering this very strategy to increase the supply of affordable housing there.

EDUCATION AND ADVOCACY STRATEGIES

Public education about affordable housing – policies, design, who benefits and how, positive and negative impacts – is important for neighbors, policy-makers and leaders, residents and landlords. People with the most accurate knowledge will become the best advocates for affordable housing.

Strategy 12: Create a Housing Coordinator position.

Positioning Brewster to build its housing supply in the myriad of ways discussed in this plan requires resources, including time and money. The Town has staff and volunteers dedicated to housing and many partners who are committed to meeting housing needs and demand, but there needs to be a central “point person” with both the authority and resources to work on housing policy and housing strategies in Brewster. Like other towns in Massachusetts that are trying to tackle complex housing policy concerns, Brewster would benefit from having a professional on staff to coordinate affordable housing education and policy, work with developers and neighborhoods, monitor affordable housing restrictions, and advise Town boards about potential opportunities to increase the supply of affordable housing. Possibly such a position could be funded full-time to serve a group of Cape Cod towns. Funding for this position is an allowable use of Community Preservation Act (CPA) funds.

Strategy 13: Develop a comprehensive housing education plan.

Brewster could partner with local and regional groups to promote broader and deeper community understanding about local affordable housing needs and issues. The plan could include regular forums, use of social media, cable TV Show, newsletters/publications, as well as tours and case studies of successful development projects. Partnerships and coalitions that combine resources and strengthen impact should be pursued.

LOCAL POLICY AND PLANNING STRATEGIES

Strategy 14: Make good use of Chapter 40B as a vehicle for creating affordable housing.

Brewster should continue to actively pursue partnerships with non-profit and for-profit developers that have collaborated with cities and towns on so-called “friendly” Chapter 40B developments. This could include providing financial support to friendly Chapter 40B developments because having a mortgage interest in projects gives the Town even more control than the comprehensive permit or deed restriction. Investing in well thought-out rental projects should be a priority for the use of local funds.

Strategy 15: Develop an Asset Management Plan for Town-owned property, including criteria for making surplus property determinations.

Participants in meetings for this HPP suggested, among other ideas, designating the Eddy School for housing, or the Council on Aging building if the Eddy School is eventually designated for conversion as a senior center. An asset management plan would help Brewster identify, evaluate, and choose town-owned properties that would be most suitable for development of affordable housing as weighed against other needs. The resulting information may indicate new opportunities not specifically identified during the development of this HPP.

Strategy 16: Recognize local government’s responsibility for fair and affordable housing in Brewster, and lead by example: reduce the potential for disparate impact on protected classes.

All communities need to pay attention to fair housing concerns, in part because of HUD’s new Affirmative Furthering Fair Housing regulations and especially because of the “disparate impact” case, *Texas Housing and Community Development v. Inclusive Communities Project, Inc.* Brewster should develop and adopt affirmative fair housing policies to guide the use of Town-owned resources (land, buildings, or funding) in order to ensure non-discrimination against groups protected under the federal Fair Housing Act, e.g., families with children and people with disabilities. The Town could embrace a policy similar to that recently adopted by the state (providing for a minimum percentage of three-bedroom units in any given development), or consider other policies such as making it a priority to fund group homes and “safe houses” for people recovering from addiction. Similarly, the Town could explore options for developing a subsidized assisted living residence to help low-income seniors who need some assistance with medications, meals, and housekeeping but do not need the advanced (and costly) level of care provided by assisted living residences or nursing homes.

APPENDIX

Appendix A: Glossary

Affirmative Fair Housing Marketing Plan (AFHMP). A plan that meets the fair housing and non-discrimination requirements of the Department of Housing and Community Development (DHCD) for marketing affordable housing units. The plan typically provides for a lottery and outreach to populations protected under the federal Fair Housing Act of 1968, as amended. The plan must be designed to prevent housing discrimination on the basis of race, creed, color, national origin, sex, age, disability, familial status, sexual orientation, gender identity, or any other legally protected class under state or federal law.

Affordable Housing. As used in this report, "affordable housing" is synonymous with low- or moderate-income housing, i.e., housing available to households with income that does not exceed 80 percent of area median income and at a cost that does not exceed 30 percent of their monthly gross income.

Affordable Housing Restriction. A contract, mortgage agreement, deed restriction or other legal instrument, acceptable in form and substance to the Town, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or renter, and which provides for administration, monitoring, and enforcement of the restriction during the term of affordability. An affordable housing restriction runs with the land in perpetuity or for the maximum period allowed by law. It should be entered into and made enforceable under the provisions of G.L. c. 184, §§ 31-33 or other equivalent state law.

Affordable Housing Trust. The mechanism used to account for and report revenues and expenditures for affordable housing, including but not limited to Community Preservation Act (CPA) receipts and other affordable housing funding sources.

Area Median Income (AMI). The median family income, adjusted for household size, within a given metropolitan or non-metropolitan area, updated annually by HUD and used to determine eligibility for most housing assistance programs. For Brewster, AMI is based on the Barnstable County Median Family Income.

Chapter 40A. G.L. c. 40A, the state Zoning Act. The current version of the Zoning Act was adopted in 1975 (1975 Mass. Acts 808).

Chapter 40B. G.L. c. 40B, § 20-23 (1969 Mass. Acts 774), the state law administered locally by the Board of Appeals in order to create affordable housing. It provides eligible developers with a unified permitting process that subsumes all permits normally issued by multiple town boards. Chapter 40B establishes a basic presumption at least 10 percent of the housing in each city and town should be affordable to low- or moderate-income households. In communities below the 10 percent statutory minimum, affordable housing developers aggrieved by a decision of the Board of Appeals can appeal to the state Housing Appeals Committee, which in turn has authority to uphold or reverse the Board's decision.

Chapter 40R. G.L. c. 40R (2004 Mass. Acts 149, s. 92), a state law that provides for overlay districts with variable densities for residential development and multi-family housing by right (subject to site plan review). At least 25 percent of the units in a Chapter 40R district have to be affordable to low- or moderate-income people.

Chapter 44B. G.L. c. 44B (2000 Mass. Acts 267), the Community Preservation Act, allows communities to establish a Community Preservation Fund for open space, historic preservation, and community housing by imposing a surcharge of up to 3 percent on local property tax bills. The state provides matching funds (or a partial match) from the Community Preservation Trust Fund, generated from Registry of Deeds fees.

Comprehensive Permit. The unified permit authorized by Chapter 40B for affordable housing development.

Community Development Block Grant (CDBG). Under the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5300 et seq.), the U.S. Department of Housing and Urban Development (HUD) makes funds available each year for large cities ("entitlement communities") and each of the fifty states (the Small Cities or "non-entitlement" program). CDBG can be used to support a variety of housing and community development activities provided they meet one of three "national objectives" established by Congress. Housing activities are usually designed to meet the national objective of providing benefits to low- or moderate-income people. Funds may be used for housing rehabilitation, redevelopment of existing properties for residential purposes (in some cases), making site improvements to publicly owned land in order to support the construction of new housing, interest rate and mortgage principal subsidies, and downpayment and closing cost assistance. As a "non-entitlement community," Brewster has participated in regional CDBG programs on the Cape and can do so again only by joining a competitive application in the future. The state program is guided by a five-year Consolidated Plan and One-Year Action Plans required by HUD.

Community Housing. As defined under Chapter 44B, "community housing" includes housing affordable and available to (a) households with incomes at or below 80 percent AMI and (b) between 81 percent and 100 percent AMI.

Community Preservation Act. Chapter 44B. G.L. c. 44B (2000 Mass. Acts 267) allows communities to establish a Community Preservation Fund for open space, historic preservation, and community housing by imposing a surcharge of up to 3 percent on local property tax bills. The state provides matching funds (or a partial match) from the Community Preservation Trust Fund, generated from Registry of Deeds fees.

Comprehensive Permit. The unified permit authorized by Chapter 40B for affordable housing development.

Department of Housing and Community Development (DHCD). The state's lead housing agency, originally known as the Department of Community Affairs (DCA). DHCD oversees state-funded public housing and administers rental assistance programs, the state allocation of CDBG and HOME funds, various state-funded affordable housing development programs,

and the Community Services Block Grant (CSBG) Program. DHCD also oversees the administration of Chapter 40B.

Extremely Low Income. See Very Low Income.

Fair Housing Act (Federal). Established under Title VII of the 1968 Civil Rights Act, the federal Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), sexual orientation, gender identity, and disability.

Fair Housing Law, Massachusetts. G.L. c. 151B (1946), the state Fair Housing Act prohibits housing discrimination on the basis of race, color religious creed, national origin, sex, sexual orientation, age, children, ancestry, marital status, veteran history, public assistance reciprocity, or physical or mental disability.

Fair Market Rent (FMR). A mechanism used by HUD to control costs in the Section 8 rental assistance program. HUD sets FMRs annually for metropolitan and non-metropolitan housing market areas. The FMR is the 40th percentile of gross rents for typical, non-substandard rental units occupied by recent movers in a local housing market. (See 24 CFR 888.)

Family. Under the Federal Fair Housing Act (FFHA), family includes any of the following:

- (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
- (2) A group of persons residing together, and such group includes, but is not limited to:
 - (a) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
 - (b) An elderly family;
 - (c) A near-elderly family;
 - (d) A disabled family;
 - (e) A displaced family; and
 - (f) The remaining members of a tenant family.

Gross Rent. Gross rent is the sum of the rent paid to the owner plus any utility costs incurred by the tenant. Utilities include electricity, gas, water and sewer, and trash removal services but not telephone service. If the owner pays for all utilities, then gross rent equals the rent paid to the owner.

Group Home. A type of congregate housing for people with disabilities; usually a single-family home.

Household. One or more people forming a single housekeeping unit and occupying the same housing unit. (See definition of FAMILY)

Housing Appeals Committee (HAC). A five-member body that adjudicates disputes under Chapter 40B. Three members are appointed by the Director of DHCD, one of whom must be a DHCD employee. The governor appoints the other two members, one of whom must be a city councilor and the other, a selectman.

Housing Authority. Authorized under G.L. 121B, a public agency that develops and operates rental housing for very-low and low-income households.

Housing Cost, Monthly. For homeowners, monthly housing cost is the sum of principal and interest payments, property taxes, and insurance, and where applicable, homeowners association or condominium fees. For renters, monthly housing cost includes rent and basic utilities (oil/gas, electricity).

HUD. See U.S. Department of Housing and Urban Development.

Inclusionary Zoning. A zoning ordinance or bylaw that encourages or requires developers to build affordable housing in their developments or provide a comparable public benefit, such as providing affordable units in other locations ("off-site units") or paying fees in lieu of units to an affordable housing trust fund.

Infill Development. Construction on vacant lots or underutilized land in established neighborhoods and commercial centers.

Jobs-to-Housing Ratio. An indicator of the adequacy of employment and housing in a given community or area.

Labor Force. The civilian non-institutionalized population 16 years and over, either employed or looking for work.

Labor Force Participation Rate. The percentage of the civilian non-institutionalized population 16 years and over that is in the labor force.

Local Initiative Program (LIP). A program administered by DHCD that encourages communities to create Chapter 40B-eligible housing without a comprehensive permit, e.g., through inclusionary zoning, purchase price buydowns, a Chapter 40R overlay district, and so forth. LIP grew out of recommendations from the Special Commission Relative to the Implementation of Low or Moderate Income Housing Provisions in 1989. The Commission prepared a comprehensive assessment of Chapter 40B and recommended new, more flexible ways to create affordable housing without dependence on financial subsidies.

Low Income. As used in this report, low income means a household income at or below 50 percent of AMI. It includes the household income subset known as very low income.

Massachusetts Housing Partnership (MHP). A public non-profit affordable housing organization established by the legislature in 1985. MHP provides technical assistance to cities and towns, permanent financing for rental housing, and mortgage assistance for first-time homebuyers.

MassHousing. The quasi-public state agency that provides financing for affordable housing.

Mixed-Income Development. A residential development that includes market-rate and affordable housing.

Mixed-Use Development. A development with more than one use on a single lot. The uses may be contained within a single building ("vertical mixed use") or divided among two or more buildings ("horizontal mixed use").

Moderate Income. As used in this report, moderate income means a household income between 51 and 80 percent of AMI.

Overlay District. A zoning district that covers all or portions of basic use districts and imposes additional (more restrictive) requirements or offers additional (less restrictive) opportunities for the use of land.

Regulatory Agreement. An affordable housing restriction, recorded with the Registry of Deeds or the Land Court, outlining the developer's responsibilities and rights

Section 8. A HUD-administered rental assistance program that subsidizes "mobile" certificates and vouchers to help very-low and low-income households pay for private housing. Tenants pay 30 percent (sometimes as high as 40 percent) of their income for rent and basic utilities, and the Section 8 subsidy pays the balance of the rent. Section 8 also can be used as a subsidy for eligible rental developments, known as Section 8 Project-Based Vouchers (PBV), which are not "mobile" because they are attached to specific units.

Shared Equity Homeownership. Owner-occupied affordable housing units that remain affordable over time due to a deed restriction that controls resale prices, thereby retaining the benefits of the initial subsidy for future moderate-income homebuyers.

Single Room Occupancy (SRO). A building that includes single rooms for occupancy by individuals and usually includes common cooking and bathroom facilities shared by the occupants.

Subsidized Housing Inventory (SHI). A list of housing units that "count" toward a community's 10 percent statutory minimum under Chapter 40B.

SHI-Eligible Unit. A housing unit that DHCD finds eligible for the Subsidized Housing Inventory because its affordability is secured by a long-term use restriction and the unit is made available to low- or moderate-income households through an approved affirmative marketing plan.

Subsidy. Financial or other assistance to make housing affordable to low- or moderate-income people.

Typical, Non-standard Rental Units. A term that defines the types of rental units that HUD includes and excludes in establishing the FMR for each housing market area. The term excludes: public housing units, rental units built in the last two years, rental units with housing quality problems, seasonal rentals, and rental units on ten or more acres.

U.S. Department of Housing and Urban Development (HUD). The lead federal agency for financing affordable housing development and administering the Fair Housing Act.

Very Low Income. As used in this report, very low income is a household income at or below 30 percent of AMI. In some housing programs, a household with income at or below 30 percent of AMI is called extremely low income.

Workforce. People who work or who are available for work, either in a defined geographic area or a specific industry.

Workforce Housing. There is no single industry standard that defines “workforce housing.” HUD defines it as housing affordable to households earning between 80 and 120 percent of AMI. The Urban Land Institute has traditionally used the term “workforce housing” to describe units affordable to households with incomes between 60 and 100 percent AMI. In general, workforce housing is housing for people who work in a community and the pricing methodology should account for wages paid by local employers.

Appendix X. “Safe Harbor” Status through Housing Plan Certification

In 2002, the Massachusetts Department of Housing and Community Development (DHCD) created an incentive for cities and towns to take an active role in increasing the supply of affordable housing. By developing a plan that met DHCD’s requirements under the Planned Production program, communities could become eligible to deny a comprehensive permit for twelve (or possibly twenty-four) months if they implemented their housing plan by meeting a minimum annual low-income housing production target. The Planned Production program was overhauled in 2008, at which time the planning component became known as the Housing Production Plan. Brewster obtained Housing Production Plan approval in 2009, but the plan expired in 2014.

To qualify for the flexibility that a DHCD-approved Housing Production Plan offers, Brewster would need to create (through the issuance of permits and approvals) at least twenty-four new low- or moderate-income housing units (or an amount equal to or greater than the 0.50 percent production goal) in a given calendar year and obtain certification from DHCD that the Housing Production Plan standard had been met. Units eligible for the Subsidized Housing Inventory (SHI) will be counted for the purpose of certification in accordance with 760 CMR 56.03(2).

(2) Subsidized Housing Inventory.

(a) The Department shall maintain the SHI to measure a municipality’s stock of SHI Eligible Housing. The SHI is not limited to housing units developed through issuance of a Comprehensive Permit; it may also include SHI Eligible Housing units developed under G.L. Chapters 40A, 40R, and other statutes, regulations, and programs, so long as such units are subject to a Use Restriction and an Affirmative Fair Marketing Plan, and they satisfy the requirements of guidelines issued by the Department.

(b) Units shall be eligible to be counted on the SHI at the earliest of the following:

1. For units that require a Comprehensive Permit under M.G.L. c. 40B, § 20 through 23, or a zoning approval under M.G.L. c. 40A or completion of plan review under M.G.L. c. 40R, the date when:
 - a. the permit or approval is filed with the municipal clerk, notwithstanding any appeal by a party other than the Board, but subject to the time limit for counting such units set forth at 760 CMR 56.03(2)(c); or
 - b. on the date when the last appeal by the Board is fully resolved;
2. When the building permit for the unit is issued;
3. When the occupancy permit for the unit is issued; or
4. When the unit is occupied by an Income Eligible Household and all the conditions of 760 CMR 56.03(2)(b) have been met (if no Comprehensive Permit, zoning approval, building permit, or occupancy permit is required.)

Requests for certification may be submitted at any time. DHCD will determine whether Brewster complies within 30 days of receipt of the Town's request. If DHCD finds that Brewster complies with the Housing Production Plan, the certification will be deemed effective on the date upon which Brewster created new units on the SHI under 760 CMR 56.03(2). The certification will remain in effect for one year from its effective date. If DHCD finds that Brewster has increased its number of SHI

Eligible Housing units in a calendar year by at least 1 percent of its total housing units, the certification will remain in effect for two years from its effective date.

The certification process would allow the Zoning Board of Appeals to deny a comprehensive permit for twelve months (or twenty-four months, as applicable), or continue to approve projects based on merit. However, if the Board decides to deny a comprehensive permit or impose conditions during the Housing Plan certification period, it must do so according to the following procedures. 760 CMR 56.05(3) and 56.03(8)

Within fifteen days of opening the public hearing on a comprehensive permit application, the Board has to provide written notice to the applicant, with a copy to DHCD, that denying the permit or imposing conditions or requirements would be consistent with local needs, the grounds that it believes has been met (e.g., a Housing Plan certification is in effect), and the factual basis for that position, including supportive documentation.

If the Applicant wishes to challenge the Board's assertion, it must do so by providing written notice to DHCD, with a copy to the Board, within fifteen days of receiving the Board's notice, and include supportive documentation.

DHCD will review the materials provided by the Board and the applicant and issue a decision within thirty days. The Board has the burden of proving that a denial or approval with conditions would be consistent with local needs, but any failure of DHCD to issue a timely decision constitutes a determination in favor of the Town.

While this process is underway, it tolls the requirement to complete the public hearing and final action within 180 days.

Appendix X. Affirmative Fair Housing Marketing Plan Requirements

Affirmative Fair Housing Marketing and Resident Selection Plan (AFHMP) Key Review Points

City/Town: _____	Reviewer: _____	
Project Name: _____	Date of Review: _____	
Address: _____		
RENTAL <input type="checkbox"/>	OWNERSHIP <input type="checkbox"/>	BOTH <input type="checkbox"/>

Note: The checklist below is intended to assist with AFHMP review but does not replace the requirements of the DHCD AFHMP guidelines, available at <http://www.mass.gov/hed/docs/dhcd/hd/fair/afhmp.pdf> (see also section III of the DHCD Comprehensive Permit Guidelines at <http://www.mass.gov/hed/docs/dhcd/legal/comprehensivepermitguidelines.pdf>). The AFHMP guidelines must be consulted in their entirety.

DEVELOPER/CONTRACTOR INFORMATION:

Are the developer staff and contractor qualifications consistent with the Guidelines? YES NO
Did developer/contractor representative(s) certify that the AFHMP is consistent with the Guidelines? YES NO

MARKETING:

Will the application period run for at least 60 days? YES NO

Will advertisements be placed in local and regional newspapers? YES NO
If YES, which newspapers: _____

Will advertisements be placed in newspapers that serve minority groups and other protected classes? YES NO
If YES, which newspapers: _____

Will advertisements run at least two times over a 60-day period? YES NO

Are sample ads included? YES NO

Is marketing comparable in local, regional and minority newspapers? YES NO
If NO, explain: _____

Are outreach notices to be sent to local fair housing commissions? YES NO

To other local/regional religious institutions, housing authorities, social service agencies, nonprofits, etc?

YES NO

If YES, where: _____

Is the outreach appropriate to the type of housing proposed (e.g., marketing to senior centers for elderly housing)?

YES NO Explain:_____

Are applications made available at public, wheelchair accessible locations including one that has some night hours?

YES NO

Does the advertisement and other marketing include a telephone number, including a TTY/TTD phone number, to call to request an application via mail? YES NO

Does the advertisement and other marketing indicate that applications may be submitted by mail, fax or e-mail?

YES NO

Does marketing include non-English publications? YES NO

If YES, which languages: _____

What is the basis for determining the languages? Explain: _____ Will available Metro Boston Area affordable units be reported to Metrolist? YES NO

Will available affordable and available accessible units be listed with MassAccess (CHAPA's Housing Registry)?

YES NO

Will available affordable ownership units be listed with MassAccess? YES NO

Will available affordable ownership units be listed with MAHA's lottery website? YES NO

Are Fair Housing logo and slogan included in all marketing materials? YES NO

Do applicant materials include a statement of the housing provider's obligation to not discriminate in the selection of applicants? YES NO

Do applicant materials state that persons with disabilities may request reasonable accommodations in rules, policies, practices or services or reasonable modifications in the housing? YES NO

Do informational materials provide notice of free language assistance to applicants, translated or to be translated into the languages of LEP populations anticipated to apply? YES NO

Does marketing refrain from describing characteristics of desirable applicants/residents (e.g., “for four persons only”, “active lifestyle community,” “empty nesters”)? YES NO

If NO, explain: _____

Does marketing convey unlawful preferences or limitations (e.g., only white models)? YES NO

If YES, explain: _____

Does marketing include reference to local residency preferences? YES NO [NOTE: not permitted]

Does marketing indicate resident selection by lottery or other random selection procedure? YES NO

RESIDENT SELECTION:

Are copies of a sample application and information packets for potential applicants included and acceptable?

YES NO

Are info sessions scheduled to allow for maximum opportunity to attend (i.e., evenings, weekends, accessible location)? YES NO

Are the eligibility criteria consistent with the Guidelines? YES NO

Is resident selection based on a lottery? YES NO

If NO, is it based on a fair and equitable procedure (i.e., not “first come, first served”) approved by the subsidizing agency? YES NO Explain: _____

If a lottery to be utilized, will the lottery be held at a public, wheelchair accessible location? YES NO

Are the lottery procedures consistent with the Guidelines? YES NO

Is the community choosing to implement a local selection preference? YES NO

If YES, is the need for the local preference demonstrated consistent with the Guidelines? YES NO

Explain: _____

[NOTE: 70% local preference is maximum permitted but percentage must be justified based on documented local need]

Does the demonstrated need correspond to the housing type and eligibility criteria of the project? (e.g., wait list at another rental development used to demonstrate need is for apartments to be rented at similar rents and for residents at similar income levels) YES NO Explain: _____

Are all the proposed preference types consistent with the Guidelines? YES NO

Are the geographic boundaries of the local preference area smaller than the municipal boundaries? YES NO

[NOTE: not permitted]

Does the AFHMP include efforts to address potential discriminatory effects of a local selection preference (e.g., will minority applicants be moved into the local selection pool to ensure it reflects the racial/ethnic balance of the region and/or other efforts consistent with the Guidelines)? YES NO Explain: _____

Is the working preference the only local preference? YES NO

If YES, are persons with disabilities and/or 62 years of age or older that live in the community given the benefit of the preference? YES NO

Are there durational requirements for living or working in the community? YES NO [NOTE: Not permitted]

Are local preference units subject to different or more beneficial terms (e.g., reduced prices) than other affordable units? YES NO

If YES, explain: _____

Are household size restrictions and preferences consistent with the Guidelines? YES NO

Does the AFHMP provide persons with disabilities in need of accessible units first preference for such units?

YES NO

Does the AFHMP address adaptable units consistent with the Guidelines? YES NO

Does the AFHMP provide for criminal background checks consistent with the Guidelines (e.g., not imposed prior to the lottery and consistent with DHCD model CORI policy)? YES NO

Does the AFHMP require any deposits or fees to be paid? YES NO

If YES, are they consistent with the Guidelines? YES NO

WAIT LISTS

After the lottery, are households that are not awarded a unit placed on a wait list in the order that they were drawn from the *general* pool? YES NO

For rental projects, is the procedure for ordering new applicants upon re-opening of the wait list based upon a random selection procedure after a minimum application period of no less than 10 business days? YES NO

If NO, explain: _____

Is there a procedure for wait lists that do not close, and does it address persons with disabilities consistent with the Guidelines? YES NO Explain: _____

Does the ongoing affirmative and general marketing/outreach materials provide explicit notice of the availability of reasonable accommodations in the application process and a corresponding telephone number? YES NO

For ownership projects, does the AFHMP include a method for ensuring continued compliance w/ the Guidelines upon resale? YES NO

OVERALL COMMENTS

Appendix X. Town of Amherst: Tax Incentive Legislation for Affordable Housing

Chapter 148 of the Acts of 2015: AN ACT PROVIDING AFFORDABLE HOUSING PROPERTY TAX INCENTIVES IN THE TOWN OF AMHERST

SECTION 1. For the purposes of this act, "Low or moderate income housing", shall mean housing for individuals or families with incomes at or below 95 per cent of area median income. Area median income shall be calculated by the United States Department of Housing and Urban Development, or any successor agency, and shall be adjusted for family size.

SECTION 2. Notwithstanding any general or special law to the contrary, the select board of the town of Amherst may enter into agreements for special tax assessments for properties that include low or moderate income affordable housing consistent with the terms of this act.

SECTION 3. For a residential or mixed use development with 10 or more dwelling units in which at least 10 per cent of the units are low or moderate income housing and subject to an affordable housing restriction as defined in section 31 of chapter 184 of the General Laws, the increase in assessed value resulting from such development shall be phased in increments over a period of up to 10 years to the full assessed value of the property; provided, however, that the maximum property tax incentive shall be based on the difference in net operating income for such development with affordable units and the net operating income without such affordable units. Determination of eligibility shall be made as of July 1 of each year for the fiscal year beginning on July 1.

Appendix X. Town of Provincetown: Rental Housing Fund

Chapter 305 of the Acts of 2016: AN ACT ESTABLISHING A YEAR-ROUND MARKET RATE RENTAL HOUSING TRUST FUND IN THE TOWN OF PROVINCETOWN

SECTION 1. There shall be a municipal trust to be known as the Provincetown Year-round Market Rate Rental Housing Trust. The trust is established to create and preserve year-round rental units in the town of Provincetown including, but not limited to, market rate units, for the benefit of residents of the town.

SECTION 2. (a) The trust shall be managed by a 5-member board of trustees. In selecting members of the board of trustees, the board of selectmen shall:

- (i) designate 1 of its members to serve on the board of trustees;
 - (ii) appoint at least 1 member of the public at large, preferably a resident who lives in year-round market rate rental housing in the town, to serve on the board of trustees; and
 - (iii) consider a broad range of expertise, including education and experience in real estate development and financing, in appointing the remaining 3 members to the board of trustees.
- (b) Members of the board of trustees shall be sworn to the faithful performance of their official duties. A majority of the 5 members shall constitute a quorum for the transaction of any business. The board of trustees shall elect from among its members a chairman, vice-chairman, clerk and other officers as it finds necessary and determine their duties.
- (c) The original members of the board of trustees shall be appointed within 60 days following the effective date of this act. Of the members of the board of trustees first appointed, 1 member shall be appointed to serve for a term of 1 year, 2 members for a term of 2 years and 2 members for a term of 3 years. The initial appointments may be adjusted to coincide with the regular appointment cycle of the town. All terms thereafter shall be for 3 years. In the event of a vacancy on the board of trustees, a successor member shall be appointed to complete the unexpired term.
- (d) Any member of the board of trustees may be removed by the board of selectmen for cause after reasonable notice and a public hearing by the board of selectmen, unless the notice and hearing are expressly waived in writing by the member subject to removal.
- (e) The members of the board of trustees shall not receive compensation for the performance of their duties, but each member shall be reimbursed by the trust for expenses incurred in the performance of the member's duties. Documentation related to such reimbursement shall be open to public inspection from and after the requisition thereof.

SECTION 3. (a) There shall be a trust fund to be known as the Year-round Market Rate Rental Housing Trust Fund. The fund shall be separate and apart from the General Fund of the town of Provincetown.

- (b) The town treasurer shall be the custodian of the trust fund.
- (c) The trust fund shall receive and hold all gifts and grants made to the trust fund as well as money appropriated by the town to the trust. The trust fund shall also receive all revenues

from the sale or lease of trust property and any rental income generated from properties in the custody of the trust.

- (d) Money in the trust fund shall be available for expenditure by the trust for the purposes set forth in this act without the need for further appropriation by town meeting.
- (e) By a 2/3 vote, the town may borrow money in aid of the trust, in accordance with chapter 44, to be used by the trust for any capital related purpose consistent with this act and for which the town is authorized to borrow.
- (f) Funds previously appropriated by the town for the creation of year-round rental housing prior to the effective date of this act shall, by operation of law, be automatically transferred into the trust fund.

SECTION 4. (a) The trust, by and through its board of trustees, may:

- (i) accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity or any other source;
- (ii) purchase and retain real or personal property including, but not limited to, investments that yield a high rate of income or no income;
- (iii) sell, lease, exchange, transfer or convey personal, mixed or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;
- (iv) execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to a transaction in which the board engages for the accomplishment of the purposes of the trust;
- (v) employ advisors and agents, such as accountants, appraisers and lawyers, as the board deems necessary;
- (vi) pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;
- (vii) apportion receipts and charges between incomes and principal as the board deems advisable, amortize premiums and establish sinking funds for such purpose and create reserves for depreciation depletion or otherwise;
- (viii) participate in reorganization, recapitalization, merger or similar transactions, give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest and consent to a contract, lease, mortgage, purchase or sale of property, by or between a corporation and another corporation or person;
- (ix) deposit any security with a protective reorganization committee and delegate to that committee such powers and authority with relation thereto as the board may deem proper and pay, out of trust property, the portion of expenses and compensation of such committee as the board may deem necessary and appropriate;
- (x) carry property for accounting purposes other than acquisition date values;
- (xi) borrow money on such terms and conditions and from such sources as the board deems advisable, and mortgage and pledge trust assets as collateral;
- (xii) make distributions or divisions of principal in kind;

- (xiii) comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, accept any property, either in total or partial satisfaction of any indebtedness or other obligation and, subject to this act, continue to hold the same for such period of time as the board may deem appropriate;
 - (xiv) manage or improve real property and abandon any property which the board determines is not worth retaining;
 - (xv) hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and
 - (xvi) extend the time for payment of any obligation to the trust.
- (b) General revenues appropriated into the trust become trust property and may be expended without further appropriation. All money remaining in the trust at the end of a fiscal year, whether or not expended by the board within 1 year of the date the money was appropriated into the trust, shall remain trust property.
 - (c) The trust is a public employer and the members of the board are public employees for the purposes of chapter 258 of the General Laws.
 - (d) The trust shall be deemed a municipal agency and the trustees special municipal employees, for the purposes of chapter 268A of the General Laws.
 - (e) The trust is exempt from chapters 59 and 62 of the General Laws, and from any other General Law concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or a political subdivision of the commonwealth.
 - (f) The books and records of the trust shall be audited annually by an independent auditor in accordance with generally accepted accounting practices.
 - (g) The trust is a public body for the purposes of sections 18 to 25, inclusive, of chapter 30A of the General Laws.
 - (h) The trust is a board of the town for the purposes of chapters 30B and section 15A of chapter 40 of the General Laws; provided, however, that agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the town shall be exempt from said chapter 30B.
 - (i) The trust may procure insurance against loss in connection with its properties and other assets and operations in such amount and from such insurers as it deems desirable.
 - (j) The trust may act and do things necessary or convenient to carry out the powers expressly granted in this act.
 - (k) The board of trustees shall be considered a town board subject to the charter and by-laws of the town except as may be otherwise expressly provided in this act. The members of the board of trustees shall be considered municipal employees for the purposes of the General Laws.

SECTION 5. A year-round market rate rental housing project shall not be undertaken by the trust until a public hearing relating to the project has been held by the board of trustees after due notice. Further, after due notice, the board of trustees shall hold at least 1 public hearing annually to receive comments about its management and operations. Due notice of public hearings shall be given by the trust to the general public through a legal notice in 2 newspapers having a general circulation in the town published not later than 2 weeks prior to the hearing date.

SECTION 6. The financial records of the trust shall be subject to control and oversight by the town's finance department and subject to yearly audits by the accounting firm employed by the town for the purposes of the regular town audit.

SECTION 7. Year-round market rate rental units shall be rented giving the maximum preference allowed by law to: (i) current residents of the town of Provincetown; (ii) municipal employees; (iii) employees of local businesses; and (iv) households with children attending schools in the town of Provincetown. If there are more eligible applicants than available year-round market rate rental units, the trust shall utilize a lottery system to select tenants. The trust may enact regulations establishing additional preference criteria based on income eligibility. For the purposes of this act, the term "market rate" shall mean rental housing that is not restricted to occupancy by low or moderate income households, as those terms are defined in section 38D of chapter 121B of the General Laws; provided, however, that market rate housing may be available for occupancy by households without regard to income and may also include housing subject to maximum income limits to be occupied by households with gross income greater than 80 per cent but not more than 200 per cent of the area median household income as most recently determined by the United State Department of Housing and Urban Development, adjusted for household size. The trust may enact regulations establishing alternative or additional definitions for "market rate".

SECTION 8. This act, being necessary for the welfare of the commonwealth and the town of Provincetown and its inhabitants, shall be liberally construed to effect its purpose.

SECTION 9. This act shall take effect upon its passage.

Approved, November 3, 2016

Appendix H. Town of Provincetown: Tax Exemptions for Affordable Housing

Chapter 408 of the Acts of 2002: AN ACT RELATIVE TO PROPERTY TAX EXEMPTIONS FOR RENTAL PROPERTIES IN THE TOWN OF PROVINCETOWN USED AS AFFORDABLE HOUSING

SECTION 1. Notwithstanding any general or special law to the contrary, residential real estate in the town of Provincetown which is rented to and occupied by a person of low income, at a rental amount not exceeding the standards of the United States Department of Housing and Urban Development for low income persons, shall be exempt from taxation under chapter 59 of the General Laws.

SECTION 2. The exemption shall be equal to the tax otherwise due on the parcel based on the full and fair assessed value, multiplied by the square footage of the housing units rented to and occupied by a person or family of low income, divided by the total square footage of a structure located on the parcel. For rental housing, assessment of such property, if by an income approach to value, shall assume fair market rent for all units. To be eligible for exemption, the housing unit shall be leased to a low income person at rents for the entire fiscal year for which the exemption is sought.

SECTION 3. The date of determination as to the qualifying factors required by this act shall be July 1 of each year for the fiscal year beginning on such July 1.

SECTION 4. This act shall be submitted to the voters of the town at the next annual or special town election, in the form of the following question which shall be placed upon the official ballot to be used at that election: "Shall an act passed by the general court in the year 2002 entitled, 'An Act relative to property tax exemptions for rental properties in the town of Provincetown used as affordable housing', be accepted?" If a majority of the votes cast in answer to that question is in the affirmative, then sections 1, 2 and 3 of this act shall thereupon take effect, but not otherwise.

SECTION 5. Section 4 of this act shall take effect upon its passage.

Approved December 19, 2002.