

TOWN OF BRIMFIELD

GENERAL BYLAWS

Updated and current to May 2018

This publication includes all town meeting actions up to and including May 2014. The basic bylaws were adopted March 1957. This publication includes corrections and annotations by the Special Bylaw Review Committee, March and June 1986; revisions incorporated by review of Bylaw Committee April 1988 and May 1989. The bylaws published in November 2009 represent a restructuring of the basic bylaws with new outline formatting and minor, non-substantive administrative changes.

Chapter One: General Government

Section 1.0 Town Bylaws

The following provisions shall constitute the General Bylaws of the Town of Brimfield, which shall be in lieu of all bylaws heretofore in force.

1.1 Adoption, Amendment and Repeal

Any or all of these bylaws may be repealed or amended or other bylaws may be adopted at any town meeting, an article or articles for that purpose having been inserted in the warrant for such meeting by the Selectmen.

The repeal of a bylaw shall not thereby have the effect of reviving any bylaw theretofore repealed.

1.2 Duties of Bylaw Committee

The Bylaw Committee shall review all proposed bylaws, except zoning, by holding a public hearing at least five days before any town meeting or election at which bylaws will be voted. The hearing shall be posted in at least five public places in the town at least five days in advance of hearing. The Bylaw Committee shall make a recommendation to voters on every proposed bylaw, except zoning, prior to voter action. The Bylaw Committee may also review existing bylaws from time to time and propose amendments, additions, or corrections for voter action; submitting same to selectmen for inclusion in any town meeting warrant. The Bylaw Committee may also assist boards, committees, town officials, and citizens in the preparation of bylaws for voter action. (amended May 1986; amended June 1996 and May 2003)

Note: for appointment of Bylaw Committee, see Chapter Two, Section 7.

1.3 Lawful Successors

Words and phrases specifying or naming any officer, board or committee of the Town, shall be construed as including the lawful successor or the person or persons having the powers and performing the duties of such officer, board or committee.

1.4 Authority to grant licenses and permits

When in a bylaw anything is prohibited from being done without the license or permission of a certain officer, board or committee, such officer, board or committee shall have the right to license or permit such thing to be done.

1.5 Duties of Town Clerk

The Town Clerk shall keep up-to-date Town By-Laws, including Zoning By-Laws, and shall publish these for the use of Town officials after each amendment, to be made available to any other person for a fee sufficient to defray printing costs. (adopted May 1980 and amended May 1986 and May 2003)

Section 2.0 Violation of Bylaws

2.1 Bylaw Enforcement

Whoever violates any of the provisions of these bylaws whereby any act or thing is enjoined or prohibited, shall unless other provision is expressly made, forfeit and pay a fine not exceeding fifty dollars for each offense. (adopted March 1969)

2.1.2 Criminal Complaint

Whoever violates any provision of these Bylaws may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation, or offense, brought in such manner, shall be three hundred dollars.

2.1.3 Non-criminal Disposition

Whoever violates any provision of these Bylaws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in General Laws, Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board, or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following Bylaws and sections of Bylaws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases and that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such sections. Each day on which any violation exists shall be deemed to be a separate offense.

GENERAL BYLAWS subject to non-criminal disposition:	FINE:
Ch. 5, section 2.3.4 -- flea market vendor permits (selectmen, their agent/permit officer)	\$250.00
Ch. 4, section 1.4 - unregistered motor vehicles	\$20.00
Ch. 4, section 9.3 -roadside dumping (selectmen, Board of Health, their agents)	\$50.00
Ch. 4, section 4.2 - boating regulations	\$20.00
Ch. 4, section 6 - consumption of alcohol on public ways	\$20.00
Ch. 6, section 2.2 - illegal plowing/shoveling of snow	\$250.00
[adopted May 1992; amended June 1996; amended May 2009]	

2.1.4 Board of Health Regulations

Board of Health Regulations affecting Smoking in Certain Places and Youth Access to Tobacco: for sale of tobacco products to a minor, first offense, \$100.00; second offense, \$200.00; third offense or subsequent offenses, \$300.00. For violations of Environmental Tobacco Smoke Regulations, first offense, \$100.00; second offense within two years of the date of the first offense, \$200.00; third offense within two years of the date of the first offense, \$300.00. (mended May 2002)

2.1.5 Building and Zoning

The non-criminal method of disposition may be used for building and zoning violations issued by the Brimfield Building/Zoning Officer or his agent, pursuant to state laws, codes and regulations to the full extent authorized by MGL Chapter 40, Section 21D and this non-criminal fine for each such violation, if not otherwise specified, shall be one hundred dollars (\$100.00) for the first offense, two hundred dollars (\$200.00) for the second offense and three hundred dollars (\$300.00) for the third and subsequent offense. Each day of a violation is considered a separate offense. (amendment of May 19, 2008)

Section 3.0 Town Meetings

3.1 Annual Meeting and Elections Dates

The Annual Business and Appropriations Meeting shall be held on the third Monday in May of each year, and shall begin at 7:00 P.M. and the Annual Town Election shall be held on the first Monday in June in each year. The polls shall be opened at twelve o'clock noon and shall remain open until eight o'clock in the evening. (adopted May 1975, amended May 1986, amended May 1994)

3.2 Notice to Voters: Public Posting

Notice of every Town Meeting shall be given by posting attested copies of the warrant therefore in at least five public places in the Town not less than seven days before the day fixed for such meeting. Notice of every Special Town Meeting shall be given by posting attested copies of the warrant therefore in at least five public places in the Town, not less than fourteen days before the day fixed for such meeting. (adopted May 1980)

3.3 Additional Notice Annual Meeting

At least seven days before the day fixed in the warrant for the Annual Town Meeting, the Selectmen shall cause to be mailed to each occupied dwelling unit containing one or more registered voters in the Town, a postcard notification that copies of the Annual Town Meeting warrant are available at the Town Hall and posted on the Town's website. (adopted March 1977; amended May 1980, May 1986, May 2017)

3.4 Additional Notice Special Meeting

At least five days before the day fixed in the warrant for any Special Town Meeting, the Selectmen shall cause an outline of the warrant to be mailed to each occupied dwelling house in the Town.

3.5 Quorum

The number of voters necessary to constitute a quorum at the Annual Town Meeting shall be fifty voters and the number of voters necessary to constitute a quorum at a Special Town Meeting shall be twenty-five voters; provided, however, that a number less than a quorum may from time to time adjourn the same. This section shall not apply to such parts of meetings as are devoted exclusively to the election of Town officials. (adopted March 1975)

3.6 Parliamentary Procedures

Order of Action: Articles of the warrant shall be acted upon in the order in which they appear unless otherwise determined by vote of the meeting.

Division of Motions: If a motion is susceptible of division, it shall be divided and the question shall be put separately upon each part thereof if ten voters so request.

Precedence of Motions: When a question is before the meeting, the following motions, namely: to adjourn; to lay on the table; for the previous question; to postpone to a time certain; to commit, recommit or refer; to amend; to postpone indefinitely; shall be received and shall have precedence in the foregoing order and the first three shall be decided without debate.

Amending Money Questions: On proposed amendments involving sums of money, the larger or largest amount shall be put to the question first and an affirmative vote thereon shall be a negative vote on any smaller amount. (adopted May 1978)

Identification of Legal Representatives: Any person who is employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking thereon.

Moderator Declaration of Vote: When a question is put, the sense of the meeting shall be determined by the voices of the voters and the Moderator shall declare the vote as it appears to him. If the Moderator is unable to decide the vote by the sound of voices, or if his decision is immediately questioned by seven or more voters rising in their places for that purpose, he shall determine the vote by ordering a show of hands

and he may appoint tellers to make and return the count. On matters requiring a 2/3 vote by statute, the Moderator may declare a 2/3 on voice vote, in his discretion, providing the declaration of the Moderator may be challenged in the prescribed manner. (amended May 1998)

Ballot Votes: The meeting may order that the vote on any motion shall be taken by a "yes" and "no" ballot.

Reconsideration: No vote of the meeting shall be reconsidered unless notice of intention to ask for reconsideration shall be given within one hour after the vote to which such notice relates has been taken. When a motion for reconsideration is decided, that decision shall not be reconsidered, and no question shall be reconsidered more than once; nor shall any vote be reconsidered on a motion to adjourn, to lay on the table, or for the previous question.

3.7 Article for Assessor's List

The Selectmen shall insert an article in the Town Warrant every third year commencing with the Annual Town Meeting of 1981 to see if the Town will vote to provide the necessary funds and services to accomplish the publication of the currently used Assessors' valuation list. (adopted May 1980)

3.8 Authority to Hold Annual Town Meeting or Special Town Meeting Outside Geographic Boundaries of Town of Brimfield

When the Board of Selectmen determines by a separate vote that it is necessary or appropriate, the Town may hold annual or special town meetings outside the geographic boundaries of the Town at the Tantasqua Regional High School in Fiskdale, MA or other appropriate location. Reasons for holding a town meeting outside of the Town shall include, but not be limited to, extraordinary circumstances such as anticipated voter turnout; emergencies relating to commonly used Town Meeting locations or handicapped accessibility. (adopted May 2012)

Section 4.0 Election of Officials

4.1 Officers to be Elected, Terms

The Officers of the Town to be elected at the Annual Election in the years in which the terms of the incumbents expire, with their terms of office shall be as follows: A Moderator for one year; three Selectmen for three years each, one to be elected annually; a Treasurer-Collector for three years, a Town Clerk for three years; three Assessors for three years each; five members of the Board of Public Health for three years each, in the election of 1999, two members to be elected for two years, and one member to be elected for one year, and thereafter as incumbent terms expire; five members of the Town School Committee for three years each, two to be elected the first year, two to be elected the second year, and one to be elected the third year; Five Constables for three years each; a Tree Warden for one year; six Library Trustees for three years each, two to be elected annually; three members of the Cemetery

Commission for three years each, one to be elected annually; three members of the Harding Fund Trustees, for three years each, one to be elected annually; three members of the James D. Lincoln Library Fund Trustees for three years each, one to be elected annually; members of the Tantasqua Regional District School Committee for three years each, to be elected in accordance with the Regional District Agreement, annually and/or as incumbent terms expire; four members of the Brimfield Housing Authority for five years each, one to be elected as terms expire in accordance with the laws of the Commonwealth; five members of the Planning Board for five years each, one to be elected annually, and one Highway Surveyor for three years. (amended March 1961, March 1962, March 1973, March 1975, May 1986, May 1988, May 1990, May 1995 and March 2000, May 2017)

4.2 Planning Board Authorization

A Planning Board is hereby established under the provisions of General Laws, Chapter 41, Section 81A with all the power and duties therein.

4.2.1 Election of Members

The Planning Board shall consist of five members to be elected by ballot at the Annual Town Meeting of 1958, one for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year, and thereafter by ballot and in accordance with provisions of the statute.

Section 5.0 Contracts and Insurance

5.1 Limitation on Contracts

No board or officer shall make any contract in behalf of the Town, the execution of which shall necessarily extend beyond one year from the date thereof, unless the contract contains the language “subject to annual appropriation” except as otherwise provided by law, unless specific authority to do so has been given by vote of the Town. (Amended May 2014)

5.2 Custodian of Bonds etc.

Except as otherwise provided by law, the Selectmen shall have custody of bonds, deeds, contracts, insurance policies and other similar documents owned by the Town.

Section 6.0 Legal Affairs

6.1 Duties of Selectmen

The Selectmen shall be agents of the Town to institute, prosecute, defend and settle any and all claims, actions and proceedings to which the Town is a party or in which the interests of the Town are or may be involved.

6.2 Legal Reports

The Selectmen in their annual report shall state what actions have been brought against and on behalf of the Town, what cases have been compromised or settled, and the current standing of all suits at law involving the Town or any of its interests.

6.3 Appointment of Town Counsel

The Selectmen shall annually in June after election of the Selectmen, appoint a member of the bar in good standing to serve as Town Counsel for the term of one year from the first day of July following and until his successor is appointed and enters upon the performance of his duties. They shall likewise fill any vacancy in said office for the unexpired term, and may employ Special Counsel to assist the said Town Counsel whenever, in their judgment, necessity therefore arises. [adopted May 1980]

6.4 Duties of Town Counsel

It shall be the duty of the Town Counsel to conduct the prosecution, defense or compromise of claims, actions and proceedings to which the Town is a party, and the prosecution of actions or proceedings by or on behalf of any town officer, board or committee as such; to conduct the defense of any action or proceedings, brought against any town officer, board or committee as such, when the Selectmen, having determined that any right or interests of the Town are or may be involved therein, shall so request; to conduct proceedings brought by or against the Assessors before the Board of Tax Appeals; to assist in the prosecution of complaints for violation of any bylaw of the Town, when requested so to do by the board or officer enforcing the same; to examine and report upon titles to all land to be acquired by the Town; to prepare or approve contracts, bonds, deeds and other legal instruments in which the Town is a party or in which any right or interests of the Town is involved; to appear at any and all hearings on behalf of the Town whenever his services may be required; and generally to advise and act for the town officers, boards and committees upon and in legal matters touching the duties of their respective offices.

Section 7.0 Records and Reports

7.1 Records to be Kept

All officers, boards and committees of the Town, shall cause records of their doings and accounts to be kept in suitable books. Said books shall be kept in their respective places in the town offices, or in their respective offices at home. Said books shall, unless otherwise provided by law, be open to public inspection at any reasonable time, but shall remain during such inspection under supervision of the officer, board or committee having custody thereof. (amended March 1969)

7.2 Annual Reports

All officers, boards, standing committees and special committees of the Town having charge of the expenditure of town money shall annually report thereon in writing in such manner as to give the citizens a fair and full understanding of the objects and methods of such expenditures, referring, however, to the report of the Town Accountant for statements in detail of receipts and payments, and may make therein such recommendations as they deem proper. Such reports shall be submitted to the Selectmen for inclusion in the Annual Town Report on or before the 31st day of January, for the calendar year preceding. Boards, departments, committees, and officers that exceeded appropriations falling within their jurisdiction for the previous fiscal year will state the amounts overdrawn. All such reports from officers, boards,

departments and committees shall include a list of all their employees, both salaried and hourly, with the total amount of annual compensation alongside each name if the amount for any particular employee is -0-, that fact shall be included in the report. (amended May 1978 and May 1986)

7.2.1 Financial Reporting

The annual report shall contain, in addition to the reports of officers, boards, and committees as hereinbefore provided, a detailed report of all moneys received into and paid out of the Town Treasury in the financial year next preceding and from 1 July to 31 December of the current fiscal year, showing separately payments made from the proceeds of loans as capital outlays for permanent improvements; the report of the Collector of Taxes, of receipts, payments and abatements; statements of funds belonging to the Town or held for the benefit of its inhabitants; a statement of the liabilities of the Town on bonds, notes, certificates of indebtedness, or otherwise, and of indebtedness authorized but not incurred, and of the purposes thereof; a statement of transfers made to or from any appropriations; abstracts of the records of the meetings of the Town held since publication of the last Annual Report; and such other matters as the said report is required by law to contain, or as may be inserted by the Selectmen under discretion granted them by law. (amended May 1986)

7.2.2 Standing Votes, Rules and Regulations

The Selectmen, or the Town, may direct that the standing votes of the Town and the rules or regulations adopted by any officer, board or committee, be printed either separately or as part of the Annual Town Report.

7.3 Distribution

At least 20 days before the date fixed for the Annual Town Meeting, the Selectmen shall cause the published Annual Report to be available in sufficient quantities for every household in the Town, to be distributed at places of public gathering throughout the Town. (adopted May 1980, amended May 1986 and May 2003)

Chapter Two: Appointed Officials, Boards and Committees

Note: Elected officials are itemized in Chapter One, section 4.

Section 1 Committees Appointed by Town Meeting

1.1 Duties of Town Clerk

It shall be the duty of the Town Clerk immediately after every Town Meeting to notify in writing all members of the committees who may be elected or appointed at such meetings, and designate one member of the committee to be responsible for gathering all members of that committee for an initial meeting to be held within one month, and the Town Clerk shall state the business upon which they are to act and the names of the persons composing the committees, and also to notify all officers, boards and committees of all votes passed at such meeting in any way affecting them. (adopted March 1975)

1.2 Duties of Committees

All committees shall report as directed by the Town. If no report is made within a year after its appointment, a committee shall be discharged unless, in the meanwhile, the Town shall have granted an extension of time.

Section 2 Finance Committee

2.1 Membership

There shall be a Finance Committee consisting of nine legal voters of the Town who shall be appointed by the Selectmen as hereinafter provided. No elective or appointive town officer or town employee shall be eligible to serve on said committee. (amended May 2005)

The reduction in the number of members of the Finance Committee from nine to seven, as approved by the 2005 Annual Town Meeting, shall take effect immediately upon approval of this bylaw amendment by the Attorney General and compliance with the requirements of G.L. c. 40, s. 32, if two vacancies exist on the Committee at that time; otherwise, the reduction in the number of members of the Committee shall take effect upon the expiration of the terms of two members of the Committee or their sooner resignations. (amended May 2005)

2.3 Appointment of Members

Finance Committee members shall be appointed by the Selectmen at each Annual Town Meeting for alternating three year terms so that as nearly as possible the terms of one third of the members expire annually. The terms of office of said members shall commence immediately upon qualification and shall expire at the close of final adjournment of the Annual Town Meeting at which their successors are appointed. Said committee shall choose its own officers and shall serve without pay, and it shall cause to be kept a true record of its proceedings. (amended May 2005)

2.4 Vacancies

The said committee shall fill any vacancy which may occur in its membership by vote, an attested copy of which shall be sent by the secretary to the Town Clerk. If any member is absent from five consecutive meetings of said committee, except in case of illness, his position shall be deemed to be vacant and shall be filled as herein provided. The term of office of any person so chosen to fill a vacancy shall expire at the final adjournment of the next succeeding Annual Town Meeting, and the Selectmen shall appoint his successor to complete the unexpired term of the member in whose office such vacancy originally occurred.

2.5 Duties of Finance Committee

- 2.5.1 Consider All Articles:** All articles in any warrant for a town meeting shall be referred to the Finance Committee for its consideration. The Selectmen, after drawing any such warrant, shall transmit immediately a copy thereof to each member of the said committee. Said committee shall, after due consideration of the subject matter of such articles, report thereon to the Town Meeting, in writing, such recommendations as it deems best for the interest of the Town and its citizens.

- 2.5.2 Consider All Expenditures (Budget):** It shall be the duty of the Finance Committee annually to consider the expenditures in previous years and the estimated requirements for the ensuing year of the several boards, officers and committees of the Town, as prepared by them in such form and detail as may be prescribed by said committees. The said committees shall add to such statements of expenditures and estimates, another column giving the amounts which in its opinion should be appropriated for the ensuing year, and shall further add thereto such explanations and suggestions relating to the proposed appropriations as it may deem expedient, and report thereon as provided in section four.
- 2.5.3 Access to Records and Accounts:** In the discharge of its duty, said committee shall have free access to all books of records and accounts, bills and vouchers on which money has been or may be paid from the Town Treasury. Officers, boards and committees of the Town shall, upon request, furnish said committees with facts, figures and any other information pertaining to their several activities.
- 2.5.4 Annual Report Required:** It shall be the duty of the Finance Committee to make an annual report of its doings, with recommendations relative to financial matters and the conduct of town business, to be contained in the annual town report.

Section 3.0 Planning Board of Appeals

3.1 Authorization and Appointment

There is hereby established a Board of Appeals of three (3) members and two (2) associate members to be appointed by the Selectmen, as provided in the General Laws, which shall act on all matters within the jurisdiction under this bylaw in the manner prescribed in the General Laws.

Section 4.0 Dog Officer

4.1 Authorization and Appointment

Selectmen shall annually on July 1 appoint a person suitable to be a dog officer for a term expiring June 31 of each year. The dog officer shall be paid a salary by the town treasurer from such amounts as the town may direct and provide for compensation.

4.2 Duties of Dog Officer

The duly appointed dog officer shall attend to all complaints or other matters pertaining to dogs, and to seek, catch and confine all dogs which have not been licensed within the provisions of this bylaw, or which may be otherwise in violation of any bylaws of the town or the Commonwealth of Massachusetts.

Section 5.0 Council on Aging

5.1 Authorization and Appointment

There shall be a Council on Aging consisting of five legal voters of the town who shall be appointed by the Selectmen to terms of three years each. In the first year Selectmen shall

appoint two persons to three year terms, two persons to two year terms and one person to a one year term. After qualification, the Council on Aging may appoint up to five advisory members who shall have no voting privileges. (adopted May 1989)

Section 6.2 Flea Market Advisory Board

6.1 Authorization and Appointment

Selectmen shall appoint a Flea Market Advisory Board to assist in the establishment of administrative procedures and policies. Said Advisory Board shall have seven members.

6.2 Duties of Flea Market Advisory Board

The Flea Market Advisory Board shall research, report, and make recommendations, on such matters as the Board of Selectmen may direct, and shall summarize its doings in the Annual Report of the Town.

Section 7.0 Bylaw Committee

7.1 Authorization and Appointment

A Bylaw Committee shall be appointed each June as follows: one member by the Board of Selectmen, one member by the Moderator and one member by the appointees jointly. The Town Clerk shall serve as a non-voting member of the committee and shall serve as chairman until an organizational meeting of all members. Terms of appointment shall be one year, commencing July 1 of each year.

Note: Duties of the Bylaw Committee are additionally noted in Chapter One, Section 1.2

Section 8.0 Community Preservation Committee

8.2 Duties of the Community Preservation Committee

Study and Consultations: The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Highway Department, the Open Space Plan Committee, the Recreation Committee, and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one annual public informational hearing, or more at its discretion, on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

8.3 Recommendations to Town Meeting: The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, restoration and rehabilitation of historic resources; for the acquisition, creation and preservation of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of such open space, land for recreational use and community

housing that is acquired or created as provided in the Community Preservation Act. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. Recommendations to the Town Meeting shall also include the committee's anticipated costs.

8.4 Set Asides: The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

8.5 Proportional Funding: In every fiscal year, the Community Preservation Committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for open space (not including land for recreational use); not less than 10% of the annual revenues in the Community Preservation Fund for historic resources; and not less than 10% of the annual revenues in the Community Preservation Fund for community housing.

8.6 Effective Date

This bylaw shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of G.L. c.40, section 32 have been met. Each appointing authority shall have thirty days after approval by the Attorney General or after the acceptance of the Community Preservation Act, whichever ever comes later, to make the initial appointments referenced in Section A.

This bylaw shall have no effect unless and until the town accepts the Community Preservation Act on an election ballot as provided in G.L. c. 44B. [adopted Oct 23, 2007 STM]

Chapter Three: Financial Affairs

Section 1.0 Providing for Audits

1.1 Three-year Audit

An audit of the Accounts of the Town shall be made every three years under the supervision of the state division of accounts as provided by section 35 of Chapter 44 of the General Laws. (amended October 1984)

1.2 Annual Audit

An audit of the Town shall be made every year under the supervision of the state Division of Accounts, as provided in Section 35 or Section 42 of Chapter 44 of the Massachusetts General Laws. (Amended May, 1997.)

Section 2.0 Expenditure of Funds

2.1 Unpaid Bills

Each officer, board of committee authorized to spend money shall, on or before June fifteenth of each year, transmit to the Town Accountant all unpaid bills outstanding as of that date. (adopted May 1980)

2.2 Departmental Revolving Funds

There are hereby established in the Town of Brimfield pursuant to the provisions of G.L. c. 44, §53E ½, the following revolving funds:

NAME OF REVOLVING FUND	AUTHORIZED TO SPEND	REVENUE SOURCE	USE OF FUND
Brimfield Trail Revolving Fund	Brimfield Trail Committee	Grants and Donations	Costs associated with trail maintenance and upkeep
Bins and Bags Revolving Fund	Board of Health	Sales of Trash Bags and Recycling Bins	Purchase of trash bags and recycling bins for resale to authorized vendors
Cable TV Revolving Fund	Cable TV Advisory Committee	Annual subscriber fee payments from cable provider; fees paid for duplication of video tapes and general donations	Supplies and equipment for local access programming and general expenses of the committee
Cemetery Revolving Fund	Cemetery Commission	Burial and foundation fees	Expensed related to burials and foundations
Conservation Commission	Conservation Commission & Administrator	Application & Fees	Enforcement and administration of wetlands protection act and bylaws
Dog Revolving Fund	Town Clerk	Licensing Fees	All costs associated with registration and licensing of dogs and the Brimfield share of the regional dog facility.
HAZMAT Revolving Fund	Fire Department	Fees from services rendered during HAZMAT emergencies	Costs associated with related HAZMAT emergencies, including control materials, staff response and truck time

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Historical Revolving Fund	Historical Commission	Sale of maps, publications and other fund raising materials, grant revenue	General expense of committee special projects
Senior Center Revolving Fund	Council on Aging	Participation fees and donations	Administrative, office and programs expenses
Recreation Revolving Fund	Recreation Committee	Participant fees	League fees, equipment, umpire and referee services and general expenses of committee
Subdivision Control Law Revolving Fund	Planning Board	Engineering receipts and inspection services fees	Receipts for engineering and inspection services and to reimburse developers unexpended fee balances.
Tobacco Revolving Fund	Board of Health	Permit Fees	Costs of compliance and enforcement activities

Expenditures from each revolving fund set forth herein shall be subject to the limitation established by Town Meeting or any increase therein as may be authorized in accordance with G.L. c.44, §53E½.

And, further, to set annual spending limits for such revolving funds as follows:

Authorized Revolving Funds	Fiscal Year Expenditure Limit
Bike Trail Revolving Fund	\$5,000
Bins and Bags Revolving Fund	\$35,000
Cable TV Revolving Fund	\$1,500
Cemetery Revolving Fund	\$10,000
Conservation Commission	\$15,000
Dog Revolving Fund	\$2,000
HAZMAT Revolving Fund	\$10,000
Historical Revolving Fund	\$10,000
Recreation Revolving Fund	\$20,000
Senior Center Revolving Fund	\$15,000
Subdivision Control Law Revolving Fund	\$40,000
Tobacco Revolving Fund	\$500

Section 3.0 Receipt of Revenue

- 3.1** Every officer shall pay into the Treasury of the Town all amounts received by him on behalf of the Town, except as otherwise provided by law, and shall make a true return thereof to the Town Accountant, stating the accounts upon which such amounts were received.

Section 4.0 Compensation of Town Officers

- 4.1** No Town Officer and no salaried employee of the Town or any agent of any such officer or employee, shall receive any compensation for his services to the Town except his official salary. Expense money is not to be allotted to the payment of compensation for services. All Town officers and employees, whether appointed or elected shall pay all fees received by them by virtue of their office or position into the Town treasury. (adopted May 1975 and amended May 2014)

Section 5.0 Conservation Commission Fees

- 5.1** Pursuant to M.G.L. c.44, §53G, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be required where the requisite review is more extensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account, and expenditures may be made at the sole discretion of the Commission. Any consultant hired under this provision shall be selected by, and report exclusively to, the Commission. The Commission shall provide applicants with written notice of the selection of a consultant, identifying the consultant, the amount of the fee to be charged to the applicant, and a request for payment of that fee. Notice shall be deemed to have been given on the date it is mailed or delivered. The applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or expenses.

The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment shall be cause for the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and Department of Environmental Protection (DEP) of such a decision in writing. The applicant may appeal the selection of an outside consultant to the Board of Selectmen, who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications

shall consist of either an educational degree or three or more years of practice in the field at issue, or a related field. The applicant shall make such an appeal in writing, and must be received within ten (10) business days of the date that request for consultant fees was made by the Commission. Such appeal shall extend the applicable time limits for action upon the application; (adopted May 2015)

Section 6.0	Brownfields Incentives
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6.1 Purpose

It is the intent of the Town to offer tax abatements to encourage the continued environmental cleanup and redevelopment of sites zoned for industrial and commercial use from or at which there has been a release of oil or hazardous material.

6.2 Eligible Properties

Property that may be the subject of a tax abatement agreement pursuant to this bylaw must:

- 6.2.1** Be a site or portion of a site from or at which there has been a release of hazardous material;
- 6.2.3** Be owned by an eligible person, as that term is defined in G.L. c. 21E, sec. 2;
- 6.2.4** Be zoned for commercial or industrial use.

6.3 Abatement Agreements

The Treasurer is hereby authorized to negotiate agreements for the abatement of real estate taxes, interest and/or charges (hereinafter, "Abatement Agreements") with owners of eligible properties, the terms of which Abatements shall be subject to approval by the Board of Selectmen.

- 6.3.1** Abatement Agreements may allow for reductions in outstanding taxes, interest and/or charges.
- 6.3.2** Abatement Agreements shall include, but not be limited to, the following terms:
 - 6.3.2.1** The amount of outstanding real estate taxes;
 - 6.3.2.2** The percent of interest to accrue if determined applicable by the Treasurer and the property owner;
 - 6.3.2.3** The description of quantifiable monthly payments;
 - 6.3.2.4** The inception date of monthly payments;
 - 6.3.2.5** The date of final payment;
 - 6.3.2.6** The late penalties to be imposed; and,

- 6.3.2.7** Any and all other contractual terms as arranged between the Treasurer and the property owner.
- 6.3.3** All Abatement Agreements shall be executed by the Chairman of the Board of Selectmen and the property owner, whose signatures shall be notarized and attested by the Town Clerk.
- 6.3.4** Copies of all Abatement Agreements shall be provided to the Massachusetts Department of Environmental Protection, The United States Environmental Protection Agency, the Massachusetts Commissioner of Revenue, the Board of Selectmen, and, the property owner. [Adopted May 2007]

Chapter Four: Public Order and Safety

Section 1.0 Unregistered Motor Vehicles Bylaw

1.1 Limitation on Unregistered Vehicles

No more than one unregistered motor vehicle, assembled or disassembled, shall be kept, stored or allowed to remain on a parcel of land except by the person duly licensed under General Laws, Chapter 140, Section 59 and except as provided in Section 1.2 of this bylaw.

1.2 Permits by Selectmen

The Board of Selectmen may issue a permit to keep, store or allow two or more of such vehicles to remain on a parcel of land after said Board has held a public hearing thereon, first causing notice of the time, place and subject matter of such hearing to be given, at the expense of the applicant, by publication in a newspaper of general circulation, at least ten days in advance of the date of the hearing. Said Board shall not issue such a permit unless it finds that the presence of such vehicles on such parcel (1) will not nullify or substantially derogate from the intent or purpose of this bylaw, (2) will not constitute a nuisance and (3) will not adversely affect the neighborhood in which such parcel is situated.

- 1.2.1** Each such permit shall (1) specify the maximum number of such vehicles that may be kept, stored or allowed to remain on such parcel, (2) be limited to a reasonable period of time and (3) be a personal privilege of the applicant and not a grant attached to and running with the land.

1.3 Exceptions

This bylaw shall not apply to vehicles which are (1) stored within an enclosed building,

or (2) designed and used as vehicles for farming, agriculture or construction purposes. Any junk cars not visible from the road shall be exempt from the terms of this bylaw.

1.4 Violations and Enforcement

Any person who continues to violate the provisions of this bylaw after 30 days following receipt by him of written notice of such violation from the Board of Selectmen shall be liable to a penalty not exceeding twenty dollars for each offense. Each day that any violation is allowed to continue after said thirty day period shall constitute a separate offense. (adopted March 1969)

Section 2.0 Application of Building Code

The Selectmen shall provide for the appointment of a Building Code Board of Appeals and maintain its membership in accordance with the provisions of the Massachusetts State Building Code. (adopted March 1975)

Section 3.0 River and Stream Protection

3.1 Definitions

Waste water is defined as water that has been used in manufacturing, processing, cooling, servicing, washing or cleaning, or in any septic or sewerage works.

3.2 Limitations on Discharge

Except as hereinafter allowed no waste water shall be discharged directly into any river or stream or indirectly through a pond, lake, or storage or disposal works.

3.3 Limitation on Diversion

Except as hereinafter allowed water shall not be drawn or diverted from any river or stream.

3.4 Exceptions

3.4.1 Drawing in amounts not exceeding 250 gallons per day.

3.4.2 Drawing for fire department use.

3.4.3 Drawing, diversion or indirect discharge for agricultural use that would not be detrimental to a river or stream and associated wetlands.

3.4.4 Diversion for low head hydro-electric generation, that would not be detrimental to a river or stream and associated wetlands.

3.5 Violations and Enforcement

The fine for violation of this bylaw by individuals is not less than \$20 nor more than \$100 per day; by corporations not less than \$300 per day. Each day constitutes a separate violation. (adopted May 1981)

Section 4.0 Boating Safety

- 4.1** No person shall operate a motor powered boat of any type on any body of water in the Town of Brimfield unless said motor is equipped with an effective muffler of standard type and construction.
- 4.2** No person having control or direction of a boat on any body of water in the Town of Brimfield shall neglect or refuse to stop the same when directed to do so by a police officer who is uniformed or displays his badge of authority.
- 4.3** No person shall operate a powered boat within an area designated as a swimming area and enclosed by buoys.
- 4.4** No person shall operate a boat on any body of water in Brimfield during hours of darkness or dusk unless such boat is equipped with a light of either portable or fixed character sufficient in intensity to be visible from the shore at all times in fair weather.
- 4.5** No person shall operate a boat upon any body of water in Brimfield with a greater number of occupants than is reasonably safe, having in mind the weather, the number of available life preservers and the capacity of the boat as prescribed by the builder.
- 4.6** A power boat towing a water skier shall carry at least one person in addition to the operator who shall be capable of rendering assistance to the skier or the operator in the event of any emergency.
- 4.7** The following rules of the road shall be applicable to all operators of craft on bodies of water in the Town of Brimfield:
- Unpowered craft have the right of way over powered craft.
 - A craft being overtaken has the right of way over craft overtaking.
 - Boats approaching approximately head on shall bear to the right and pass left to left or port to port.
 - In a crossing situation the boat on the right hand is privileged and has the right of way and the burdened craft shall give way.
- 4.8 Violations and Enforcement**
Whoever violates any of the above rules and regulations shall forfeit and pay a fine not exceeding twenty dollars for each offense. (adopted Mar 1958)

Section 5.0 Dog Control

5.1 Purpose

The purpose of this bylaw is to prevent the creation of a nuisance by dogs within the town boundaries and to prevent the spread of disease to and by dogs, by providing for the orderly regulation and control of dogs in the Town of Brimfield.

5.2 Definitions

As used in the bylaw, unless the context indicates otherwise

Dogs -- shall mean all animals of the canine species, both male and female.

Owner -- shall mean any person or persons, firm, association or corporation owning a dog

Keeper -- shall mean any person or persons, firm, association or corporation keeping or harboring a dog, however temporarily such may be

Kennel -- shall mean a pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting, or other purposes, including any shop where dogs are offered for sale and also including every pack or collection of more than three dogs six months old or over, owned or kept by a person on a single premises, irrespective of the purpose for which they are maintained.

Massachusetts General Law, Chapter 140, Section 136A shall be referenced to clarify or define other terms which may be applicable to the provisions of this bylaw

5.3 Licensing

The Town Clerk shall be responsible for the licensing of dogs and shall be the custodian of all records relating to dog licensing. Revenue from licensing shall be deposited with the treasurer for the general fund, unless a separate fund has been established and authorized by town meeting. The Town Clerk shall be allowed a licensing fee as provided in MGL Chapter 140, Section 147, for each individual or kennel license issued within the provisions of this bylaw.

The Town Clerk shall grant a license only upon presentation of a veterinarian's certification that such dog has been vaccinated in accordance with the provisions of MGL Chapter 140, Section 145B. The Town Clerk may accept alternate documentation of rabies vaccination, as specified in MGL Chapter 140, Section 137, including a metal rabies tag bearing a date and identification number.

5.3.1 License Fees

Licensing fees are established as follows:

Male or Female dog	\$10.00
Spayed or Neutered	\$ 5.00
Kennel up to 4 dogs	\$20.00
Kennel 5 to 10 dogs	\$35.00
Kennel 11 to 25 dogs	\$50.00

5.3.2 Validity and Late Fees

Licenses are valid for a one year, from April 1 to March 31. Licenses will be available on January 1 of each year. All owners or keepers of dogs aged six months or older within the current licensing year shall complete an application for same with the Town Clerk and obtain a license for said dog. A late fee of \$3.00 per month, per dog, may be charged by the Town Clerk on every license issued after March 31 of each year.

5.4 Kennels

All kennels may be inspected and licenses revoked, suspended, or reinstated following all the provisions of Massachusetts General Laws, Chapter 140, Section 137C.

5.4.1 Special Kennels

Owners of kennels of more than 25 dogs, shall be considered a Special Kennel and shall make application to the Town Clerk on a form provided for this purpose by the Town Clerk, together with a listing of all dogs then occupying the kennel premises. The owner shall reply faithfully and under penalties of perjury concerning all the information so requested.

A Special Kennel license shall be granted only after a favorable inspection by the Dog Officer and after a public hearing to be conducted by the Town Clerk. Said hearing shall be publicly posted not less than 10 days in advance of hearing and notice of such hearing shall be mailed to all abutters of the kennel property. A Special Kennel license may be renewed for up to five years without inspection or public hearing, provided there are no written complaints on file concerning the care and keeping of dogs on the premises. This provision shall apply to all Special Kennels making license application in 1997.

5.5 Restraint of Dogs

No person owning or keeping a dog in Town shall allow such dog to roam with the actual knowledge, and permission of such person. All dogs not on the premises of the owner or the keeper, or upon the premises of another person, with the knowledge, and permission of such person, shall be restrained by a chain or leash.

5.5.1 The presence of any dog on the land of any person, other than the owner or keeper of such dog, when such dog is not restrained, as above mentioned, shall be primary evidence of a violation of the Bylaw.

5.5.2 Any dog found at large, in violation of this Bylaw, shall be caught and confined by the Dog Officer, who shall notify, forthwith, the licensed owner or keeper of such dog, giving the owner or keeper of such dog a period of ten (10) days within which to obtain a license and recover the dog.

5.6 Disposition of Confined Dogs

Dogs confined under the authority of this bylaw shall be confined by the dog officer in a place suitable for the detention and care of dogs and kept in a sanitary condition. There shall be charged to the owner or keeper of the dog being claimed, the sum of \$10.00, together with the boarding fee covering actual costs per day. Said sum is to be paid to the dog officer as direct compensation by the owner or keeper before the dog is released from the custody of the dog officer. No dog may be released until the dog officer is satisfied that the licensing and all other provisions of this bylaw have been met by the owner or keeper.

At the end of a ten-day period, any dog confined by the dog officer, may be disposed of in the manner provided by MGL Chapter 140, Section 151A.

5.7 Violations and Enforcement

In addition to the enforcement provisions of Chapter 4, section 5.5.2 (confinement of roaming dogs) and Section 5.6 (payment of board fee and dog officer charge of \$10), whoever owns or keeps a dog found to be at large and unrestrained in violation of Chapter 4, section 5.5 and 5.5.1 may be penalized by means of a non-criminal disposition (ticket) of the violation, with a warning on the first offense and a fine of \$25.00 for a second and each subsequent offense, to be issued by the Dog Officer or any police officer, following all the provision of Massachusetts General Laws, Chapter 40, Section 21D.

5.7.1 Enforcement After a Public Hearing

If after a public hearing held under Massachusetts General Laws, Chapter 140, Sections 137C or 157 upon complaint of an aggrieved citizen, the owner or keeper of a dog found to be a nuisance by aggressive behavior toward people, livestock or other domesticated animals, or barking behavior, shall be subject to the orders of the Board of Selectmen regarding the keeping of the dog, and may be penalized by means of a non-criminal disposition (ticket) of the violation, with a fine of \$25.00 for each offense, to be issued by the Board of Selectmen following all the provisions of the Massachusetts General Laws, Chapter 40, Section 21 D. (Sections 7A+7B adopted May 1999)

5.8 Relation to Mass. General Laws

Massachusetts General Laws, Chapter 140, Sections 136 to 174D and subsequent amendments shall apply to any circumstances not provided for in this bylaw. In such cases, references to "the county" or "county commissioners" shall mean the town and the Board of Selectmen. References to the "dog fund" shall mean the accounts directed and established by the Town of Brimfield for administrative expenses relating to dog licensing.

5.8.1 Amendments to be Consistent with General Laws

No amendment to this article shall be proposed or adopted which is contrary to Massachusetts General Laws existing at the time of adoption of this bylaw, or which is considered outside of the authorizations contained in MGL Chapter 140, Section 147A, providing for the Town of Brimfield to withdraw from the Hampden County Dog Fund, which was accepted by the Annual Town Meeting of 1992. (adopted May 1988; amended June 1996)

Section 6.0 Consumption of Alcohol

<p>6.1 The consumption of alcoholic beverages on any public way or other town property in the Town of Brimfield is prohibited. Persons violating this section shall be liable to a fine of a minimum of \$20 and a maximum of \$50 for each offense. (adopted May 1989)</p>

Section 7.0 Recycling of Domestic Rubbish

<p>7.1 In order to implement a program of recycling in conjunction with ordinary waste disposal, residents of every household shall separate waste material into the following</p>

categories before depositing same for disposal: 1) glass and cans, 2) paper, and 3) other waste. The separated materials shall be disposed of at times and in places to be designated by the Board of Selectmen. If no separation takes place, waste material shall not be accepted at the disposal location.. This bylaw to take effect upon completion of agreement between the Town of Brimfield and the Department of Environmental Quality Engineering, Materials Recovery Facility at Springfield. Residents shall be notified by advertisements in at least two newspapers forty-five days in advance of commencing the recycling program stipulated in this bylaw. (adopted May 1989)

Section 8.0 Alarm System Registration

8.1 Registration

Every existing or newly installed burglar (intrusion) and/or fire alarm system must be registered with the respective department (fire or police). This is to include every externally audible device, whether or not it notifies the respective department by telephone dialer or central office monitoring. Failure to comply with this section may result in a lack of response by town emergency departments.

8.2 Service Fee

A service fee may be assessed to the owner or tenant of a property for more than two false alarms annually that result in an emergency service response. Said service fee for each occurrence to be set at \$25.00 for a police response and \$50.00 for a fire department response. (adopted May 1991)

Section 9.0 Roadside Rubbish

9.1 Purpose

The purpose of this bylaw is to discourage and eliminate the dumping of household rubbish and all trash from the roadsides in the Town of Brimfield.

9.2 Definitions

For the purpose of this bylaw, rubbish is defined as any discarded material/s including, but not limited to, household trash, appliances, automotive parts, commercial or industrial materials, fuels, chemicals, or brush and leaves.

9.3 Violations and Enforcement

The Brimfield Police Department is authorized to investigate complaints under this bylaw and is authorized, with the consent of the Police Commission/Board of Selectmen, to prosecute when reasonable cause is shown.

The penalty for such dumping shall be not less than \$50 and not more than \$500 per occurrence, plus costs of removal and disposal which may be ordered and conducted by the Board of Selectmen or the Board of Health. (adopted May 1991)

Section 10.0 Official House Numbering

10.1 Purpose

In accordance with Chapter 291 [Acts of 19] of the laws of Massachusetts, the Town of Brimfield, in conjunction with the Statewide Emergency Telecommunications Board, has joined the Enhanced 9-1-1 service. For matters of personal and public safety, in order to assure the fastest response by emergency services personnel without undue delay, residents of the Town of Brimfield are required to post house numbers of sufficient height so they are visible and clearly readable from the street.

10.2 Standards

For purposes of this bylaw, sufficient height will be 3.5" and width 2.5"

House numbers must be mounted on the front of a residence facing the roadway or on a post or on a mailbox at the front property line on the street adjacent to the driveway entrance to the residence. This will allow for location uniformity throughout the Town.

10.3 Violation and Enforcement

Any property owner who continues to violate the provision of this bylaw after thirty (30) days following receipt by the property owner of joint, written notice of such violation from the Board of Selectmen and Chief of Police, shall be liable to a penalty of \$20.00 for each offense. Each day that said violation is allowed to continue after said thirty (30) day period, shall constitute a separate offense.

This bylaw will be enforceable upon the implementation of E 9-1-1 service in the Town of Brimfield. [adopted June 1996]

Chapter Five: Licensing and Permits

Section 1.0 Tax Status and Licensing

1.1 In the event that the holder of, or applicant for, any license or permit issued by the Town of Brimfield, or the owner of the real estate to which the license or permit relates, shall be delinquent in the payment of any local tax, fee, or other municipal charges, the Board of Selectmen, or other licensing authority, shall have the authority to refuse to issue said license or permit.

1.2 The provisions of Chapter 40, Section 57 of the Massachusetts General Laws, as amended on January 10, 1993, by the Acts of 1993, Chapter 408, Section 1 and 2, shall be strictly followed in the enforcement of this section. (adopted May 1979; revised May 1986; amended May 1995)

Section 2.0 Junk Dealers General Provisions

2.1 The Selectmen may in their discretion grant licenses to suitable persons to be collectors of, dealers in or keepers of establishments for the purchase, sale or barter of junk, old metals or second hand articles and may make rules and regulations relative to their business, and may provide for the supervision thereof, and may make additional rules,

regulations, and restrictions which shall be expressed in all licenses, all in accordance with the provisions of Chapter 140, Sections 54 and 55 of the General Laws of Massachusetts.

- 2.2** Licenses for the above are granted each January for the ensuing year and are valid until December 31. The annual fee for said license is not less than \$25. Licenses granted under this section may be renewed and may not be transferred. (adopted on or before Dec 1957; amended May 1989)

Section 2.3 Flea Markets

2.3.1 Definitions

Flea Market: For the purposes of this by-law any of the following businesses, unless excepted in Section 2.3.2 below, shall be considered a “Flea Market”:

A business which displays, sells, or offers for sale, any merchandise outdoors; or

A business which rents space outdoors to another merchant or merchants (hereinafter referred to as “Vendors”) for the purpose of displaying, selling or offering for sale any merchandise outdoors;

A business which displays, sells or offers for sale, any merchandise both indoors and outdoors, but such business shall be considered to be a Flea Market only to the extent that said business is conducted outdoors; and

A business which rents space both indoors and outdoors to another merchant or merchants (hereinafter referred to as “Vendors”) for the purpose of displaying, selling or offering for sale any merchandise, but such business shall be considered to be a Flea Market only to the extent that such business is conducted outdoors.

Owner/operator: Any individual, corporation, trust, limited liability company, partnership or other legal entity having ownership or control of the premises upon which a flea market is being operated shall be considered to be an owner/operator for the purposes of this by-law.

Vendor: A merchant who rents, contracts to use, or uses, any space outdoors for the purpose of displaying, selling or offering for sale any merchandise shall be considered to be a “vendor.” In the event that a merchant rents space which is partially indoors and partially outdoors, said merchant shall be considered to be a Vendor only with respect to that portion of the business conducted outdoors.

Outdoors: The term “outdoors” for the purpose of this by-law shall include the commonly understood dictionary definition which is “not enclosed” or “having no roof,” but any merchandise displayed as follows shall also be considered to be outdoors: in or under a tent, tarp, or similar temporary cover; in a truck, trailer, van, vehicle or other moveable conveyance; in or under a pavilion or other permanently roofed structure used seasonally for the temporary sale, display, or offer for sale, of merchandise.

2.3.2 Exceptions

Notwithstanding the foregoing, nothing in the “Flea Market” By-law shall be construed to prohibit or regulate any of the following which may or not be regulated by other town by-laws:

- 2.3.2.1** The outdoor sale or display of fruit, vegetables, flowers, cordwood, Christmas trees and wreaths, or any unprocessed agricultural products;
 - 2.3.2.2** The short term non-commercial outdoor use of any residential property for the sale, by the owner of the property, of used personal items, which use is most commonly referred to as a “tag sale” or “yard sale;”
 - 2.3.2.3** The sale of gasoline, diesel fuel, motor oil, propane or other petroleum products;
 - 2.3.2.4** The outdoor sale or display of new or used automobiles;
 - 2.3.2.5** The outdoor sale of ice or soft drinks not intended to be consumed on the premises;
 - 2.3.2.6** The temporary, clearly incidental, short term, uncovered outdoor display of merchandise by a merchant whose permanent business is conducted indoors; and,
 - 2.3.2.7** The outdoor sale of merchandise incidental to any outdoor activity for which a permit has been issued or for which a permit is not required such as, but not necessarily limited to, an auto show, civic or religious fundraiser, horse show, concert or circus. (Section amended May 2006)
 - 2.3.2.8** The outdoor use of any business or commercial property for the sale of used items of personal property which may be referred to as a “combined tag sale” or a “community wide tag sale” provided that such use shall not occur on any property within ten (10) days of any legal Flea Market period.(added May, 2013)
 - 2.3.2.9** The outdoor use of any business or commercial property for the conduct of what is commonly known as a “craft show” at which goods which are substantially made or crafted by the exhibitors, may be displayed and sold provided that such use shall not occur on any property within ten (10) days of any legal Flea Market period; or, take any other action thereon.(added May, 2013)
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- 2.3.2.10** Such use shall not exceed three (3) days, twice per year on any such property. No such events may be scheduled simultaneously on more than one parcel of land.” (added May, 2013)

2.3.3 Owner/Operator Licensing

Owners/operators of flea markets shall hold an annual license as provided in Chapter 5, Section 2.1 and 2.2. The Board of Selectmen may, in its discretion, refuse to issue a license to an owner/operator if, after a public hearing, it believes by the preponderance of the evidence, that the owner/operator has not or is not conforming with the requirements of this bylaw and the regulations of the Board of Selectmen. Said hearing

shall be held within 90 days of the deadline. Owners/ operators seeking a new license for a flea market after the adoption of this bylaw shall be licensed only after a public hearing conducted by the Board of Selectmen. The time, place, date and subject matter of all hearings held under this paragraph shall be posted in at least five public places in the Town at least seven days in advance of said hearing.

In January of each year, licensed owners/operators shall provide information to Selectmen about number of vendors, days and dates of operation, and provisions for compliance with the health and safety bylaws. This information is subject to verification at any time by the Board of Selectmen or its appointed agent. Failure to provide correct information shall be considered a violation of this bylaw. [amended May 2010]

2.3.4 Vendor Permitting

2.3.4.1 Cost of Vendor Permit: The cost of each vendor permit shall be determined annually or at shorter intervals by the Selectmen in accordance with the law of the Commonwealth of Massachusetts.

2.3.4.2 Distribution of Permits and Payment to Town: Vendor permits may be distributed by owner/operators or by the Town. The total cost of permits issued by the owner/operator shall be remitted to the Town not later than 3 days after the last day of each flea market. The owner/operator shall be responsible for payment for any vendor permits it issues. [amended May 2011]

2.3.4.3 Records of Vendor Permits Issued: The owner/operator shall return all unused vendor permits. Each owner/operator shall maintain a record of each permit issued by it which shall include the vendor's name, address and a Massachusetts sales tax identification number. A copy of this record shall accompany the owner/operators remittance to the Town.

2.3.4.4 Display of Vendor Permits: Each vendor shall prominently display the Vendor Permit during the conduct of business.

2.3.4.5 Subletting: If it is determined by the Selectmen that a "vendor" is conducting business without a "vendor permit," the owner/operator shall be assessed the cost of the vendor permit and, for purposes of allocating emergency services costs, the number of "vendor days" attributable to such owner/operator shall be adjusted accordingly. The purpose of this provision is to control "subletting" whereby multiple spaces rented to a single vendor are actually used for the conduct of business by several vendors. [entire section amended May 21, 2007]

2.3.5 Regulations

The Board of Selectmen may make additional rules, regulations and restrictions which shall be expressed in all licenses.

2.3.6 Emergency Services

Police, fire, and ambulance services incidental to the operation of flea markets may be required at the discretion of the Board of Selectmen and will be under the direction of the

respective department heads or service providers. Costs of these services will be borne by the licensed flea market owners/operators and will be paid as part of the Emergency Service fee set forth in Section 2.3.11 of this bylaw.

2.3.7 Use of Town Common

The Town Common during Flea Market will not be used for parking, business enterprises, camping, or drinking of alcoholic beverages. This section enforceable under the Town's Police powers (MGL Chapter 41 Section 96-98).

2.3.8 Parking

Parking is prohibited both day and night on Town streets during flea market operations; and nights at other times; enforceable under the Town's police powers, and as otherwise provided in Section 2.3.9 below.

2.3.9 Health and Safety

2.3.9.1 Duties of Board of Health: The Board of Health will be empowered to immediately close any flea market operation found to be violating the Sanitary Code of the Commonwealth of Massachusetts and thereby constituting a hazard to public health.

2.3.9.2 Sanitation Facilities to be Provided: Flea market owners/operators will provide toilet, hand washing, and drinking water facilities in accordance with regulations provided by the Board of Health.

2.3.9.3 Emergency Access to be Provided: Flea market owners/operators will provide fire and emergency access lanes at the discretion of the Fire Chief

2.3.9.4 Proximity to Roads and Ways: No tents, booths, tables, wares, signs, vehicles or other temporary obstructions shall be permitted within 35' of the center line of the paved surface of Route 20 except where determined in writing by the Police Department or Fire Department not be to detrimental to the public safety provided however that where a permanent guard rail has been erected by the Massachusetts Highway Department less than 35' from said center line this provision shall not apply to land which immediately abuts and lies behind such guard rail.

No tents, booths, tables, wares, signs, vehicles or other temporary obstructions shall be permitted within 6' of the paved surface of Mill Lane, Warren Road, Colonial Park Drive or Prospect Hill Road except where determined in writing by the Police Department or Fire Department not to be detrimental to public safety.

2.3.9.4.1 Violations and Enforcement of This Section: Any owner/operator or other land owner who knowingly violates this section or who permits any violation to continue shall be subject to a fine of \$200, in the case of an owner/operator, loss or non-renewal of their annual license. [Section amended May 21, 2007]

2.3.9.5 Overnights: Duly permitted flea market vendors at a licensed flea market shall be allowed to remain overnight in their vehicles on the grounds of a flea market owner/operator for the purpose of protecting their wares for a period not to exceed six

consecutive nights and not more than three times per year. Any flea market owner/operator who allows vendors to remain overnight on his premises must maintain adequate sanitary facilities and septic dumping services under jurisdiction of the Board of Health.

2.3.9.6 Overnight Camping: Overnight camping is prohibited during flea market periods, with the following exceptions:

2.3.9.6.1 At a licensed Family Campground

2.3.9.6.2 By duly permitted flea market vendors at licensed flea markets, as allowed under Chapter 5, section 2.3.9.5.

2.3.9.6.3 On any property that meets the standards set by the Board of Health, under 105 CMR 440, for temporary short-term camping during the three flea market periods specified in Chapter 5, section 2.3.10 of these bylaws.

2.3.9.6.4 Within a self-contained unit, as defined in 105 CMR 440.01, on any parcel with written permission of the landowner. No more than two such units may be occupied on any parcel that does not meet the standards of section 2.3.9.6.1 above.

2.3.9.6.5 Sanitation: Self-contained units shall dump their waste at an approved dumping station. Owners of said units may also make arrangement for emptying their tanks with a sanitary pumping company. Owners of said units found to be dumping illegally shall be responsible for costs of cleanup.

2.3.9.7 Hazardous Materials Prohibited: The sale, bartering, or offering for sale, of any chemicals that must be listed on Material Safety Data Sheets, as stated by the Occupational Safety and Health Administration, or may be so listed in the future, shall not be allowed. Storage of these items, excepting those for immediate personal use (as determined by the Fire Chief) shall not be allowed within the areas of the flea markets, nor in any ancillary parking areas, and owners/operators shall provide a copy of this section of the Town Bylaws to permitted vendors in advance of each flea market.

2.3.9.8 Violations of Health and Safety Sections: Property owners and/or individuals found to be in violation of Chapter 5, section 2.3.9.6 of these bylaws shall be subject to a fine of \$25.00 under Chapter 1, section 2.1.2-3 of these bylaws (non-criminal disposition). (amended May 2000)

2.3.10 Duration and Hours of Operation

2.3.10.1 Legal Period: A flea market may be licensed and conducted for not more than six consecutive days and not more than three times per year. No licenses shall be issued for flea markets in any months except May, July, and September.

2.3.10.2 Calendar Dates: The legal period shall begin on the second Tuesday in May, the second Tuesday in July, and the first Tuesday after the Labor Day holiday in September, except when religious holidays dictate otherwise. [amended May, 2007]

- 2.3.10.3 Daily Hours:** No vendor may display wares for sale or otherwise conduct business until sunrise on the first legal day, or after sunset on the last legal day. Daily business shall extend no longer than sunrise to sunset. [section adopted Nov 4, 1991]
- 2.3.10.4 Signs to be Posted:** If, prior to the first legal day of operation, any Flea Market owner/operator allows vendors to go upon its premises to prepare for the legal opening, then such Flea Market owner/operator shall prominently display a sign or signs to clearly indicate that the Flea Market is closed to the public. The owner/operator of such market shall take reasonable measures to prevent the public from entering upon the premises except for the purpose of patronizing a full-time business, unrelated to the flea market, that may also be located on the premises.
- 2.3.10.5 Vendor Courtesy:** In order to reduce public inconvenience, enhance public safety and minimize the necessity of police traffic management, each Flea Market should permit its vendors to go upon the premises sufficiently in advance of its opening to prevent lines of vendor vehicles on the public ways.
- 2.3.10.6 Exception:** The selectmen may, at their discretion, permit the sale of tent supplies and related items beginning on the Monday before the “legal period” as set forth in 2.3.10.1 above. Tent supply vendors must have a vendor’s permit. When doing business prior to the “legal period” access to any tent supply vendor must be separated from the street and the tent supply dealer must be separated from the rest of the Flea Market by a fence. [Sections added May 21, 2007]
- 2.3.11 Emergency Services Fees**
- 2.3.11.1 Scope:** Within not more than 30 days following each Flea Market, the Selectmen shall determine the “emergency services cost” by adding the reasonable and necessary cost reasonably attributed to the Flea Market of the following: Police wages; Fire Department wages; Ambulance services. [amended May 2009]
- 2.3.11.2 Vendor Days and Cost per Vendor Day:** The selectmen shall determine the number of vendor days for each owner/operator by adding the number of vendors set up for business on the owner/operator’s premises on the each day of business. The Selectmen shall add the number of vendor days for all of the flea markets to determine the “total vendor days.” The selectmen shall then divide the “emergency services cost” by the “total vendor days” to determine the “cost per vendor day.”
- 2.3.11.3 Food Vendors:** For purposes of this section of the Bylaw, Food Vendors shall be counted as Vendors for the purpose of determining the total number of vendor permits issued by an owner/operator.
- 2.3.11.4 Emergency Services Fee Formula:** The “Emergency Services Fee” for any owner/operator shall be determined by multiplying the number of vendor days attributable to that owner/operator’s flea market by the cost per vendor day. The emergency services fee shall be due and payable 21 days from the day of mailing by the Selectmen. [entire section amended May 21, 2007]

2.3.12 Violation and Enforcement Penalties

For failure to pay any license or emergency service fees under Chapter 5, section 2.3.10 and 11, or, for knowingly allowing vendors without permits to display and/or sell wares at their flea market, or, for knowingly allowing vendors to sell goods outside the permitted days of operation, a flea market owner/operator shall forfeit the right to renew a license for the ensuing year under the provisions of chapter 140, sections 54 and 55 of the Massachusetts General Laws (Town Bylaw Chapter 5, section 1.0). Additionally, the flea market owner/operator shall pay a fine of \$250 per day, per violation under the this section. [entire section amended May 21, 2007; amended May 2009]

Chapter Six: Roads and Highways

Section 1.0 Driveways

1.1 Duties of Highway Superintendent and Building Inspector

No alteration of any land within the boundaries of a public way shall be made for driveways, private ways, or otherwise, except by the Town of Brimfield upon authorization of the Highway Superintendent.

1.2 Submission of Proposals

Any owner or occupant of land abutting a public way who desires any alteration of land within a public way shall file with the Highway Superintendent a written proposal specifying the location, dimensions, and purposes of the desired alteration. The Highway Superintendent shall within ten (10) days of such filing deny same, request further information, or approve same. The Highway Superintendent shall direct the Highway Department, land owner, or occupant filing to effect the alteration at the owner's or occupant's expense.

1.3 Owner or Occupant Responsibility

The owner or occupant shall be responsible for any debris or materials that comes from such access onto Town property. The Town shall not be responsible for any run-off of water or material that may be allowed to enter the owner or occupant's land because of such access or alteration.

In the event that the Highway Department Superintendent deems it necessary to remove and clean debris or material from Town property as a result of a violation of this bylaw, the owner or occupant of the residence will become responsible for payment of charges incurred for town labor, equipment, and material necessary to return the town property back to its original condition.

1.4 Construction Standards

The owner/builder shall construct the driveway entrance from a point along the property frontage and that the owner/builder shall construct the driveway with a slope of zero

percent to a maximum of ten percent (0%-10% from the pavement edge of the traveled way for a distance of twenty (20) feet, then continue with a slope of zero percent to a maximum of twenty percent (0% - 20%) for a distance of twenty-five (25) feet.

Any new building permit will require the owner/builder to pave any driveway/roadway abutting any town roadway. The pavement will be for the width of the driveway/roadway and run for a distance of ten (10) feet. The pavement shall be bituminous concrete or concrete with a thickness of not less than two (2) inches throughout its entirety.

The owner/builder will install or cause to be installed, a proper swale at the end of the driveway nearest the town road for the purpose and control of water to eliminate water discharge on the town road.

1.5 Issuance of Occupancy Permits

No occupancy permit will be issued until the above is accomplished and approved by the Building Inspector and the Highway Superintendent. (adopted May 1986; amended June 1996; amended May 2005)

Section 2.0 Snow and Ice on Roads

2.1 Restrictions on Private Snow Removal

No person other than an employee in the service of the Commonwealth or the Town, or an employee in the service of an independent contractor acting for the Commonwealth or the Town, shall shovel, snowblow, pile, push, or plow snow or ice onto and/or across a town road or way so as to impede the flow of traffic on such road or way.

2.2 Violation and Enforcement

Any property owner found in violation of the provisions of this bylaw as determined by a police officer shall be liable to a penalty of \$250.00 for each offense. (adopted June 1996)

Section 3.0 Temporary Repair of Private Ways

3.1 The Town of Brimfield is hereby authorized to make temporary repairs to private ways solely for the purpose of facilitating snow plowing of such ways, and, excluding all drainage repairs, as may be authorized by the Board of Selectmen as set forth in section 3.2.

3.2 No repair may be made to a private way under authority of this bylaw without the prior approval of the Board of Selectmen with regard to the location and scope of repair.

3.3 In order to be eligible for repair under this bylaw, a particular private way shall have been open to public use for a term of at least one year, unless such repair is otherwise determined by the Board of Selectmen to serve a public purpose.

- 3.4** It shall not be necessary that any such repair be deemed to be “required by public necessity” or that any abutters petition for such repair. No betterments shall be assessed for such repairs and no cash deposit shall be required.
- 3.5** The Town of Brimfield shall not be liable for bodily injury, death or damage to personal property caused by reason of a defect or want of repair in any private way, on account of any repair made under the authority of this bylaw. Temporary repairs undertaken pursuant to the authority set forth herein shall not constitute “maintenance” of such way so as to give the way the status of a way “maintained and used as a public way” under the Massachusetts Subdivision control Law. [section adopted May, 2011]