

***TOWN OF BRIMFIELD***  
*COMMONWEALTH OF MASSACHUSETTS*



***SPECIAL TOWN MEETING WARRANT***

**TOWN MEETING – MAY 22, 2023**

COMMONWEALTH OF MASSACHUSETTS  
HAMPDEN, S.S.  
TOWN OF BRIMFIELD  
WARRANT FOR ANNUAL TOWN MEETING  
TO THE TOWN CLERK OF BRIMFIELD

Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of the Town of Brimfield qualified to vote in Town affairs, to meet at the at the Town Hall, 21 Main Street in said Brimfield, Massachusetts on Monday, May 22, 2023 at 5:30 p.m., then and there to act on the following article:

Note: Zoning Bylaws and Amendments require a 2/3 vote.

**Article 1: Amend Flood Plain District Bylaw**

To see if the Town will vote to amend Town of Brimfield Zoning Bylaws Section 3.0 District Use Regulations, subsection 3.10 Flood Plain District-Purpose through subsection 3.18 Other Use Regulations, as follows, or to take any other action related thereto [Note: new language is shown as double underlined, language to be deleted is shown by strikeout; these methods to denote changes are not meant to become part of the final text].

**3.10 Flood Plain District—Purpose**

The purposes of the Flood Plain District are to:

- 3.10.1** Ensure public safety through reducing the threats to life and personal injury.
- 3.10.2** Eliminate new hazards to emergency response officials.
- 3.10.3** Prevent the occurrence of public emergencies resulting from water quality contamination and pollution due to flooding.
- 3.10.4** Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.
- 3.10.5** Eliminate costs associated with the response and cleanup of flooding conditions.
- 3.10.6** Reduce damage to public and private property resulting from flooding waters.

**3.11 Definitions**

Area of Special Flood Hazard is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, AI-30, AE, A99, VI-30, VE, or V.

Base Flood means the flood having a one percent chance of being equaled or exceed in any given year.

Development means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

District means flood plain district.

Existing Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by a community.

Expansion To An Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either the final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA) administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard area.

Flood Boundary and Floodway Map means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and 100-year floodway. (For maps done in 1987 and later the floodway designation is included on the FIRM).

Flood Hazard Boundary Map (FHBM) means an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

Flood Insurance Rate Map (FIRM) means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study means an examination, evaluation, and determination of flood hazards, and if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of flood-related erosion hazards.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally Dependent Use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable ~~non-~~elevation design requirements of NFIP Regulations 60.3.

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term “manufactured home” does not include park trailers, travel trailers and other similar vehicles.

Manufactured Home Park or Subdivision means a parcel (or continuous parcels) of land divided into two or more manufactured homes lots for rent or sale.

New Construction means, for flood plain management purposes, structures for which the “start of construction” commenced on or after the effective date of a flood plain management regulation adopted by a community. For the purpose of determining insurance rates, New Construction means structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later. means structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, bylaw, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement.

New Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which construction of facilities for serving the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by a community.

One-Hundred-Year Flood see Base Flood.

Recreational Vehicle means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway see Floodway.

Special Flood Hazard Area means an area having special flood and/or flood-related erosion hazards and shown on a FHBM or FIRM as Zone A, AO, AI 30, AE, A99, AH, V, VI 30, VE. the land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH.

Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of permit date. The actual start means either the first placement of permanent construction or a structure on the site, such as the pouring of slab, or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation, or placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, or floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

Structure means, for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Structure, for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. (Accepted October 1996)

Substantial Repair Of A Foundation means when work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

Variance means a grant of relief by a community from the terms of a flood plain management regulation.

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

### **3.12 District Boundaries**

The Floodplain District is herein established as an overlay district. The District includes all special hazard areas within the Town of Brimfield designated as Zone A or AE on the Hampden County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Hampden County FIRM that are wholly or partially within the Town of Brimfield are panel numbers:

25013C0267E, 25013C0269E, 25013C0286E, 25013C0287E, 25013C0288E, 25013C0289E, 25013C0291E, 25013C0292E, 25013C0293E, 25013C0294E, 25013C0457E, 25013C0459E, 25013C0476E, 25013C0477E, 25013C0478E, 25013C0479E, 25013C0481E, 25013C0482E, 25013C0483E and 25013C0484E dated July 16, 2013.

The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Hampden County Flood Insurance Study (FIS) report dated July 16, 2013. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official and Conservation Commission. [amended May 2013]

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Brimfield designated as Zone A, AE, AH, AO, A99, on the

Hampden County Flood Insurance Rate Map (FIRM) dated June 07, 2023 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program.

The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Hampden County Flood Insurance Study (FIS) report dated June 07, 2023. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official and Conservation Commission.

### **3.13 Floodway Date**

~~In Zone A, and ZE along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. [amended May 2013]~~

### **3.14 Base Flood Elevation Data**

~~Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser within unnumbered a zones. [amended May 2013]~~

### **3.15 Notification of Watercourse Alternation**

~~Notify, in a riverine situation, the following, of any alteration or relocation of a watercourse:—~~

~~\_\_\_\_\_ Adjacent Communities  
\_\_\_\_\_ NFIP State Coordinator  
\_\_\_\_\_ Massachusetts Office of Water Resources, 251 Causeway  
Street, \_\_\_\_\_ Suite 600-700, Boston, MA 02114-2104  
\_\_\_\_\_ NFIP Program Specialist, Federal Emergency Management  
\_\_\_\_\_ Agency, Region 1, 99 High Street, 6th Floor, Boston,  
MA 02110—  
\_\_\_\_\_ FEMA Region I, Room 462, McCormack Office Building,  
Boston, \_\_\_\_\_ MA 02109 [amended May 2013]~~

### **3.16 3.13 Permitted Uses**

The following use of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment.

**3.16.1 3.13.1** Agricultural uses such as farming, grazing, truck farming, horticulture, etc.

**3.16.2 3.13.2** Forestry and nursery uses.

**3.16.3 3.13.3** Outdoor recreational uses, including fishing, boating, play areas, etc.

**3.16.4 3.13.4** Conservation of water, plants, wildlife.

**3.16.5 3.13.5** Wildlife management areas, food, bicycle, and/or horse paths

**3.16.6 3.13.6** Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops on the premises.

**3.16.7 3.13.7** Building lawfully existing prior to the adoption of these provisions.

### **3.17 3.14 References to Existing Regulations**

The Flood Plain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Sections of the Massachusetts State Building Code (780 CMR) which address floodplain ~~and coastal high hazard~~ areas;
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.  
[amended May 2013]

### **3.18 3.15 Other Use Regulations**

~~3.18.1 Within Zones AH and AO on the FIRM, require adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.~~

~~3.18.2 In Zone AE, along watercourses that have a regulatory floodway designated on the Brimfield FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. [amended May 2013]~~

~~3.18.3 Review all subdivision proposals to assure that: a) such proposals minimize flood damage; b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards.~~

**3.15.1** There shall be established a “routing procedure” which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Town Engineer, Building Commissioner for comments which will be considered by the appropriate permitting board prior to approving applicable permits.

#### **3.15.2 Designation of Community Floodplain Administrator**

The Town of Brimfield hereby designates the position of Building Commissioner/Zoning Officer to be the official Floodplain Administrator for the Town.

#### **3.15.3 Permits are required for all proposed development in the Floodplain District**



The Town of Brimfield requires a permit for all proposed construction or other development in the Floodplain District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

3.15.5 The proponent must obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the Floodplain District. The proponent must acquire all necessary permits and must demonstrate that all necessary permits have been acquired.

### **3.16 Floodway Encroachment**

3.16.1 In Zones A, A1-30 and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

3.16.2 In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

### **3.17 Unnumbered A Zones**

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

### **3.18 AO and AH Zones Drainage Requirements**

Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

### **3.19 Subdivision Proposals**

All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

- (a) Such proposals minimize flood damage.
- (b) Public utilities and facilities are located & constructed so as to minimize flood damage.
- (c) Adequate drainage is provided.

### **3.20 Base flood Elevation Data for Subdivision Proposals**

When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

### **3.21 Recreational Vehicles**

In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

### **3.22 Watercourse Alterations or Relocations in Riverine Areas**

In a riverine situation, the Floodplain Administrator shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream
- Bordering States, if affected
- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I

### **3.23 Requirement to Submit New Technical Data**

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I

### **3.24 Variances to Building Code Floodplain Standards**

**3.24.1** If the State issues variances to the flood-resistant standards as found in the state building code, the community will use this text for local adoption:

A. The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

B. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood

insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

C. Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

### **3.25 Variances to Zoning Bylaw Related to Community Compliance With the National Flood Insurance Program (NFIP)**

A variance from this Floodplain Bylaw must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

### **3.26 Precedence Over less Restrictive Bylaws**

This Floodplain Bylaw shall take precedence over any less restrictive conflicting local bylaws.

### **3.27 Disclaimer of Liability**

The degree of flood protection required by this Floodplain Bylaw is considered reasonable but does not imply total flood protection.

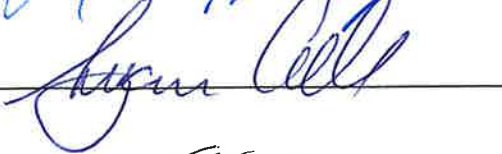
### **3.28 Severability Section**

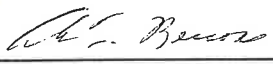
If any section, provision or portion of this Floodplain Bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the Floodplain Bylaw shall continue to be effective.

Given under our hand this 24<sup>th</sup> day of April, 2023.

SELECT BOARD:

 Martin J. Kelly, Chairperson

 Suzanne M. Collins, Vice Chairperson

 Alan Bercovici, Select Board Member

 George Adams, Select Board Member

 Anthony Soto, Select Board Member

A true copy, ATTEST:

 Debra Fagerstrom, Town Clerk

Posted this 25 day of APRIL, 2023.

 Constable