



Marshfield Planning Board
870 Moraine Street
Marshfield, Massachusetts 02050-3498

To: Board of Selectmen
 From: Planning Board
 Date: January 12, 2021
 Re: Zoning Amendments for 2021 Annual Town Meeting Warrant

The Planning Board voted (5 to 0) at a regular Board meeting held on January 11, 2021 to request the board of Selectmen to place the following zoning articles on the April Annual Town Meeting.

Article: A

To see if the Town will vote to amend the Marshfield Zoning Bylaws as follows:

Amend Article 6, section 08, Other General Dimensional and Density Provisions by adding a new (5) at the existing language as follows:

Add a new (5) to Section 305-6.08 Other General Dimensional and Density Provisions:

(5) No dimensional lot requirement of this Bylaw, including but not limited to front, side, rear setbacks and open space requirements shall apply to handicapped access ramps on private property used solely for the purpose of facilitating ingress or egress of a physically handicapped person, as defined in section 13A pf chapter twenty-two of Massachusetts General Laws.

Article Explanation: *This change would clarify ADA access and setback requirements in the Town Zoning By-laws to match the State Zoning Act.*

Article: B

To see if the Town will vote to amend the Marshfield Zoning Bylaws as follows:

Amend Article 5, Section 04, Table of Use of the Zoning Bylaw by replacing the current language for Community Facilities # 21 and # 22 with the following.

Use	Residential				Business					Industrial		Overlay		
	R -1	R -2	R -3	RB	B -1	B -2	B -3	B -4	OP	I-1	A	PMUD	WRPD	BRVO
21. Medical marijuana facility (<i>see 305-12.05</i>) * <i>only in the WRPD within the I-1 district excluding the PMUD.</i>	-	-	-	-	-	-	-	-	-	S	-	-	S *	-
22. Recreational marijuana facility (<i>see 305-12.06</i>) * <i>only in the WRPD within the I-1 district excluding the PMUD.</i>	-	-	-	-	-	-	-	-	-	S	-	-	S *	-

Article Explanation: This article modifies the existing table of use for Medical and Recreational marijuana facilities to allow the use only in the portion of the Water Resource Protection District (WRPD) that is located within the I-1 Industrial and is not covered under 305-11.05 Planned Mixed Use Development (PUMD) overlay.

Article: C

To see if the Town will vote to amend the Marshfield Zoning Bylaws as follows:

Amend Article 5, Section 04, Table of Use of the Zoning Bylaw by replacing the current language for Community Facilities # 21 and # 22 with the following.

Use	Residential				Business					Industrial		Overlay		
	R -1	R -2	R -3	RB	B -1	B -2	B -3	B -4	OP	I-1	A	PMUD	WRPD	BRVO
Community Facilities														
23. Combined Medical and Recreational Marijuana facility (shall meet the requirements of both 305-12.05 and 305-12.06) * only in the WRPD within the I-1 district excluding the PMUD.	-	-	-	-	-	-	-	-	-	S	-	-	S*	-

Article Explanation: This article would add the existing table of use to allow for a combined Medical and Recreational marijuana facility. The state passed language allowing Medical Marijuana facilities first then later the state allowed Recreational Marijuana facilities. The Town passed language to cover each individually but not a combined facility. This article would allow a combined Medical and Recreational facility on the same parcel.

Article: D

To see if the Town will vote to amend the Marshfield Zoning Bylaws as follows:

Amend Article 15 Floodplain Zoning by replacing the current language with the following.

**ARTICLE XV
FLOODPLAIN ZONING**

Section 15.01 Purpose – The purpose of the Floodplain Zoning Overlay District is to:

- a) Ensure public safety through reducing the threats to life and personal injury
- b) Eliminate new hazards to emergency response officials
- c) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
- d) 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
- e) Eliminate costs associated with the response and cleanup of flooding conditions
- f) Reduce damage to public and private property and resulting from flooding waters
- g) To ensure that the Town of Marshfield qualifies for participation in the National Flood Insurance Program.

Section 15.02 Applicability- The Floodplain District for Marshfield, Massachusetts is herein established as a separate overlay district. The District includes all special flood hazard areas within the Town of Marshfield designated as Zone A, AE, AH, AO, A99, V, or VE on the Plymouth County Flood Insurance Rate Map (FIRM) dated July 6, 2021 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 Plymouth County Flood Insurance Study (FIS) report dated July 6, 2021. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Building Commissioner/Floodplain Administrator, Planning Board, Conservation Commission and Community Rating System (CRS) official.

Section 15.03 Definitions- For this section of the Zoning By-law the following definitions specifically apply to meet the requirements of the National Flood Insurance Program (NFIP). The NFIP definitions are found in Title 44 of the Code of Federal Regulations, section 59.1. The definitions below refer to their source; if the definition is from the MA building code, it is from the 9th Edition, which meets the minimum standards of the NFIP.

In order for the bylaw or ordinance to be clearly understood, it is necessary to define technical terms or key words. An understanding of these terms is a prerequisite to effective administration of the floodplain management bylaw or ordinance.

DEVELOPMENT: means any man-made 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. [US Code of Federal Regulations, Title 44, Part 59].

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 the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM).

FLOOD HAZARD BOUNDARY MAP (FHBM): An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59].

FLOODWAY: The channel of the river, creek 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 [Base Code, Chapter 2, Section 202].

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. [US Code of Federal Regulations, Title 44, Part 59]. Also [Referenced Standard ASCE 24-14].

HIGHEST ADJACENT GRADE: means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59].

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.
- [US Code of Federal Regulations, Title 44, Part 59].

NEW CONSTRUCTION: Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, 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 [Referenced Standard ASCE 24-14].*

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 [US Code of Federal Regulations, Title 44, Part 59].

REGULATORY FLOODWAY: see FLOODWAY.

SPECIAL FLOOD HAZARD AREA: 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, V, VO, VE or V1-30 [Base Code, Chapter 2, Section 202].

START OF CONSTRUCTION: 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 floodplain 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 [US Code of Federal Regulations, Title 44, Part 59].

SUBSTANTIAL REPAIR OF A FOUNDATION: 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. [US Code of Federal Regulations, Title 44, Part 59]

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 required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided [US Code of Federal Regulations, Title 44, Part 59].

ZONE A: means an area of special flood hazard without water surface elevations determined.

ZONE A1-30 and ZONE AE: means area of special flood hazard with water surface elevations determined.

ZONE AH: means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined.

ZONE AO: means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet (*Velocity flow may be evident; such flooding is characterized by ponding or sheet flow*).

ZONE A99: means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined).

ZONES B, C, and X: means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard (*Zone X replaces Zones B and C on new and revised maps*).

ZONE V: means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area).

ZONE V1-30 and ZONE VE: (*for new and revised maps*) means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area).

Section 15.04 Floodplain Permits- The Town of Marshfield requires a permit for all proposed construction or other development in the floodplain overlay 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 including the alteration of topography (filling or removal of earth).

Section 15.05 Contents of Applications - Marshfield's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed

development in the floodplain overlay district. Applications for floodplain permits shall be made to the Building Commissioner. Applications shall contain:

- a) Completed checklist demonstrating that all necessary permits have been acquired.
- b) Elevation in relation to mean sea level of the lowest floor (including basements or cellars) of all existing and proposed structures;
- c) Elevation in relation to mean sea level of existing and proposed floodproofing;
- d) Signed statement by a registered professional engineer or architect that the requirements of this Bylaw have been met; (NOTE: The above-referenced requirements may be met through submission of a FEMA Elevation Certificate);
- e) Plans for any breakaway walls to be used to enclose space below the base flood elevation (in V zones);
- f) Description of topographic alterations including existing and proposed grades and a delineation of the Special Flood Hazard Area boundary line;
- g) Site plan certified by a registered land surveyor showing all existing and proposed natural and constructed features on the property. The site plan shall include a notation of the Special Flood Hazard Area designation for all existing and proposed structures.

Section 15.06 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.

Section 15.07 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.

Section 15.08 Areas of Special Flood Hazard Standards- All permits granted under Section 15 shall be subject to the following provisions:

- a) All development and redevelopment, whether permitted by right or by special permit, shall be in accordance with the standards of the Massachusetts State Building Code, the Wetlands Protection Act (Chapter 131, Section 40) and regulations (310 CMR 10.00, **310 CMR 13.00**, and **310 CMR 12.00**), septic system regulations (310 CMR 15, Title 5), and all other applicable federal, state and local requirements. Any variance 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.
- b) No alteration of topography shall be permitted where it may result in increased runoff or drainage to the detriment of other property owners or the Town.
- c) Certification by a registered professional engineer or architect for all floodproofing measures shall be required.
- d) Storage of fuel oil, toxic or hazardous materials below the base flood elevation shall be floodproofed.
- e) Within Zones AH and AO, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

Section 15.09 Additional Requirements in Velocity (V) Zones - If proposed construction or alteration of topography is located within a V Zone on the FIRM maps, all floodplain permits granted under Section 3 above shall be subject to the following additional requirements:

- a) All new construction within V Zones shall be located landward of the reach of mean high tide.
- b) Man-made alteration of coastal dunes within V Zones is prohibited where such alteration could result in increased flood damage.

Section 15.10 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 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.

Section 15.11 Floodway encroachment - 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. In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM Map 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.

Section 15.12 Watercourse Alterations or Relocations in Riverine Areas - In a riverine situation, the Building Commissioner/Floodplain Manager shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th floor
Boston, MA 02114
- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

Section 15.13 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.

Section 15.14 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.

Section 15.15 Protection of Dunes - Alteration of sand dunes is prohibited when the alteration would increase potential flood damage.

Section 15.16 Local Enforcement -

- a) Administrative Official - It shall be the duty of the Building Commissioner to administer and enforce the provisions of this Bylaw. If the Building Commissioner receives in writing a request for enforcement and declines to act, or if a person alleges a violation in writing to that office who declines to act, the Building

Commissioner shall notify in writing the party requesting action of his refusal to act and the reasons therefore within 14 days of receipt of such request.

- b) Violations -The Building Commissioner shall serve a notice of VIOLATION AND ORDER to any owner or person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change in use, increase in intensity, or extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this Bylaw, and such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner who has been served with a notice and ceases any work or other activity shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare.
- c) Prosecution of Violation - If the notice of VIOLATION AND ORDER is not complied with promptly, the Selectmen shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation. Any person, firm or corporation violating any of the provisions of this Bylaw shall for each violation, upon conviction thereof, pay a fine of not more than three hundred dollars (\$300). Each day that a violation is permitted to exist after notice to remove the same shall constitute a separate offense.

Section 15.17 Variances to Building Code Floodplain Standards - 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.

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:

- a) 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
- b) Such construction below the base flood level increases risks to life and property.
Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

Section 15.18 Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP) - A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if:

- a) Good and sufficient cause and exceptional non-financial hardship exist;
- b) The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
- c) The variance is the minimum action necessary to afford relief.

Section 15.19 Special Permits

The Board of Appeals may grant a special permit modifying the performance standards in §§ 305-15.08 and 305-15.09 for the following:

- a) Nonresidential structures such as boathouses, boat yards, and structures designed for education and research, the nature of which requires their location within the Floodplain District.
- b) Restoration and reconstruction of structures listed in the National or State Register of Historic Places.

Special permits shall only be issued upon a determination by the Board of Appeals that:

- a) Failure to grant the special permit would result in exceptional hardship to the applicant.

- b) The granting of a special permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or conflict with existing bylaws.
- c) The relief granted is the minimum necessary considering the flood hazard.
- d) All subdivision proposals are designed to assure that such proposals minimize flood damage, all public utilities and facilities are located and constructed to minimize or eliminate flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

Any applicant to whom a special permit is granted shall be given written notice that the proposed development may result in increased risk to life and property and increased flood insurance premium rates.

The Board of Appeals, as the special permit granting authority (SPGA), may adopt rules and regulations relative to the issuance of such special permits and file a copy with the Town Clerk. The Board shall follow the procedural requirements for special permits as set forth in MGL c. 40A, § 9.

Section 15.20 Abrogation and Greater Restriction- The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

Section 15.21 Disclaimer of Liability- The degree of flood protection required by this bylaw [ordinance] is considered reasonable but does not imply total flood protection.

Section 15.22 Severability- If any section, provision or portion of this bylaw [ordinance] is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

Section 15.23 Designation of Community Floodplain Administrator- The Town of Marshfield hereby designates the Building Commissioner to be the official Floodplain Administrator for the Town of Marshfield.

Section 15.24 Administration - The Building Commissioner shall administer this Bylaw as follows:

- a) Review proposed construction and alteration of topography within the Floodplain District to assure that all necessary permits have been received from those federal, state and local governmental agencies from which approval is required and ensure that the requirements of this Bylaw have been met.
- b) Maintain records of the elevation of the lowest floor (in relation to NGVD), including basement, of all new or substantially improved structures. In addition, maintain records as to whether or not such structures contain a basement.
- c) If a structure has been floodproofed, maintain records of the elevation of the lowest floor and the elevation to which the structure was floodproofed, including the required engineering certification.
- d) Maintain for public inspection all records pertaining to the provisions of this bylaw.

Section 15.25 Requirement to submit new technical data - If the Town/City 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:

FEMA Region I Risk Analysis Branch Chief
99 High St., 6th floor, Boston, MA 02110

And copy of notification to:
Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

(Section XV Floodplain Zoning Amended April 2006 ATM)
(Section XV Floodplain Zoning Amended April 2012 ATM)
(Section XV Floodplain Zoning Amended April 2015 ATM)
(Section XV Floodplain Zoning Amended October 2016 STM)
(Section XV Floodplain Zoning Amended April 2021 ATM)

Article Explanation: *This article modifies the existing Floodplain Zoning Bylaw by adding language required by the State and FEMA. This article by reference (July 6, 2020) will also update the Zoning Map to include the Inland Waterways Flood Map update. This map change will also reflect the Revision from last summer for both the Duxbury and Marshfield LOMR updates. By approving this change the town would remain in the FEMA flood insurance program.*