

**Town of Great Barrington
2016 Annual Town Meeting**

WARRANT

with Recommendations
by the Finance Committee
and the Selectboard

Monday, May 9, 2016



SELECTBOARD

Sean A. Stanton, Chair
Stephen C. Bannon
Daniel Bruce Bailly
Edward D. Abrahams
William F. Cooke

FINANCE COMMITTEE

Michael Owen Wise, Chair
Thomas A. Blauvelt
Walter F. Atwood, III
Leigh Susan Davis
Eugene W. Curletti

(www.townofgb.org)

TOWN OF GREAT BARRINGTON
2016 ANNUAL TOWN MEETING, MAY 9, 2016

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2016 ANNUAL TOWN MEETING

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TOWN OF GREAT BARRINGTON

WARRANT

ANNUAL TOWN ELECTION
ANNUAL TOWN MEETING

2016

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS

To William Walsh, Chief of Police of the Town of Great Barrington, in said Berkshire County,

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the Inhabitants of said town to meet at the Great Barrington Fire Station, 37 State Road in the Town of Great Barrington in Precinct A for Precincts A, C, and D, and at the Housatonic Community Center Building in the Village of Housatonic, in Precinct B, for Precinct B on Tuesday, May 17th, 2016 at 8:00 A.M. until 8:00 P.M. for the following purposes, viz.; to elect:

MODERATOR, ONE FOR ONE YEAR
SELECTBOARD, TWO FOR THREE YEARS
BOARD OF HEALTH, ONE FOR THREE YEARS
FINANCE COMMITTEE, TWO FOR THREE YEARS
LIBRARY TRUSTEES, TWO FOR THREE YEARS
PLANNING BOARD, TWO FOR THREE YEARS
ZONING BOARD OF APPEALS, ONE FOR THREE YEARS

BALLOT QUESTION: Shall the Town of Great Barrington be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bond issued in order to pay costs of purchasing and equipping a new fire truck, and for the payment of all other costs incidental and related thereto?

The above named officers and ballot questions will be voted for on official ballots prepared by the Town Clerk.

You are also required to notify and warn the Inhabitants of said town, qualified to vote in town affairs, to meet at the Monument Mountain High School in Great Barrington on Monday, May 9th, 2016, at 6:00 P.M., then and there to act on the following:

ARTICLE 1:

To see if the Town will vote to authorize the use of revolving funds for the following programs and purposes:

- a. Plumbing Inspector (\$15,000)
- b. Wire Inspector (\$50,000)
- c. Gas Inspector (\$15,000)
- d. Town Code Printing (\$10,000)
- e. Parks Commission (\$5,000)
- f. Recycling/Green Product Sales (\$5,000)
- g. Cemetery (\$5,000)
- h. Fire Inspectors (\$5,000)

which revolving funds together shall not exceed the sum of One Hundred Ten Thousand Dollars (\$110,000.00), which shall be under the control of the Town Treasurer, which shall be accounted for separately and to which shall be credited only the departmental receipts received in connection with the programs supported by each revolving fund; further to authorize the Town Treasurer to expend from such funds in accordance with Chapter 44, §53 E 1/2 of the General Laws, provided however that said expenditures for all revolving funds shall not exceed the receipts for such funds; or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 2:

To see if the Town will vote to fix the salaries of all elected officials for the period of July 1, 2016 to June 30, 2017 as indicated below:

Elected Officials Salaries:

Selectboard: \$7,500 (\$1,500 per Selectboard member)

Recommended by the Finance Committee and the Selectboard

ARTICLE 3:

To see if the Town will vote to accept any and all funds being provided by the Commonwealth of Massachusetts Division of Transportation (Mass DOT), under the provisions of Chapter 90 of the General Laws, to pay for such costs as allowed by appropriate legislation in connection with the maintenance, repair, and construction of Town ways and bridges, or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 4:

To see if the Town will vote to appropriate \$ 2,638,250, or any other sum of money, in the following approximate amounts and for the following purposes:

Voting Machines (5)	\$ 33,000
Police Cruisers (1)	45,600
Fire Equipment (Air Packs)	200,000
Police Equipment (Computer/Phone System)	94,300
Police Equipment (Radio Console) (2)	216,000
Pickup Truck (1)	45,000
Dump Truck (1)	225,000
Building Improvements	91,000
Road/Street/Sidewalk Improvements	608,350
Bridge Repairs/Painting	<u>1,080,000</u>
Total	\$ 2,638,250

And for the payment of all other costs incidental and related thereto, and to determine whether this appropriation shall be raised by taxation, transferred from available funds, borrowing or otherwise; or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard**ARTICLE 5:**

To see if the Town will vote to appropriate \$78,200, or any other sum, for the following General Fund Capital Items and to determine whether this amount shall be raised by taxation, transferred from available funds or otherwise; or to take any other action relative thereto.

<u>General Fund</u>	
<u>Police</u>	
License Plate Reader	\$ 19,200
<u>Public Works</u>	
Cemetery-mower	14,000
<u>Parks</u>	
Improvements	45,000
Total Capital-General Fund	\$ 78,200

Recommended by the Finance Committee and the Selectboard

ARTICLE 6:

To see if the Town will vote to appropriate \$600,000, or any other sum of money, to pay costs of purchasing and equipping a new fire truck, and for payment of all other costs incidental and related thereto, and to determine whether this appropriation shall be raised by taxation, transfer from available funds, borrowing or otherwise; or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 7:

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Thirteen Million, Eight Hundred Twenty Seven Thousand, Two Hundred and Thirty Four Dollars (\$13,827,234.00) for the operating assessment, and Six Hundred Thirty Six Thousand One Hundred Sixty Five Dollars (\$636,165.00) for the capital assessment, for a total assessment of Fourteen Million, Four Hundred Sixty Three Thousand, Three Hundred and Ninety Nine Dollars (\$14,463,399.00) of the Berkshire Hills Regional School District, or take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 8:

To see if the Town will vote to raise and appropriate or transfer from available funds such sums of money necessary for the operation of the several departments in the Town for the ensuing year as detailed in the FY17 Annual Budget for the General Fund, or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 9:

To see if the Town will vote to appropriate from the receipts of the Wastewater Treatment Plant such sums of money necessary for the operation of the Sewer Division for the ensuing year as detailed in the FY17 Annual Budget for the Sewer Fund, or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 10:

To see if the Town will vote to appropriate and transfer the sum of \$155,919.03, the unexpended balance of the amount appropriated under Article 7 of the May 16, 2005 Town Meeting for remodeling, reconstructing, equipping and making extraordinary repairs to the Mason Library, to authorize expenditure for remodeling, reconstructing equipping or making extraordinary repairs to any Town library or for any other Town library improvement purposes for which the Town is authorized to borrow, in accordance with Section 20 of Chapter 44 of the General Laws, as it may be amended, or any other enabling authority, or take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 11:

To see if the Town will vote to authorize the use of Free Cash to reduce the tax levy for Fiscal Year 2017, or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 12:

To see if the Town will vote to appropriate or reserve for future appropriation, from the community preservation fund, the following amounts recommended by the Community Preservation Committee for fiscal year 2017, with each item considered a separate appropriation, or take any other action relative thereto.

Reserves:

From FY 2017 revenues for historic resources reserve	\$ 43,050
From FY 2017 revenues for community housing reserve	\$ 43,050
From FY 2017 revenues for open space reserve	\$ 43,050

Appropriations:

From FY 2017 revenues for administrative expenses	\$ 19,178
From undesignated fund balance for 2017 budgeted reserve	\$ 250,000

Recommended by the Community Preservation Committee

ARTICLE 13:

To see if the Town will vote to appropriate from the Community Preservation Fund for fiscal year 2017 the following amounts recommended by the Community Preservation Committee with each item to be considered a separate appropriation, or to take any other action relative thereto.

	Project	Total Appropriation	Source of Appropriation		
			2016 budgeted reserve	reserved funds balances (housing, open space, or historic)	2017 revenues
	<u>AFFORDABLE HOUSING</u>				
1	100 Bridge Street - creation of affordable housing units	\$250,000	\$250,000		
2	316 State Road - creation of affordable housing units	\$220,000		\$64,555	\$155,445
3	Total Affordable Housing	\$470,000	\$250,000	\$64,555	\$155,445
	<u>HISTORIC PRESERVATION</u>				
4	Restoration of 1089 Main Street	\$60,000		\$60,000	
5	Wheeler Farmstead - preservation phase 1B	\$24,250		\$4,555	\$19,695
6	Historical Commission Town-wide historic resources survey	\$15,000			\$15,000
7	Total Historic Preservation	\$99,250	\$0	\$64,555	\$34,695
	<u>OPEN SPACE</u>				
8	Creation of trails at CHP campus	\$10,000			\$10,000
9	Agricultural Preservation of Windy Hill Farm	\$170,000	\$49,825	\$64,555	\$55,620
10	GBLC for River Walk restoration	\$26,412			\$26,412
11	Total OpenSpace	\$206,412	\$49,825	\$64,555	\$92,032
12	TOTAL	\$775,662	\$299,825	\$193,665	\$282,172

Recommended by the Community Preservation Committee

ARTICLE 14:

To see if the Town will vote to a) approve an increase in the property tax exemption amount under Clause 41C of Section 5 of Chapter 59 of the General Laws, Senior Exemption, from \$750 to \$1,000; b) increase the asset limits for eligibility for the exemption from \$28,000 to \$40,000 for a single person and from \$30,000 to \$55,000 for married persons; and c) to accept Clause 41D of said Section 5 so as to approve tying the income limits for eligibility (currently \$20,000 for a single person and \$30,000 for married persons) and the asset limits (as adjusted hereunder) to the percentage increase in the Consumer Price Index (CPI) published by the U.S. Department of Labor as reported by the Department of Revenue (DOR) each year, or take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 15:

To see if the Town will vote to authorize the Selectboard to acquire easements in and over land in the vicinity of Meadow Street and Front Street in the Village of Housatonic in connection with the Front Street Drainage Improvements Project, including portions of Lots 117A, 119, 120, and 121 as shown on Assessors' Map 1, and portions of Lots 9, 22, and 50 as shown on Assessors'

Map 2, containing in total approximately 16,049 square feet and more particularly shown on a plan entitled "Easement Plan Front Street," dated October 5, 2015, prepared by Sherman & Frydryk, LLC, a copy of which is on file in the office of the Town Clerk; to appropriate a sum of money for such acquisition; and to authorize the Selectboard to execute all documents and take all actions necessary in connection therewith, or take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 16:

To see if the Town will vote to authorize the Selectboard to acquire, by purchase or otherwise, a parcel of land lying between Main Street in Housatonic and Van Deusenville Road, identified as Lot 29A on Assessors' Map 26, containing in total approximately 3.34 acres and shown on a plan entitled "Plan of Land in Great Barrington, MA Prepared for Kirt Mayland," dated July 16, 2015, prepared by Whitman & Bingham Associates, LLC, a copy of which is on file in the office of the Town Clerk; to appropriate a sum of money for such purchase; and to authorize the Selectboard to execute all documents and take all actions necessary in connection therewith, or take any action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 17: Miscellaneous Cleanup Amendments

To see if the Town will vote to amend the Zoning Bylaw by revising Sections 2.1, 2.2, 7.12, and 11.0 as shown below, or to take any other action relative thereto.

Purpose of the Amendment: This amendment is a housekeeping action; it is needed to ensure the list of zoning districts and applicable regulations and definitions accurately reflect amendments that were previously enacted by Town Meeting.

Proposed deletions are ~~struck through~~.

Proposed additions are underlined.

Amend Sections 2.1 and 2.2 as follows:

2.1 ESTABLISHMENT

For the purpose of this Bylaw, the Town of Great Barrington is hereby divided into the following districts:

2.1.1 Residential Districts.

- | | |
|-----|--|
| R1A | One-Family Medium-Density Residential |
| R1B | One-Family High-Density Residential |
| R2 | Acreage Residential |
| R3 | General Residential |
| R4 | Large Acreage Residential |

2.1.2 Business Districts.

B	Downtown Business
B1	Neighborhood Business
B2	General Business
B2A	Transitional Business
B3	Downtown Business Mixed Use
DBP	Downtown Business Parking
<u>HVC</u>	<u>Housatonic Village Center</u>

2.1.3 Industrial Districts.

I	Light Industry
I2	Industrial Manufacturing / Multi-family

2.2 OVERLAY DISTRICTS

The following overlay districts are also established:

FPOD	Floodplain Overlay District
WQPOD	Water Quality Protection Overlay District
WTOD	Wireless Telecommunications Overlay District
VCOD	Village Center Overlay District
DBP	Downtown Business Parking District
HMROD	Housatonic Mills Revitalization Overlay District
<u>HVOD</u>	<u>Housatonic Village Overlay District</u>

Amend 7.12.1 by deleting B1, as follows:

7.12.1 General. In the ~~B1~~, B2, B3, I, and I2 Districts, a new or enlarged large-scale development may be allowed by special permit, and in the B District is allowed by right, up to a maximum gross floor area of 50,000 square feet. This use may be in one or more buildings on the same lot, and may consist of one or more retail and/or wholesale uses and related businesses such as restaurants, banks and offices. Uses greater than 50,000 square feet are not permitted except as provided herein.

Amend Section 11.0, Definitions, as follows:

MIXED USE: A combination of uses in a building or on a lot ~~in the Business Zones (B, B1, B2, B2A, B3, I, and I2) that includes~~ where one of the uses is a residential use.

Recommended by the Selectboard

ARTICLE 18: Reconstruction after Catastrophe or Demolition

To see if the Town will vote to amend the Zoning Bylaw by revising Section 5.7 as shown below, or to take any other action relative thereto.

Purpose of the proposal: By removing the words “single family” from the introductory text of Section 5.7, this amendment would allow any legally nonconforming structure, whether for a residential or other

use, to be reconstructed after demolition or catastrophe, in accordance with certain provisions of Section 5.7. Currently the Zoning Bylaw extends this relief only to single family residences.

Proposed deletions are ~~struck through~~.

Proposed additions are underlined.

5.7 RECONSTRUCTION AFTER CATASTROPHE OR DEMOLITION

A nonconforming ~~single family~~ structure may be reconstructed after a catastrophe or after voluntary demolition in accordance with the following provisions. For the purposes of this subsection, the term “reconstruction” shall mean the rebuilding after catastrophe or the rebuilding after demolition of the building.

5.7.1 Reconstruction of said premises shall commence within two years after such catastrophe or demolition.

5.7.2 Building(s) may be reconstructed by right if located ~~on~~ within the same footprint as the original nonconforming structure, and if ~~only within the same~~ they do not exceed the gross floor area ~~as of~~ the original nonconforming structure.

5.7.3 In the event that the proposed reconstruction would (a) cause the structure to exceed the gross floor area of the original nonconforming structure or (b) cause the structure to be located other than on the original footprint, a special permit pursuant to Section 10.4 shall be required from the Board of Appeals prior to such demolition.

Recommended by the Selectboard

ARTICLE 19: Accessory Dwelling Units

To see if the Town will vote to amend the Zoning Bylaw by revising Section 8.2.2 as shown below, or to take any other action relative thereto.

Purpose of the proposal: Pursuant to amendments approved by Town Meeting in 2014, Accessory Dwelling Units (ADUs) are allowed by-right in any zone, but are subject to Planning Board Site Plan Review. Currently, ADU applicants must notify all abutters, which is a notification requirement typically reserved for proposals that require Special Permits. In fact, no other by-right uses subject to Site Plan Review require notification of abutters. Since ADUs are by definition small accessory uses, they have fewer occupants, less parking requirements, and overall less impact on the neighborhood.

Proposed deletions are ~~struck through~~.

Proposed additions are underlined.

8.2.2 Site Plan Approval. Any new ADU shall be subject to site plan review and approval based upon the criteria set forth herein and in Section 10.5. The Planning Board will conduct the site plan review in accordance with Section 10.5 and all criteria specified in Section 8.2. An approved site plan for an ADU is required prior to the issuance of the building permit by the Building Inspector. ~~Abutters within 300 feet of the applicant's property must be notified in writing by certified mail by the applicant that the ADU is being proposed and that the Planning Board will be conducting a site plan review at a given place, time and date. Said notice shall be mailed not later than ten days prior to the site plan review meeting. The Applicant shall provide~~

~~proof of mailing to the Planning Board.~~ The Board of Health shall give its approval prior to the issuance of a building permit.

Recommended by the Selectboard

ARTICLE 20: Hotel Room Limit in the B2A Zone

To see if the Town will vote to amend the Zoning Bylaw by deleting from Section 7.10.2 item #2, and renumbering the other subsections accordingly, or to take any other action relative thereto.

Purpose of the proposal: Currently the room limit in the B2A zone, which consists of only one commercial property, is 30 rooms. This amendment would bring the room limit of the B2A zone up to 45 rooms, the same as for any other zone where hotels and motels may be permitted. Hotels and motels would still be allowed only by special permit.

Proposed deletions are ~~struck through~~.
Proposed additions are underlined.

7.10.2 Room Limits.

1. No hotel or motel shall contain more than 45 rental rooms.

~~2. The limit in District B2A shall be 30 rental rooms.~~

~~3.2.~~ The Special Permit Granting Authority may authorize a deviation from the room limits above when hotels and motels are proposed as a component of a project that redevelops or reuses historic structures. Said structures are those listed on the State or National Register of Historic Places, a designated property in a Local Historic District, or determined in writing by the Great Barrington Historical Commission as historically, culturally, or architecturally significant to the town. *[added 5/5/2014 ATM]*

Recommended by the Selectboard

ARTICLE 21: South Main Street Mixed Use Zone

To see if the Town will vote to amend the Zoning Bylaw by adding a new Section 9.11, Mixed Use Transitional Zone (MXD), and by revising the following: Section 2.1.2, list of Business Districts, to add MXD; Section 3.1.4, Table of Use Regulations, to provide for uses in the MXD zones; Section 4.1.2, Schedule of Dimensional Requirements, to add provisions for the MXD zones; Section 8.3.6, multifamily dwelling exemptions, to add provisions for the MXD zones; Sections 8.4.1 and 8.4.2, mixed use development, to clarify applicability of mixed-use requirements in MXD zones, all as shown below; and to amend the Zoning Map accordingly, or to take any other action relative thereto.

Purpose of the proposal: This amendment is proposed pursuant to the recommendations of the 2013 Master Plan to update the zoning in certain commercial areas within walking distance of a village center, to preserve and enhance the mix of residential and retail uses, and to reflect the context of the built fabric. This amendment would affect the area of Main Street south of the Village Center Overlay District (VCOD) and north of the Fairgrounds, including Maple Avenue from Main Street west to the railroad tracks, including Pope, Mahaiwe, and Manville Streets, and a portion of Silver Street.

This area is characterized by a mix of residential and commercial uses, often in structures predating zoning, on lots of smaller size, with many of the structures close to the front lot line. As desirable as these characteristics may be, many are not allowed under the current B2 zoning. In this area, over one-third of the parcels have deficient frontage and deficient lot size, nearly three-quarters have deficient front yard setback, and over one-third have deficient side yard setbacks under the existing zoning.

The proposed Mixed Use Transitional Zone (MXD) zone will replace the existing B2 zone in the affected areas. The current B2 zone allows commercial retail uses at sizes up to twice as big as currently exists. Conversely, it restricts residential uses to properties of one-half acre or more; in existing residential neighborhoods like Manville Street, most properties are nonconforming. The B2 zone also restricts multi-family residential development and mixed uses, which exist today and which are efficient land uses that should be encouraged within walking distance of the downtown core. Finally, the B2 zone, designed as a highway commercial zone, mandates large front yard setbacks that are not in keeping with the existing form of these corridors, where structures are located at or near the street line and parking is generally in the rear or side yard.

The new MXD zone will:

- Replace the B2 zone for the affected area.
- Bring most nonconforming lots and structures into conformance and encourage development to reflect the existing scale and setback patterns.
- Allow for mixed-use and live-work use of properties by right.
- Allow multi-family residential use by right up to 8 units, and 9 or more units by special permit.
- Cap by-right retail uses at 9,000 gross square feet, but allow retail up to 20,000 gross square feet by Special Permit from the Selectboard.
- Reduce parking requirements to encourage mixed uses, shared parking, and a pedestrian friendly environment.

Proposed additions are underlined.

Proposed deletions are ~~struck through~~.

9.9 Mixed Use Transitional Zone (MXD)

9.9.1 Purpose. The Mixed Use Transitional zoning district (MXD) is hereby established to preserve and enhance the mix of residential and retail uses, to maintain the existing character of the area, and to bring existing uses and structures more into compliance with the Zoning Bylaw, thereby facilitating a variety of business and housing opportunities within walking distance of the Town's downtown core.

9.9.2 Location. The MXD shall consist of the land shown on the 2015 Town of Great Barrington Assessors' Map 22 as Parcels 2, 3A, 4-13, 18-63, 66-88, 88A, and on Map 25 as Parcels 1-4.

9.9.3 Permitted Uses. Permitted uses in the MXD are set forth in Section 3.1.4, the Table of Use Regulations.

9.9.4 Dimensional Requirements. Minimum setback and dimensional requirements for the MXD shall be as set forth in Section 4.1.2, Schedule of Dimensional Requirements, except as follows:

1. Existing structures, or those for which valid building permits have been issued, as of May 9, 2016, with front, side, and rear setbacks that do not meet the requirements herein shall be permitted to maintain those setbacks.

2. Maximum front yard: New structures shall not be set back more than the average of the front yard setbacks of existing buildings on the abutting lots on either side. For averaging purposes, if a vacant lot exists on one side of a lot, the minimum front yard set forth in the Schedule of Dimensional Requirements shall be considered the front yard setback for the vacant lot.
3. No new nonconformity may be created except as may be permitted in accordance with Section 5 of this Zoning Bylaw.

9.9.5 Parking. The off-street parking requirements in Section 6.1 shall not apply in the MXD except as provided in this section. Off-street parking requirements in the MXD shall be as follows:

1. For new buildings, required off-street parking spaces shall not be located within the front yard area.
2. Only one space shall be required for any dwelling unit, whether in residential-only or in mixed-use buildings.
3. For permitted uses in existing buildings (those in existence as of May 9, 2016) that are not substantially expanded, the existing parking spaces shall be retained, but no new spaces shall be required. A substantial expansion is defined, for the purpose of this section, as one which involves increasing the gross floor area of a structure by more than 25% or 500 square feet, whichever is less.
4. For permitted uses in new buildings or existing buildings that are substantially expanded, as defined in this section, or for any building greater than 5,000 square feet gross floor area, parking is required as follows:
 - (a) one parking space shall be required for each dwelling unit;
 - (b) the parking requirements for business or industrial uses in Section 6.1.2 through 6.1.6 shall be calculated as follows: the sum of the required parking for each use multiplied by 0.5 with the product rounded down to the nearest whole number, plus handicapped parking as may be required by law or building code (Example: 3 spaces required for retail, 4 spaces required for offices: $(3 + 4) \times 0.5 = 3.5$, so 3 spaces, + 1 handicapped space, = 4 spaces are required); and
5. The parking requirements of paragraphs 2, 3, or 4 of this section may be waived if the SPGA grants a special permit pursuant to section 6.1.9.

And, amend Section 4.1.2, the Schedule of Dimensional Requirements by adding a new row for the Mixed Use Transitional zoning district (MXD) and footnote 13 as follows (additions are underlined):

District	Minimum lot area (sq. ft.)	Width (ft.)	Minimum front yard ¹ (ft.)	Minimum side yard (ft.)	Minimum rear yard (ft.)	Maximum lot coverage by buildings (percent)	Stories ^{2, 6}	Height (ft.) ^{2, 6}
<u>MXD</u> ¹³	<u>5,000</u>	<u>50</u>	<u>15</u>	<u>10</u>	<u>10</u>	<u>75</u>	<u>3 ½</u>	<u>40</u>

^{13.} For existing structures in the MXD, minimum yard requirement shall be the lesser of the yard which exists as of May 9, 2016, or that which is set forth herein. See also Section 9.11.4.

And, amend Section 8.3.6 as follows (additions are underlined):

8.3.6 Exemptions in Downtown B District, MXD District, and General Business B2 District. The requirements of Section 8.3.3 shall not apply to any multifamily dwelling in a single existing building within the Downtown Business B District or the MXD District. Requirements 1. and 2. of section 8.3.3 shall not apply to any multifamily dwelling within the General Business B2

District. Requirements 1-4 of section 8.3.3 shall not apply to any multifamily development in the MXD District.

And, amend Sections 8.4.1 and 8.4.2 as follows (additions are underlined):

8.4.1 General: For mixed uses in the B, B2, I, and I2 Zones, all of the following requirements shall apply. For mixed uses in the B3 Zone, see Section 9.4. For mixed uses in MXD zones, see Section 9.11.

8.4.2 Requirements.

1. When residential use is combined with other nonresidential permitted uses, the controlling dimensional requirements shall be the less restrictive.

2. ~~A minimum of 75% of street level floor space shall be reserved for nonresidential use. Outside the Village Center Overlay District, the SPGA may reduce this requirement to a minimum of 50%.~~ A portion of the street level floor space shall be reserved for nonresidential use. Inside the Village Center Overlay District, this portion shall be a minimum of 75%.

And, amend Section 2.1.2 to add the MXD, Mixed Use Transitional Zone, to the list of Business Districts;

2.1.2 Business Districts.

B	Downtown Business
B1	Neighborhood Business
B2	General Business
B2A	Transitional Business
B3	Downtown Business Mixed Use
HVC	Housatonic Village Center
<u>MXD</u>	<u>Mixed Use Transitional</u>

And, amend Section 3.1.4, the Table of Use Regulations by adding a new column for the MXD zone and by revising footnote #5, as follows (additions are underlined and the column is highlighted in yellow for clarity):

Permitted Use		ZONING DISTRICT ^{1, 4}														ADDITIONAL APPLICABLE REGULATIONS
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B3	<u>MXD</u>	I	I2	
A. Residential uses																
(1)	Dwelling, Single family	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	SB	SB	
(2)	Dwelling, Two-family	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	<u>Y²</u>	Y ²	Y ²	See also 8.1 , 8.7 .
(3)	Dwelling, multifamily	N	N	N	SB	N	SB	SB	SB	SB	SB	Y	<u>SB</u>	SB ³	SB ³	See also 8.3
(4)	Assisted living residence	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	<u>PB</u>	PB	PB	See also 8.8
(5)	Live/work units	N	N	N	N	N	N	Y	N	N	N	Y	<u>Y</u>	Y	Y	See also 9.4 , 9.6 .
(6)	Lodging house or tourist home for transient guests	SB	SB	SB	SB	SB	SB	SB	N	SB	SB	SB	<u>SB</u>	SB	SB	See also 7.16
(7)	Mixed use	N	N	N	N	N	SB	Y	SB	SB	SB	SB	<u>Y</u>	Y	Y	See also 8.4 , 9.6 .

Permitted Use		ZONING DISTRICT ^{1,4}														ADDITIONAL APPLICABLE REGULATIONS
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B3	MXD	I	I2	
(8)	Open Space Residential Development	N	N	PB	N	PB	N	N	N	N	N	N	<u>N</u>	N	N	See also 8.7
(9)	Planned unit residential development (PURD)	SB	SB	SB	SB	SB	SB	N	N	SB	SB	SB	<u>SB</u>	N	N	See also 8.5
(10)	Publicly Financed Nonprofit Age-Restricted Housing	N	N	N	SB	N	SB	SB	N	SB	SB	SB	<u>SB</u>	N	N	See also 8.9
(11)	Trailer or mobile home	SB	SB	SB	SB	SB	SB	N	SB	SB	SB	N	<u>N</u>	SB	SB	See also 8.6
B. Community, educational, & recreational uses																
(1)	Camping facilities	N	N	SB	N	SB	N	N	N	N	SB	N	<u>N</u>	N	N	See also 7.4
(2)	Cemeteries	N	N	SB	N	SB	N	N	N	N	N	N	<u>N</u>	N	N	
(3)	Child care center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	
(4)	Clubhouses or fraternal lodges not conducted for profit	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	
(5)	Commercial amusements, fairgrounds	N	N	N	N	N	SB	SB	N	SB	N	N	<u>SB</u>	SB	SB	
(6)	Community center operated by a municipal or private not-for-profit organization	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	
(7)	Educational use, exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	
(8)	Educational use, nonexempt	N	N	SB	N	SB	SB	SB	N	SB	SB	SB	<u>SB</u>	SB	SB	See also 7.6
(9)	Golf or country clubs	N	N	SB	N	SB	N	N	N	N	SB	N	<u>N</u>	SB	SB	
(10)	Hospitals, sanitariums, nursing or convalescent homes or philanthropic institutions, provided that no principal building so used shall be within 50 feet of any lot line	N	N	SB	N	SB	SB	SB	N	SB	SB	SB	<u>SB</u>	SB	SB	
(11)	Municipal parks and playgrounds, including recreational buildings therein	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	
(12)	Public libraries, public museums, municipal buildings and facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	
(13)	Riding stables on less than 5 acres, provided that any buildings or structures are set back not less than 50 feet from any lot line	N	N	SB	N	SB	SB	N	N	SB	SB	N	<u>N</u>	SB	SB	
(14)	Ski tows, provided that any buildings or structures are set back not less than 50 feet from any lot line	N	N	SB	N	SB	SB	N	N	SB	N	N	<u>N</u>	SB	SB	
(15)	Summer camps operated for children on sites not less than 10 acres in area	N	N	SB	N	SB	N	N	N	N	SB	N	<u>N</u>	N	N	
(16)	Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	
C. Office, retail and consumer service establishments																
(1)	Banks and other financial institutions	N	N	N	N	N	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	

Permitted Use		ZONING DISTRICT ^{1,4}														ADDITIONAL APPLICABLE REGULATIONS
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B3	MXD	I	I2	
(2)	Fast-food eating establishments	N	N	N	N	N	SB	SB	N	SB	N	N	SB	N	N	See also 7.7 , 7.9
(3)	Fuel storage and sales, excluding motor vehicle fuel stations	N	N	N	N	N	SB	N	N	SB	N	N	SB	SB	SB	
(4)	Garages, public	N	N	N	N	N	SB	SB	N	SB	N	SB	SB	SB	SB	See also 9.7
(5)	Garden centers, including associated landscaping services	N	N	N	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	
(6)	General service establishment	N	N	N	N	N	SB	Y	N	Y	N	SB	Y	Y	Y	
(7)	Greenhouses, commercial, on less than 5 acres, provided that no heating plant for a greenhouse shall be within 50 feet from any side or rear lot line	N	N	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(8)	Hotels	N	N	N	N	N	SB	SB	N	SB	SB	SB	SB	SB	SB	See also 7.10
(9)	Institutional administrative offices or planned professional office developments or research centers, provided that in R2 & R4 Districts such uses are subject to special requirements	N	N	SB	N	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	See also 7.13
(10)	Kennel	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	See also 7.17
(11)	Large-scale commercial development	N	N	N	N	N	Y	SB	SB	SB	N	SB	N	SB	SB	See also 7.9 , 7.12 , 9.6
(12)	Lumberyards	N	N	N	N	N	SB	N	N	SB	N	SB	SB	SB	SB	
(13)	Motels or overnight cabins	N	N	N	N	N	SB	SB	N	SB	N	SB	SB	SB	SB	See also 7.10
(14)	Motor vehicle fuel station	N	N	N	N	N	SB	SB	N	SB	N	N	SB	SB	SB	See also 7.8
(15)	Motor vehicle general and body repair	N	N	N	N	N	SB	SB	N	SB	N	N	SB	SB	SB	
(16)	Motor vehicle sales rooms, including used car lots	N	N	N	N	N	SB	SB	N	SB	N	N	SB	SB	SB	
(17)	Offices	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(18)	Parking lots, commercial	N	N	N	N	N	SB	SB	N	SB	N	SB	SB	SB	SB	
(19)	Personal service establishment	N	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	
(20)	Professional offices	SB	SB	SB	SB	SB	Y	Y	Y	Y	Y	Y	Y	Y	Y	See also 7.14
(21)	Registered Marijuana Dispensary	N	N	N	N	N	N	N	N	Y	N	Y	N	Y	Y	See also 7.18
(22)	Restaurants and other places for serving food, other than fast-food eating establishments	N	N	N	N	N	Y	SB ⁴	SB	SB	SB	SB	SB	SB	SB	See also 7.3 See also footnote 4, below.
(23)	Retail stores or centers and/or wholesale sales and service with total aggregate floor area less than or equal to 20,000 square feet	N	N	N	N	N	Y	Y ⁵	Y	Y	SB	Y	Y ⁵	Y	Y	See also 7.3 See also footnote 5, below.

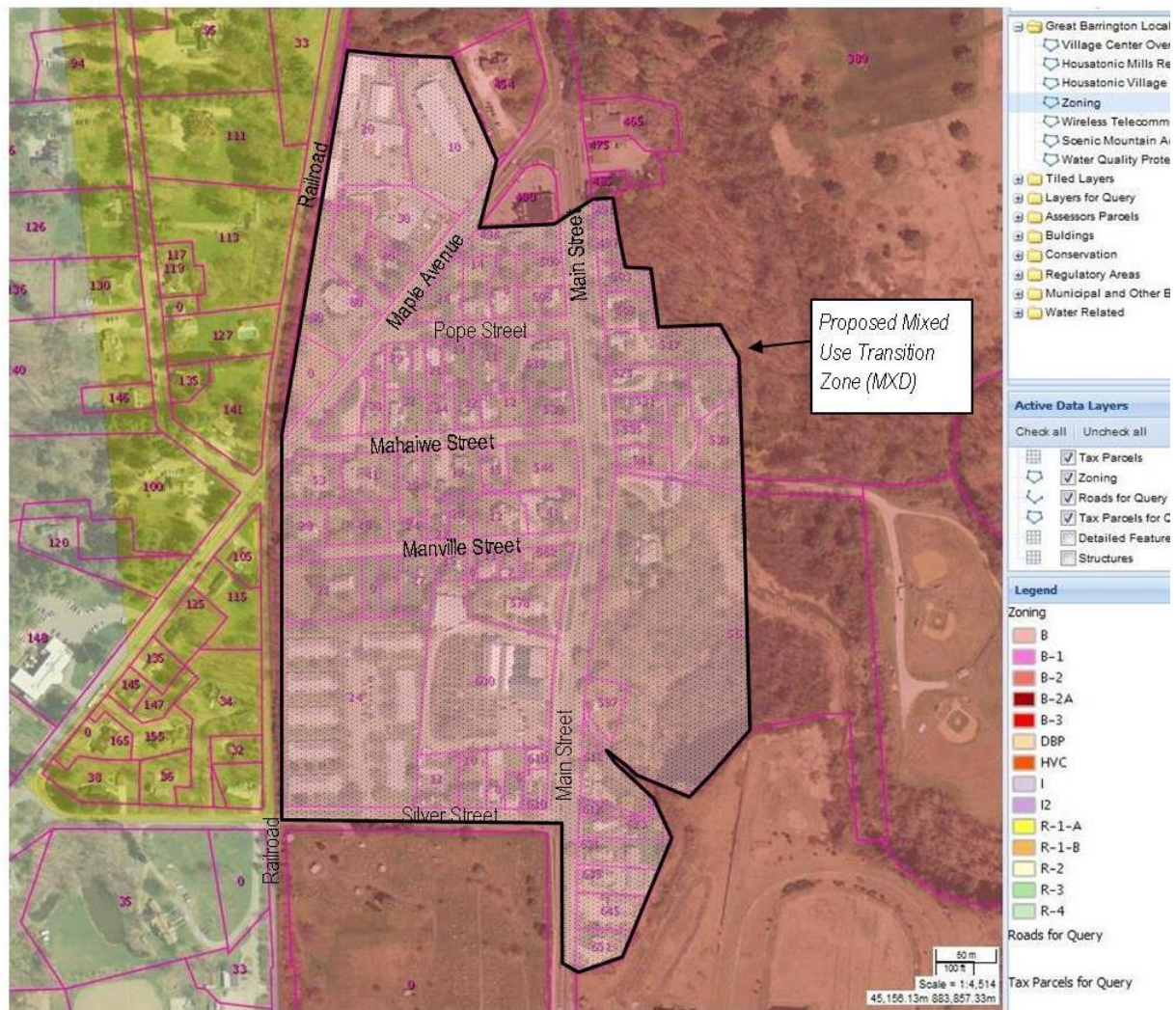
Permitted Use		ZONING DISTRICT ^{1,4}														ADDITIONAL APPLICABLE REGULATIONS
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B3	MXD	I	I2	
(24)	Retail stores and shops for custom work or making of articles sold on the premises	N	N	N	N	N	Y	Y	SB	Y	SB	Y	Y	Y	Y	
D. Agricultural uses																
(1)	Agriculture, as defined by MGL c. 40A, s. 3, on tracts larger than 5 acres, including sales of products raised on premises on stands or structures erected in accordance with front yard setback requirements, provided that soil fertilizer shall be stored not less than 100 feet from any lot line, unless kept in air-tight containers	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
E. Utilities, communication and transportation																
(1)	Aviation field, public or private	N	N	N	N	SB	N	N	N	N	N	N	N	N	N	See also 7.2
(2)	Essential services	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(3)	Freight terminals, truck or rail	N	N	N	N	N	SB	N	N	SB	N	N	SB	SB	SB	
(4)	Low-power FM broadcast radio licensed by FCC															See also 7.15
(a)	Studio	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(b)	Antenna	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	
(5)	Passenger stations	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	
(6)	Personal wireless tower or structure as a principal (or accessory) use in the Overlay District, and the initial and any subsequent personal wireless service facility located upon that tower or structure (see Section 9.3 of this Bylaw)															See also 9.3
F. Industrial, manufacturing and storage uses																
(1)	Contractor's and Landscaper's yards	N	N	N	N	N	N	N	N	N	N	N	SB	Y	Y	
(2)	Gravel, loam, sand and stone removal for commercial purposes	N	N	SB	N	SB	SB	N	N	SB	N	N	N	SB	SB	See also 7.5
(3)	Light manufacturing	N	N	N	N	N	N	SB	N	N	N	SB	SB	Y	Y	See also 6.4
(4)	Saw (log) mill and manufacture of forest products, provided that any saw (log) mill shall be located at least 200 feet from any lot line, and no piles of sawdust or other refuse shall be maintained within 100 feet of any lot line	N	N	N	N	N	N	N	N	N	N	N	N	SB	SB	
G Accessory uses																

Permitted Use		ZONING DISTRICT ^{1,4}														ADDITIONAL APPLICABLE REGULATIONS
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B3	MXD	I	I2	
(1)	Any structure or use customarily incidental and subordinate to the principal permitted use in the district	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	See also 3.2 , 7.1
(2)	Home occupation (low impact)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	See also 3.3
(3)	Adult day care	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	See also 8.8
(4)	An accessory use to a by-right use, whether or not on the same parcel, which is necessary in conjunction with scientific research or development or related production, provided that the Board of Selectmen finds that the proposed accessory use does not substantially derogate from the public good	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	See also 3.2
(5)	Drive-up or drive-through facilities	N	N	N	N	N	SB	N	SB	SB	SB	SB	SB	SB	SB	See also 7.9 , 9.6
(6)	Family day care (small)	Y	Y	Y	Y	Y	SB	Y	SB	SB	SB	SB	SB	SB	SB	
(7)	Family day care (large)	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	
(8)	Home occupation (moderate impact)	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	Y	SB	SB	See also 3.3
(9)	Incidental stripping of sod or removal of topsoil, gravel, loam, sand, stone or other earth materials	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(10)	Keeping of horses, for whatever purpose, subject to Board of Health regulations and only on lots of 5 acres or more	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(11)	Private garage or off-street parking for private automobiles registered at the premises	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(12)	Swimming pools, inground or aboveground. Pool must be surrounded by a continuous fence having a minimum of 4 feet height and with a gate that can be locked; so designed and built to restrain entry by unauthorized persons.	Y	Y	Y	Y	Y	SB	Y	SB	SB	SB	SB	Y	SB	SB	
(13)	Wind Energy Generator	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	

⁵ NOTE: In the B1 and HVC zones, wholesale sales and service facilities as well as retail stores are permitted by right up to 6,500 gross square feet (GSF). Such uses may also be permitted by special permit from the Select Board up to 10,000 GSF in the B1 and HVC zones. Such uses greater than 10,000 GSF are prohibited in the B1 zone. Retail stores up to 20,000 GSF in the HVC may be allowed by special permit from the Select Board, however, if the use is proposed as a component of a project that redevelops or reuses historic structures. Said structures are those listed on the State or National Register of Historic Places, a designated property in a Local Historic District, or determined in writing by the Great Barrington Historical Commission as historically, culturally, or architecturally significant to the Town. In the

MXD zones, retail stores and wholesale sales and service facilities are permitted by right up to 9,000 GSF, and by special permit from the Selectboard up to 20,000 GSF.

And, amend the Zoning Map accordingly (illustrated below):



This is a detailed plat map of a section of Mahanoe County, Virginia. The map shows various land parcels, each labeled with a lot number and its acreage. Key streets include MAHAWE AVENUE, POPE STREET, MAHAWE STREET, MANVILLE STREET, SILVER STREET, and MAIN STREET. A large area at the bottom is labeled 'MAHAWE CEMETERY'. A thick black line runs through the center of the map, possibly indicating a railroad or a boundary. The map is oriented with North at the top.

Key features and labels on the map include:

- Streets:** MAHAWE AVENUE, POPE STREET, MAHAWE STREET, MANVILLE STREET, SILVER STREET, MAIN STREET.
- Parcels:** Numerous lots with acreages, e.g., 21-1001 (0.01 ac), 22-1 (4.24 ac), 22-2 (1.63 ac), 22-3 (1.06 ac), 22-4 (0.81 ac), 22-5 (0.17 ac), 22-6 (0.37 ac), 22-7 (0.27 ac), 22-8 (0.29 ac), 22-9 (0.27 ac), 22-10 (0.27 ac), 22-11 (0.24 ac), 22-12 (0.24 ac), 22-13 (0.24 ac), 22-14 (0.54 ac), 22-15 (0.27 ac), 22-16 (0.43 ac), 22-17 (0.15 ac), 22-18 (0.15 ac), 22-19 (0.25 ac), 22-20 (0.35 ac), 22-21 (0.25 ac), 22-22 (0.25 ac), 22-23 (0.25 ac), 22-24 (0.25 ac), 22-25 (0.25 ac), 22-26 (0.25 ac), 22-27 (0.25 ac), 22-28 (0.25 ac), 22-29 (0.25 ac), 22-30 (0.25 ac), 22-31 (0.25 ac), 22-32 (0.25 ac), 22-33 (0.25 ac), 22-34 (0.25 ac), 22-35 (0.25 ac), 22-36 (0.25 ac), 22-37 (0.25 ac), 22-38 (0.25 ac), 22-39 (0.25 ac), 22-40 (0.25 ac), 22-41 (0.25 ac), 22-42 (0.25 ac), 22-43 (0.25 ac), 22-44 (0.25 ac), 22-45 (0.25 ac), 22-46 (0.25 ac), 22-47 (0.25 ac), 22-48 (0.25 ac), 22-49 (0.25 ac), 22-50 (0.25 ac), 22-51 (0.25 ac), 22-52 (0.25 ac), 22-53 (0.25 ac), 22-54 (0.25 ac), 22-55 (0.25 ac), 22-56 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(0.25 ac),

Recommended by the Selectboard

ARTICLE 22: Multi-Family Residential Uses

To see if the Town will vote to amend the Zoning Bylaw by revising Section 3.1.4, Table of Use Regulations, and Section 8.3.3, multifamily dwelling requirements, as follows, or to take any other action relative thereto.

Purpose of the proposal: This amendment would distinguish between smaller scale and larger scale multifamily uses. It would also provide an opportunity for smaller scale multi-family residential uses in dense residential areas near our village centers. This amendment provides a path for existing nonconforming, small scale multi-family residential properties to come into conformance with the Zoning Bylaw and, in so doing, would allow the issuance of a building permit for much needed improvements. It would not allow large scale developments in these dense residential areas. Currently, any residential use containing three or more units is defined as a multifamily. Multifamily uses, regardless of size, are all regulated in the same way. There is a significant difference, however, between a 4-unit multifamily dwelling and a 10-unit multifamily dwelling, requiring different concerns to be addressed.

Proposed deletions are ~~struck through~~.

Proposed additions are underlined.

Permitted Use		ZONING DISTRICT ^{1,4}														ADDITIONAL APPLICABLE REGULATIONS
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B3	MXD	I	I2	
A. Residential uses																
(3)	Dwelling, multifamily <u>3 to 8 units</u> 9 units or more	SB N	SB N	SB N	SB SB	N N	SB SB	SB SB	SB N	SB SB	SB SB	<u>Y</u> Y	<u>Y</u> SB	<u>N</u> N	SB SB	See also 8.3 See also 8.3

And, amend Section 8.3.3 by adding a new sentence, as follows:

8.3.3 Requirements. Multifamily dwellings shall comply with all the following special requirements and procedures, as applicable, which shall be made conditions of the special permit. The Board of Selectmen may waive any or all of these requirements for multifamily dwellings in existence as of May 9, 2016, after making a specific finding of why the requirement should not apply, and shall note any waivers in the Special Permit decision.

Recommended by the Selectboard

ARTICLE 23: Helipads for Emergency Use

To see if the Town will vote to amend Section 11.0 of the Zoning Bylaw by adding helipads to the definition of Hospitals, as follows, or to take any other action relative thereto.

Purpose of the proposal: This amendment to the definition of hospital would allow a helipad for emergency use to be co-located with a hospital. Currently helicopters responding to emergencies at the hospital must land at the Great Barrington Airport, a 2.75 mile drive from the hospital. The back and forth transportation this requires adds thirty minutes or more to an emergency evacuation.

Proposed deletions are ~~struck through~~.

Proposed additions are underlined.

HOSPITAL: An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, and other physical or mental conditions and including, as an integral part of the institution, related facilities, including laboratories, outpatient facilities, training facilities, medical offices, helipad for emergency use, and staff residences.

Recommended by the Selectboard

ARTICLE 24: Water Quality Protection District / Stream & Lake Protection Zone

To see if the Town will vote to amend the Zoning Bylaw by revising Section 9.2, Water Quality Protection Overlay District (WQPOD), and Section 11.0, Definitions, as follows, or to take any other action relative thereto.

Purpose of the Amendment: This amendment will clean up several typos in the existing text, and it will also remove the Stream and Lake Protection Zone from the WQPOD.

The Town had a stream and lake protection zone in place before the State's Rivers Protection Act (RPA) came into effect (1996) and before Mass DEP encouraged adoption of a drinking water protection bylaw (WQPOD). In writing the WQPOD section, the old language of the stream and lakes protection zone was incorporated, but it was not the focus of the new bylaw.

Today, the RPA regulates activity around streams and rivers, and the Wetlands Protection Act (WPA) regulates activity around lakes and ponds and other wetlands. Furthermore, the local wetlands bylaw, Town Code Ch. 168, which was revised in 2015 at Town Meeting, includes provisions over and above the RPA and Wetlands Protection Act (WPA).

Since state and local River and Wetland laws are in place, the Stream and Lake provisions of the Zoning Bylaw provides little extra protection, while presenting a burden to property owners in the zone. In some cases, the Stream and Lake provisions actually prohibit, without real purpose, people from using land on which they have paid taxes for many years.

Finally, the Stream and Lake zone is routinely set aside by Special Permit since the adoption of the WQPOD. This proposed amendment will remove a burdensome law, which is routinely overridden, and which provides little protection for our streams and lakes.

These amendments in no way remove protection for drinking water sources.

Proposed additions are underlined
Proposed deletions are ~~struck through~~

To amend the Zoning Bylaw and Zoning Map as follows and renumber the bylaw accordingly:

9.2 WATER QUALITY PROTECTION OVERLAY DISTRICT (WQPOD)

9.2.1 Purpose. Water Quality Protection Overlay Districts (WQPOD) are established in the Town of Great Barrington for the following purposes:

- ~~1. To preserve and protect the lakes, ponds, streams, brooks, rills, marshes, swamps, bogs and other water bodies and watercourses in the town.~~

~~2-1.~~ To protect, preserve and maintain the water supplies and water recharge areas within the town, so as to preserve present and potential sources of groundwater and surface water supply for the public health and safety.

~~3-2.~~ To protect the community from the detrimental use and development of land and waters within the ~~watershed~~ water quality protection district.

~~4. To conserve the watershed areas of the Town of Great Barrington for the health, safety, welfare and enjoyment of its people now and for the future.~~

~~5-3.~~ To promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Great Barrington;

~~6-4.~~ To preserve and protect existing and potential sources of drinking water supplies;

~~7. To conserve the natural resources of the Town;~~

~~8. To conserve as open space a green belt corridor associated with all waterways to preserve wildlife habitat, help maintain wildlife populations, and encourage passive recreational uses where legally permitted.~~

9.2.2 Overlay District. The WQPOD is an overlay district superimposed on the other zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Uses in the underlying zoning districts that fall within the WQPOD must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the WQPOD. In the case of a conflict between two provisions of this section, the more restrictive shall apply.

9.2.3 Definitions. For the purposes of this Section, the terms defined in Section 11, "Water Quality Protection Overlay District" shall apply.

9.2.4 Establishment and Delineation. For the purposes of this district, there are hereby established within the Town certain WQPODs, consisting of surface water supplies, their watersheds and tributaries, and wellheads and their aquifers or recharge areas, which are delineated on a map, ~~and the Stream and Lake Protection Zone.~~ This map is at a scale of one inch to 2,000 feet and is entitled "Water Quality Protection District Map, Town of Great Barrington," dated May 15, 2006. This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the Town Clerk.

9.2.5 District Boundary Disputes.

1. If the location of the district boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a special permit application to the special permit granting authority (SPGA). Any application for a special permit for this purpose shall be accompanied by adequate documentation.

2. The burden of proof shall be upon the owner(s) of the land to show where the bounds should be located. At the request of the owner(s), the Town may engage a professional engineer, surveyor, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for the cost of the investigation.

3. The determination of the location and extent of Zone II and Zone B shall be in conformance with the criteria set forth in 310 CMR 22.00 and in the Massachusetts DEP's Guidelines and Policies for Public Water Systems.

9.2.6 Permitted Uses; Zone A and Zone I. Only uses related to the operation and maintenance of the public water supply are permitted in the Zone A and Zone I (the Inner Zone) defined in 310 Code of Massachusetts Regulations 22.00 except that existing foot paths are permitted to remain. New trails for walking or hiking may be permitted in Zone A or Zone I by Special Permit from the Selectboard in accordance with Section 10.4; however, those in Zone I require prior approval from Massachusetts Department of Environmental Protection. Any other use in Zone A or Zone I is hereby prohibited.

9.2.7 Permitted Uses; Other Zones. The following uses are permitted within the other zones of the WQPOD, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

1. Conservation of soil, water, plants, and wildlife;
2. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted; no motorized recreational vehicles including, but not limited to, snowmobiles, all-terrain vehicles (ATV's), and dirt bikes, shall be permitted in the Inner Zone;
3. Foot, bicycle and/or horse paths, and bridges (Horse paths are not permitted in Zone A.);
4. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
5. Maintenance, repair, and enlargement of any existing structure, subject to other requirements herein;
6. ~~Residential development~~ Any use permitted in the underlying Zoning District, subject to other requirements herein;
7. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to other requirements herein;
8. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels;
9. Underground storage tanks related to the permitted activities are not categorically permitted.

9.2.8 Prohibited Uses. The following uses are prohibited within the WQPOD:

1. Landfills and open dumps as defined in 310 CMR 19.006;
2. Automobile graveyards and junkyards, as defined in G.L. c. 140B, s. 1;
3. Landfills receiving only wastewater and/or septage residuals including those approved by the DEP pursuant to G.L. c. 21, ss. 26 through 53; G.L. c. 111, s. 17; G.L. c. 83, ss. 6 and 7, and regulations promulgated thereunder;
4. Facilities that generate, treat, store, or dispose of hazardous waste that are subject to G.L. c. 21C and 310 CMR 30.00, except for:
 - a. Very small quantity generators as defined under 310 CMR 30.000;
 - b. Household hazardous waste centers and events operated in accordance with 310 CMR 30.390 (not permitted in Zone A);
 - c. Waste oil retention facilities required by G.L. c. 21, s. 52A (not permitted in Zone A);

5. Water remediation treatment works unless approved by DEP for the treatment of contaminated groundwater or surface water;
6. Petroleum, fuel oil, and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171 as established by the United States Office of Management and Budget, not including liquefied petroleum gas;
7. Storage of liquid hazardous materials, as defined in G.L. c. 21E, and/or liquid petroleum products unless such storage is:
 - a. Above ground level; and
 - b. On an impervious surface; and
 - c. Either: In container(s) or aboveground tank(s) within a building; or: Outdoors in covered container(s) or aboveground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater.
8. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
9. Storage of sodium chloride, calcium chloride, chemically treated abrasives or other deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate (Uncovered storage of salt in water supply areas is forbidden by G.L. c. 85, s. 7A.);
10. Storage of animal manure unless covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
11. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within four feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works; all sand and gravel excavation operations are prohibited in Zone A;
12. Discharge to the ground of nonsanitary wastewater including industrial and commercial process wastewater, except:
 - a. The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
 - b. Treatment works approved by the DEP designed for the treatment of contaminated ground- or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
 - c. Publicly owned treatment works.
13. Stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the District;
14. Storage of commercial fertilizers and soil conditioners, as defined in G.L. c. 128, s. 64, or pesticides, as defined in G.L. c. 132B, s. 2, unless such storage is within a structure, with an impermeable cover and an Environmental Protection Agency-approved liner, designed to prevent

the generation and escape of contaminated runoff or leachate; in no case shall such structure be located within 400 feet of a surface drinking water source or public water system wellhead;

~~15. On site subsurface sewage disposal systems subject to 310 CMR 15, other than replacement systems, that discharge more than 440 gallons per acre per day.~~

~~9.2.9 Prohibited Uses; Stream and Lake Protection Zone.~~ In addition to the above prohibited uses, the following uses are prohibited in the Stream and Lake Protection Zone, defined in Section 11 of this Bylaw:

- ~~1. New structures or expansion of existing structures by more than 10% of the existing gross floor area. For exceptions see 9.2.14.1.~~
- ~~2. Leaching fields for new, nonreplacement, on site subsurface sewage disposal systems. For exceptions see 9.2.14.1.~~

~~9.2.109 Prohibited Uses; Inner Zone.~~ The following uses may be permitted in the Outer Zone, but are expressly prohibited in the Inner Zone:

- 1. New or expanded underground storage tanks (310 CMR 22.20B);
- 2. Motor vehicle repair operations;
- 3. Cemeteries (human and animal) and mausoleums;
- 4. Solid waste combustion facilities or handling facilities as defined in 310 CMR 16.00;
- 5. Land uses that result in the rendering impervious of more than 15%, or more than 20% with artificial recharge, or 2,500 square feet of any lot, whichever is greater; and
- 6. Commercial outdoor washing of vehicles, commercial car washes.

~~9.2.110 Design Requirements.~~ Where premises being developed lie partially outside of the Water Quality Protection District, potential pollution sources, such as the leaching field of an on-site subsurface sewage disposal system, shall be located outside of the district, unless the applicant demonstrates to the satisfaction of the Board of Health that such location is not feasible.

~~9.2.1211 Nonconforming Uses.~~ Continuation of a legally preexisting nonconforming use shall be allowed, provided that:

- 1. The nonconformity shall not be increased or expanded.
- 2. The replacement of any underground fuel storage tanks shall conform to the following:
 - a. The total capacity of the replaced tanks shall not be exceeded.
 - b. The replacement tanks shall be of noncorroding, double-walled construction and shall conform to all applicable state and federal regulations in effect at the time of replacement.
 - c. A leak-detection system shall be installed in the void between the walls of the tank. All records of leak tests and/or alarms shall be kept on site and shall be available for inspection by the Building Inspector, Fire Department, Board of Health or any of their authorized agents.

d. The replacement tanks and piping shall be installed within a secondary containment system that shall conform to all applicable state and federal regulations in effect at the time of the installation.

e. All inventory records and tank testing records maintained for fuel oil and chemical storage tanks shall be made available to the Building Inspector, Fire Department, and Board of Health upon request during normal business hours.

f. Any application, along with drawings submitted with the application, for a Town permit for the installation, removal, or replacement of underground storage tanks within the Water Quality Protection District shall be forwarded to the Planning Board. The Planning Board shall review the application within 21 days of receipt for conformity with this section. If the Planning Board finds the application does not conform to the requirements of this section, it shall inform the issuing authority who shall withhold such permit until the Planning Board has confirmed in writing that the application conforms to the requirements of this section.

g. Any and all state and federal requirements and permits shall be met and obtained as required, including, specifically, those established or required by 527 CMR 9.00 (Tanks and Containers, Board of Fire Prevention Regulations).

3. The continued operation of a legally preexisting gravel extraction bed shall conform to the following:

a. Excavation shall remain at least four feet above the mean high-water table, as established by data compiled by the United States Geological Survey.

b. The open bed area shall not exceed the existing bed at the effective date of this bylaw or two acres, whichever is less.

c. All areas no longer in active use for a period of one year shall be closed in the following manner:

1. The area shall be graded smooth with a slope not to exceed 10%, raked, and all stones greater than five inches shall be removed.

2. Topsoil shall be added to a depth of at least three inches after compaction.

3. Topsoil shall be compacted, by rolling, to a uniform density.

4. The area shall be seeded, in the recommended manner, with a fast-growing ground cover seed mix recommended by the United States Soil Conservation Service. Reseeding shall be done monthly until the ground cover is fully established.

9.2.1312 Uses and Activities Requiring a Special Permit. The following uses and activities are permitted only upon the issuance of a special permit by the Board of Selectmen (SPGA) under such conditions as it may require:

1. Enlargement or alteration of existing uses that do not conform to the WQPOD;

2. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning district (except as prohibited hereunder). Such activities shall require a special permit to prevent contamination of groundwater;

3. Any use that will render impervious more than 15% of any lot or parcel or 2,500 square feet, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For nonresidential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all nonresidential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner. Special permits for nonresidential uses as described in this subsection are not allowed in the Surface Water Source Protection Zones A and B.

9.2.1413 Procedures for Issuance of Special Permit.

1. The special permit granting authority (SPGA) under this section shall be the Board of Selectmen. Such special permit shall be granted if the SPGA determines, in conjunction with the Board of Health, the Conservation Commission, the Town Engineer/Department of Public Works, and the Planning Board that the intent of this section, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other Town boards or agencies in its decision. ~~The SPGA may grant an exemption from the provisions of 9.2.9 numbers 1. and 2. if it determines that there is no practicable and substantially equivalent economic alternative and that there shall be no significant adverse impact.~~

2. Upon receipt of the special permit application, the SPGA shall transmit one copy to the Planning Board, Board of Health, the Conservation Commission, Town Engineer/Department of Public Works, and Fire District for their written recommendations. Failure to respond in writing within 35 days of receipt shall indicate approval or no desire to comment by the agency. The necessary number of copies of the application shall be furnished by the applicant.

3. The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in 9.2.8; and 9.2.9, ~~and 9.2.10~~ and any regulations or guidelines adopted by the SPGA. The proposed use must:

- a. In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Quality Protection District; and
- b. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

4. All special permit applications shall comply with Section 10.4 and the requirements of this Section. In the case of conflict between two portions of this Bylaw, the more stringent requirements shall apply.

5. The applicant shall file at least seven copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a Massachusetts professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:

- a. A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;

b. For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:

1. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
2. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
3. Evidence of compliance with the regulations under the Massachusetts Hazardous Waste Management Act, 310 CMR 30.000, including obtaining an EPA identification number from the DEP.
4. Proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.

9.2.1514 Regulations. The SPGA may adopt regulations to govern design features of uses and activities. Such regulations shall be consistent with the subdivision control regulations adopted by the Planning Board.

9.2.1615 Enforcement. Written notice of any violations of this bylaw shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.

1. A copy of such notice shall be submitted to the Board of Selectmen, Planning Board, Board of Health, Conservation Commission, Town Engineer, Department of Public Works, and Fire District. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and operator of the premises.

Amend Section 11 to remove Stream and Lake Protection Zone definition

WATER QUALITY PROTECTION OVERLAY DISTRICT: The following definitions shall apply in the WQPOD:

AQUIFER: Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

CLASS A SURFACE WATER SUPPLY: Surface water bodies used for drinking water supply such as Long Pond and East Mountain Reservoir.

DEP: Massachusetts Department of Environmental Protection.

HAZARDOUS MATERIAL: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture was discharged to land or water in the Town of Great Barrington. Hazardous materials include, without limitation, synthetic organic chemicals; petroleum products; heavy metals; radioactive or infectious wastes; acids and alkalis; solvents and thinners in quantities greater than normal household use; and all substances defined as hazardous or toxic under Massachusetts General Laws, Chapters 21C and 21E and 310 CMR 30.00.

IMPERVIOUS SURFACE: Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

LANDFILL: A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to 310 CMR 19.006.

NONSANITARY WASTEWATER: Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage, including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

OPEN DUMP: A facility which is operated or maintained in violation of the Resource Conservation and Recovery Act [42 U.S.C. §4004(a)(b)], or the regulations and criteria for solid waste disposal.

POTENTIAL DRINKING WATER SOURCES: Areas which could provide significant potable water in the future.

RECHARGE AREAS: Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas include areas designated by DEP as Zone I, Zone II, or Zone III, as defined below.

SEPTAGE: The liquid, solid, and semisolid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material which is a hazardous waste, pursuant to 310 CMR 30.000.

SLUDGE: The solid, semisolid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screenings, or grease and oil which are removed at the headworks of a treatment facility.

STREAM AND LAKE PROTECTION ZONE: ~~(1) The land area within a five hundred foot lateral distance of the upper boundary of the bank of the Alford Brook, Long Pond Brook, and Seekonk Brook, when directly tributary to the Green River, and the Green River itself upstream of the water supply gallery. (2) The land area within a three hundred foot lateral distance of the upper boundary of the bank of:~~

~~East Mountain Reservoir
Fountain Pond
Green River downstream of the water supply gallery
Housatonic River [see * Note]
Hubbard Brook
Konkapot Brook
Lake Mansfield
Long Pond Brook where not directly tributary to the Green River
Muddy Brook
Roaring Brook
Root Pond
Round (Mercer's) Pond
Stony Brook
Thomas and Palmer Brook
Williams River~~

~~and the land area within a two hundred foot lateral distance of the upper boundary of the bank of all tributaries to these bodies of water or tributaries to any Class A surface water source.~~

~~* Note: In the urban centers, meaning those properties served by public water and sewer, the Stream and Lake Protection Zone shall not apply to the Housatonic River.~~

SURFACE WATER SOURCE PROTECTION ZONE A (INNER ZONE): The land area:

- Between the surface water source and the upper boundary of the bank;
- Within a four-hundred-foot lateral distance from the upper boundary of the bank of a Class A surface water source as defined in 314 CMR 4.05 (3) (a); and
- Within a two-hundred-foot lateral distance from the upper boundary of the bank of a tributary or associated surface water body.

SURFACE WATER SOURCE PROTECTION ZONE B (OUTER ZONE): The land area within 1/2 mile of the upper boundary of the bank of a Class A surface water source, as defined in 314 CMR 4.05 (3) (a), or the edge of the watershed, whichever is less. Zone B includes, by definition, the land area in Zone A.

SURFACE WATER SOURCE PROTECTION ZONE C: The land area not designated as Zone A or B within the watershed of a Class A surface water source as defined in 314 CMR 4.05 (3) (a).

TREATMENT WORKS: Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

TRIBUTARY: For Surface Water Protection Zones A and B: Any body of running, or intermittently running, water which moves in a definite channel, naturally or artificially created, in the ground due to a hydraulic gradient, and which ultimately flows into a Class A surface water source, as defined in 314 CMR 4.05(3)(a).

- For the Wellhead Protection Zones I and II ~~and the Stream and Lakes Protection Zone:~~ A perennial stream as defined under the Massachusetts Wetlands Protection Act Regulations. (310 CMR 10.00).

VERY SMALL QUANTITY GENERATOR: Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

WASTE OIL RETENTION FACILITY: A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL c. 21, ~ 52A.

WATER QUALITY PROTECTION OVERLAY DISTRICT: The zoning district established pursuant to this section and defined to overlay other zoning districts in the Town of Great Barrington. The Water Quality Protection District includes, for the purposes of this section, Surface Water Source Protection Area Zone B, and Wellhead Protection Area Zone II, ~~and the Stream and Lakes Protection Zone~~. Each of these protection zones shall be considered equivalent in terms of their permitted uses and prohibitions unless specifically noted otherwise. Surface Water Source Protection Area Zone A is included (with more restrictions) in Zone B, as is Wellhead Protection Zone I in Zone II.

WELLHEAD PROTECTION ZONE: The area controlled by DEP Wellhead Protection Regulation, 310 CMR 22.21(2). See Zone I, II, and III below.

ZONE I (INNER ZONE): The one-hundred- to four-hundred-foot protective radius around a public water system well or wellfield which must be owned by the water supplier or controlled through a conservation restriction.

ZONE II (OUTER ZONE): The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield with no recharge from precipitation), as defined in 310 CMR 22.00.

ZONE III: The land area beyond the area of Zone II from which surface water and groundwater drain into Zone II, as defined in 310 CMR 22.00.

Recommended by the Selectboard

ARTICLE 25: Release of Riverschool Redevelopment LLC P&S Conditions, 79 Bridge Street

To see if the Town will vote to release any rights that may exist requiring the use and development of the property at 79 Bridge Street in conformance with the Purchase and Sale Agreement between Riverschool Redevelopment, LLC and the Town dated July 26, 2010, or take any other action relative thereto.

Recommended by the Selectboard

ARTICLE 26: To Petition the Legislature for Local Gas Tax

To see if the Town will vote to authorize the Selectboard to petition the Legislature to enact special legislation, to be effective upon passage, authorizing the Town of Great Barrington to adopt a local tax in an amount of 5 cents per gallon of gasoline and diesel fuel sold to the public, said tax to be administered by the Selectboard, with such receipts to be expended for the repair and maintenance of the Town's roads and bridges, provided, that the Legislature may reasonably vary from the form and substance of the requested legislation within the scope of the general public objectives of this petition, or take any other action relative thereto.

Recommended by the Selectboard

ARTICLE 27: Solar Facility Tax Agreement

To see if the Town will vote to approve, and authorize the Selectboard to enter into, a Tax Agreement pursuant to M.G.L. Chapter 59, section 38H(b), and Chapter 164, Section 1, and/or any other enabling authority with RT MA Solar, LLC or any successor lessee/operator for personal property taxes associated with the 2.1 megawatts ("MW") solar photovoltaic facility to be located on property at 67 Van Deusenville Road in the Village of Housatonic and shown on Assessors' Map 5 as Parcel 10, for a term of up to twenty (20) years, on such terms and conditions as the Select Board deems to be in the best interest of the Town, and to take any and all actions as may be necessary or convenient to accomplish the purpose of this article; or to take any other action relative thereto.

Recommended by the Selectboard

ARTICLE 28: Demolition Delay Bylaw

To see if the Town will vote to adopt a demolition delay bylaw as set forth below, and to authorize the Town Clerk to assign chapter and section numbers for the bylaw within Division 1, Part II of the Town Code, or take any other action relative thereto.

Intent and Purpose

This by-law is enacted for the purpose of encouraging the preservation and protection of significant buildings within the Town of Great Barrington which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition of these buildings on the character of the Town. Through this bylaw, owners of preferably preserved buildings are encouraged to seek out alternatives to demolition in order to preserve, rehabilitate or restore such buildings, and residents of the Town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, and the associated streetscapes and neighborhoods distinguished by these buildings, this bylaw promotes the public welfare by making the Town a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits shall be regulated as provided by this by-law.

Exemption

This bylaw shall not apply to buildings included within projects for which a demolition, building, or special permit has been issued prior to May 9, 2016.

Definitions

APPLICANT – Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

APPLICATION – An application for a permit for the demolition of a building.

BUILDING – Any combination of materials forming a shelter for persons, animals, or property.

BUILDING INSPECTOR – The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

COMMISSION – The Great Barrington Historical Commission or its designee.

DEMOLITION – Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

DEMOLITION PERMIT – A building permit issued by the Building Inspector for the demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

PREFERABLY PRESERVED BUILDING– Any significant building for which the Commission determines, following a public hearing, that it is in the public interest to preserve rather than demolish. A preferably preserved building is subject to the twelve month demolition delay period of this bylaw.

SIGNIFICANT BUILDING –

(1) a building or structure listed on the National Register of Historic Places or the State Register of Historic Places, or the subject of a pending application for listing on either of said Registers; or

(2) a building or structure included in the Inventory of the Historic and Prehistoric Assets of the Commonwealth, the Great Barrington Comprehensive Inventory of the historic, architectural and archeological assets of the Town or designated by the Massachusetts Historical Commission or the Commission, respectively, for inclusion in either of said Inventories. Notwithstanding the preceding sentence, the provisions of this bylaw shall not apply to any building or structure located in a local historic district and subject to regulation under the provisions of Chapter 40C of the Massachusetts General Laws.

Procedure

No demolition permit for a Significant Building shall be issued except in accordance with the provisions of this bylaw.

An applicant proposing to demolish a building subject to this bylaw shall file with the Building Inspector a complete application as required by the Building Inspector's office. The application must also contain the following information:

- a) The address of the building to be demolished.
- b) The owner's name, address and telephone number.
- c) A description of the building.
- d) The reason for requesting a demolition permit.
- e) A brief description of the proposed reuse, reconstruction or replacement.
- f) A photograph or photograph(s) of the building.

The Building Inspector shall, within seven days of receipt of an application for a demolition permit, determine whether the building is a Significant Building as defined in this bylaw.

If the building is determined to be a Significant Building, the Building Inspector shall, without delay, forward a copy of the application and his determination to the Commission. The Commission shall hold a public hearing within thirty days of receipt of the application and determination from the Building Inspector. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in Town Hall for a period of not less than seven days prior to the date of said hearing, and also shall be published in a newspaper of local circulation for a period of not less than seven days prior to the date of said hearing, and the applicant and the Building Inspector shall be notified in writing of the hearing time and place.

The Commission shall decide at the public hearing or within fourteen days after the public hearing whether the building is preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Inspector and applicant in writing. The Building Inspector may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Inspector and applicant in writing. No demolition permit may then be issued for a period of twelve months from the date of the determination, unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Inspector in writing within twenty-one days of the close of the public hearing, the Building Inspector may issue the demolition permit.

Upon a determination by the Commission that the building is preferably preserved, no building permit for new construction or alterations on the premises shall be issued for a period of twelve months from the date of the determination unless otherwise agreed to in writing by the Commission.

The Building Inspector may issue a demolition permit or a building permit for a preferably preserved building within the twelve month delay period if the Commission notifies the Building Inspector in writing that the Commission finds that the intent and purpose of this bylaw is served even with the issuance of the demolition permit or the building permit.

Administration

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw.

The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw.

Emergency Demolition

If, after an inspection, the Building Inspector finds that a building subject to this bylaw is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building, then the Building Inspector may order its demolition or issue an emergency demolition permit to the owner of the building. The Building Inspector shall then prepare a report explaining the condition of the building and the basis for his decision which shall be forwarded to the Commission.

Enforcement and Remedies

The Commission and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof.

Any owner of a building subject to this bylaw that demolishes the building without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of three hundred dollars. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.

If a building subject to this bylaw is demolished without a demolition permit issued in accordance with this bylaw, no building permit shall be issued, for a period of two years from the date of the demolition, on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration of the demolished building or unless otherwise agreed to in writing by the Commission.

Historic District Act

Following a determination that a building is significant and preferably preserved, the Commission may recommend to Town Meeting that the building be protected through the provisions of Massachusetts General Laws, Chapter 40C, the Historic Districts Act. Nothing in this by-law shall be deemed to conflict with the provisions of the Historic Districts Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this by-law do so conflict, that act shall prevail.

Severability

In case any section, paragraph or part of this by-law is for any reason declared invalid or unconstitutional by a court of competent jurisdiction, every other section, paragraph, and part shall continue in full force and effect.

Recommended by the Selectboard

ARTICLE 29: Tree Management and Replacement Bylaw

To see if the Town will vote to amend Chapter 163 of the Town Code, Trees, by adding a new section 3 as follows, or take any other action relative thereto:

[163-3] Management and replacement of public trees and shrubs

[A] The purpose of the following provisions is to provide guidance for the installation and/or removal of trees and shrubs on property that is subject to Town jurisdiction, including but not limited to those that are on public parks and cemeteries and other publicly owned property, those that are within tree line easements created for street trees pursuant to subdivision approval regulation or condition, and those that are within or on the boundary of a public way as described in Massachusetts General Laws, Chapter 87, Shade Trees, section 1.

[B] Management and replacement

1. Existing trees and shrubs should be retained when possible.
2. Trees should be protected during construction activities.
3. Excavation, paving and similar disturbances should be avoided in areas within the drip-line of crowns of trees that are to be retained.

4. Newly planted trees should be watered and fertilized as needed. Mulch should be used with plantings, to retain moisture and minimize weeds.
5. Planting of non-native trees and shrubs is discouraged.
6. Plantings under existing or proposed utility lines should not reach a height greater than 25 feet.
7. New tree and shrub plantings should be from the recommended tree and shrub list as established by the Town's Tree Committee and on file with the Town Clerk. New trees and shrubs should be healthy, insect free and undamaged.
Deciduous trees shall be at least two (2") inches in caliper as measured six inches (6") above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within ten years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting.
8. A tree that is cut down or that is destroyed by an act of nature should be replaced with a tree of similar or the same species. The replacement may be in a different location on public property, if approved by the Tree Warden. Replacement by the Town is subject to the availability of funding. The Town may accept donations for this purpose.

Recommended by the Selectboard

ARTICLE 30: Resolution Declaration for the Town of Great Barrington to be a Pollinator-Friendly Community

To see if the Town of Great Barrington will vote to approve the following resolution:

WHEREAS, bees and other pollinators are a necessary component of a healthy ecosystem and food system, providing pollination of plants in order to grow vegetables, herbs and fruits; and

WHEREAS, locally grown crops such as apples, blueberries, strawberries, squash and tomatoes depend on pollinators and thus are at risk; and

WHEREAS, extensive research has documented that neonicotinoid and other systemic insecticides cause illness and death to bees and pollinators; and

WHEREAS, alternative land management practices are available that dramatically increase pollinator forage while decreasing maintenance costs; and

WHEREAS, the monetary and social costs of maintaining pollinator-friendly landscapes can be less expensive than costs associated with maintaining chemically-treated monocrop landscapes.

NOW, THEREFORE, BE IT RESOLVED by the Town Meeting of the Town of Great Barrington, Massachusetts, that the Town of Great Barrington is hereby declared a Pollinator-Friendly Community, and that the Town encourages adoption of policies and practices that protect and support pollinator health by minimizing the sale and use of insecticides.

BE IT FURTHER RESOLVED that the Town of Great Barrington urges all Great Barrington property owners, residents, businesses, institutions and neighborhoods to become more pollinator-friendly by adopting practices including:

- Committing to avoiding use of insecticides, including systemic insecticides on their property;
- Avoiding the planting of flowering plants which are treated with systemic insecticides;
- Planting more pollinator-supporting forage on their property, and adopting organic or chemical-free lawn and landscaping practices.

The Town Clerk is requested to send copies of this Resolution to Governor Charlie Baker, Massachusetts Department of Agricultural Resources Commissioner John Lebeaux, State Senator Benjamin B. Downing and State Representative William Smitty Pignatelli.

or to take any other action relative thereto.

Recommended by the Selectboard

ARTICLE 31: Resolution in Support of Massachusetts House Bill 2870

To see if the Town of Great Barrington will vote to approve the following resolution:

**RESOLUTION IN SUPPORT OF
MASSACHUSETTS HOUSE BILL 2870**

An Act Relative to Protecting Consumers of Gas and Electricity from paying for Leaked and Unaccounted for Gas

WHEREAS: Massachusetts House Bill 2870 is an “An Act Relative to Protecting Consumers of Gas and Electricity from paying for Leaked and Unaccounted for Gas (UFG)” that seeks to protect all gas and electricity customers, whether businesses, manufacturers, homeowners and municipalities or other gas users, from paying for UFG by prohibiting providers from including the cost of UFG, as well as the costs of reducing or remedying loss, in the rate base; and

WHEREAS: According to H. 2870, “Unaccounted for gas or UFG is the difference between the total gas available from all sources that is acquired by a system type and the total gas accounted for as sales, net interchange or company use”; and

WHEREAS: H.2870 covers leakage or loss by leakage or loss due to discrepancies from measuring or monitoring inaccuracies, variations of temperature or pressure, or both, and other circumstances; and

WHEREAS: H.2870 will provide economic incentive to gas providers to develop improved technologies and practices for transportation, distribution and storage; and

WHEREAS: The cost of UFG is typically passed on from providers of natural gas to users or consumers of gas; and

WHEREAS: Leaking gas in the ground is harmful to vegetation and can kill valuable shade trees by depriving roots of oxygen; and

WHEREAS: Methane is a precursor to ozone formation that can decrease lung function and aggravate asthma; and

THEREFORE BE IT

RESOLVED: That the Town of Great Barrington strongly supports House Bill 2870 and urges the Massachusetts Legislature to take action to support this measure to protect consumers and the environment.

RESOLVED: That the Town of Great Barrington forward an engrossed copy of this resolution to the elected Great Barrington delegation in the House and the Senate as well as House Speaker Robert A. DeLeo and Senate president Stanley C. Rosenberg and to the Governor on behalf of the Town of Great Barrington.

Recommended by the Selectboard

ARTICLE 32: Resolution in Support of Massachusetts House Bill 2871

To see if the Town of Great Barrington will vote to approve the following resolution:

**RESOLUTION IN SUPPORT OF
MASSACHUSETTS HOUSE BILL 2871**

An Act Relative to Gas Leak Repairs During Road Projects

WHEREAS: Massachusetts House Bill 2871 “An Act Relative to Gas Leak Repairs During Road Projects” would require the repair of all gas leaks when a road is opened up for a significant repair of the road or of any underground utility or other infrastructure; and

WHEREAS: H.2871 calls on utility companies that provide gas to survey a project area for the presence of gas leaks; and

WHEREAS: H.2871 would require all gas leaks to “be repaired within 12 months of the date the leak was classified”; and

WHEREAS: H.2871 would further require Grade 1 leaks, which are considered the most dangerous and pose the greatest threat, to be repaired immediately; and

WHEREAS: H.2871 would require that the repair and replacement schedule of gas leaks be provided to the “municipality or the commonwealth or other entity”;

THEREFORE BE IT

RESOLVED: That the Town of Great Barrington strongly supports House Bill 2871 and urges the Massachusetts Legislature to take action to support this measure to repair gas leaks during road projects.

RESOLVED: That the Town of Great Barrington forward an engrossed copy of this resolution to the elected Great Barrington delegation in the House and the Senate as well as House Speaker Robert A. DeLeo and Senate president Stanley C. Rosenberg and to the Governor on behalf of the Town of Great Barrington.

Recommended by the Selectboard

ARTICLE 33: Resolution Regarding Housatonic River Cleanup

To see if the Town will vote to adopt the following resolution:

The Town of Great Barrington is against the formation of a landfill located at Housatonic’s Rising Pond, one of the locations General Electric is looking to use to store carcinogenic PCBs from the Housatonic River cleanup project. Not only would this be a decrease in the quality of life for our residents, but will continue to serve as a toxic resting ground for material that has negative effects on the environment.

Therefore, the Town of Great Barrington supports the EPA’s directive to remove the carcinogenic materials for placement in an out of state licensed facility and asks for the EPA’s continued support throughout the cleanup process and any related proceedings. The Town urges the EPA and GE to work collaboratively with the six Housatonic River towns to minimize the impact of the cleanup on our local region and to adhere to adaptive management through the duration of the cleanup, to take advantage of potential new and innovative technologies for remediation that could potentially meet the required standards in the EPA remedy. The Town will continue to work with the Rest of River Municipal Committee, the EPA, state senators and representatives, the Massachusetts Department of Environmental Protection and other groups to advocate for our Town's needs and those of our bordering communities that are also impacted by this project.

or to take any other action relative thereto.

Recommended by the Selectboard

ARTICLE 34: (by petition)

The undersigned registered voters of the Town of Great Barrington request the following article be placed on the warrant for the May 9, 2016, annual town meeting.

That the Great Barrington Town Bylaws be amended to add the following: Within thirty-five (35) days of a meeting of an elected or appointed board, minutes of the meeting must be posted on the town website and signed by the person who prepared them. If the board has not yet approved the minutes, "UNAPPROVED MINUTES" shall be written in large letters on the first page.

HEREOF FAIL NOT, and of this Warrant and your doings thereon, make due return to the Clerk of said Town at or before the time and place of said meeting.

Given under our hands and the seal of the Town of Great Barrington, this 29th day of April, 2016.

Sean A. Stanton

Stephen C. Bannon

Daniel Bruce Bailly

Edward D. Abrahams

William F. Cooke

Selectboard of the Town of Great Barrington

A TRUE COPY ATTEST:

William R. Walsh, Chief of Police
Town of Great Barrington

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS.

I hereby certify that I have served the foregoing warrant by posting duly attested copies thereof in the following places in the Town of Great Barrington, namely:

The vestibule of the Town Hall Building and the Post Office in the Town of Great Barrington, the post office in the Village of Housatonic, Mason Library in the Town of Great Barrington, and the Ramsdell Library in the Village of Housatonic, seven days, at least before the time of holding the within mentioned Town Meeting.

WITNESS my hand and seal this 29th day of April, 2016.

William R. Walsh, Chief of Police
Town of Great Barrington