

**TOWN OF GREAT BARRINGTON  
TOWN MEETING  
AT MONUMENT MOUNTAIN REGIONAL HIGH SCHOOL  
PARKING LOT (OUTSIDE MEETING)  
600 STOCKBRIDGE ROAD  
JUNE 6, 2022 AT 6:00 PM  
MINUTES**

In pursuance of the foregoing warrant the inhabitants of the Town of Great Barrington qualified to vote in Town Meetings proceeded to vote at the above named meeting place with the following results. The meeting was duly called to order at 6:08 P.M. by Moderator Michael Wise who welcomed everyone to the Town Meeting. He noted that he hoped to conclude all business this evening. Mr. Wise stated that there was a quorum present and noted the return and service of the warrant. He announced that the meeting is being taped for broadcast at a later date and any use of social media during the meeting is prohibited. He also asked that cell phones be shut off as well. Mr. Wise requested that everyone stand and join him in the Pledge of Allegiance.

The rules of the meeting were explained by Mr. Wise. The meeting will be governed by the Massachusetts General Laws, the Bylaws of the Town of Great Barrington and Town Meeting Time. Only registered voters of the town may participate in the meeting unless permission is granted by the moderator. Before anyone addresses the Town Meeting, he/she must proceed to the microphone and when recognized by the moderator state their name and address. Mr. Wise requested that voters speak only once per motion and limit their comments to three minutes. Comments should be limited to the merits of the motion and should not be repeated. All motions and amendments must be made in writing and any motion to reconsider must be made within 15 minutes of the announced vote. All questions are to be addressed to the moderator who will ask the appropriate person to respond. Each voter has received a warrant, a neon pink card and a packet of yes/no cards. Mr. Wise will instruct voters when these are to be used and what color to use if needed. He noted that a counter has been assigned to each section of the parking lot and they will report their numbers at the microphone when ready.

Selectboard member Leigh Davis read the following Official Land Acknowledgement: "As we gather this evening for our annual town meeting, where we will decide upon the future direction of our community, it is important that we also look to, and learn from, the lessons of the past. We want to acknowledge that we gathered on the traditional lands of the Mohican People, and honor with gratitude the land itself and the people who have stewarded it throughout the generations. We commit to continuing to learn how to become better caretakers of the land we inhabit, to understand the history and traditions of those who cared for it before us, and to learn from the successes and failures of preceding generations, in the pursuit of a more just, equal, Great Barrington."

Mr. Wise introduced the Town Officials seated on the stage; Town Clerk Jennifer Messina, Town Counsel David Doneski, Finance Director Susan Carmel, Assistant Town

Manager/ Town Planner Christopher Rembold and Town Manager Mark Pruhenski. He also announced the Selectboard and Finance Committee members were also seated on each side of the stage.

A motion was made by Mr. Wise, seconded by Stephen Bannon to dispense with the reading of the warrant.

**VOTED AT 6:18 PM**

Mr. Wise introduced Town Manager Mark Pruhenski who went through the Financial Overview handout of the budget.

**ARTICLE 1:** (majority)

On a motion by Philip Orenstein and seconded by Stephen Bannon, that the Town set the FY2023 spending limits for Town revolving funds as set forth in the Warrant, namely, Plumbing Inspections \$20,000, Wiring Inspections \$60,000, Gas Inspections \$15,000, Cemetery \$5,000 and Council on Aging Transportation \$40,000.

Town Accountant Susan Carmel spoke on this article.

**VOTED AT 6:28 PM**

**ARTICLE 2:** (majority)

On a motion by Anne O'Dwyer and seconded by Leigh Davis, that the Town fix the salaries of all elected officials for the period of July 1, 2022 to June 30, 2023 as indicated below:

Elected Officials' Salaries:

Selectboard: \$24,500 (\$4,900 per Selectboard member)

Town Manager Mark Pruhenski spoke on this article.

**VOTED AT 6:29 PM**

**ARTICLE 3:** (majority)

On a motion by Philip Orenstein and seconded by Stephen Bannon, that the Town 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.

**VOTED AT 6:30 PM**

**ARTICLE 4:** (majority)

On a motion by Anne O'Dwyer and seconded by Stephen Bannon, that the Town raise and appropriate such sums of money necessary for the operation of departments in the Town for the ensuing fiscal year for the purposes outlined below.

**General Government**

Town Manager/Selectboard	\$ 435,555
Finance Committee/Reserve Fund	117,800
Town Accountant	159,880
Technology	274,000
Assessors' Office	187,645
Treasurer/Collector	230,860
Human Resources	19,509
Town Clerk/Elections	150,657
Conservation Commission	31,245
Planning Board	5,450
Zoning Board of Appeals	1,300
Office of Planning/Community Development	146,905

**Public Safety**

Police Department	1,866,875
Fire Department	723,795
Communications/Emergency Management	19,790
Building Inspector	183,665
Animal Control	12,200

**Department of Public Works**

Buildings and Grounds	804,340
Highway	1,861,433

**Cultural/Recreation/Human Services**

Health Department	125,295
Human Services	35,000
Council on Aging	164,431
Veterans' Affairs	147,935
Libraries	586,040
Parks & Recreation	122,000
Various Boards/Commissions	15,500

**Miscellaneous**

Insurance	1,876,000
Debt Service	2,304,328
Retirement	1,051,805
Celebrations & Events	<u>15,000</u>

**Total General Fund Budget**

**\$ 13,676,238**

The Moderator stated he would go line by line and if asked for the voters to call out hold. There were holds on three (3) lines which are listed below. The Moderator stated that since there was no discussion or holds on the remaining twenty seven (27) lines, that a vote would be taken on those lines first.

**VOTED AT 6:36 PM**

There were holds placed on the following:

Town Manager/Selectboard- Charles Williamson spoke on this item.

**VOTED AT 6:48 PM**

Finance Committee/Reserve Fund- Town Accountant Susan Carmel, Assistant Town Manager Christopher Rembold, Philip Orenstein, Anne O'Dwyer, Alessandra Profumo, Denise Forbes, Trevor Forbes and Sharon Gregory spoke on this item.

Stephen Bannon made a motion and it was seconded by Christopher Rembold to amend this budget line to increase it \$100,000 for a total of **\$217,800**.

**AMENDMENT VOTED AT 6:50 PM**

Debt Service- Michael Monroe & Anne O'Dwyer spoke on this item.

**VOTED AT 6:51 PM**

**ARTICLE 5:** (2/3 majority secret ballot)

On a motion by Philip Orenstein and seconded by Stephen Bannon, that the sum of \$4,800,028 is appropriated to pay costs of undertaking various capital projects and acquiring various items of capital equipment, as follows:

(i) making various street and bridge improvements at an approximate cost of \$3,425,000, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow \$2,994,000 under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor, and \$406,000 shall be transferred from Chapter 90 funds, so-

called, and \$25,000 is to be transferred from the Community Preservation Fund – historic resources fund balance.

(ii) making various building and ground improvements at an approximate cost of \$930,000, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

(iii) purchasing and equipping two new police cruisers at a cost of approximately \$115,000 including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Town raise and appropriate said funds.

(iv) acquiring five (5) new surveillance cameras for the Police Department at an approximate cost of \$18,000 including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Town authorize the use of \$18,000 of Free Cash.

(v) purchasing six (6) body cameras for the Police Department at an approximate cost of \$40,000 including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Town authorize the use of \$40,000 of Free Cash.

(vi) acquiring a new highway truck with a snowfighter package for the Department of Public Works at an approximate cost of \$170,900 including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

(vii) acquiring a new roadside mower for the Department of Public Works at an approximate cost of \$51,128, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

(viii) making parks improvements at an approximate cost of \$50,000, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

The amounts authorized to be borrowed by this vote are necessarily estimates, and as such, the Selectboard is authorized to borrow more for any project and less for another, so long as, in its judgment, each project to be funded in whole or in part by a borrowing can be completed within the total amount authorized to be expended by this vote.

The Moderator went through each item within the article and asked that voters call out hold for any discussion.

The following items had holds:

- i. Street, Roads & Sidewalks- Mary Beth Merritt, Jovanina Pagano, Town Accountant Susan Carmel, Assistant Town Manager Christopher Rembold spoke on this item.
- iv. Surveillance Cameras- Charles Williamson & Police Chief Paul Storti spoke on this item.
- v. Body Cameras- Henry Ferlauto & Police Chief Paul Storti spoke on this item.
- viii. Parks Improvements- Abby Schroeder spoke on this item. Abby Schroeder made a motion and it was seconded by someone in the audience to double the amount for parks improvements to make it **\$100,000**. The Moderator asked for a hand count from the tellers.

**AMENDMENT VOTED AT 7:15 PM**

The Moderator then asked for a vote on the whole article. He stated that this article had to be by secret ballot and by a 2/3rds majority. He then asked the voters to use their blue yes/no cards to vote when the tellers collected them.

**VOTED by 2/3rds SECRET BALLOT AT 7:15 PM**  
**YES – 277      NO – 46**

**ARTICLE 6:** (majority)

On a motion by Anne O'Dwyer and seconded by Stephen Bannon, that the Town appropriate and authorize the use of \$350,000 in Free Cash, 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.

James Stark, Denise Forbes and Town Manager Mark Pruhenski spoke on this article.

**VOTED AT 7:20 PM**

**ARTICLE 7:** (majority)

On a motion by Philip Orenstein and seconded by Stephen Bannon, that the Town appropriate from the receipts of the Wastewater Treatment Plant such sums of money necessary for the operation of the Sewer Division for the ensuing fiscal year for the purposes outlined below.

**Wastewater Treatment Plant**

Salaries	\$ 515,482
Expenses	834,900
Insurance/Benefits	333,632

Miscellaneous/Transfers	200,000
Debt Service	<u>774,478</u>
<b>Total Wastewater Treatment Plant Budget</b>	<b>\$2,658,492</b>

The Moderator went through each item within the article and asked that voters call out hold for any discussion.

The following people spoke on this article:

James Stark	Marc Hochler
Town Counsel David Doneski	Stephen Donaldson
Asst. Town Manager Christopher Rembold	Town Manager Mark Pruhenski
Town Accountant Susan Carmel	Philp Orenstein

### **VOTED AT 7:30 PM**

#### **ARTICLE 8:** (2/3 majority secret ballot)

On a motion by Philip Orenstein and seconded by Stephen Bannon, that the sum of \$405,300 is appropriated to pay costs of undertaking various capital projects and acquiring capital equipment in the Wastewater Department, as follows:

(i) acquiring a new primary clarifier at an approximate cost of \$103,700 including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

(ii) acquiring a new pickup truck for the Wastewater Department at an approximate cost of \$64,600, including the payment of all costs incidental and related thereto, and that to meet this appropriation the Town authorize the use of \$64,600 of Retained Earnings in the Sewer Enterprise Fund.

(iii) retaining engineering services at an approximate cost of \$100,000, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

(iv) acquiring a new high pressure sewer cleaner at an approximate cost of \$137,000, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said

amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

The amounts authorized to be borrowed by this vote are necessarily estimates, and as such, the Selectboard is authorized to borrow more for any project and less for another, so long as, in its judgment, each project to be funded in whole or in part by a borrowing can be completed within the total amount authorized to be expended by this vote.

The Moderator asked if there was any discussion on this article and there was none. He stated that this article had to be by secret ballot and by a 2/3rds majority. He asked the voters to use their purple yes/no cards to vote when the tellers collected them.

**VOTED by 2/3rds SECRET BALLOT AT 7:33 PM**  
**YES – 286      NO – 31**

**ARTICLE 9:** (majority)

On a motion by Philip Orenstein and seconded by Stephen Bannon, that the Town raise and appropriate the sum of the sum of Eighteen Million, Four Hundred Sixty-Two Thousand, Two Hundred and Four Dollars (\$18,462,204) for the operating assessment, and Four Hundred Eighty-Four Thousand, Four Hundred and Twenty-Nine Dollars (\$484,429) for the capital assessment, for a total assessment of Eighteen Million, Nine Hundred Forty-Six Thousand, Six Hundred and Thirty-Three Dollars (\$18,946,633) of the Berkshire Hills Regional School District.

School Superintendent Peter Dillon made a presentation on this article.

Charles Williamson spoke on this article.

**VOTED AT 7:44 PM**

**ARTICLE 10:** (majority)

On a motion by Anne O'Dwyer and seconded by Stephen Bannon, that the Town hereby approves the \$1,500,000 borrowing authorized by the Berkshire Hills Regional School District, for the purpose of paying costs of the Feasibility and Schematic Design Study, for the Monument Mountain Regional High School located at 600 Stockbridge Road, Great Barrington, MA, including the payment of all costs incidental or related thereto (the Study), and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority (MSBA), said amount to be expended at the direction of the Berkshire Hills Regional School District School Building Committee, with the understanding that the MSBA's grant program is a non-entitlement, discretionary program, based on need, as determined by the MSBA, and any Study costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities; provided further that any grant that the District may receive from the MSBA



for the Study shall be as set forth in the Feasibility Study Agreement that may be executed between the District and the MSBA.

School Superintendent Peter Dillon did a short presentation regarding the study.

Mary Beth Merritt and Samuel Ernst spoke on this article.

**VOTED AT 7:50 PM**

**ARTICLE 11:** (majority)

On a motion by Philip Orenstein and seconded by Stephen Bannon, that the Town raise and appropriate \$250,000 to fund the Fiscal Year 2023 tuition and transportation costs for out of district vocational education, in accordance with Chapter 74 of the Massachusetts General Laws.

The following people spoke on this article:

Amanda Hanlin-Hochler  
Town Accountant Susan Carmel  
Sharon Gregory  
School Superintendent Peter Dillon

Amanda Hanlin-Hochler made a motion to amend the amount and take it from free cash. The Moderator consulted with Town Counsel and stated that he is ruling her proposed amendment outside of the scope of this warrant article.

The Moderator then asked to take a vote on the article as originally presented.

**VOTED AT 7:58 PM**

**ARTICLE 12:** (majority)

On a motion by Anne O'Dwyer and seconded by Stephen Bannon, That the Town authorize the use of \$4,100,000 in Free Cash to reduce the tax levy for Fiscal Year 2023.

**VOTED AT 7:59 PM  
(UNANIMOUS)**

**ARTICLE 13:** (4/5 majority)

On a motion by Philip Orenstein and seconded by Stephen Bannon, that the Town authorize the payment of prior fiscal year(s) invoices from the FY22 operating budgets of various Town Departments in the amounts set forth below:

**POLICE DEPARTMENT:**

\$861.36 to Berkshire Bike and Board

**Account Number:**

01210-54800

**FIRE DEPARTMENT:**

\$253.98 to Grainger

**Account Number:**

01220-52450

**DEPARTMENT OF PUBLIC WORKS:**

\$698.05 to Cummins Sales and Service

**Account Number:**

01422-52450

**INSURANCE:**

\$386.25 to Berkshire Medical Center

\$52.50 to All One Health

**Account Number:**

01945-57500

01945-57500

The following people spoke on this article:

Michael Monroe

Town Accountant Susan Carmel

Town Counsel David Doneski

The Moderator stated that this article had to be a vote by 4/5th's majority. The Moderator then asked for a vote on this article.

**VOTED 4/5ths MAJORITY AT 8:04 PM  
(UNANIMOUS)**

**ARTICLE 14:** (majority)

On a motion by Anne O'Dwyer and seconded by Stephen Bannon, That the Town appropriate and authorize the transfer of \$100,000 from Free Cash for deposit into the Stabilization Fund.

**VOTED AT 8:04 PM**

**ARTICLE 15:** (majority)

On a motion by Anne O'Dwyer and seconded by Stephen Bannon, that the Town appropriate and authorize the transfer of \$100,000 from Free Cash for deposit into the Capital Stabilization Fund.

**VOTED AT 8:05 PM**

**ARTICLE 16:** (majority)

On a motion by Philip Orenstein and seconded by Stephen Bannon, that the Town hereby rescinds the following amounts that have been authorized to be borrowed by vote of Town Meeting, but which are no longer needed for the purposes for which they were initially approved:

Unused Amount	Date of Approval	Warrant Article	Original Purpose
\$ 21,400	5/7/2012	9	FY13 Sewer System Improvements - Phase 1
\$ 1,464	5/4/2015	5	FY16 Dump Truck
\$ 29,000	5/9/2016	4	FY17 Dump Truck
\$ 155,000	5/9/2016	4	FY17 Fire Dept Air Packs
\$ 11,910	5/1/2017	4	FY18 Highway Dump Truck
\$ 8,000	5/1/2017	4	FY18 Police Cruisers
\$ 1,850	5/1/2017	4	FY18 Engineering
\$ 700	5/1/2017	4	FY18 Fiber Optic/FY21 Housatonic Broadband
\$ 1,100	5/1/2017	4	FY18 Highway Skid Steer
\$ 200	5/7/2018	4 (iii)	FY19 Police Cruisers
\$ 2,500	5/7/2018	4 (v)	FY19 Highway Service Truck
\$ 1,300	5/7/2018	4 (vi)	FY19 Cemetery Mower
\$ 2,500	5/7/2018	4 (vii)	FY19 Cemetery Leaf Blower
\$ 14,000	5/6/2019	7(iii)	FY20 Police Cruisers (2)
\$ 80,000	5/6/2019	7(iv)	FY20 Dump Trucks (3)
\$ 19	5/6/2019	7(v)	FY20 Portable Radios (6)
\$ 25,000	5/6/2019	7(vii)	FY20 Telecommunication System Upgrade

### VOTED AT 8:06 PM

#### **ARTICLE 17:** (majority)

On a motion by Karen Smith and seconded by Stephen Bannon, that the Town appropriate from the Community Preservation Fund annual revenues the following amounts recommended by the Community Preservation Committee for committee administrative expenses in FY23, and reserve for future appropriation for community preservation projects the following reserve amounts, with each item to be considered a separate appropriation:

#### Reserves:

From FY23 revenues for historic resources reserve	\$ 55,000
From FY23 revenues for community housing reserve	\$ 55,000
From FY23 revenues for open space reserve	\$ 55,000

#### Appropriations:

From FY23 revenues for administrative expenses	\$ 20,000
Balance of FY23 revenues for FY23 budgeted reserve	\$ 365,000

The Assistant Town Manager Christopher Rembold and James Stark spoke on this article.

### VOTED AT 8:08 PM

**ARTICLE 18:** (majority)

On a motion by Karen Smith and seconded by Stephen Bannon, that the Town appropriate from the Community Preservation Fund for FY23 and the fund balance the following amounts recommended by the Community Preservation Committee, with each item to be considered a separate appropriation:

		Source of Appropriation	
Project	Total Appropriation	FY23 Revenues	Fund Balance
<i>Affordable Housing</i>			
Town, Affordable Housing Trust Fund	\$200,000	\$200,000	
Construct, Inc., predevelopment costs for the Eagle Cliff apartments	\$50,000		\$50,000
CDCSB, predevelopment costs for the Berkshire Cottages development	\$350,000	\$350,000	
Subtotal, Affordable Housing	\$600,000		
<i>HISTORIC RESOURCES</i>			
Town, engineering and design for the Castle Street pedestrian underpass steps/shelter	\$25,000		\$25,000
Alander Group, for historic repairs and restoration of 343 Main Street	\$250,000		\$250,000
Subtotal, Historic Resources	\$275,000		
<i>OPEN SPACE &amp; RECREATION</i>			
Town, for vegetation assessment in Lake Mansfield	\$7,000		\$7,000
Conservation Commission for the McAllister Wildlife Refuge preservation project	\$35,000		\$35,000
Subtotal, Open Space & Recreation	\$42,000		
<b>TOTAL</b>	<b>\$917,000</b>		

The Moderator went line by line with the seven (7) items within the article and asked that voters call out hold for any discussion.

The following items had a hold on them:

#5- James Stark, Christopher Rembold and Douglas Stephenson all spoke on this article.

#6- Charles Williamson spoke on this article.

The Moderator asked for a vote on the article.

**VOTED AT 8:15 PM**

**ARTICLE 19:** (2/3 majority secret ballot)

On a motion by Karen Smith and seconded by Stephen Bannon, that the sum of \$500,000 be appropriated, as authorized under section 11 of the Community Preservation Act, Massachusetts General Laws chapter 44B, for a term of 15 years, for improvements to Memorial Field, including the payment of all other costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow \$500,000 under and pursuant to M.G.L. c. 44, §7(1) and M.G.L. c. 44B, §11, or any other authority, and to issue bonds or notes of the Town therefor.

Assistant Town Manager Christopher Rembold and Craig Okerstrom-Lang spoke on this article.

The Moderator stated that this article was required to be by secret ballot and a 2/3rds majority. He then asked the voters to use their orange yes/no cards to vote when the tellers collected them.

**VOTED by 2/3rds SECRET BALLOT AT 8:19 PM**

**YES – 225    NO – 70**

**ARTICLE 20:** (2/3 majority)

On a motion by Stephen Bannon and seconded by Leigh Davis, that the Town transfer the care, custody and control of the property at 426 Park Street, Housatonic, shown on and identified as Assessors' Map 2, Parcel 29, to the Selectboard for purposes of sale, transfer, or other disposition, and to authorize the Selectboard to complete such sale, transfer, or other disposition on terms acceptable to the Selectboard, and authorize the Selectboard to execute all documents and take all actions necessary to complete such, transfer, or other disposition.

Ellen Lahr and Assistant Town Manager Christopher Rembold spoke on this article.

The Moderator then asked for a vote on this article and stated that it needed to be a 2/3rds majority vote.

**VOTED 2/3rds MAJORITY AT 8:22 PM**

**ARTICLE 21:** (majority)

On a motion by Stephen Bannon and seconded by Leigh Davis, that the Town authorize the Selectboard to grant a permanent easement of approximately 1,650 square feet, at 601 Stockbridge Road, to the Massachusetts Electric Company, a/k/a National Grid, in connection with the installation of manholes and associated infrastructure needed to access and maintain underground electrical cable on the Route 7 corridor, as shown on the easement plan prepared for the Massachusetts Electric Company, dated March 14, 2022, prepared by Colliers Engineering & Design, Albany, NY, a copy of which is on file with the Town Clerk.

**VOTED AT 8:23 PM**

**ARTICLE 22:** (2/3 majority)

On a motion by Malcolm Fick and seconded by someone in the audience, that the Town amend Section 9.1, Floodplain Overlay District, and Section 11.0, Definitions, of the Zoning Bylaw, as set forth in Article 22 of the warrant for this Town Meeting.

*Purpose of the Amendments:* These amendments are proposed in order to ensure the Town's local zoning regulations reflect at least the minimum requirements of the National Flood Insurance Program (NFIP) so that the community can continue to participate in the program.

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

Proposed insertions are underlined

Amend Section 9.1 as follows:

**9.1.1 Purpose.** The Flood Plain Overlay District (FPOD) has been established to provide that lands in the town subject to seasonal or periodic flooding shall not be used for residential or other purposes in such a manner as to endanger the health or safety of the occupants thereof, or of the public, and to assure the continuation of the natural flow pattern of the watercourses within the town in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation. It is further intended to protect, preserve and maintain the water table and water recharge areas within the town so as to preserve present and potential water supplies for the public health and safety of the residents of the town.

**9.1.2 Definitions.** Pertinent definitions of flood zones delineated in Great Barrington (e.g., Zone A, Zone A1-30, etc.) may be found in the US Code of Federal Regulations, Title 44,

Part 64.3. Additional terms applicable to the FPOD are found in Section 11 of this Bylaw and US Code of Federal Regulations, Title 44, Part 59.

**9.1.23 Location.** The general boundaries of the FPOD are shown on the Great Barrington Flood Insurance Rate Map (FIRM), dated July 19, 1982, as Zones A and A-1-30 to indicate the one-hundred-year floodplain. The exact boundaries of the district are defined by the flood profiles contained in the Flood Insurance Study, dated July 19, 1982. The floodway boundaries are delineated on the Great Barrington Flood Boundary and Floodway Maps (FBFM), dated January 19, 1982, and further defined by the floodway data tables contained in the Flood Insurance Study. These two maps, as well as the accompanying study, are incorporated in this Bylaw by reference and are on file with the Town Clerk, Planning Board, Inspector of Buildings and Board of Health.

In A Zones, in the absence of FEMA base flood elevation data and floodway data, the Building Department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A to comply with one or more of the following: elevating residential structures to or above base flood level; floodproofing or elevating nonresidential structures to or above base flood level; and prohibiting encroachments in floodways.

The two above-referenced maps and related study cover specifically the Housatonic River, Green River, Williams River and Alford Brook and related wetlands. There are other inland wetlands that are covered and are shown generally on a map prepared by Robert G. Brown & Associates, Inc., and entitled "Delineation and Description of the Green, Williams and Housatonic River Flood Plain and the Inland Wetlands in the Town of Great Barrington, Massachusetts," dated 1974. In cases of conflict between the Robert G. Brown and Associates, Inc., and FIRM and FBFM maps, the latter two maps shall govern.

~~**9.1.3 Zone A.** Within Zone A, where the one hundred year flood elevation is not provided on the FIRM, the developer/applicant shall obtain all existing flood elevation data, and they shall be reviewed by the Planning Board. If the data are sufficiently detailed and accurate, they shall be relied upon to require compliance with this Bylaw and the State Building Code. These two referenced maps and related study cover specifically the Housatonic River, Green River, Williams River and Alford Brook and related wetlands. There are other inland wetlands that are covered and are shown generally on a map prepared by Robert G. Brown & Associates, Inc., and entitled "Delineation and Description of the Green, Williams and Housatonic River Flood Plain and the Inland Wetlands in the Town of Great Barrington, Massachusetts," dated 1974. In cases of conflict between the Robert G. Brown and Associates, Inc., and FIRM and FBFM maps, the latter two maps shall govern. The base (one hundred year) flood elevations at any given point between any two successive control points (cross sections) as shown on the floodplain maps have been determined using topographic maps at a scale of 1:4,800, with a contour interval of five feet, this forming~~

~~the flood boundary shown for the entire length of the Housatonic River, Green River, Williams River and Alford Brook on the series of Flood Boundary and Floodway Maps.~~

**9.1.4 Floodways.** All encroachments, including fill, new construction, substantial improvements to existing structures and other developments in the floodway are prohibited unless certification by a professional engineer registered and licensed in the Commonwealth of Massachusetts is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood. Any encroachment meeting the above standard shall comply with the floodplain requirements of the State Building Code.

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

**9.1.45 Special Permit Required.** Any person desiring to establish any permitted use in a FPOD involving or requiring the erection of new structures and/or alteration or moving of existing structures or dumping, filling, transfer, relocation or excavation of earth materials or storage of materials or equipment, or parking of recreational vehicles, shall submit an application for a special permit to the Special Permit Granting Authority (SPGA) ~~Selectboard~~ in accordance with the provisions of Section 10.4. The Selectboard shall be the SPGA for floodplain special permits.

Such special permit application shall describe in detail the proposed use of the property and the work to be performed and shall be accompanied by plans as specified therein. In addition to the information required thereby, such plans shall also include boundaries and dimensions of the lot, existing and proposed drainage easements, all existing and proposed fill, existing and proposed sewage disposal facilities, means of access and mean sea-level elevation, with contour separation of two feet or less, of the existing and proposed land surface, cellar floor and first floor. All plans shall be prepared and certified by a professional engineer registered and licensed in the Commonwealth of Massachusetts.

The special permit application shall include a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the FPOD. The applicant must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired prior to issuance of any permit by the Building Inspector.

**9.1.5 Submittals.** ~~The SPGA shall ensure that the applicant provides sufficient information to determine:~~

- ~~1. That the floor level of areas to be occupied by human beings as living or working space shall be at a safe elevation;~~
- ~~2. That furnaces and utilities are protected from the effects of flooding and that the structure will withstand the effects of flooding in accordance with the State Building Code;~~



- ~~3. That the proposed construction, use or change of grade will not obstruct or divert the flood flow, reduce natural water storage or increase stormwater runoff so that water levels on other land are substantially raised or danger from flooding increased;~~
- ~~4. That safe vehicular and pedestrian movement to, over and from the premises is provided in the event of flooding; and~~
- ~~5. That the proposed methods of drainage and sewage disposal are approved by the Board of Health and will not cause pollution or otherwise endanger health in the event of flooding.~~

**9.1.6 Decision.** The SPGA may issue a special permit in compliance with all applicable provisions of this Bylaw, for establishment or alteration of a permitted use in a FPOD, provided that the Selectboard determines the following. Such findings shall be in addition to the findings required by Section 10.4.

1. The use would otherwise be permitted if such land were not, by operation of this section, in the FPOD;
2. The use of such land for the proposed purpose will not interfere with the general purpose for which such FPODs have been established;
3. That the floor level of areas to be occupied by human beings as living or working space shall be at an elevation in accordance with the State Building Code;
4. That furnaces and utilities are protected from the effects of flooding and that the structure will withstand the effects of flooding in accordance with the State Building Code;
5. That the proposed construction, use or change of grade will not obstruct or divert the flood flow, reduce natural water storage or increase stormwater runoff so that water levels on other land are substantially raised or danger from flooding increased;
6. That safe vehicular and pedestrian movement to, over and from the premises is provided in the event of flooding; and
7. That the proposed methods of drainage and sewage disposal are approved by the Board of Health and will not cause pollution or otherwise endanger health in the event of flooding.
8. If Zones AO and AH exist on the applicable FIRM, that adequate drainage paths are provided around structures on slopes, to guide floodwaters around and away from proposed structures.

**9.1.7 Conditions.** Special permits issued under this section may be subject to such conditions as the Selectboard deems necessary in the interests of the public health, safety and welfare. The burden of proving that the proposed use will not endanger the health and safety of the occupants or the public shall rest upon the applicant, who shall provide such engineering, ecological and hydrological data as may be required by the SPGA or any state or federal agency.

**9.1.8 Encroachment.** ~~All encroachments, including fill, new construction, substantial improvements to existing structures and other developments in the floodway are prohibited unless certification by a professional engineer registered and licensed in the Commonwealth of Massachusetts is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one hundred year flood. Any encroachment meeting the above standard shall comply with the floodplain requirements of the State Building Code.~~

**9.1.8. Subdivisions.** All subdivision proposals and development proposals for property in the Floodplain Overlay District shall be reviewed to assure that: (1) such proposals minimize flood damage; (2) public utilities and facilities are located and constructed so as to minimize flood damage; and (3) adequate drainage is provided. When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

**9.1.9 Effect.** ~~Granting of a special permit under this section by the SPGA does not in any way indicate compliance with the provisions of the Wetlands Protection Act, G.L. c. 131, s. 40, which provides, among other things, that no person shall remove, fill, dredge or alter any swamp, creek, river, stream, pond or lake or any land subject to flooding, except with a written permit from the Conservation Commission.~~

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

**9.1.10 Community Floodplain Administrator.** The Town of Great Barrington hereby designates the Building Inspector to be the official Floodplain Administrator for the Town.

**9.1.11 Variances from Building Code Floodplain standards.** Should a proponent be granted a Building Code variance by the Commonwealth, the proponent shall notify the Building Inspector in writing, and the Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the Town's files.

The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a Town official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the Floodplain Overlay District.

**9.1.12. Variances from Zoning Bylaw related to community compliance with the National Flood Insurance Program (NFIP).** The Zoning Board of Appeals may issue a variance from the requirements of the Floodplain Overlay District in accordance with the requirements set out by State law, and a variance may only be granted if:

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

**9.1.13 Limitations.** The floodplain management regulations found in this section shall take precedence over any less restrictive conflicting local laws, ordinances or codes. The degree of flood protection required by this bylaw is considered reasonable by the Town but does not imply total flood protection. Granting of a special permit under this section by the Selectboard does not in any way indicate compliance with the provisions of the Wetlands Protection Act, G.L. c. 131, s. 40, which provides, among other things, that no person shall remove, fill, dredge or alter any swamp, creek, river, stream, pond or lake or any land subject to flooding, except with a written permit from the Conservation Commission.

**9.1.14 Watercourse alterations and New data.** In a riverine situation, the Building Inspector shall notify the following of any alteration or relocation of a watercourse:

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

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

Notification shall be submitted to:

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

And copy of notification to:

Massachusetts NFIP State Coordinator

MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

Amend Section 11.0 by adding the following definitions under a new entry FLOODPLAIN OVERLAY DISTRICT:

FLOODPLAIN OVERLAY DISTRICT: The following definitions shall apply in the FPOD. Reference is also made to 44 CFR §59.

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

FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps prepared in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM.) An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

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

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

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE means any structure that is:

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

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

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

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

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

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

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the Town's first floodplain bylaw, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.*

RECREATIONAL VEHICLE means a vehicle which is:

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

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30.

START OF CONSTRUCTION. The date of issuance of a building permit for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR (the Massachusetts State Building Code).

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

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of

compliance required in 44 CFR §60.3 is presumed to be in violation until such time as that documentation is provided.

Malcolm Fick spoke on this article.

The Moderator asked for a vote on the article and stated that it had to be a 2/3rds majority vote.

**VOTED 2/3rds MAJORITY AT 8:25 PM**

**ARTICLE 23:** (2/3 majority)

On a motion by Jonathan Hankin and seconded by Stephen Bannon, that the Town amend Section 8.2.3, item 2, of the Zoning Bylaw as set forth in Article 23 of the warrant for this Town Meeting.

*Purpose of the Amendments:* This amendment will ensure the Zoning Bylaw requirement regarding ADU size utilizes a measurement consistent with other portions of the Zoning Bylaw; instead of being measured by gross square footage, the ADU will be measured by net usable square feet.

Proposed deletions of existing text are struck through

Proposed insertions are underlined

Amend Section 8.2.3, item 2, as follows:

2. An ADU may not in any case be larger than 900 ~~gross-square feet~~ of net usable floor area. If a dwelling unit greater than 900 ~~gross-square feet~~ of net usable floor area is created within a single-family home, the residence will be considered a two-family dwelling and will be subject to the requirements of Section 8.1 of this Bylaw.

Jonathan Hankin spoke on this article.

The Moderator asked for a vote on the article and stated that it had to be a 2/3rds majority vote.

**VOTED 2/3rds MAJORITY AT 8:27 PM**

**ARTICLE 24:** (2/3 majority)

On a motion by Pedro Pachano and seconded by Christopher Rembold, that the Town amend Sections 4.2.1 and 8.1.1 of the Zoning Bylaw as set forth in Article 24 of the warrant for this Town Meeting.

*Purpose of the Amendments:* These amendments are proposed in order to correct internal inconsistencies in the Town's zoning regulations governing two-family residential uses, and to ensure that regulation of two-family residential use of a single lot in two separate principal

structures is not overly restrictive. In 2014 and again in 2019, the Town amended the Zoning Bylaw to reduce requirements on two-family residential use of a single lot. However, those amendments inadvertently did not delete language in Sections 4.2.1 and 8.1.1 which could be interpreted in a way that makes it impossible to build two separate single family structures on otherwise conforming lots. This proposal will address that issue in keeping with previous Town Meeting votes.

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

Proposed insertions are underlined

Amend Sections 4.2.1 and 8.1.1 as follows:

**4.2.1 More than One Principal Structure per Lot.** In any zoning district, more than one building or structure housing a principal permitted use may be erected or placed on a single lot of record, provided that area, width, frontage, yard and other requirements of this Bylaw shall be met ~~for each building or structure as though it were on an individual lot, except as otherwise provided in this Bylaw.~~

**8.1.1 General.** The two-family residential use of a single lot is permitted as set forth in Section 3.1.4, Table of Use Regulations. For the purposes of this section, any two dwelling units on a single lot, whether in the same building or in separate buildings, shall be considered two-family residential use, except where ~~Section 4.2.1 or Section 8.2 applies. In the event of two dwelling units in separate buildings, all applicable requirements of this Bylaw shall apply.~~

Pedro Pachano spoke on this article.

The Moderator asked for a vote on the article and stated that it had to be a 2/3rds majority vote.

**VOTED 2/3rds MAJORITY AT 8:28 PM**

## **ARTICLE 25:** (majority)

On a motion by Stephen Bannon and seconded by Garfield Reed, that the Town adopt a Short-Term Rental bylaw as shown in the handout distributed at this Town Meeting, and authorize the Town Clerk to assign chapter and section numbers for the bylaw within the Town Code.

## **SHORT-TERM RENTAL OF RESIDENTIAL PROPERTIES**

### **Purpose and Intent.**

Pursuant to the authority of G.L. c.64G, the Town establishes these regulations to balance private, neighborhood, and municipal interests. These regulations are intended to:

1. Enable residents to earn extra money from their properties to better afford to live here, maintain their properties, and contribute to the community.
2. Minimize public safety and health risks.
3. Deter commercial interests from buying housing to use primarily as short-term rental businesses.

**Definitions.**

For this Chapter, the following terms shall have the definitions indicated

*Owner.* Any person who alone, or severally with others, has legal or equitable title or beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or person appointed by the courts. An Owner can be a single person, a marital unit, a group of people, LLC or a Trust. The Owner may also be referred to as the Operator, or the Host.

*Short-Term Rental.* The rental of a whole or a portion of a residential or secondary dwelling unit, in exchange for payment, as residential accommodations for not more than thirty consecutive days, excluding a Hotel, Motel, or Lodging House or Tourist Home for Transient Guests as defined and permitted under the Zoning Bylaw.

**Regulations.**

No dwelling unit or part thereof may be offered as a Short-Term Rental within the Town of Great Barrington unless it is registered annually with the Town through an application process approved by the Selectboard and in accordance with this Chapter, and registered with the Commonwealth of Massachusetts Department of Revenue in accordance with applicable laws.

An Owner may register to operate only one dwelling unit as a Short-Term Rental. If a person owns two properties, or owns one and is listed as a manager or agent for a second that is owed by an LLC, for example, that person must choose one or the other to be registered as a Short-Term Rental. No person shall have more than one legal or equitable title or beneficial interest in any dwelling unit used for a Short-Term Rental except as provided for above. An Owner may hire a property management company to list and manage Short-Term Rentals, but the registration must be in the Owner's name.

Up to two bedrooms in a dwelling unit or an entire secondary dwelling unit on the same parcel may be registered and rented as a Short-Term Rental by right. The registered Short-Term Rental may be rented for an unlimited number of days per year, provided that the Owner is residing in one of the dwelling units on premises at the time of the rental. In cases where the Owner is not residing on premises at the time of the rental, no unit or portion thereof may be rented more than 150 days per year.

Short-Term Rentals are prohibited in dwelling units owned by a corporation. Short-Term Rentals are permitted in dwelling units owned by an LLC or Trust only when every shareholder, partner, or member of the legal entity is a natural person, as established by documentation provided by the applicant at the time of registration.

Short-Term rentals are prohibited in dwelling units designated as affordable or otherwise income-restricted, which are subject to affordability covenants or are otherwise subject to housing or rental assistance under local, state, or federal programs or law.

An Owner shall not register or offer a rental unit subject to a long term lease as a Short-Term



Rental, nor shall a tenant offer his/her/their rental unit as a Short-Term Rental.

**Requirements for Short-Term Rental Operations.**

1. An Owner shall post in any Short-Term Rental unit the following information in a conspicuous place:
  - a. the Owner's certificate of registration with the Town;
  - b. Short-Term Rental street address;
  - c. Contact information for the Operator and whom to call in an emergency;
  - d. Instructions for recycling and waste disposal;
  - e. Notice that dogs must be leashed when outdoors if not in a securely fenced enclosure;
  - f. Notice that no excessive noise shall occur after 8:00 PM or earlier than 8:00 AM.
2. Each unit shall contain functional smoke detectors, carbon monoxide alarms, and a properly maintained and charged multi-purpose fire extinguisher.
3. A Short-Term Rental is not allowed on any property with outstanding violations of Building, Fire, Health codes, and/or Town Bylaws.
4. Events that include amplified music or tents which would customarily require a license or permit are prohibited.
5. Signs on the property advertising the Short-Term Rental are prohibited.

**Inspection.**

Short-Term Rentals may be subject to inspection by the Great Barrington Health Department, Fire Department, and/or the Building Inspector. Short-Term Rental Owners are required to provide access for the purpose of conducting safety inspections when necessary. Failure to provide access to an inspector upon request and after proper notice will invalidate the registration to operate a Short-Term Rental until an inspection by the appropriate authority has been conducted, and all violations have been addressed to the satisfaction of the Department and/or the Town. Failure to comply with orders to correct deficiencies may result in fines or refusal to allow registration renewal.

Owners can appeal a written violation notice within 21 days of the date of the notice in accordance with M. G. L. Ch. 40 § 21D.

In the event that there are three or more violations within a twelve-month period, Short-Term Rental Registrations may be revoked and permanently denied by a vote of the Selectboard.

**Penalties.**

If any Owner violates any provision of this bylaw, the Owner may be subject to a civil penalty in accordance with M. G. L. Ch. 40. § 21D, with the following:

\$100 1st Offense

\$200 2nd Offense

\$300 3rd Offense and each subsequent offense

Each day that a violation exists constitutes a separate offense.

**Selectboard Authority.** The Selectboard shall have the authority to create a registration application form, set registration fees, and adopt rules, regulations, policies or procedures to implement the provisions of this Chapter. The registration process shall require an Owner to include the address of the unit to be registered, to list the names of all organization members if owned by a legal entity, and to provide verifiable documentation of the owners or members of that legal entity.

**Severability.** If any provision in this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

**Effective Date.** The provisions of this Bylaw “Short-Term Rental of Residential Properties” shall take effect on January 1, 2023.

Assistant Town Manager Christopher Rembold presented the bylaw. He stated that there would be discussion and voting on the article as written in the neon green handout and not the article as written in the warrant. This handout had several minor changes that were recommended by Town Counsel.

David Long made a motion and it was seconded by someone in the audience to amend the proposed bylaw with the two (2) changes below:

Insert the words at the end of the first sentence of the second paragraph under “Regulations”: “as long as it is located within a Residential District. Any property located within a Business or Industrial District would require a Special Permit from the Planning Board.”

This change in context would read:

An Owner may register to operate only one dwelling unit as a Short-Term Rental **as long as it is located within a Residential District. Any property located within a Business or Industrial District would require a Special Permit from the Planning Board.** If a person owns two properties, or owns one and is listed as a manager or agent for a second that is owned by an LLC, for example, that person must choose one or the other to be registered as a Short-Term Rental. No person shall have more than one legal or equitable title or beneficial interest in any dwelling unit used for a Short-Term Rental except as provided for above. An Owner may hire a property management company to list and manage Short-Term Rentals, but the registration must be in the Owner’s name.

Town Counsel stated that Article 25 is a general bylaw and the amendment being proposed is a zoning concept and it would not have gone through the correct process to be approved as written. He stated that even if the proposed amended bylaw was approved by the voters, it would not be approved once presented to the Attorney General’s office for this reasoning.

The Moderator then ruled that the motion is out of order.

The following people spoke on the article as originally presented:

Claudia Laslie  
William Sothern Jr.  
Sarah Dixon  
Jennifer Clark  
Seth Keyes

Christopher Hale  
Jonathan Hankin  
Garfield Reed  
Anne Alquist  
Barbara Matz

Christopher Tucci  
Stephen McAlister  
Tracey Thornton  
Jorge Alcala

Margaret Hassett made a motion and it was seconded by someone in the audience to vote on this article as a secret ballot to allow for a more accurate count due to the darkness and in case there was a need for a recount.

### **MOTION CARRIES AT 9:22 PM**

The following people also spoke on the article:

Kristin Grippio

Sharon Gregory

Sasa Zelenovic

Sasa Zelenovic moved to take no action on this article in an attempt to bring the town together and carve out something that we can all agree to. He stated that it should be moved to a committee to further research and discussion and be brought back to the Annual Town Meeting in 2023. The Moderator was given the motion and he stated that the motion needed to specify which committee it should be referred to and how the committee will be chosen before he could accept the motion.

James Manning then spoke on this article.

There was a “call for a vote” by someone in the audience to end the debate and to vote on this article. The Moderator stated this would require a 2/3rds majority vote.

### **VOTED 2/3rds MAJORITY AT 9:36 PM**

The Moderator stated that the previous motion by Sasa Zelenovic to refer this bylaw to a committee did not specify the committee therefore no action could be taken on the motion.

The Moderator stated that this article would require a majority vote and that it was going to be done by secret ballot. He then asked the voters to use their pink yes/no cards to vote when the tellers collected them.

### **VOTED MAJORITY by SECRET BALLOT AT 9:37 PM**

**YES – 207    NO – 111**

## **ARTICLE 26:** (majority)

On a motion by Stephen Bannon and seconded by Christopher Rembold, that the Town amend Article III of Section 153 of the Town Code, Common Driveways, as set forth in Article 26 of the warrant for this Town Meeting.

*Purpose of the Amendments:* These amendments are proposed in order to foster good design, safe construction, and efficient use of land. The amendments will ensure the common driveway regulations set clear standards of construction, and do not conflict with the Town's zoning regulations. The existing standards for common driveways are no different than those of a standard residential driveway, despite the fact that common driveways are often longer and used by more vehicles. Also, the existing common driveway regulations limit the number of units served to three units, which is less than the Zoning Bylaw allows to be built on three adjacent lots.

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

Proposed insertions are underlined

### **Section 153-19. General requirements and restrictions.**

A. Definitions: As used in this Article, the following terms shall have the meanings indicated:

COMMON DRIVEWAY – A driveway over which two or more abutting property owners gain vehicular access to their property from a Way or a Public Way.

~~A.~~ B. Permits. Any abutting property owner(s) desiring to gain access to a way by means of a common driveway that serves no more than three dwelling units may do so only in accordance with the provisions of a permit issued by the Planning Board in accordance with this Section. A fee shall be paid to the Town of Great Barrington when the application is submitted to the Planning Board, and the permit shall include all applicable aspects of a permit under Articles II and III of this chapter.

~~C.~~ The requirements of this Section shall not apply to Common Driveways in physical existence as of January 1, 2022 and that remain unchanged; if more units are added to the properties and will utilize the common driveway, it shall be subject to all provisions of this Section.

~~B.~~ D. Number of units accessed. A common driveway shall provide access to no more than three lots and no more than ~~threenine~~ dwelling units. However, the Planning Board may permit a common driveway to serve more than three lots provided that restrictions are recorded, in a deed or other covenant or agreement, which would prevent more than a total of nine dwelling units being accessed by the common driveway.

~~C.~~ E. Frontage. Frontage on a common driveway may not be used to satisfy zoning frontage requirements. Each lot passed by the common driveway shall have access on a way acceptable to the Planning Board.

~~D.~~ F. Design requirements. ~~Design requirements for e~~Common driveways serving not more than three dwelling units shall be designed and constructed to the same standards as those for driveways under Section 153-14A through L of the Town Code ~~Subdivision Rules and Regulations of the Great Barrington Planning Board.~~

Common driveways serving between four and six dwelling units shall be designed and constructed to the same standards as a "Small Lane" as set forth in the Subdivision Rules and Regulations of the Great Barrington Planning Board, however the requirements for a Right-of-Way, shoulders, and asphalt paved surface shall not apply to common driveways.

Common driveways serving between seven and nine dwelling units shall be designed and constructed to the same standards as a “Minor Way” as set forth in the Subdivision Rules and Regulations of the Great Barrington Planning Board, however the requirements for a Right-of-Way, shoulders, cul-de-sac, and asphalt paved surface shall not apply to common driveways. The design of any common driveway also shall, in the opinion of the Superintendent of Public Works, Fire Chief, and Police Chief Board of Selectmen and the Highway Superintendent, assure adequate safety and access for emergency vehicles.

~~E. G.~~ Origin of driveway. A common driveway must originate on approved frontage.

~~F. Minimum width.~~ The traveled way shall have a minimum width of 14 feet.

~~G. H.~~ Easements. The application for a common driveway must be accompanied by a declaration of covenants, easements and restrictions for the use and maintenance of said common drives.

~~H. I.~~ The sale of lots and/or the erection of buildings is prohibited until such time as the common driveway has been constructed in accordance with the permit approval plan and until the Board of Selectmen Planning Board has written verification that all covenants, easements and restrictions have been recorded in the Southern Berkshire Registry of Deeds.

Assistant Town Manager Christopher Rembold presented the changes to this bylaw.

Town Counsel David Doneski and Ephrat David also spoke on this article.

**VOTED AT 9:43 PM**

**ARTICLE 27:** (majority)

On a motion by Stephen Bannon and seconded by Christopher Rembold, that the Town authorize the Selectboard to petition the General Court for special legislation entitled, “An Act Providing that Future Members of the Police Department of the Town of Great Barrington Shall Be Exempt from the Provisions of the Commonwealth’s Civil Service Law, M.G.L. c. 31,” a copy of which is on file with the Town Clerk, and substantially in the form thereof, provided, that the General Court may reasonably vary the form and substance of the requested legislation within the scope of the public objectives of the petition.

Town Manager Mark Pruhenski and Police Chief Paul Storti gave an explanation on this article.

Erica Mielke spoke on this article.

**VOTED AT 9:49 PM**

**ARTICLE 28:** (majority)

On a motion by Stephen Bannon and seconded by someone in the audience, that the Town increase the maximum qualifying gross receipts that seniors (persons 65 or older) may have in the prior calendar year to be eligible to defer property taxes under G.L. c. 59, § 5, Clause 41A to \$40,000.00;

and further, to change the rate of interest that accrues on property taxes deferred by eligible seniors under G.L. c. 59, § 5, Clause 41A from 8.0% to 5.0%, with such rate to apply to taxes assessed for any fiscal year beginning on or after July 1, 2022.

Vivian Orlowski presented information on this article.

Carol Diehl and Garfield Reed spoke on this article.

### **VOTED AT 9:55 PM**

There was a motion by a gentleman in the audience and seconded by someone in the audience to move up Article 33 to now so quorum is not lost before continuing on with the rest of the articles.

Kate Burke made a point of order. She asked if it was known what happens if both Article 25 and Article 33 pass. The Moderator stated “no”.

The Moderator asked for a vote to change the order and that it would require a majority vote. He stated that Article 33 would be discussed and voted and then he would continue on with Articles 29 through 32.

### **VOTED to move to ARTICLE 33 at 9:56 PM**

#### **ARTICLE 33:** (by citizen petition)

**Purpose and Intent:** Pursuant to the authority of G.L. c.64G, The Town establishes these regulations to balance private, neighborhood, and municipal interest, including:

- Enabling residents to earn extra money from their properties to better afford to live here, maintain their properties, and contribute to the community
- Minimizing public safety and health risks; and,
- Deterring commercial interests from buying housing to use solely as short-term rental businesses.

**Definition of Short-Term Rental** - An accessory lodging use in owner-occupied, tenant-occupied or non-owner occupied dwelling unit including, but not limited to, an apartment, house, accessory dwelling unit, cottage, condominium, or a furnished accommodation that is not a hotel, motel, inn, resort, lodging house, or bed and breakfast establishment, where at least 1 room or unit is rented to an occupant or sub occupant for 1-31 consecutive calendar days; and, all accommodations are reserved in advance, except for certain lodging types excluded from such regulation by Massachusetts General Law.

**Short-Term Rentals, may be rented by right, by a homeowner, in all zones, with the following exceptions:**

- a. Residential property owned by a corporation other than an LLC may not engage in Short-Term Rentals.

- b. Residential premises designated as affordable or otherwise income-restricted, which are subject to affordability covenants or are otherwise subject to housing or rental assistance under local, state, or federal programs or law, may not engage in short term rentals.
- c. Units meeting the definition of “Professionally Managed Units” under MGL, Chapter 64G, Section 1.

**General Requirement for all Short-Term Rentals During Use:**

- a. All overnight parking must be within the property’s driveway or garage or as permitted by right through posted town laws.
- b. Events that include tents or amplified music or which would customarily require a license or permit are not allowed.
- c. Signs advertising the Short-Term Rental are not permitted
- d. Occupancy is limited to the total legal occupancy per dwelling.
- e. A short-Term Rental is not allowed on any property with outstanding violations of the Building Code, Fire Code, Board of Health, or Town General Bylaws.
- f. A Short-Term unit must include a local contact, who is able to act responsibly and can be reached in an emergency. The responsible party’s contact information shall include both a phone number and an email address and shall be clearly posted in an obvious location.
- g. Trash removal shall be the responsibility of the homeowner (or the homeowner’s responsible party) and shall be collected weekly or more frequently as needed, by residential trash collection services or weekly trips to the Town Transfer Station.
- h. Every Short-Term Rental is required to have a functioning fire extinguisher, as well as a current and functioning Smoke and CO detectors, to code, as per MGL Chapter 148, section 26E
- i. Every Short-Term rental operator must maintain liability coverage of not less than \$1,000,000.00, to cover each Short-Term Rental unless such Short-Term rental coverage is offered through the Hosting venue – such as Airbnb – that maintains equal or greater coverage per MGL, Chapter 337, Section 4Fb.
- j. Homeowners shall submit an annual form, similar to the current dog license, confirming the Homeowner’s name, address, and contact information – phone and email – and attesting to the following:
  - 1. That the presence of smoke and CO detectors are to code, functioning, and up to date.
  - 2. There is a functioning fire extinguisher located within the Short-Term Rental Unit, or one per unit, as required.
  - 3. The Homeowner further attests that there is liability coverage maintained of not less than \$1,000,000.00, to cover each Short-Term Rental unless such Short-Term Rental coverage is already offered through the Hosting venue.

Claudia Laslie made a principal motion and it was seconded by someone in the audience to put the citizen petition to vote and adopt it as written but to make an amendment and strike through item c in the first section as such:

- e. ~~Units meeting the definition of “Professionally Managed Units” under MGL, Chapter 64G, Section 1.~~

The following people spoke on this amendment:

Craig Okerstrom-Lang  
Claudia Laslie

James Manning  
Christopher Tucci

Jorge Alcala

The Moderator asked for a vote on adopting Article 33 as presented.

**MOTION FAILED AT 10:06 PM**

**ARTICLE 29:** (majority)

On a motion by Stephen Bannon and seconded by Christopher Rembold, that the Town adopt the resolution in support of the work of the Special Commission Relative to the Seal and Motto of the Commonwealth as printed in Article 29 of the Warrant of this Town Meeting, and that the Town forward the adopted resolution to the representatives and senators in the General Court as specified therein.

Erica Mielke spoke on this article.

**VOTED AT 10:07 PM**

**ARTICLE 30:** (majority)

On a motion by Stephen Bannon and seconded by Leigh Davis, that the Town accept Chapter 64G, section 3D (a) of the Massachusetts General Laws, authorizing the imposition of a community impact fee of 3% on the transfer of occupancy of a short-term rental in a "professionally managed unit," which term is defined in G.L. c. 64G, §1, with said fee to apply to transfers of occupancies on or after October 1, 2022.

**VOTED AT 10:08 PM**

**ARTICLE 31:** (majority)

On a motion by Stephen Bannon and seconded by someone in the audience, that the Town accept Chapter 64G, section 3D(b) of the Massachusetts General Laws, authorizing the imposition of a community impact fee of 3% on the transfer of occupancy of a short-term rental unit that is located in a two- or three-family dwelling that includes the operator's primary residence, with said fee to apply to transfers of occupancies on or after October 1, 2022.

**VOTED AT 10:10 PM**



**ARTICLE 32:** (majority)

On a motion by Stephen Bannon and seconded by Garfield Reed, that the Town dedicate 100% of any community impact fees collected under Chapter 64G, Section 3D (a) or (b) of the General Laws to affordable housing, as follows: fees shall be deposited in a receipts reserved for appropriation account, for appropriation by vote of Town Meeting for the purpose of supporting affordable housing including grants to the Great Barrington Affordable Housing Trust Fund.

**VOTED AT 10:11 PM**

Motion to adjourn by Stephen Bannon and seconded by someone in the audience.

**MEETING ADJOURNED AT 10:11 PM**

Respectfully submitted,

*Jennifer L. Messina*

Jennifer L. Messina  
Town Clerk

**Total Registered Voters: 5,047**

**Total Voters: 381 (7.5%)**