

# 2021 Annual Town Meeting Warrant

June 7, 2021 (and June 10, 2021 if needed)

6:00 PM at Monument Mountain Regional High School



## SELECTBOARD

Stephen C. Bannon, Chair  
Edward Abrahams  
Bill Cooke  
Kate Burke  
Leigh Davis

## FINANCE COMMITTEE

Anne O'Dwyer, Chair  
Michelle Loubert  
Eugene Curletti  
Thomas Blauvelt  
Meredith O'Connor

**INDEX OF WARRANT ARTICLES**  
**2021 ANNUAL TOWN MEETING**

**And**

**ADJOURNED SESSION OF SEPTEMBER 15, 2020 SPECIAL TOWN MEETING**

- |                                                                                         |                                                                                                                                                |
|-----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Authorization to Establish new Revolving Fund                                        | 22. Re-accept portion of Manville Street, discontinued May 7, 2018, as a public way                                                            |
| 2. Authorize Revolving Fund Limits                                                      | 23. Tax Increment Financing (TIF) for 79 Bridge Street                                                                                         |
| 3. Elected Officials' Salaries                                                          | 24. Zoning: Amend Section 9.4, Downtown Mixed-Use B-3 District, and portions of Sections 3.1.4 (Table of Use Regulations) and 11 (Definitions) |
| 4. MassDOT Chapter 90 Funds                                                             | 25. Zoning, by citizen petition: Amend Section 7.18, Marijuana Establishment regulations                                                       |
| 5. FY22 Operating Budget                                                                | 26. Zoning, by citizen petition: special permits                                                                                               |
| 6. FY22 Wastewater Treatment Plant Budget                                               |                                                                                                                                                |
| 7. Borrowing Authorization for General Fund Capital Items                               |                                                                                                                                                |
| 8. FY22 Regional School Assessment                                                      |                                                                                                                                                |
| 9. Borrowing Authorization for Wastewater Capital Items                                 |                                                                                                                                                |
| 10. Authorize Use of Free Cash to Reduce the Tax Levy                                   | <i>Articles from September 15, 2020 Special Town Meeting</i>                                                                                   |
| 11. Authorize Funding of Community Programs                                             | 26. Zoning, by citizen petition: Amend Section 9.11, Mixed Use Transitional Zone (MXD) and the Zoning Map                                      |
| 12. Authorize Funding to Southern Berkshire Ambulance                                   | 27. Zoning, by citizen petition: Amend Section 3.1.4 to Allow Marijuana Establishment by Special Permit in the I-2 Districts                   |
| 13. FY22 Out of District Vocational Tuition                                             | 28. Zoning, by citizen petition: Amend Section 7.18, Marijuana Establishment regulations                                                       |
| 14. Authorization to pay Prior Fiscal Year Invoices                                     | 29. Modify Town Code Chapter 241-1, Citizen speaking time (by citizen petition)                                                                |
| 15. Authorize funding to the Stabilization Account                                      | 30. Modify Town Code Chapter 189-1, Selectmen's Policies and Procedures (by citizen petition)                                                  |
| 16. Authorize funding to the Capital Stabilization Account                              | 31. Resolution to prohibit hazardous and toxic waste storage, disposal, and dumping in Great Barrington (by citizen petition)                  |
| 17. Borrowing Authorization for a Municipal Parking Lot Land Purchase                   | 32. To close down and outlaw privately owned prisons for profit in Massachusetts (by citizen petition)                                         |
| 18. Community Preservation Fund Reserves/Appropriations                                 |                                                                                                                                                |
| 19. Community Preservation Projects                                                     |                                                                                                                                                |
| 20. Amend Prior Appropriation of Community Preservation Funds to the Housing Trust Fund |                                                                                                                                                |
| 21. Amend Chapter 91 of the Town Code, Schedule of Town Clerk Fees                      |                                                                                                                                                |

**WARRANT**  
**ANNUAL TOWN MEETING**  
**2021**

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS

To Paul E. Storti, 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, qualified to vote in town affairs, to meet at the Monument Mountain High School Parking Lot in Great Barrington on Monday, June 7<sup>th</sup>, 2021 (and June 10<sup>th</sup>, 2021 if needed) at 6:00 P.M., then and there to act on the following:

**ARTICLE 1:**

To see if the Town will vote to amend Chapter 36 of the Great Barrington Code, Revolving Funds, by adding a new fund to section 36-1 for the Council on Aging, as follows; or take any other action relative thereto:

Add to list in section 36-1:

| <b>Program or Purpose</b> | <b>Representative or Board<br/>Authorized to Spend</b> | <b>Department Receipts</b> |
|---------------------------|--------------------------------------------------------|----------------------------|
| Council on Aging          | Town Treasurer                                         | Program Fees and Charges   |

**Recommended by the Selectboard****ARTICLE 2:**

To see if the Town will vote to fix the maximum amount that may be spent during fiscal year 2022 beginning on July 1, 2021 for the revolving funds as established in the Town's by-laws for certain departments, boards, committees, commissions, agencies or officers in accordance with M.G.L. Chapter 44, Section 53E ½; or take any other action relative thereto.

| <b>Revolving Fund</b> | <b>Department, Board, Committee,<br/>Agency or Officer</b> | <b>FY2022<br/>Spending Limit</b> |
|-----------------------|------------------------------------------------------------|----------------------------------|
| Plumbing Inspections  | Building Department                                        | \$15,000                         |
| Wiring Inspections    | Building Department                                        | \$55,000                         |
| Gas Inspections       | Building Department                                        | \$12,000                         |
| Cemetery              | Public Works Department                                    | \$ 5,000                         |
| Council on Aging      | Council on Aging                                           | \$50,000                         |

**Recommended by the Finance Committee and Selectboard****ARTICLE 3:**

To see if the Town will vote to fix the salaries of all elected officials for the period of July 1, 2021 to June 30, 2022 as indicated below:

Elected Officials Salaries:

Selectboard: \$23,500 (\$4,700 per Selectboard member)

**Recommended by the Finance Committee and Selectboard****ARTICLE 4:**

To see if the Town will vote to accept any and all funds being provided by the Commonwealth of Massachusetts Department of Transportation (MassDOT), under the provisions of Chapter 90 of the Massachusetts 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 Selectboard**

**ARTICLE 5:**

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 for the purposes outlined below; or to take any other action relative thereto.

**General Government**

|                                          |            |
|------------------------------------------|------------|
| Town Manager/Selectboard                 | \$ 438,820 |
| Finance Committee/Reserve Fund           | 160,300    |
| Finance Director/Town Accountant         | 153,845    |
| Technology                               | 235,000    |
| Assessors' Office                        | 176,505    |
| Treasurer/Collector                      | 224,547    |
| Town Clerk/Elections                     | 129,801    |
| Conservation Commission                  | 31,847     |
| Various Boards/Commission                | 22,970     |
| Planning Board                           | 5,350      |
| Zoning Board of Appeals                  | 1,300      |
| Office of Planning/Community Development | 138,910    |

**Public Safety**

|                                     |           |
|-------------------------------------|-----------|
| Police Department                   | 1,839,010 |
| Fire Department                     | 674,020   |
| Communications/Emergency Management | 21,005    |
| Building Inspector                  | 176,912   |
| Animal Control                      | 12,200    |

**Department of Public Works** 2,451,878**Public Health**

|                   |         |
|-------------------|---------|
| Health Department | 113,503 |
|-------------------|---------|

**Community Services**

|                   |         |
|-------------------|---------|
| Council on Aging  | 156,469 |
| Veterans' Affairs | 155,700 |
| Human Services    | 30,000  |

**Cultural/Recreation**

|                  |         |
|------------------|---------|
| Libraries        | 576,665 |
| Parks/Recreation | 118,000 |

**Miscellaneous**

|                                            |               |
|--------------------------------------------|---------------|
| Insurance                                  | 1,804,700     |
| Debt Service                               | 2,067,842     |
| Retirement                                 | 999,289       |
| Celebrations/Seasonal/Events/Band Programs | <u>12,500</u> |

**Total General Fund** \$ 12,928,888

**Recommended by the Finance Committee and Selectboard**

**ARTICLE 6:**

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 for the purposes outlined below; or to take any other action relative thereto.

**Wastewater Treatment Plant**

|                                         |                    |
|-----------------------------------------|--------------------|
| Salaries                                | \$ 503,450         |
| Expenses                                | 743,400            |
| Insurance/Benefits                      | 319,950            |
| Miscellaneous/Transfers                 | 183,600            |
| Debt Service                            | <u>664,100</u>     |
| <b>Total Wastewater Treatment Plant</b> | <b>\$2,414,500</b> |

**Recommended by the Finance Committee and Selectboard****ARTICLE 7:**

To see if the Town will vote to appropriate \$1,532,600 or any other sum of money, in the following approximate amounts and for the following purposes, 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.

|                                 |                    |
|---------------------------------|--------------------|
| Street and Bridge Improvements  | \$ 720,000         |
| Building Improvements           | 265,000            |
| Police Cruiser                  | 48,150             |
| Police Portable Radios (3)      | 25,100             |
| Laptop/Tablets for Cruisers (7) | 32,100             |
| Backhoe/Loader                  | 145,450            |
| Truck Lift                      | 79,500             |
| Sidewalk Plow and Sander        | 124,300            |
| Transfer Station Ticket Kiosk   | 53,000             |
| Parks Improvements              | <u>40,000</u>      |
| <b>Total</b>                    | <b>\$1,532,600</b> |

**Recommended by the Finance Committee and Selectboard****ARTICLE 8:**

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Seventeen Million, Nine Hundred Twenty-Eight Thousand, Eight Hundred and Twelve Dollars (\$17,928,812) for the operating assessment, and Five Hundred Three Thousand, Five Hundred and Eighty-Six Dollars (\$503,586) for the capital assessment, for a total assessment of Eighteen Million, Four Hundred Thirty-Two Thousand, Three Hundred and Ninety-Eight Dollars (\$18,432,398) of the Berkshire Hills Regional School District; or take any other action relative thereto.

**Recommended by the Finance Committee and Selectboard****ARTICLE 9:**

To see if the Town will vote to appropriate \$405,500 or any other sum of money, for Wastewater capital improvements, in the following approximate amounts and for the following purposes, 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.

|                                          |                  |
|------------------------------------------|------------------|
| Sewer Manhole Rehabilitation             | \$200,000        |
| Sewer System Management/Maintenance Plan | 185,500          |
| Sewer Line Replacement                   | <u>20,000</u>    |
| <b>Total</b>                             | <b>\$405,500</b> |

**Recommended by the Finance Committee and Selectboard**

**ARTICLE 10:**

To see if the Town will vote to authorize the use of Free Cash to reduce the tax levy for Fiscal Year 2022; or to take any other action relative thereto.

**Recommended by the Finance Committee and Selectboard**

**ARTICLE 11:**

To see if the Town will vote to appropriate from Free Cash a sum of money representing amounts received under host community agreements with marijuana establishments to fund various community programs, under an application and approval process to be administered by the Town Manager; or take any other action relative thereto.

**Recommended by the Finance Committee and Selectboard**

**ARTICLE 12:**

To see if the Town will vote to raise and appropriate \$25,000 to support the operation of the Southern Berkshire Ambulance service (Southern Berkshire Volunteer Ambulance Squad, Inc.); or take any other action relative thereto.

**Recommended by the Finance Committee and Selectboard**

**ARTICLE 13:**

To see if the Town will vote to raise and appropriate a sum of money to fund the Fiscal Year 2022 tuition and transportation for out of district vocational education, in accordance with Chapter 74 of Massachusetts General Laws; or take any other action relative thereto.

**Recommended by the Finance Committee and Selectboard**

**ARTICLE 14:**

To see if the Town will vote to authorize the payment of prior fiscal year invoices from the FY21 operating budgets of the Fire Department, Department of Public Works and Wastewater Division, in the amounts set forth below; or take any other action relative thereto.

|                                                |                               |
|------------------------------------------------|-------------------------------|
| <b><u>DEPARTMENT OF PUBLIC WORKS:</u></b>      | <b><u>Account Number:</u></b> |
| \$427.83 to the Great Barrington Fire District | 01192-52310                   |
| \$325.00 to Andrus Power Solutions             | 01192-52700                   |
| \$87.00 to the Great Barrington Fire District  | 01422-52115                   |
| \$690.50 Lapinski Electric, Inc.               | 01422-52490                   |
| \$7,330.00 Haupt Tree Company                  | 01422-53810                   |
| <b><u>WASTEWATER DIVISION:</u></b>             | <b><u>Account Number:</u></b> |
| \$792.00 to GIR USA, Inc.                      | 60442-52400                   |
| \$58.89 to the Great Barrington Fire District  | 60442-52310                   |

**TECHNOLOGY:**  
\$1,000.00 to Halligan

**Account Number:**  
01136-53000

**Recommended by the Finance Committee and Selectboard**

**ARTICLE 15:**

To see if the Town will vote to appropriate from Free Cash a sum of money to the Stabilization Fund, or take any other action relative thereto.

**Recommended by the Finance Committee and Selectboard**

**ARTICLE 16:**

To see if the Town will vote to appropriate from Free Cash a sum of money to the Capital Stabilization Fund, or take any other action relative thereto.

**Recommended by the Finance Committee and Selectboard**

**ARTICLE 17:**

To see if the Town will vote to appropriate \$1,190,000 or any other sum of money, to purchase land for and construct a municipal parking lot, 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.

**ARTICLE 18:**

**Community Preservation Fund Reserves & Appropriations**

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 FY22, with each item considered a separate appropriation; or to take any other action relative thereto.

**Reserves:**

|                                                   |           |
|---------------------------------------------------|-----------|
| From FY22 revenues for historic resources reserve | \$ 60,000 |
| From FY22 revenues for community housing reserve  | \$ 60,000 |
| From FY22 revenues for open space reserve         | \$ 60,000 |

**Appropriations:**

|                                                    |            |
|----------------------------------------------------|------------|
| From FY22 revenues for administrative expenses     | \$ 20,000  |
| Balance of FY22 revenues for FY22 budgeted reserve | \$ 345,000 |

**Recommended by the Community Preservation Committee**

**ARTICLE 19:**

**Community Preservation Projects**

To see if the Town will vote to appropriate from the Community Preservation Fund for FY22 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.

|                                                                                                          |                     | Source of Appropriation |              |
|----------------------------------------------------------------------------------------------------------|---------------------|-------------------------|--------------|
| Project                                                                                                  | Total Appropriation | FY22 Revenues           | Fund Balance |
| <i>Affordable Housing</i>                                                                                |                     |                         |              |
| Construct, Inc., for a rental assistance program and a microloan program                                 | \$50,000            | \$50,000                |              |
| Subtotal, Affordable Housing                                                                             | \$50,000            |                         |              |
| <i>HISTORIC RESOURCES</i>                                                                                |                     |                         |              |
| Town, Historical Commission, for historic properties research and documentation                          | \$6,000             |                         | \$6,000      |
| Town, for archeological study at the Ramsdell Library                                                    | \$9,800             |                         | \$9,800      |
| First Congregational Church of Great Barrington, for restoration of stone and masonry walls at the Manse | \$240,859           | \$240,859               |              |
| Mahaiwe Performing Arts Center, to replace emergency exit doors                                          | \$15,000            | \$15,000                |              |
| Clinton Church Restoration, Inc., for second phase of restoration work                                   | \$200,000           | \$200,000               |              |
| Subtotal, Historic Resources                                                                             | \$471,659           |                         |              |
| <i>OPEN SPACE &amp; RECREATION</i>                                                                       |                     |                         |              |
| Town, for improvements to the Housatonic Rail Trail                                                      | \$30,000            |                         | \$30,000     |
| Town, for Lake Mansfield water quality studies                                                           | \$70,000            |                         | \$70,000     |
| Conservation Commission for the McAllister Wildlife Refuge preservation project                          | \$31,300            | \$31,300                |              |
| Subtotal, Open Space & Recreation                                                                        | \$131,300           |                         |              |
| TOTAL                                                                                                    | \$652,959           | \$537,159               | \$115,800    |

**Recommended by the Community Preservation Committee**

**ARTICLE 20:**

To see if the Town will vote to amend the vote taken under Article 19 of the Warrant for the Annual Town Meeting held on June 22, 2020, which approved the appropriation of \$185,000 from FY21 Community Preservation Act revenues to the Great Barrington Affordable Housing Trust Fund for the purpose of acquiring land on North Plain Road for affordable housing, so as to permit the expenditure of the unexpended balance of the appropriation for design, engineering and/or other predevelopment expenses for an affordable housing project on the land so acquired; or to take any other action relative thereto.

**Recommended by the Community Preservation Committee**

## **ARTICLE 21:**

### **Town Clerk Fees**

To see if the Town will vote to amend Chapter 91 of the Great Barrington Code, Town Clerk's Fees, by revising the fees listed in section 91-1, Schedule, for birth certificates, death certificates, and marriage certificates as follows, with proposed deletions shown as ~~struck through~~ and proposed additions underlined, or to take any other action relative thereto:

(13) -For furnishing certificate of birth: ~~\$2~~ \$10.

(30) -For furnishing a certificate of death: ~~\$2~~ \$10.

(44) -For issuing certificate of marriage: ~~\$2~~ \$10.

### **Recommended by the Selectboard**

## **ARTICLE 22:**

To see if the Town will vote to accept as a town way in Great Barrington that portion of Manville Street which was discontinued by the vote under Article 17 of the Warrant for the Annual Town Meeting held on May 7, 2018, that is, Lots 2A, 3A, 5A, and 6A as shown on a plan entitled "Plan of Land Surveyed for 26 Manville LLC Great Barrington, Massachusetts" and dated March - 2021, which is on file with the Town Clerk, and to authorize the Selectboard to acquire, by gift and for no consideration, easements in that portion of the street for all the usual purposes of a public way in the Town; or to take any other action relative thereto.

### **Recommended by the Planning Board and the Selectboard**

## **ARTICLE 23:**

To see if the Town will vote to authorize the Selectboard to enter into a Tax Increment Financing (TIF) Agreement and Tax Increment Financing Plan with 79 Bridge Street Realty, LLC, or its Nominee, pursuant to the provisions of MGL Chapter 40, Section 59, in connection with the redevelopment of the property at 79 Bridge Street, Great Barrington; and to authorize the Selectboard to negotiate the final terms of and execute the TIF Agreement, and any documents relating thereto, and to take such other actions as are necessary or appropriate to implement the TIF Agreement and the TIF Plan pursuant to the provisions of MGL Ch. 40, § 59 or any other enabling authority, including submission of all necessary or required applications and documents to the Economic Assistance Coordinating Council of the Commonwealth of Massachusetts, or to take any other action relative thereto.

### **Recommended by the Selectboard**

## **ARTICLE 24:**

To see if the Town will vote to amend Sections 9.4, 3.1.4 (Table of Use Regulations) and 11 (Definitions) of the Zoning Bylaw as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* These amendments will update the rules for the B-3 zone, which was adopted in 2007 in order to stimulate development at two large, abandoned sites—the former Searles-Bryant school and the Log Homes property—both on Bridge Street.

While well intentioned and aspirational in nature, in fact, the B-3 zone has not served its primary purposes. The current regulations are a set of design controls, open space and affordable housing bonus provisions, and strict parking requirements, all wrapped into a complicated special permit process. The B-3 zone also included several lots on Church and School Street, none of which is large enough to lend itself to the sort of transformative development that the B-3

zone was designed to encourage; unfortunately, the B-3 rules could be used in a way to demolish small existing buildings in order to build new.

Fifteen years since its passage, both of the key campus sites have been partially developed, and permits are in place that would enable more development to be completed. Bryant was saved and reused, and Searles is permitted to be saved and reused as a hotel. Affordable housing was built on the Log Homes site and will be occupied by the time of the 2021 Annual Town Meeting, and riverfront open space has been preserved for public enjoyment on both sides of the River. The forward progress in this zone has come not because of the B-3 zone provisions but despite them.

The Planning Board proposes to update the regulations to clarify the purpose of the zone and significantly streamline the development process

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

*Amend Section 9.4 as follows:*

## **9.4 DOWNTOWN MIXED-USE B3 DISTRICT**

**9.4.1 Purpose.** The Downtown Mixed-Use B3 District is a transitional area between the downtown business core and ~~the~~ residential neighborhoods. It is designed to protect the traditional character of these respective areas ~~and~~ to assist in revitalizing, ~~preserving, and expanding~~ the larger tracts of former industrial land in this area, and to allow parcels to contain a mix of uses, either vertically or horizontally, to promote a variety of housing and business opportunities. ~~character of the traditional downtown core. The district is designed to enhance the downtown by providing a pleasing mix of land uses that work together and result in a lively, prosperous town center, that serves as an attractive place to live, work, shop, and recreate. Mixed uses may occur vertically or horizontally. Development and redevelopment in the district is intended to respect the traditional scale, massing, and character of the downtown.~~ The district is intended to foster the redevelopment of existing buildings or redevelopment that creates a positive pedestrian environment with active pedestrian amenities. Specific objectives of the Downtown Mixed-Use District are to:

1. Allow for different types of compatible land uses close together or in the same building to encourage pedestrian and public transit travel and reduce the use of personal automobiles;
2. Encourage infill and redevelopment of commercial, residential, and mixed-use development while preserving and enhancing the overall character of the district;
3. ~~Allow flexibility in development standards in recognition of the challenge of developing~~ Encourage the development of small scale mixed-use buildings;
4. Encourage shared parking to promote a compact walkable town center, maximize pedestrian safety, and minimize the number of curb cuts.
5. ~~Maintain or increase the supply of affordable dwelling units.~~

**9.4.2 Location.** The Downtown Mixed-Use B-3 District is shown on a map entitled "Proposed B3 District," which is hereby incorporated into the Zoning Bylaw, and includes the following land as shown on the 2006 Great Barrington Assessors' Maps:

|        |                                                                               |
|--------|-------------------------------------------------------------------------------|
| Map 19 | Parcels 118, 119, 120, 121, 127, 128, 130, 135A, 136, 137, 138, 138A, and 139 |
| Map 20 | Parcels 2, 5, 8, 8A, 12, 12A, 13, 14, 15, 16, 17, and 61                      |

**9.4.3 Definitions.** ~~For the purposes of this Section, the terms defined in Section 11, “Downtown Mixed Use B3 District” shall apply.~~

**9.4.43 Permitted Uses.** Permitted uses in the Downtown Mixed-Use B3 District are enumerated in Section 3.1.4, the Table of Use Regulations. The permitted uses are intended to promote multifamily residential uses, mixed uses and compatibility between residential and nonresidential uses.

Projects that incorporate both multifamily residential uses or assisted living facilities with any of the following non-residential uses, where at least 25% of the street-level floor space is utilized for these non-residential uses, shall be considered Mixed Use for this district, and shall be permitted by-right, subject to Site Plan Review, notwithstanding the permissions set forth for any individual use in Section 3.1.4:

- (1) Offices, including medical offices
- (2) Retail stores, including banks, but excluding stores and establishments with drive-through windows
- (3) General service establishments and/or personal service establishments
- (4) Bakeries and/or artisan food or beverage producers
- (5) Restaurants and cafes, indoor or outdoor
- (6) Community, education, or recreational uses, including museums, parks, playgrounds, health clubs and gym/fitness centers
- (7) Municipal buildings and facilities.

**9.4.54 Dimensional Requirements.** Dimensional requirements in the Downtown Mixed-Use B3 District shall be as set forth in Section 4.0. ~~The dimensional requirements reflect the proximity to downtown.~~

- ~~1. The maximum number of dwelling units permitted by right shall be based on a minimum area of 2,500 square feet of land per dwelling unit, except that one two-family dwelling may be permitted on a lot of at least 5,000 square feet. The minimum area of land required per dwelling unit may be reduced through incentives described in this section and granted by special permit.~~

**9.4.6 Open Space.** ~~The Minimum open space required shall be 20% of the total lot area, subject to reduced requirements earned through incentives described in this section and granted by special permit. For the purpose of this section, "open space" shall be defined as yards, playgrounds, walkways and other areas not covered by parking and driveways; such open space need not be accessible to the public.~~

**9.4.75 Parking.** ~~Parking requirements for residential dwelling units shall be one parking space for each unit. No parking space shall reduce the effective width of a driveway providing access to more than one dwelling unit to less than 12 feet. In the event the parking spaces cannot be provided on the property, deviation from this requirement may be permitted in accordance with Section 6.1.9. The off-street parking requirements in Section 6.1 shall not apply in the B-3 District except as provided in this section. Off-street parking requirements in the B-3 District 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 1, 2021) 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.

**9.4.86 Site Plan Review.** ~~All redevelopment and development on a parcel or parcels in excess of 10,000 square feet of land shall be subject to site plan review by the Planning Board. No building permit for such a development shall be issued by the Building Inspector until the Planning Board has conducted site plan review in accordance with Section 10.5.~~

**9.4.97 Special Permit.** ~~Uses indicated in the Table of Use Regulations, and any development or redevelopment in excess of 20,000 square feet of gross floor area, regardless of use, shall require a special permit. A special permit shall be required for any project seeking to use the density or open space incentives defined in this section. The Selectboard SPGA may grant a special permit in accordance with the provisions of Section 10.4.~~

**9.4.10 Development Incentives.** ~~To encourage specific attributes of development beneficial to the Town, the following incentives are offered by special permit.~~

- ~~1. Incentives for mixed use. Due to the proximity of this B3 District to the downtown core, and to promote the public enjoyment of development in this district, the following incentives are offered to promote mixed use, affordable housing, community supporting activities, river appreciation and community open space. Uses may simultaneously qualify for one or more incentives defined in this subsection.~~
- ~~2. Density incentives reduce land area per dwelling unit as set forth in Section 9.4.5. The maximum density incentive is a 50% reduction in required land area per dwelling unit.~~
  - ~~a. Mixed use: for each 1,000 square feet of nonresidential use, reduce the minimum land area required per unit by 1%.~~
  - ~~b. Affordable housing: for each unit of affordable housing reduce the minimum land area required by 5%.~~
  - ~~c. Density incentives are cumulative.~~
- ~~3. Open space incentives reduce total open space requirements as set forth in Section 9.4.7. The maximum open space incentive is a 50% reduction in total open space requirement.~~
  - ~~a. Community supporting activity: for the first use that the SPGA certifies as a legitimate community supporting activity, reduce the minimum open space required per unit by 5%. For additional uses occupying at least 1,000 square feet that the SPGA certifies as a legitimate community supporting activity, reduce the minimum open space required per unit by 5% for each 1,000 square feet. For the purpose of this section, a "community supporting activity" is defined as use or ownership by either a nonprofit organization or an educational or arts organization which provides services to the community.~~
  - ~~b. River appreciation: for a nonresidential use that facilitates the public enjoyment of the riverfront, as determined by the SPGA, reduce the minimum open space required per unit up to 15%.~~
  - ~~c. Community open space: for a nonresidential use that allows permanent public access to open space within the development, as determined by the SPGA, reduce the minimum open space required per unit up to 15%.~~
  - ~~d. Open space incentives are cumulative.~~

**9.4.11 Affordable Housing.** To promote the development of affordable housing units in the Town. All new residential development in this district containing more than four dwelling units shall contribute to affordable housing.

- ~~1. New construction of more than four and fewer than 10 dwelling units shall include either: A contribution to an established Municipal Affordable Housing Trust Fund to be used for the development of affordable housing in accordance with this Section; or construction and offering of at least one affordable unit within the development in accordance with this Section.~~
- ~~2. Any project of 10 or more dwelling units shall designate 10% of the units within the development as affordable units, and includes a contribution to the Municipal Affordable Housing Trust fund for fractional units as defined herein~~

~~The Building Inspector shall not issue a building permit or the SPGA shall deny any application for a special permit for development or redevelopment under this section if the applicant does not comply with the following requirements:~~

- ~~1. For construction of 10 units or any multiple of 10, one of each 10 units shall be an affordable unit. For each unit sold prior to provision of the required affordable housing units, a performance security, in the amount of 3.5% of the sales price of each unit, shall be placed in escrow to be held by the Municipal Affordable Housing Trust Fund. Such contributions to escrow shall be made at time of closing for each unit sold and shall be returned to the developer in proportion to the completion of the affordable housing units. For purposes of this section, "completion" means a certificate of occupancy under the State Building Code has been issued.~~
- ~~2. When the total number of units is not evenly divisible by 10, applicants under this section shall either:
  - ~~a. Construct one additional affordable unit in addition to those required pursuant hereto; or~~
  - ~~b. Contribute, at time of closing, 3.5% of the sales price of each fractional unit to the Municipal Affordable Housing Trust Fund. Fractional units are determined as follows:
    - ~~1. For construction of more than four but less than 10 dwelling units, the number of fractional units is the total number of units.~~
    - ~~2. For construction of more than 10 units or any multiple of 10, the number of fractional units is determined by subtracting the largest multiple of 10 from the total number of units.~~~~~~
- ~~3. Income and asset limits for purchasers or renters: To ensure that only eligible households purchase or rent affordable housing units, the purchaser or renter of an affordable unit shall be required to certify that his/her annual income does not exceed 80% of the area-wide median household income adjusted for household size, as determined by the United States Department of Housing and Urban Development ("HUD") and using HUD's rules for attribution of income to assets, as may be revised from time to time.~~
- ~~4. The maximum housing cost for affordable units created under this section shall be as set forth in the Local Initiative Program Guidelines of the Massachusetts Department of Housing and Community Development ("DHCD"), dated November 2006, or as subsequently amended.~~
- ~~5. Preservation of affordability. Each affordable unit created in accordance with this section shall have limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for low- and moderate-income households.~~
- ~~6. The developer or redeveloper of any project under this section shall execute and properly record a LIP Regulatory Agreement and Deed Rider in the form required under the Local Initiative Program Guidelines;~~

which constitute "affordable housing restrictions" as defined in G.L. c. 184, s. 31, and provide for affordability in perpetuity.

7. The purchaser of any affordable unit under this section shall execute and properly record an Affordable Housing Deed Rider for Projects in Which Affordability Restrictions Survive Foreclosure, or as it may be subsequently amended, in the form used for so-called Local Action Unit (LAU) homeownership projects under the regulations of the DHCD. This deed rider establishes the formulas for maximum resale price, and provides an option to purchase to the municipality if an eligible purchaser cannot be found.

**9.4.12 Affordable Housing; Specific Requirements.** The purpose of this subsection is to provide for the development of affordable units in compliance with various initiative programs developed by state and local government. This subsection does not apply to construction of four or fewer dwelling units on the same lot. Provided that there are more than four dwelling units in a development subject to this Section, at least 10% of the units shall be established as affordable units:

1. Affordable housing units shall be constructed and made available for occupancy coincident with and in proportion to the development of market-rate units.

2. All affordable units shall be situated within the development in no less desirable locations than market-rate units in the development;

3. All affordable units shall be no less accessible to public amenities, such as open space, than the market-rate units;

4. All affordable units shall be integrated with the rest of the development;

5. All affordable units shall be compatible in design, appearance, construction and quality of materials with other units; interior features of affordable units shall comply in all respects to the minimum design and construction standards set forth in Section III of the Local Initiative Program Guidelines cited below.

**9.4.13 Affordable Housing Units; Marketing Plan.** Applicants under this section shall submit a marketing plan to the Building Inspector or SPGA for approval, which describes how the affordable units will be marketed to potential home buyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants and shall comply with all applicable provisions of state law regarding marketing of, and tenants or buyer selection for, affordable units.

1. Local preference shall be given to the maximum extent permitted by law.

*Amend the Column for the B3 district in Section 3.1.4, Table of Use Regulations, as follows:*

| Permitted Use       |                                       | ZONING DISTRICT |
|---------------------|---------------------------------------|-----------------|
|                     |                                       | B3              |
| A. Residential uses |                                       |                 |
| (1)                 | Dwelling, Single family               | Y               |
| (2)                 | Dwelling, Two-family                  | Y <sup>2</sup>  |
| (3)                 | Dwelling, multifamily<br>3 to 8 units | Y               |

| Permitted Use                                             |                                                                                                                                                                          | ZONING DISTRICT  |
|-----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
|                                                           |                                                                                                                                                                          | B3               |
|                                                           | 9 units or more                                                                                                                                                          | Y                |
| (4)                                                       | Assisted living residence                                                                                                                                                | <del>PB</del> -Y |
| (5)                                                       | Live/work units                                                                                                                                                          | Y                |
| (6)                                                       | Lodging house or tourist home for transient guests                                                                                                                       | SB               |
| (7)                                                       | Mixed use                                                                                                                                                                | <del>SB</del> Y  |
| (8)                                                       | Open Space Residential Development                                                                                                                                       | N                |
| (9)                                                       | Planned unit residential development (PURD)                                                                                                                              | SB               |
| (10)                                                      | Publicly Financed Nonprofit Age-Restricted Housing                                                                                                                       | <del>SB</del> -Y |
| (11)                                                      | Trailer or mobile home                                                                                                                                                   | N                |
| <b>B. Community, educational, &amp; recreational uses</b> |                                                                                                                                                                          |                  |
| (1)                                                       | Camping facilities                                                                                                                                                       | N                |
| (2)                                                       | Cemeteries                                                                                                                                                               | N                |
| (3)                                                       | Child care center                                                                                                                                                        | Y                |
| (4)                                                       | Clubhouses or fraternal lodges not conducted for profit                                                                                                                  | SB               |
| (5)                                                       | Commercial amusements, fairgrounds                                                                                                                                       | N                |
| (6)                                                       | Community center operated by a municipal or private not-for-profit organization                                                                                          | SB               |
| (7)                                                       | Educational use, exempt                                                                                                                                                  | Y                |
| (8)                                                       | Educational use, nonexempt                                                                                                                                               | SB               |
| (9)                                                       | Golf or country clubs                                                                                                                                                    | N                |
| (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 | SB               |
| (11)                                                      | Municipal parks and playgrounds, including recreational buildings therein                                                                                                | Y                |
| (12)                                                      | Public libraries, public museums, municipal buildings and facilities                                                                                                     | Y                |
| (13)                                                      | Riding stables on less than 5 acres, provided that any buildings                                                                                                         | N                |

| Permitted Use                                                |                                                                                                                                                                                        | ZONING DISTRICT |
|--------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
|                                                              |                                                                                                                                                                                        | B3              |
|                                                              | or structures are set back not less than 50 feet from any lot line                                                                                                                     |                 |
| (14)                                                         | Ski tows, provided that any buildings or structures are set back not less than 50 feet from any lot line                                                                               | N               |
| (15)                                                         | Summer camps operated for children on sites not less than 10 acres in area                                                                                                             | N               |
| (16)                                                         | Use of land or structures for religious purposes                                                                                                                                       | Y               |
| <b>C. Office, retail and consumer service establishments</b> |                                                                                                                                                                                        |                 |
| (1)                                                          | Banks and other financial institutions                                                                                                                                                 | Y               |
| (2)                                                          | Fast-food eating establishments                                                                                                                                                        | N               |
| (3)                                                          | Fuel storage and sales, excluding motor vehicle fuel stations                                                                                                                          | N               |
| (4)                                                          | Garages, public                                                                                                                                                                        | SB              |
| (5)                                                          | Garden centers, including associated landscaping services                                                                                                                              | Y               |
| (6)                                                          | General service establishment                                                                                                                                                          | SB              |
| (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                                  | Y               |
| (8)                                                          | Hotels                                                                                                                                                                                 | SB              |
| (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 | SB              |
| (10)                                                         | Kennel                                                                                                                                                                                 | SB              |
| (11)                                                         | Large-scale commercial development                                                                                                                                                     | <del>SB</del> N |
| (12)                                                         | Lumberyards                                                                                                                                                                            | <del>SB</del> N |
| (13)                                                         | Marijuana Establishment, Retail and Medical Marijuana Treatment Center                                                                                                                 | Y               |
|                                                              | Marijuana Establishment, Cultivation *                                                                                                                                                 | N               |

| Permitted Use                                         |                                                                                                                                                                                                                                                                                                                                            | ZONING DISTRICT |
|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
|                                                       |                                                                                                                                                                                                                                                                                                                                            | B3              |
|                                                       | Marijuana Establishment, Manufacturing                                                                                                                                                                                                                                                                                                     | SB              |
| (14)                                                  | Motels or overnight cabins                                                                                                                                                                                                                                                                                                                 | SB              |
| (15)                                                  | Motor vehicle fuel station                                                                                                                                                                                                                                                                                                                 | N               |
| (16)                                                  | Motor vehicle general and body repair                                                                                                                                                                                                                                                                                                      | N               |
| (17)                                                  | Motor vehicle sales rooms including used car lots                                                                                                                                                                                                                                                                                          | N               |
| (18)                                                  | Offices                                                                                                                                                                                                                                                                                                                                    | Y               |
| (19)                                                  | Parking lots, commercial                                                                                                                                                                                                                                                                                                                   | SB              |
| (20)                                                  | Personal service establishment                                                                                                                                                                                                                                                                                                             | Y               |
| (21)                                                  | Professional offices                                                                                                                                                                                                                                                                                                                       | Y               |
| (22)                                                  | Restaurants and other places for serving food, other than fast-food eating establishments                                                                                                                                                                                                                                                  | SB              |
| (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                                                                                                                                                                                                       | Y               |
| (24)                                                  | Retail stores and shops for custom work or making of articles sold on the premises                                                                                                                                                                                                                                                         | Y               |
| <b>D. Agricultural uses</b>                           |                                                                                                                                                                                                                                                                                                                                            |                 |
| (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               |
| <b>E. Utilities, communication and transportation</b> |                                                                                                                                                                                                                                                                                                                                            |                 |
| (1)                                                   | Aviation field, public or private                                                                                                                                                                                                                                                                                                          | N               |
| (2)                                                   | Essential services                                                                                                                                                                                                                                                                                                                         | Y               |
| (3)                                                   | Freight terminals, truck or rail                                                                                                                                                                                                                                                                                                           | N               |
| (4)                                                   | Low-power FM broadcast radio licensed by FCC                                                                                                                                                                                                                                                                                               |                 |
|                                                       | a Y                                                                                                                                                                                                                                                                                                                                        |                 |

| Permitted Use                                        |                                                                                                                                                                                                                                            | ZONING DISTRICT |
|------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
|                                                      |                                                                                                                                                                                                                                            | B3              |
|                                                      | b SB                                                                                                                                                                                                                                       |                 |
| (5)                                                  | Passenger stations                                                                                                                                                                                                                         | 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) |                 |
| (7)                                                  | Solar Energy Systems:                                                                                                                                                                                                                      |                 |
|                                                      | Roof-mounted (any size)                                                                                                                                                                                                                    | Y               |
|                                                      | Accessory use, up to 750 sf project area <sup>6</sup>                                                                                                                                                                                      | Y               |
|                                                      | Accessory use 750 sf project area or larger <sup>6</sup>                                                                                                                                                                                   | Y               |
|                                                      | Commercial scale                                                                                                                                                                                                                           | PB              |
| <b>F. Industrial, manufacturing and storage uses</b> |                                                                                                                                                                                                                                            |                 |
| (1)                                                  | Contractor's and Landscaper's yards                                                                                                                                                                                                        | N               |
| (2)                                                  | Gravel, loam, sand and stone removal for commercial purposes                                                                                                                                                                               | N               |
| (3)                                                  | Light manufacturing                                                                                                                                                                                                                        | SB              |
| (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               |
| <b>G Accessory uses</b>                              |                                                                                                                                                                                                                                            |                 |
| (1)                                                  | Any structure or use customarily incidental and subordinate to the principal permitted use in the district                                                                                                                                 | Y               |
| (2)                                                  | Accessory Dwelling Unit                                                                                                                                                                                                                    | Y               |
| (3)                                                  | Home occupation (low impact)                                                                                                                                                                                                               | Y               |
| (4)                                                  | Adult day care                                                                                                                                                                                                                             | PB              |
| (5)                                                  | An accessory use to a by-right use, whether or not on the same parcel, which is necessary in conjunction with scientific                                                                                                                   | SB              |

| Permitted Use |                                                                                                                                                                                                                                     | ZONING DISTRICT  |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
|               |                                                                                                                                                                                                                                     | B3               |
|               | research or development or related production, provided that the SPGA finds that the proposed accessory use does not substantially derogate from the public good                                                                    |                  |
| (6)           | Drive-up or drive-through facilities                                                                                                                                                                                                | SB               |
| (7)           | Family day care (small)                                                                                                                                                                                                             | <del>SB</del> -Y |
| (8)           | Family day care (large)                                                                                                                                                                                                             | SB               |
| (9)           | Home occupation (moderate impact)                                                                                                                                                                                                   | SB               |
| (10)          | Incidental stripping of sod or removal of topsoil, gravel, loam, sand, stone or other earth materials                                                                                                                               | Y                |
| (11)          | Keeping of horses, for whatever purpose, subject to Board of Health regulations and only on lots of 5 acres or more                                                                                                                 | Y                |
| (12)          | Private garage or off-street parking for private automobiles registered at the premises                                                                                                                                             | Y                |
| (13)          | Swimming pools, inground or aboveground. Pool must be equipped with safety covers, alarms, fencing, or other means of protection as required by the Building Code, so designed and built to restrain entry by unauthorized persons. | <del>SB</del> -Y |
| (14)          | Wind Energy Generator                                                                                                                                                                                                               | SB               |

*Amend Section 11, Definitions, by deleting the following*

**~~DOWNTOWN B3 MIXED USE DISTRICT:~~** The following definitions apply in the Downtown Mixed Use B3 District:

**~~AFFORDABLE UNITS:~~** Housing units that are affordable to and occupied by individuals and families whose annual income is less than 80% of the area-wide median income as determined by HUD, adjusted for household size and using HUD's rules for attribution of income to assets. Affordability shall be assured in perpetuity through the use of an affordable housing restriction as defined in G.L. c. 184, s. 31. Affordable units shall 1) meet the standards set out in 760 CMR 45.03, Local Action Units, as set forth in 760 CMR 45.00, Local Initiative Program, and further described in the DHCD's Local Initiative Program Guidelines, dated November 2006, or as subsequently amended; or 2) be created as affordable units within an approved MGL c. 40B Comprehensive

~~Permit application. Such units shall be created and restricted so as to be eligible for inclusion, as low or moderate income units, on the Town's Subsidized Housing Inventory as maintained by the DHCD.~~

~~**COMMUNITY SUPPORTING ACTIVITY:** Activity sponsored by a nonprofit or educational or arts organization that provides services to members of the community either directly (for example, by providing medical services at a reduced cost) or through programs available to community members (for example, by offering theater programs, or classes in which community members may participate).~~

~~**MUNICIPAL AFFORDABLE HOUSING TRUST FUND:** A trust fund established by the Town in accordance with G.L. c. 44, s.55C for the specific purpose of providing for the creation and preservation of affordable housing in the Town for the benefit of low and moderate income households.~~

~~**QUALIFIED PURCHASER:** An individual or family with household income that does not exceed 80% of the area median income, with adjustments for household size, as reported by HUD and the DHCD's Local Initiative Program.~~

~~**QUALIFIED TENANT:** An individual or family with household income that does not exceed 60% of the area median income, with adjustments for household size, as reported by HUD and the DHCD's Local Initiative Program.~~

## Recommended by the Planning Board

### ARTICLE 25:

We the undersigned submit this citizen's petition to the voters of the Town of Great Barrington:

To see if the Town will vote to amend sections 7.18.4 and 7.18.5 of the Great Barrington Zoning bylaw 7.18 Marijuana Establishments and Medical Marijuana Treatment Centers and modify section 3.1.4 Table of Uses accordingly or to take any other action relative thereto.

Purpose of the Amendment: The undersigned propose this amendment in response to the concerns expressed by some residents in numerous public meetings and forums as to the negative impacts of marijuana businesses in our community, particularly those located or proposed to be located in or near our residential neighborhoods. Our Master Plan states, "Great Barrington's vision includes protecting and enhancing our compact village centers, historic treasures, natural resources, farms, and open spaces, all of which contribute to Great Barrington's distinctive character. Our goals include directing development and growth into village centers, supporting existing residential neighborhoods, and ensuring that new developments in resource areas are sited and build it in a way that sustains our rural countryside and agricultural areas."

The Master Plan further states, "Residents expect and deserve quiet neighborhoods free from odor, glare, noise and other impacts of commercial activity. Proper buffering and design standards can help ensure business remains healthy and residential property values remain stable, while still encouraging concentration of development in the core areas." The undersigned bring forward the below changes to Zoning by law 7.18 in an effort to better align this bylaw and the Table of Uses with the goals and objectives of the Master Plan.

Proposed deletions of existing text are ~~struck through~~.

Proposed insertions are underlined.

*1. Amend Portions of Section 7.18.4 as follows:*

**7.18.4. Locational requirements.** Marijuana establishments may be located in accordance with Section 3.1.4, Table of Use Regulations, except as follows:

1. No marijuana establishment or medical marijuana treatment center may be located closer than ~~200~~ 500 feet from a preexisting public or private school providing education in Kindergarten or any of Grades 1 through 12 child care facility, including preschools and daycare centers, or any facility in which children commonly congregate, including, but not limited to, a public library, a playground or park, and athletic field or recreational facility, a place of worship, or a town-owned beach.
2. The distance in paragraph 1 is to be measured in a straight line from the nearest point of the property line of the proposed marijuana establishment or medical marijuana treatment center and the nearest point of the property line of the protected uses stated above in paragraph 1.
3. The Selectboard may, by special permit pursuant to Section 10.4, authorize a deviation from this distance requirement if it finds the marijuana establishment or medical marijuana treatment center will not be detrimental to a protected use.
4. No Marijuana Establishment of Medical Establishment of Medical Marijuana Treatment Center will be allowed in any Residential District as described in Section 2.0 of the Zoning Bylaws.
4. 5. Other types of marijuana establishments licensed by the Massachusetts Cannabis Control Commission may be permitted in accordance with the appropriate use category in the Table of Use Regulations.

*2. Amend portions of Section 7.18.5 as follows:*

**7.18.5. Physical Requirements.** In addition to pertinent requirements of implementing regulations of the Massachusetts Cannabis Control Commission. Marijuana establishments and medical marijuana treatment centers shall comply with the following:

1. All aspects of a marijuana establishment or medical marijuana treatment center relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, marijuana accessories, related supplies, or educational materials shall take place at a fixed location within a fully enclosed building or fenced area dedicated to the cultivation of marijuana and shall not be visible from the exterior of the business.
2. No unprotected storage of marijuana, related supplies, or educational materials is permitted.
3. No use shall be allowed by a Marijuana Establishment of Medical Marijuana Treatment Center which creates a nuisance to abutters or the surrounding area, or which creates any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the surrounding area.
4. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of a Marijuana Establishment or Medical Marijuana Treatment Center or at any adjoining use of property.
5. No noise from the establishment of its operations, including but not limited to ventilation, can be detected by a person with unimpaired and otherwise normal hearing at the exterior of a Marijuana Establishment of Medical Marijuana Treatment Center or at any adjoining use or property.”
6. Marijuana Establishments or Medical Marijuana Treatment Centers with grow operations in a translucent building shall not illuminate grow operations between dusk and dawn.
3. 7. Marijuana not grown inside a securable structure shall be enclosed within a six-foot fence, and inasmuch as possible the plants shall be screened from view, at grade, from a public way or from a protected use.
- 4 8. No outdoor cultivation of marijuana shall be allowed within ~~fifty (50)~~ two hundred (200) feet of any property line.
9. No outdoor home cultivation of marijuana shall be allowed within (50) feet of any property line.

**ARTICLE 26:** (by Petition)

To forestall the chance that irreparable and irreversible harm be done to Town neighborhoods in which Special Permits for development may be awarded in possible error, we the undersigned ask that the Town put to a vote at a suitable time and place the following Bylaw Amendment:

A Town Bylaw Amendment to limit the role of unsubstantiated opinion as a factor in the award of Special Permits by the the Town Planning Board

"1. In voting on whether to grant Special Permits to development and/or business interests the members of the Planning Board in its capacity as sole Special Permit awarding authority must address abutters' specific quality of life concerns by reference to strict criteria and without recourse to vague, qualitative language elsewhere in the Bylaws which allow unsubstantiated claims as to the benign effect of a development on a neighborhood, to wit: claims by a developer that (A) a development 'will not be more detrimental than a previous use'; (B) as a standard for judging effects of increased traffic at a property proposed for a development (or change of use) words to the effect that 'proposed traffic will not be severely impacted by the [new] use'; (C) language currently in the bylaws and related to a development's proposed parking arrangement meet stringent standards (eg that a provision for not less than 1.5 parking slots per unit in a residential development be stipulated as a condition of award), standards moreover which realistically reflect the likelihood of the scale of vehicle ownership by tenants and users; (D) credible provision by the developer for such adequate parking specifically be made on published plans and in writing; (E) claims by a developer that a development is 'consistent with the neighborhood character' be deprioritized as a basis for awarding a Special Permit and replaced by a provision which requires the Planning Board to ascertain a 'neighborhood's character' before accepting assurances about what is, or is not, actually being changed, by whom and how much. To the extent that unsubstantiated claims by developers or their counsel or personnel on the basis of these above captioned Bylaw references occur they shall henceforth be adjudged inadequate as a standard for the award of Special Permits.

"2. The above-referenced 'strict criteria' for awarding Special Permits shall be the subject of review by the Selectboard as a basis for establishing public, Town-wide criteria for allowing fair and consistent Town development in which the views of all parties have equal weight in the outcomes that result from the award of Special Permits."

**ARTICLES FOR ADJOURNED SESSION**  
**OF SEPTEMBER 15, 2020 SPECIAL TOWN MEETING**  
**(Numbered as appearing in the Warrant for that Meeting)**

**ARTICLE 26:** (by petition)

To ask Town residents to vote to amend Zoning Bylaw §9.11 as set forth below, and to amend the Zoning Map accordingly:

*1. Amend a portion of Section 9.11, Mixed Use Traditional Zone (MXD) as follows:*

**9.11.2 Location.** The MXD shall consist of the land shown on the ~~2015~~ 2016 Town of Great Barrington Assessors' Map 22 as Parcels 2, 3A, ~~4-13~~ 4-6, ~~18-63~~ 63, ~~66-88~~ 66-72, 81-88, 88A and on Map 25 as Parcels 1-4.

*2. Amend the Zoning Map by placing the following parcels in a R3 zone, as follows: the land shown on the 2016 Town of Great Barrington Assessors' Map 22 as Parcels 7-13, 18-62, 73-80.*

Purpose of the Amendment: At the 2016 Annual Town Meeting the Town Planning Board put through a proposal that created the MXD zone. The stated purpose of the 2016 proposal cites "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 MXD zone does not accomplish its stated purposes. It joins together two drastically different neighborhoods: the Mahaiwe Triangle (mostly residential parcels on Pope, Mahaiwe and Manville Streets, and 14 residential parcels along nearby Main Street) with commercial parcels west of Maple Avenue and south of Manville Street. The Mahaiwe Triangle is not a commercial area; it consists

of one-family residences 60-120 years old with a smattering of houses legally converted into two-family and professional space.

As two separate pending lawsuits are demonstrating, this MXD zone has created a loophole by which land developers are acting without any effective zoning regulations. By examining the Table of Use Regulations in Zoning Bylaw §4.1.2, it is appropriate to place the Mahaiwe Triangle in a R3 Zone.

|     | Min lot | Width | Front | Side | Rear | Bldg % | Story | Height |
|-----|---------|-------|-------|------|------|--------|-------|--------|
| R3  | 5000    | 50    | 25    | 10   | 30   | 25     | 2.5   | 35     |
| B2  | 43,560  | 50    | 50    | 20   | 30   | 25-40  | 2.5   | 35     |
| MXD | 5000    | 50    | 15    | 10   | 10   | 75     | 3.5   | 40     |

**ARTICLE 27:**(by Petition)

We the undersigned, seek a zoning change to the i2 zoning district.

Under use regulations 3.0c section 13(marijuana establishment and Manufacturing) in the i2 Zone. The current zoning is listed as a no. We would ask the planning board to change this to a SB zone.

**ARTICLE 28:**(by Petition)

We the undersigned submit this citizen's petition to the voters of the Town of Great Barrington:

To see if the Town will vote to amend sections 7.18.4 and 7.18.5 of the Great Barrington Zoning bylaw 7.18 Marijuana Establishments and Medical Marijuana Treatment Centers and modify section 3.1.4 Table of Uses accordingly or to take any other action relative thereto.

Purpose of the Amendment: The undersigned propose this amendment in response to the concerns expressed by some residents in numerous public meetings and forums as to the negative impacts of marijuana businesses in our community, particularly those located or proposed to be located in or near our residential neighborhoods. Our Master Plan states, "Great Barrington's vision includes protecting and enhancing our compact village centers, historic treasures, natural resources, farms, and open spaces, all of which contribute to Great Barrington's distinctive character. Our goals include directing development and growth into village centers, supporting existing residential neighborhoods, and ensuring that new developments in resource areas are sited and build it in a way that sustains our rural countryside and agricultural areas."

The Master Plan further states, "Residents expect and deserve quiet neighborhoods free from odor, glare, noise and other impacts of commercial activity. Proper buffering and design standards can help ensure business remains healthy and residential property values remain stable, while still encouraging concentration of development in the core areas." The undersigned bring forward the below changes to Zoning by law 7.18 in an effort to better align this bylaw and the Table of Uses with the goals and objectives of the Master Plan.

Proposed deletions of existing text are ~~struck through~~.

Proposed insertions are underlined.

*1. Amend Portions of Section 7.18.4 as follows:*

**7.18.4. Locational requirements.** Marijuana establishments may be located in accordance with Section 3.1.4, Table of Use Regulations, except as follows:

1. No marijuana establishment or medical marijuana treatment center may be located closer than ~~200~~ 500 feet from a preexisting public or private school providing education in Kindergarten or any of Grades 1 through 12 child care facility, including preschools and daycare centers, or any facility in which children commonly congregate, including, but not

limited to, a public library, a playground or park, and athletic field or recreational facility, a place of worship, or a town-owned beach.

2. The distance in paragraph 1 is to be measured in a straight line from the nearest point of the property line of the proposed marijuana establishment or medical marijuana treatment center and the nearest point of the property line of the protected uses stated above in paragraph 1.

3. The Selectboard may, by special permit pursuant to Section 10.4, authorize a deviation from this distance requirement if it finds the marijuana establishment or medical marijuana treatment center will not be detrimental to a protected use.

4. No Marijuana Establishment of Medical Establishment of Medical Marijuana Treatment Center will be allowed in any Residential District as described in Section 2.0 of the Zoning Bylaws.

4. 5. Other types of marijuana establishments licensed by the Massachusetts Cannabis Control Commission may be permitted in accordance with the appropriate use category in the Table of Use Regulations.

*2. Amend portions of Section 7.18.5 as follows:*

**7.18.5. Physical Requirements.** In addition to pertinent requirements of implementing regulations of the Massachusetts Cannabis Control Commission. Marijuana establishments and medical marijuana treatment centers shall comply with the following:

1. All aspects of a marijuana establishment or medical marijuana treatment center relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, marijuana accessories, related supplies, or educational materials shall take place at a fixed location within a fully enclosed building or fenced area dedicated to the cultivation of marijuana and shall not be visible from the exterior of the business.

2. No unprotected storage of marijuana, related supplies, or educational materials is permitted.

3. No use shall be allowed by a Marijuana Establishment of Medical Marijuana Treatment Center which creates a nuisance to abutters or the surrounding area, or which creates any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the rea.

4. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of a Marijuana Establishment or Medical Marijuana Treatment Center or at any adjoining use of property.

5.No noise from the establishment of its operations, including but not limited to ventilation, can be detected by a person with unimpaired and otherwise normal hearing at the exterior of a Marijuana Establishment of Medical Marijuana Treatment Center or at any adjoining use or property.”

6. Marijuana Establishments or Medical Marijuana Treatment Centers with grow operations in a translucent building shall not illuminate grow operations between dusk and dawn.

3. 7. Marijuana not grown inside a securable structure shall be enclosed within a six-foot fence, and inasmuch as possible the plants shall be screened from view, at grade, from a public way or from a protected use.

4 8. No outdoor cultivation of marijuana shall be allowed within ~~fifty (50)~~ two hundred (200) feet of any property line.

#### **ARTICLE 29:** (by petition)

To see if the residents of this Town will vote to amend Chapter 241 of the Town Code, Division 3 Miscellaneous Rules and Regulations, as set forth below:

*Amend Section 241-1 **Placement on Agenda**, as follows:*

Every Great Barrington committee or board, whether appointed or elected, shall place on their agenda of public meetings an item for citizen speak time. Except for procedural and housekeeping matters, Town residents shall have the right to

address a Board on any item that requires a vote at a time before a Board votes on that item. Such residents will be allowed as much time as the proponent of an item is permitted to have.

*Purpose of the Amendment:* Under current law and procedure, residents have the right to speak at a public hearing or on a special permit or during Citizen Speak at the end of the evening's meeting or when recognized by the Chair of a Board. There are often items on the agenda of a public meeting for which a Board will have a discussion and vote. Each Board allows the proponent of an item to present its proposal and to present evidence and testimony relative to such proposal. During and after such presentation, a Board may ask questions of the proponent. Rarely does a Board allow residents the right to speak at that time, before a vote on the item. Residents may speak as of right during the Citizen Speak portion at the end of a meeting. But this may be of little consequence to the merits of a proposal as a vote has already been taken. There are often meetings where a Board member may commend a resident on their comment and how the comment was relevant to the proposal. Unfortunately, the vote had already been taken.

This amendment will give residents the right to speak on a particular item at a time when the discussion of an item is still a viable matter. That is, the right to speak and offer comment on matters that affect them, before a Board has voted. In this way, a Board will have the benefit of hearing more than one side of an issue, not just the proponent but also those affected by such proposal. A Board must listen to more than just the proponent of a proposal.

**ARTICLE 30:** (by petition)

To see if the residents of this Town will vote to amend Chapter 189 of the Town Code, Division 2 Selectmen's Regulations, as set forth below:

*Amend Section 189-1 Meetings, subdivision C, paragraph (4), as follows*

(4) Although the press and the public have the right to be present at any open meeting, they have no right to participate unless they are recognized by the Chairman. Except for procedural and housekeeping matters, Town residents shall have the right to address the Board on any item that requires a vote at a time before the Select Board votes on that item. Such residents will be allowed as much time as the proponent of an item is permitted to have.

*Purpose of the Amendment:* Under current law and procedure, residents have the right to speak at a public hearing or on a special permit or during Citizen Speak at the end of an evening's meeting or when recognized by the Chair of the Select Board. There are often items on the agenda of a public meeting for which the Select Board will have a discussion and vote. The Select Board allows the proponent of an item to present its proposal and to present evidence and testimony relative to such proposal. During and after such presentation, the Select Board may ask questions of the proponent. Rarely does the Select Board allow residents the right to speak at that time, before a vote on the item. Residents may speak as of right during the Citizen Speak portion at the end of a meeting. But this may be of little consequence to the merits of a proposal as a vote has already been taken. As an example there was a recent meeting where a Board member commended the resident on their commitment and how the comment was relevant to the proposal. Unfortunately, the vote has already been taken.

This Amendment will give residents the right to speak on a particular item at a time when the discussion of an item is still a viable matter. That is, the right to speak and offer comment on matters that affect them, before the Board has voted. In this way, the Board will have the benefit of hearing more than one side of an issue, not just the proponent but also those affected by such proposal. The Board must listen to more than just the proponent of a proposal.

**ARTICLE 31:** (by petition)

**Resolution to Prohibit Hazardous and Toxic Waste Storage, Disposal, or Dumping in Great Barrington MA**

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

Whereas the storage and disposal of hazardous and toxic waste, including PCB's from a variety of sources to include the "Rest of River" cleanup by GE is deleterious to the health of all life;

Whereas the storage and disposal of such waste is antithetical to the Food Sovereignty and Pollinator Friendly resolutions as adopted by the Town of Great Barrington;

Whereas we have sovereign rights as promulgated and protected under the Constitution of the United States of America, among them Life, Liberty and the Pursuit of Happiness. Without our health, healthy water, land and air, we are denied those inalienable rights;

Therefore, we, the citizens of the Town of Great Barrington, do here by adopt this resolution that prohibits the disposal, dumping or storage of hazardous and toxic waste from any source on the land or in the water in the Town of Great Barrington (including Housatonic) under any circumstances to ensure our rights and the rights of future generations to a healthy life.

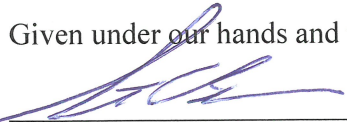
**ARTICLE 32:** (by petition)

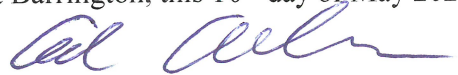
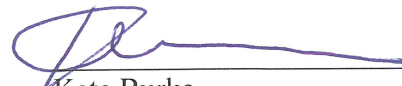
We sign this petition to close down and outlaw all privately owned "prisons-for-profit" state-wide in MA. These institutions are literally ruining the lives of countless inmates (and their loved ones), whereas properly run and supported State correctional facilities do help rehabilitate people giving them hope in the present, and futures they can look forward to, namely, the chance to contribute to society and live more and more meaningful lives for themselves and others.



**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 10<sup>th</sup> day of May 2021.

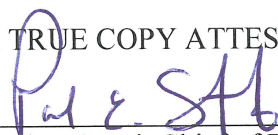
  
Stephen C. Bannon, Chair

  
Edward D. Abrahams  
  
Kate Burke

  
Bill Cooke  
  
Leigh S. Davis

**Selectboard of the Town of Great Barrington**

A TRUE COPY ATTEST:

  
Paul E. Storti, Chief of Police  
Town of Great Barrington

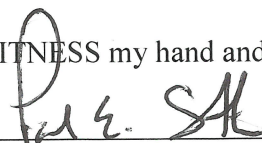
COMMONWEALTH OF MASSACHUSETTS

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 10<sup>th</sup> day of May 2021.

  
Paul E. Storti, Chief of Police  
Town of Great Barrington