



Commonwealth of Massachusetts
TOWN OF NEW MARLBOROUGH
ANNUAL TOWN MEETING
WARRANT

BERKSHIRE: ss

To: David Herrick, Constable of the Town of New Marlborough

Greetings :

In the name of the Commonwealth of Massachusetts, you are hereby required to warn and notify the inhabitants of the Town of New Marlborough, qualified to vote in Town elections and affairs, to meet in the Town Hall in Mill River Village, on Monday, the 13th day of May 2019, to bring in their ballots to the election officers for the election of the following Town Officers:

Moderator for 1 year
Board of Selectmen for 3 years
Board of Assessors for 3 years
Tree Warden for 1 year
Cemetery Commissioner for 3 years
Planning Board for 5 years
Planning Board for 2 years
Board of Health for 3 years
Library Trustee for 3 years
Finance Committee for 3 years
Finance Committee for 3 years
Finance Committee for 3 years

The polls open at twelve noon and will remain open continuously until seven o'clock in the evening of said day when they will be then closed.

The Town will furnish all ballots and the election will be conducted according to the Australian System as enacted by the General Court and in conformity with the Election Laws of the Commonwealth.

You are also hereby required to warn and notify the inhabitants of the Town of New Marlborough, qualified to vote in Town affairs, to meet in the Fire House at 205 Norfolk Road in Southfield Village, on Monday, the 6th day of May 2019 at 7:00 in the evening, then and there to act on the following articles:

Article 1: To hear and act upon the reports of the Town Officers or any committee of the Town.

Article 2: To see if the Town will vote to authorize the Board of Selectmen to act as agents of the Town in accordance with Chapter 40, Section 2 of the General Laws for the purpose of bringing suit or suits in the name of the Town and on its behalf, and to adjust, litigate, defend, compromise, settle, and execute any and all documents pursuant to any settlement on behalf of the Town for such amounts as the Selectmen shall determine in their decision to be proper and in the best interest of the Town, or take any other vote in relation thereto.

Article 3: To see if the Town will vote to authorize the Town, with the approval of the Board of Selectmen, to seek and accept any grants, or take any other vote in relation thereto.

Article 4: To see if the Town will vote to authorize the Board of Selectmen to appoint any member or members thereof to other office(s) or position(s) for a term as provided by law (if any), or otherwise for a term not to exceed one year and to fix the salary and compensation in accordance with Chapter 41, Section 4A of the General Laws, or take any other vote in relation thereto.

Article 5: To see if the Town will vote to authorize the Board of Health to appoint an agent for the Board of Health who may be a member of the Board of Health, under the provisions of Chapter 41, Section 4A of the General Laws, subject to the approval of the Board of Selectmen, or take any other vote in relation thereto.

Article 6: To see if the Town will vote to authorize the Conservation Commission to appoint an agent for the Conservation Commission, who may be a member of the Conservation Commission, under the provisions of Chapter 41, Section 4A of the General Laws, subject to the approval of the Board of Selectmen, or take any other vote in relation thereto.

Article 7: To see if the Town will vote to authorize any Town Board to appoint any member thereof to another office or position, subject to the approval of the Board of Selectmen, for a term as provided by law (if any), or otherwise for the term not to exceed one year, and to fix the salary and compensation in accordance with Chapter 41, Section 4A of the General Laws or take any other vote in relation thereto.

Article 8: To see if the Town will vote to accept any and all money appropriated by the Executive Office of Transportation and Massachusetts Highway Department, subject to the approval of the Board of Selectmen, said sums to be used for the purpose of repairing roads, or take any other vote in relation thereto.

Article 9: To see if the Town will vote to accept any and all money appropriated by the Executive Office of Veterans Affairs and appropriate said amounts, subject to the approval of the Board of Selectmen, to the Veterans Benefits Trust Fund for the purpose of paying veteran benefits under Chapter 115 of the General Laws, or take any other vote in relation thereto.

Article 10: To see if the Town will vote to affix the salaries of various elected Town Officers, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

	FY 2020	+/-	FY 2019
Board of Selectmen (each, 3 members)	\$ 2,850.00		\$ 2,850.00
Town Moderator	\$ 145.00		\$ 145.00
Town Clerk	\$ 33,159.00	\$1,139.00	\$ 32,020.00
Board of Assessors (chairman)	\$ 2,200.00		\$ 2,200.00
Board of Assessors (each, 2 members)	\$ 1,900.00		\$ 1,900.00
Board of Health (chairman)	\$ 450.00		\$ 450.00
Board of Health (each, 2 members)	\$ 400.00		\$ 400.00
Cemetery Commissioners (chairman)	\$ 150.00		\$ 150.00
Cemetery Commissioners (each, 2 members)	\$ 125.00		\$ 125.00
Constable	\$ 475.00		\$ 475.00
Tree Warden	\$ 1,250.00		\$ 1,250.00
Library Trustees (chairman)	\$ 120.00		\$ 120.00
Library Trustees (each, 2 members)	\$ 100.00		\$ 100.00
School Comm Reps (each, 2 members)	\$ 825.00		\$ 825.00

General Government

Article 11: To see if the Town will vote to raise and appropriate the amounts recommended, or any other amounts, for the following purposes, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

	FY 2020	+/-	FY 2019
1 Moderator	\$ 145.00	\$ -	\$ 145.00
2 Selectmen Salaries	\$ 8,550.00	\$ -	\$ 8,550.00
3 Selectmen Expenses	\$ 3,000.00	\$ -	\$ 3,000.00
4 Contingency	\$ 5,000.00	\$ -	\$ 5,000.00
5 Conservation Commission Expenses	\$ 1,700.00	\$ 300.00	\$ 1,400.00
6 Conservation Commission Clerical	\$ 600.00	\$ -	\$ 600.00
7 Town Counsel	\$ 10,000.00	\$ -	\$ 10,000.00
8 Town Administrator Salary	\$ 39,574.00	\$ 4,553.00	\$ 35,021.00
9 Administrative Secretary Salary	\$ 30,777.00	\$ 1,062.00	\$ 29,715.00
10 Website	\$ 3,975.00	\$ 1,500.00	\$ 2,475.00
11 Finance Committee Expenses	\$ 500.00	\$ -	\$ 500.00
12 Accounting Officer Salary	\$ 19,071.00	\$ 640.00	\$ 18,431.00
13 Accounting Officer Expenses	\$ 4,515.00	\$ -	\$ 4,515.00
14 Assessors Salaries	\$ 6,000.00	\$ -	\$ 6,000.00

15 Assessors General Expenses	\$ 1,850.00	\$ 50.00	\$ 1,800.00
16 Assessors Tax Map Update	\$ 2,500.00	\$ -	\$ 2,500.00
17 Assessors Consultant	\$ -	\$ (2,500.00)	\$ 2,500.00
18 Assessors Property Cards Online	\$ 1,640.00	\$ 40.00	\$ 1,600.00
19 Assessors Clerk Salary	\$ 19,450.00	\$ 671.00	\$ 18,779.00
20 Assessors Computer Contract	\$ 4,771.00	\$ 143.00	\$ 4,628.00
21 Assessors Revaluation Account	\$ 16,500.00	\$ -	\$ 16,500.00
22 Tax Collector Computer Service	\$ 7,940.00	\$ 1,110.00	\$ 6,830.00
23 Tax Collector Salaries	\$ 26,963.00	\$ 786.00	\$ 26,177.00
24 Tax Collector Expenses	\$ 6,255.00	\$ -	\$ 6,255.00
25 Treasurer Salary	\$ 18,737.00	\$ 648.00	\$ 18,089.00
26 Assistant Treasurer Salary	\$ 2,000.00	\$ -	\$ 2,000.00
27 Treasurer Expenses	\$ 3,300.00	\$ -	\$ 3,300.00
28 Treasurer Software	\$ 3,975.00	\$ -	\$ 3,975.00
29 Tax Title (Collector)	\$ 800.00	\$ (500.00)	\$ 1,300.00
30 Tax Title (Treasurer)	\$ 2,000.00	\$ (4,000.00)	\$ 6,000.00
31 Town Clerk Salary	\$ 33,159.00	\$ 1,139.00	\$ 32,020.00
32 Town Clerk Expenses	\$ 2,200.00	\$ -	\$ 2,200.00
33 Town Records Preservation	\$ 5,000.00	\$ -	\$ 5,000.00
34 Election Expenses	\$ 4,525.00	\$ 2,300.00	\$ 2,225.00
35 Street Listing	\$ 800.00	\$ -	\$ 800.00
36 Agricultural Commission Expenses	\$ 250.00	\$ 50.00	\$ 200.00
37 Planning Board Expenses	\$ 900.00	\$ 27.00	\$ 873.00
38 Planning Board Clerical	\$ 1,500.00	\$ 200.00	\$ 1,300.00
39 Board of Appeals	\$ 300.00	\$ -	\$ 300.00
40 Clerical	\$ 9,124.00	\$ 315.00	\$ 8,809.00
41 Town Hall Expenses	\$ 34,500.00	\$ -	\$ 34,500.00
42 Town Hall Custodian	\$ 8,622.00	\$ 298.00	\$ 8,324.00
43 Town Officers Bonds	\$ 1,500.00	\$ 700.00	\$ 800.00
44 Printing	\$ 1,900.00	\$ 100.00	\$ 1,800.00
45 ADA Coordinator	\$ 1,500.00	\$ 1,500.00	\$ -
Total Article 11	\$ 357,868.00	\$ 11,132.00	\$ 346,736.00

Article 12: To see if the Town will vote to raise and appropriate the sum of \$5,700.00, or any other amount, for the purpose of purchasing a Voting Tabulator for use at elections in New Marlborough, or take any other vote in relation thereto. *(Not recommended by the Finance Committee)*

Highways/Public Works

Article 13: To see if the Town will vote to raise and appropriate the amounts recommended for the following purposes, or take any other vote in relation thereto. *(Line 7 is not recommended by the Finance Committee. All other lines in Article 14 are recommended by the Finance Committee)*

	FY 2020	+/-	FY 2019
1 Roads and Bridges Salaries	\$ 341,854.00	\$ 40,724.00	\$ 301,130.00
2 Roads and Bridges Expenses	\$ 183,000.00	\$ (9,000.00)	\$ 192,000.00
3 Propane	\$ 10,000.00	\$ -	\$ 10,000.00
4 Diesel Fuel	\$ 40,000.00	\$ -	\$ 40,000.00
5 Winter Roads	\$ 266,334.00	\$ -	\$ 266,334.00
6 Street Lights	\$ 4,848.00	\$ -	\$ 4,848.00
7 Highway Department Expenses	\$ 28,900.00	\$ 2,600.00	\$ 26,300.00
8 Machinery Expense	\$ 80,000.00	\$ -	\$ 80,000.00
9 Cemetery Officers Stipends	\$ 400.00	\$ -	\$ 400.00
10 Cemetery Salaries	\$ 38,677.00	\$ 1,127.00	\$ 37,550.00
11 Cemetery Expenses	\$ 2,900.00	\$ 2,900.00	\$ -
Total Article 13	\$ 996,913.00	\$ 38,351.00	\$ 958,562.00

Article 14: To see if the Town will vote to raise and appropriate the sum of \$35,000.00, or any other amount, for the purpose of defraying any associated right of way expenses in connection with the repair and/or replacement of the bridges over the Umpachene River on Canaan Southfield Road, Lumbert Cross Road, and Norfolk Road, as well as the bridge over the Whiting River on Campbell Falls Road, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

Article 15: To see if the Town will vote to raise and appropriate the sum of \$ 19,980.00, or any other sum, to the Cemetery Projects fund, for the purpose of repair and maintenance in the Town cemeteries, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

Schools

Article 16: To see if the Town will vote to raise and appropriate the amounts recommended, for the following purposes, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

	FY 2020	+/-	FY 2019
1 SBRSD Operating and Transportation	\$ 2,709,542.00	\$ 238.00	\$ 2,709,304.00
2 SBRSD Capital (Includes Bond)	\$ 156,139.00	\$ 23,988.00	\$ 132,151.00
Total Article 16	\$ 2,865,681.00	\$ 24,226.00	\$ 2,841,455.00

Article 17: To see if the Town will vote to raise and appropriate the sum of \$1,650.00 for School Committee Representatives Compensation, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

Culture and Recreation

Article 18: To see if the Town will vote to raise and appropriate the amounts recommended for the following purposes, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

	FY 2020	+/-	FY 2019
1 Library Expenses	\$ 46,919.00	\$ 1,004.00	\$ 45,915.00
2 Library Salaries	\$ 61,315.00	\$ 2,236.00	\$ 59,079.00
3 Library Trustees Stipends	\$ 320.00	\$ -	\$ 320.00
4 Historical Commission Clerical	\$ 300.00	\$ 300.00	\$ -
5 Historical Commission Expenses	\$ 500.00	\$ 500.00	\$ -
6 Umpachene Falls Park Expenses	\$ 4,000.00	\$ -	\$ 4,000.00
7 Care of Village Green	\$ 4,323.00	\$ 1,230.00	\$ 3,093.00
8 Cultural Council Expenses	\$ 1,250.00	\$ 250.00	\$ 1,000.00
9 Memorial Day	\$ 700.00	\$ -	\$ 700.00
Total Article 18	\$ 119,627.00	\$ 5,520.00	\$ 114,107.00

Article 19: To see if the Town will vote to raise and appropriate the sum of \$ 11,000.00, or any other sum, to the Umpachene Falls Park Erosion Project, for the purpose of obtaining engineering services to stabilize the riverbank in Umpachene Falls Park, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

Protection of Persons and Property

Article 20: To see if the Town will vote to raise and appropriate the amounts recommended for the following purposes, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

	FY 2020	+/-	FY 2019
1 Police Department Salaries	\$ 161,053.00	\$ 27,082.00	\$ 133,971.00
2 Police Department Expenses	\$ 26,250.00	\$ 1,800.00	\$ 24,450.00
3 Police Department Rental	\$ 6,000.00	\$ (3,000.00)	\$ 9,000.00
4 Constable Stipend	\$ 475.00	\$ -	\$ 475.00
5 Constable Expenses	\$ 50.00	\$ (45.00)	\$ 95.00
6 Fire Protection	\$ 62,000.00	\$ 3,100.00	\$ 58,900.00
7 Fire Fighters Stipends	\$ 36,500.00	\$ -	\$ 36,500.00
8 Fire Department Clerical	\$ 1,700.00	\$ -	\$ 1,700.00
9 NM Rescue Clerical	\$ 4,992.00	\$ -	\$ 4,992.00
10 Building Inspector Expenses	\$ 3,475.00	\$ 1,358.00	\$ 2,117.00
11 Building Inspector Salary	\$ 21,532.00	\$ 743.00	\$ 20,789.00
12 Alternate Building Inspector Compensation	\$ 1,000.00	\$ 1,000.00	\$ -
13 Building Inspector Software	\$ 2,990.00	\$ 145.00	\$ 2,845.00
14 Emergency Management Stipend	\$ 4,330.00	\$ -	\$ 4,330.00
15 Emergency Management Expenses	\$ 2,450.00	\$ 450.00	\$ 2,000.00
16 Animal Control Officer	\$ 3,711.00	\$ -	\$ 3,711.00
17 Animal Inspector Compensation	\$ 1,500.00	\$ -	\$ 1,500.00

18 Animal Inspector Expense	\$ 825.00	\$ 25.00	\$ 800.00
19 Tree Warden Salary	\$ 1,250.00	\$ -	\$ 1,250.00
20 Tree Work	\$ 20,000.00	\$ 5,000.00	\$ 15,000.00
21 911 Coordinator Expenses	\$ 100.00	\$ -	\$ 100.00
22 Emergency Notification System	\$ 2,700.00	\$ 100.00	\$ 2,600.00
23 Berkshire County Communications	\$ 10,592.00	\$ 308.00	\$ 10,284.00
Total Article 20	\$ 375,475.00	\$ 38,066.00	\$ 337,409.00

Article 21: To see if the Town will vote to transfer the amount of \$28,850.00 from the New Marlborough Rescue/Comstar Reserved Account, or any other amount, and to appropriate said amount, or any other amount, to the New Marlborough Rescue Expense Account for the purpose of the operation of the ambulance, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

Article 22: To see if the Town will vote to transfer the amount of \$27,250.00 from the New Marlborough Rescue/Comstar Reserved Account, or any other amount, and to appropriate said amount, or any other amount, to the New Marlborough Rescue Stipend Account for the purpose of staffing the ambulance, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

Article 23: To see if the Town will vote to raise and appropriate the amount of \$2,400.00, or any other amount, for the purpose of updating the Hazardous Mitigation Plan, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

Article 24: To see if the Town will vote to raise and appropriate the amount of \$10,000.00, or any other amount, to the Tree Maintenance Projects Accounts, for the purpose of trimming and removing trees, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

Health and Human Services

Article 25: To see if the Town will vote to raise and appropriate the amounts recommended for the following purposes, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

	FY 2020	+/-	FY 2019
1 Household Hazardous Waste	\$ 3,160.00	\$ 1,761.00	\$ 1,399.00
2 Board of Health Salaries	\$ 1,250.00	\$ -	\$ 1,250.00
3 Board of Health Expenses	\$ 1,500.00	\$ -	\$ 1,500.00
4 Board of Health Clerical	\$ 5,004.00	\$ 4.00	\$ 5,000.00
5 Board of Health Software Expense	\$ 1,750.00	\$ 150.00	\$ 1,650.00
6 Transfer Station Expenses	\$ 75,000.00	\$ 3,000.00	\$ 72,000.00
7 Transfer Station Salaries	\$ 27,528.00	\$ 1,253.00	\$ 26,275.00
8 Community Health Program	\$ 1,000.00	\$ -	\$ 1,000.00
9 Visiting Nurse Association	\$ 2,581.00	\$ 1.00	\$ 2,580.00
10 Mental Health	\$ 200.00	\$ -	\$ 200.00
11 Berkshire Regional Purchasing	\$ 800.00	\$ 200.00	\$ 600.00
12 Council on Aging Transportation	\$ 5,720.00	\$ -	\$ 5,720.00
13 Council on Aging Expenses	\$ 250.00	\$ -	\$ 250.00
14 Commission on Disabilities Expenses	\$ 225.00	\$ 225.00	\$ -
15 Senior Tax Workoff Expenses	\$ 150.00	\$ -	\$ 150.00
Total Article 25	\$ 126,118.00	\$ 6,594.00	\$ 119,524.00

Debt and Interest

Article 26: To see if the Town will vote to raise and appropriate the amounts recommended for the following purposes, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

	FY 2020	+/-	FY 2019
1 2014 Highway Truck	\$ -	\$ (24,420.00)	\$ 24,420.00
2 2014 Loader	\$ -	\$ (17,797.00)	\$ 17,797.00
3 2015 Highway Truck	\$ 45,492.00	\$ (892.00)	\$ 46,384.00
4 2015 Fire Truck	\$ 70,400.00	\$ (2,200.00)	\$ 72,600.00
5 2019 Grader	\$ 45,500.00	\$ 45,500.00	\$ -
Total Article 26	\$ 161,392.00	\$ 191.00	\$ 161,201.00

Unclassified Expenses

Article 27: To see if the Town will vote to raise and appropriate the recommended amounts, for the following purposes, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

	FY 2020	+/-	FY 2019
1 Berkshire County Retirement	\$ 158,015.00	\$ 13,326.00	\$ 144,689.00
2 Workers Compensation Insurance	\$ 16,500.00	\$ -	\$ 16,500.00
3 General Insurance	\$ 64,850.00	\$ (3,150.00)	\$ 68,000.00
4 Group Insurance	\$ 194,484.00	\$ (1,737.00)	\$ 196,221.00
5 Insurance Reimbursement	\$ 5,000.00	\$ -	\$ 5,000.00
6 Longevity Stipend	\$ 2,500.00	\$ -	\$ 2,500.00
7 Medicare	\$ 14,894.00	\$ 1,394.00	\$ 13,500.00
8 Veterans District	\$ 6,796.00	\$ 125.00	\$ 6,671.00
9 Veterans Benefits Trust Chapter 115	\$ 10,000.00	\$ (2,000.00)	\$ 12,000.00
10 Berkshire Regional Planning	\$ 1,203.00	\$ 30.00	\$ 1,173.00
11 Reserve Fund	\$ 50,000.00	\$ -	\$ 50,000.00
Total Article 27	\$ 524,242.00	\$ 7,988.00	\$ 516,254.00

Article 28: To see if the Town will vote to raise and appropriate the sum of \$150,000.00 or any other amount, for the purpose of funding the Stabilization Fund, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

Article 29: To see if the Town will vote to transfer the sum of \$219,000.00 or any other amount, from Free Cash and appropriate said amount, or any other amount, to the Roads Projects Account for the purpose of repairing town roads, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

Article 30: To see if the Town will vote to transfer the sum of \$115,000.00, or any other amount, from Free Cash and appropriate said amount, or any other amount, to the Highway Yard Paving Account for the purpose of paving the driveway and parking areas at the town Highway Garage, or take any other vote in relation thereto. *(Recommended by the Finance Committee)*

Article 31: To see if the Town will vote to transfer the sum of \$140,000.00, or any other amount, from Free Cash, and appropriate said amount, or any other amount, to the 2019 Highway Truck account, for the purpose of purchasing a 19.5 GVW highway truck with complete snow and ice removal package, or take any other vote in relation there to. *(Recommended by the Finance Committee)*

Article 32: To see if the Town will vote to transfer the sum of \$25,000.00, or any other amount, from the Town Hall Renovations account and appropriate said amount, or any other amount, to the Town Hall Workspace Improvements account for the purpose of improving the working conditions in Town Hall, or take any other vote in relation thereto.

Article 33: To see if the Town will vote to fix the maximum amount that may be spent during fiscal year 2020 without further appropriation for the revolving funds established in the General By-laws for certain departments, boards, committees, agencies, or other officers in accordance with MGL Chapter 44, Section 53E ½ as follows, or take any other vote in relation thereto:

<u>Authorized Revolving Funds</u>	<u>FY 2020 Spending Limit</u>
Plumbing Inspector	\$ 7,500.00
Gas Inspector	\$ 5,000.00
Electrical Inspector	\$ 10,000.00
Board of Health	\$ 17,000.00
Tax Title Fees	\$ 25,000.00

Article 34: To see if the Town will vote to accept the provisions of MGL Chapter 64 L, Section 2(A), the meals excise tax of 0.75%, to take effect on the first day of the calendar quarter following thirty days after such vote of the Town Meeting, or take any other vote in relation thereto.

Article 35: To see if the Town will vote to accept the provisions of MGL Chapter 64 G, section 3(A), and impose a local excise tax upon the transfer of occupancy of any room or rooms in a bed and breakfast establishment, hotel, lodging house, short term rental, or motel located within the Town at a rate of 6%, said excise tax to take effect on the first day of the calendar quarter following thirty days after such vote of the Town Meeting, or take any other vote in relative thereto.

Article 36: To see if the Town will vote to amend the Regional Agreement Establishing the Southern Berkshire Regional School District as restated effective as of July 1, 2011 as shown on the attached proposed Amendment to Regional Agreement, by deleting the introductory paragraph and subparagraphs a. through h., inclusive, of Section 4 APPORTIONMENT OF COSTS, and replacing that introductory paragraph and those deleted subparagraphs with a new introductory paragraph and new subparagraphs a. through h. of Section 4 APPORTIONMENT OF COSTS.

<<Please see the supplementary document titled “Amendment to Regional Agreement establishing the Southern Berkshire Regional School District”>>

Article 37: To see if the Town will vote to accept the provisions of MGL 143 Section 3Z and allow any part time inspector of buildings, building commissioner, local inspector or alternate inspector to practice for hire or engage in the business for which he is certified, licensed or registered under the building code, while serving as such inspector, provided, however, that within the area over which he has jurisdiction as inspector or alternate inspector, he shall not exercise any of his powers and duties as such inspector, including those of enforcement officer of the state building code for the construction, reconstruction, alteration, repair, demolition or removal work done by himself, his employer, employee, or one employed with him, or take any other vote in relation thereto.

Article 38: To see if the Town will vote to authorize the Board of Selectmen to enter into a Tax Agreement pursuant to MGL Chapter 59 Section 38H(b) and Chapter 164 Section 1, and/or any other enabling authority for any solar photovoltaic facilities located in Town for a term of up to 20 years, on such terms and conditions as the Board of Selectmen deems to be in the best interest of the Town, and to take any and all actions as may be necessary or convenient to accomplish the purpose of this article, or take any other vote in relation thereto.

Article 39: To see if the Town will vote to authorize the Board of Selectmen to enter into a ten (10) year contract, commencing on July 1, 2020 with the qualified vendor selected by MASS DEP through a competitive bid process for recycling processing services for the Town, subject to the Board of Selectmen’s determination that the contract is in the best interests of the Town and subject to Town Meeting approval in the Spring of 2020 for funding for these services, or take any other vote in relation thereto.

Article 40: To see if the Town will vote to accept portions of Campbell Falls Road as public ways, as heretofore laid out by the Board of Selectmen and shown on the plans entitled "New Marlborough Campbell Falls Road Proposed Layout" dated March 21st, 2019, prepared by WSP USA Inc., as said plan may be amended, and on file with the Town Clerk, for all purposes for which public ways are used in the Town of New Marlborough, and any drainage, utility, access, and/or other easements related thereto, all as shown on the plans, or take any other vote in relation thereto.

Article 41: To see if the Town will vote to accept portions of Canaan Southfield Road as public ways, as heretofore laid out by the Board of Selectmen and shown on the plans entitled “ New Marlborough Canaan Southfield Road Proposed Layout, dated February, 2019, prepared by WSP USA, Inc, as said plan may be amended, and on file with the Town Clerk, for all purposes for which public ways are used in the Town of New Marlborough, and any drainage, utility, access, and/or other easements related thereto, all as shown on the plans, or take any other vote in relation thereto.

Article 42: To see if the Town will vote to accept portions of Lumbert Cross Road as public ways, as heretofore laid out by the Board of Selectmen and shown on the plans entitled "New Marlborough Lumbert Cross Road Proposed Layout" dated February, 2019, prepared WSP USA Inc, as said plan may be amended, and on file with the Town Clerk, for all purposes for which public ways are used in the Town of New Marlborough, and any drainage, utility, access, and/or other easements related thereto, all as shown on the plans, or take any other vote in relation thereto.

Article 43: To see if the Town will vote to accept portions of Norfolk Road as public ways, as heretofore laid out by the Board of Selectmen and shown on the plans entitled "New Marlborough Norfolk Road Proposed Layout dated February, 2019, prepared by WSP USA, Inc as said plan may be amended, and on file with the Town Clerk, for all purposes for which public ways are used in the Town of New Marlborough, and any drainage, utility, access, and/or other easements related thereto, all as shown on the plans, or take any other vote in relation thereto.

Article 44: To see if the Town will vote to authorize the Board of Selectmen to acquire the following land parcels; and or, the rights in land parcels for the purpose of obtaining a secure and public right of way. This will allow for the construction and roadway safety improvements for the construction of a new bridge on Campbell Falls Road.

In Fee:	Total number of parcels:	Area (square feet):
Temporary Easement	0	
Permanent Easement	0	

Further that the Selectmen may acquire these parcels, or modifications of these parcels or other required parcels, through all legal means. This includes donations, purchase, or eminent domain. The subject parcels are currently identified on plans drafted by Aecom Technical Services, Inc, dated March 19, 2019, titled “Plan and Profile of Campbell Falls Road in the Town of New Marlborough, Berkshire County, Preliminary Right of Way Plan, or take any other vote in relation thereto. **(2/3 Vote required)**

Article 45: To see if the Town will vote to authorize the Board of Selectmen to acquire the following land parcels; and or, the rights in land parcels for the purpose of obtaining a secure and public right of way. This will allow for the construction and roadway safety improvements for the construction of a new bridge on Canaan Southfield Road.

In Fee:	Total number of parcels:	Area (square feet):
Temporary Easement	1	1,360 +/-
Permanent Easement	4	183 +/-

Further that the Selectmen may acquire these parcels, or modifications of these parcels or other required parcels, through all legal means. This includes donations, purchase, or eminent domain. The subject parcels are currently identified on plans drafted by Gill Engineering dated February 21st, 2019, titled “Plan and Profile of Canaan Southfield Road over Umpachene River in the Town of New Marlborough, Berkshire County, Preliminary Right of Way Plan, or take any other vote in relation thereto. **(2/3 Vote required)**

Article 46: To see if the Town will vote to authorize the Board of Selectmen to acquire the following land parcels; and or, the rights in land parcels for the purpose of obtaining a secure and public right of way. This will allow for the construction and roadway safety improvements for the construction of a new bridge on Lumbert Cross Road.

In Fee:	Total number of parcels:	Area (square feet):
Temporary Easement	2	2,050 +/-
Permanent Easement	0	

Further that the Selectmen may acquire these parcels, or modifications of these parcels or other required parcels, through all legal means. This includes donations, purchase, or eminent domain. The subject parcels are currently identified on plans drafted by Gill Engineering dated February 21st, 2019, titled “Plan and Profile of Lumbert Cross Road over Umpachene River in the Town of New Marlborough, Berkshire County, Preliminary Right of Way Plan or take any other vote in relation thereto. **(2/3 Vote required)**

Article 47: To see if the Town will vote to authorize the Board of Selectmen to acquire the following land parcels; and or, the rights in land parcels for the purpose of obtaining a secure and public right of way. This will allow for the construction and roadway safety improvements for the construction of a new bridge on Norfolk Road.

In Fee:	Total number of parcels:	Area (square feet):
Temporary Easement	1	4,784 +/-
Permanent Easement	4	583 +/-

Further that the Selectmen may acquire these parcels, or modifications of these parcels or other required parcels, through all legal means. This includes donations, purchase, or eminent domain. The subject parcels are currently identified on plans drafted by Gill Engineering dated February 19, 2019, titled “Plan and Profile of Norfolk Road over Umpachene River in the Town of New Marlborough, Berkshire County, Preliminary Right of Way Plan, or take any other vote in relation thereto. **(2/3 Vote required)**

Article 48: To see if the Town will vote to adopt the following by-law, and insert as Section 18: Marijuana Prohibition, numbered according to the town meeting’s acceptance or rejection of specific marijuana establishments: “The operation of a marijuana cultivator shall be prohibited in the Town of New Marlborough.”?

Counsel's summary: The foregoing bylaw would ban the operation of a marijuana cultivator (Marijuana Cultivator means an entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator) in the Town of New Marlborough, subject to approval by the Town of New Marlborough Town Meeting.

Yes = Prohibit

No = Allow

Article 49: To see if the Town will vote to adopt the following by-law, numbered according to the town meeting’s acceptance or rejection of specific marijuana establishments: “The operation of a craft marijuana cooperative shall be prohibited in the Town of New Marlborough.”?

Counsel's summary: The foregoing bylaw would ban the operation of a craft marijuana cooperative (Craft Marijuana Cooperative means a Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers) in the Town of New Marlborough, subject to approval by the Town of New Marlborough Town Meeting.

Yes = Prohibit

No = Allow

Article 50: To see if the Town will vote to adopt the following by-law, numbered according to the town meeting’s acceptance or rejection of specific marijuana establishments: “The operation of a marijuana product manufacturer shall be prohibited in the Town of New Marlborough.”?

Counsel's summary: The foregoing bylaw would ban the operation of a marijuana product manufacture (Marijuana Product Manufacturer means an entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers) in the Town of New Marlborough, subject to approval by the Town of New Marlborough Town Meeting.

Yes = Prohibit

No = Allow

Article 51: To see if the Town will vote to adopt the following by-law, numbered according to the town meeting’s acceptance or rejection of specific marijuana establishments: “The operation of a marijuana retailer shall be prohibited in the Town of New Marlborough.”?

Counsel's summary: The foregoing bylaw would ban the operation of a marijuana retailer (Marijuana Retailer means an entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment) in the Town of New Marlborough, subject to approval by the own of New Marlborough Town Meeting.

Yes = Prohibit

No = Allow

Article 52: To see if the Town will vote to adopt the following by-law, numbered according to the town meeting’s acceptance or rejection of specific marijuana establishments: “The operation of a marijuana research facility shall be prohibited in the Town of New Marlborough.”?

Counsel's summary: The foregoing bylaw would ban the operation of a marijuana facility (Research Facility means an entity licensed to engage in research projects by the Commission) in the Town of New Marlborough, subject to approval by the Town of New Marlborough Town Meeting.

Yes = Prohibit

No = Allow

Article 53: To see if the Town will vote to adopt the following by-law, numbered according to the town meeting’s acceptance or rejection of specific marijuana establishments: “The operation of a marijuana independent testing laboratory and standards laboratory shall be prohibited in the Town of New Marlborough.”?

Counsel's summary: The foregoing bylaw would ban the operation of a marijuana independent testing laboratory and standards laboratory (Independent Testing Laboratory means a laboratory that is licensed by the Commission and is: (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission; (b) independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and (c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.) in the Town of New Marlborough, subject to approval by the Town of New Marlborough Town Meeting.

Yes = Prohibit

No = Allow

Article 54: To see if the Town will vote to adopt the following by-law, numbered according to the town meeting’s acceptance or rejection of specific marijuana establishments: “The operation of a marijuana transporter shall be prohibited in the Town of New Marlborough.”?

Counsel's summary: The foregoing bylaw would ban the operation of a marijuana transporter (Marijuana Transporter means an entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third Party Transporter) in the Town of New Marlborough, subject to approval by the Town of New Marlborough Town Meeting.

Yes = Prohibit

No = Allow

Article 55: To see if the Town will vote to adopt the following by-law, numbered according to the town meeting’s acceptance or rejection of specific marijuana establishments: “The operation of a marijuana microbusiness shall be prohibited in the Town of New Marlborough.”?

Counsel's summary: The foregoing bylaw would ban the operation of a marijuana microbusiness (Microbusiness means a colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.) in the Town of New Marlborough, subject to approval by the Town of New Marlborough Town Meeting.

Yes = Prohibit

No = Allow

Article 56: To see if the Town will vote to amend the Town Bylaws by inserting as Section 19 the following Alarm Regulations, or to take any other vote in relation thereto:

SECTION 19 ALARM REGULATIONS

19.1 Definitions: As used in this section, the following terms shall have the meanings indicated:

Alarm System—Any alarm or device which automatically dials the emergency telephone number of the Police, Fire Department, or other emergency service to alert that an emergency exists or that the services of that department are needed or which transmits an alarm to the town’s alarm monitoring system. “Alarm system” shall also mean any alarm device which automatically emits an audible, visual, or other response upon the occurrence of the hazard or emergency and is intended to alert persons outside the building and/or any person who in turn notifies the Police and/or Fire Department to the existence of said hazard or emergency.

Dial Alarm or Dialing Device—Any fire, police, or emergency alarm device which is a telephone device or telephone attachment which automatically or electronically selects a telephone line connected to the Police, Fire Department, or dispatch center and reproduces a prerecorded message to report a criminal act or emergency requiring police, fire, or emergency response.

False Emergency Alarm—Any signal actuated by an emergency alarm to which the Police or Fire Department responds which is not the result of an emergency.

Emergency Number—Any telephone number designated by the Police or Fire Chief as a telephone number through which members of the public may report an emergency or request police assistance.

19.2 Dialing Devices Restriction/Compliance

19.2.1 All dialing devices operated by automatic means shall transmit messages only to such numbers as may be designated for that purpose by the Police and/or Fire Department of the town.

19.2.2 After six (6) months following the effective date of this section, no person shall use, operate, or install any device which will, upon activation by automatic means, initiate the dialing, calling, or other connection with the Police and/or Fire Department of the town, either at its regularly constituted telephone number or any other number which may be designated by said Police or Fire Department as a police/fire emergency number, without a permit issued by the Board of Selectmen.

19.2.3 No person shall use, operate, or install any dialing device that will, upon activation, automatically dial, call, or connect with the telephone number designated by the Chief of Police and/or Fire Chief for the purpose of receiving such alarm messages, more than twice for any one (1) incident.

19.2.4 Any system installed on or after the effective date of this section must comply with this section. Preexisting installations must comply within six (6) months of the effective date of this section.

19.3 Mandatory Alarm Delay

19.3.1 Upon the activation of a burglary (break-in) alarm, there shall be a mandatory delay of at least fifteen (15) seconds before the transmission of a signal to the Police Department to enable the user to abort the signal in the event that it was triggered inadvertently.

19.3.2 This delay shall not be applicable to a robbery (holdup), fire, or medical emergency alarm.

19.3.3 Any system installed on or after the effective date of this section must comply with this section. Preexisting installations must comply within six (6) months of the effective date of this section.

19.4 Timing Devices The user of every alarm system emitting and audible, visual, or other response shall, at the time such system is installed or within ninety (90) days of the effective date of this section in the case of existing systems, install or cause to be installed an automatic timing device which shall deactivate such alarm so that it will be activated for no more than fifteen (15) seconds.

19.5 KnoxBox All new alarm system users of emergency, medical, or fire system alarm systems shall equip the alarmed premises with an approved KnoxBox of sufficient size to hold all pertinent data and provide the Fire Department access to the facility. All KnoxBoxes are to have a red locator centered over them and shall contain a complete set of access keys and a typewritten laminated list of emergency contacts and alarm code. Existing alarm system users shall install KnoxBoxes within twelve (12) months of the passage of this bylaw.

19.6 Information to be filed

19.6.1 The user of every alarm system maintained in the town, except those installed in motor vehicles, shall within ten (10) days of the installation thereof or within sixty (60) days of the enactment of this section, file the following information with the Police Department of the town:

- 1) The type of alarm system.
- 2) The street address and the nearest cross street of the building which houses the alarm.

- 3) In the case of a commercial premises, the name, address, and telephone number of an authorized represented and/or alternate who will be able to respond when called by police to deactivate the alarm system, if necessary.
- 4) In the case of a private residence, the name, address, and telephone number of a person who is not a resident of the private residence in question and who will be able to deactivate the alarm system.

19.6.2 Such filing requirements are not applicable to all alarm systems, whether the same are or are not directly connected to the Police, Fire Department, or dispatch center or are merely audible alarms. Such filing must be made within the time period specified above even though there shall have been previous notification of the existence of such alarm systems to the Police and/or Fire Department or other department of the town.

19.7 Permit Fees

19.7.1 The Board of Selectmen is hereby authorized to grant a revocable permit to any owner, lessee, or occupant of property located in the town to operate, maintain, install, or modify a police or fire alarm device, and no such device shall be operated unless such permit shall have first been issued.

19.7.2 The Board of Selectmen shall charge of a fee of \$25.00 for the issuance of such permits, which are to be renewed annually. Permits will expire on December 31 of each year.

19.8 Revocation

19.8.1 A permit issued pursuant to this section may be revoked at any time or from time to time by the Board of Selectmen upon the giving of ten (10) days' notice, in writing, by registered or certified mail, to the permittee, sent to the address shown on the permit.

19.8.2 The violation of this section shall constitute grounds for the revocation of the permit.

19.9 False Alarms A fee will be charged as listed below for each response by the Fire and/or Police Department to any building/residence in which an alarm malfunction or alarm activation is caused by the occupant or persons having control of the building/residence. The Police/Fire Chief or senior officer making an alarm response shall determine whether the alarm was a malfunction by the alarm system or accidental activation. After a third response in a twelve month period, the permit shall be revoked by the Board of Selectmen until the alarm system has been recertified by a reputable installer of alarms.

First Offense:	\$ 0.00
Second Offense:	\$25.00
Third Offense:	\$50.00

19.10 Disconnection In the event that an alarm system emitting an audible, visual or other similar response shall fail to be deactivated within the time limitation specified in Section 19.4 above, the town shall have the right to take such action as may be necessary in order to disconnect any such alarm.

19.11 Violations and penalties Any person operating an alarm system without a permit from the Board of Selectmen violates the provisions of this section and shall be subject to a fine of \$100.00 for each offense.

Article 57: To see if the Town will vote to adopt the proposed zoning amendments to the Town of New Marlborough's Protective By-laws to create two zoning districts within the Town, Rural Residential and Village Center Residential, to propose different dimensional requirements applicable to properties within these districts, to remove definitions from Section 2 and reinsert definitions as Section 12 with no changes to the number or language of current definitions, to renumber Section 3.4 to correct an existing numbering error, and set the boundaries of the new zoning districts on the New Marlborough Zoning Map as more particularly published in the supplementary document, copies of which are available in the Town Clerk's office, on the Town website, and provided at the Annual Town Meeting, or take any other vote in relation thereto. **(2/3 vote required)**

<<Please see the supplementary document titled "Proposed Amendments to The New Marlborough Protective Bylaws on District Zoning">>

Moreover, you are hereby directed to serve this warrant by posting copies of the same in five (5) or more public places within the Town, to include the Transfer Station and the Town Website, at least seven (7) days before the time of said meeting.

Given under our hands this 22nd day of April, 2019

The original signed copy is on file in the Town Clerk’s Office.

Michele McAuley Shalaby /s/

Tara B. White /s/

Nathaniel H. Yohalem /s/

Michele McAuley Shalaby,
Chair

Tara B. White

Nathaniel H. Yohalem

BOARD OF SELECTMEN

Pursuant to the Warrant, I certify that, at least seven (7) days before the time of said meeting, I have posted true and attested copies of this Warrant at:

Mill River Post Office, Mill River Village
Southfield Post Office, Southfield Village
New Marlborough Town Library, Mill River Village
Transfer Station, New Marlborough Village
and the Town Website as directed by vote of the Town of New Marlborough.

A true copy, Attest :

David Herrick /s/

April 22, 2019

David Herrick

Date

New Marlborough Constable

AMENDMENT TO REGIONAL AGREEMENT

ESTABLISHING

THE SOUTHERN BERKSHIRE REGIONAL SCHOOL DISTRICT

The Regional Agreement Establishing the Southern Berkshire Regional School District as restated effective as of July 1, 2011, is amended by deleting the introductory paragraph and subparagraphs a. through h., inclusive, of Section 4 APPORTIONMENT OF COSTS, and replacing those deleted subparagraphs with a new introductory paragraph and new subparagraphs a. through h. of Section 4 APPORTIONMENT OF COSTS, inclusive, to read in their entirety as follows:

4. APPORTIONMENT OF COSTS.

For the purpose of apportionment among Member Towns of the District, costs shall be classified as capital costs, operating costs, and transportation costs. (For purposes herein, costs apportioned among and assessed to the Member Towns shall not include any costs paid by third party sources as determined by the Regional School Committee, including but not limited to Chapter 70 state aid, Chapter 71 Regional Transportation Reimbursement, and Medicaid reimbursements.)

- a. Capital costs shall include cost of site, construction, laying out playgrounds and athletic fields, original grading, original equipment, and other costs incurred to put a new school plant into operation. Capital costs shall also include interest on indebtedness incurred to meet these outlays and the expense incident to the preparation, issuing, and marketing of bonds and other obligations. All subsequent improvements to the school plant which would be capitalized according to generally accepted accounting practices shall be treated as capital costs.
- b. The “Required Minimum Contributions” for the Member Towns and the “Required District Contribution” for the District as used herein shall be the “required local contribution” and the “required district contribution” respectively as those terms are defined and determined by the Department of Elementary and Secondary Education (hereinafter the “DESE”) in accordance with the Education Reform Act and its implementing regulations, as such statute and regulations may be amended from time to time. The ratio of each Member Town’s Required Minimum Contribution to the Required District Contribution in any applicable year is hereinafter referred to as the “Applicable Percentage.” For Fiscal Year 2013 (July 1 through June 30, 2013) and each Fiscal Year thereafter through Fiscal Year 2019 (July 1, 2018 through June 30, 2019), each Member Town’s respective share of the annual capital costs shall be calculated as follows: each Member Town’s respective share of the annual capital costs shall be calculated by multiplying total capital costs by the percentage that such Member Town’s Required Minimum Contribution bears to the District’s Required District Contribution for the applicable fiscal year. For Fiscal Year 2020 (July 1, 2019 through June 30, 2020) and each Fiscal Year thereafter, each Member Town’s respective share of the annual capital costs shall be calculated by multiplying total capital costs by the percentage share that such Member

Town's 5-year rolling average Required Minimum Contribution bears to the total of the District's 5-year rolling average Required District Contribution. The 5-year rolling averages shall be calculated using the Required Minimum Contributions for the current and four fiscal years prior.

Examples: The years to be included to calculate the 5-year rolling average Required Minimum Contribution for FY20 and FY21 are:

FY20 – Fiscal Years 2016, 2017, 2018, 2019, 2020

FY21 – Fiscal Years 2017, 2018, 2019, 2020, 2021

For each Member Town, the percentage share that such Member Town's 5-year rolling average Required Minimum Contribution bears to the total of the District's 5-year rolling average Required District Contribution is hereinafter referred to as the "Rolling Average Applicable Percentage".

- c. The payments of respective shares of said capital costs of each of the Member Towns for each year shall be paid in two equal installments made by the respective town treasurers by checks payable to the District and delivered to the District not later than August 15th and March 15th of each fiscal year. In the event a different payment schedule is required in order to allow the District to meet its payment obligations under any bond issues or other financing facilities for capital costs ("Indebtedness Payment"), each Member Town shall make such payments of its respective share of said Indebtedness Payment no later than 15 days preceding the date on which such obligation is so payable by the District.
- d. Operating costs shall include all estimated expenses of the District except capital and transportation costs, including but not limited to salaries, administration expenses, wages, textbooks, supplies, additions to current equipment, repairs, maintenance and interest on temporary notes issued in anticipation of revenue to be earned by the District.
- e. For Fiscal Year 2013 and each Fiscal Year thereafter through Fiscal Year 2019 (July 1, 2018 through June 30, 2019), each Member Town's share of the total operating costs of the District schools in any fiscal year shall be calculated by multiplying the total operating budget by the Member Town's respective Applicable Percentage. For Fiscal Year 2020 (July 1, 2019 through June 30, 2020) and each Fiscal Year thereafter, each Member Town's annual respective share of the total operating

costs of the District schools in any fiscal year shall be calculated in a two-step process as follows: First, each Member Town's respective share of the total Required Minimum Contribution shall be calculated by multiplying the Required District Contribution as shown in the District's budget for the applicable fiscal year by the Member Town's respective Applicable Percentage for that year. Second, the balance of each Member Town's respective share of the total operating costs of the District schools as shown in the District's budget for the applicable fiscal year in excess of the Required Minimum Contribution shall be calculated by multiplying the remaining balance of the total operating costs of the District schools as shown in the District's budget for the applicable fiscal year by such Member Town's Rolling Average Applicable Percentage.

- f. The District shall arrange for necessary transportation for pupils from all member towns attending the Regional District schools under provisions of applicable MGL and special acts.
- g. For Fiscal Year 2013 and each Fiscal Year thereafter through Fiscal Year 2019 (July 1, 2018 through June 30, 2019), each Member Town's share of the total transportation costs shall be calculated by multiplying the total transportation costs by the Member Town's respective Applicable Percentage. For Fiscal Year 2020 (July 1, 2019 through June 30, 2020) and each Fiscal Year thereafter, each Member Town's respective share of the annual transportation costs shall be calculated by multiplying total transportation costs of the District for that fiscal year by such Member Town's Rolling Average Applicable Percentage.
- h. Each Member Town shall make payment for its respective share of the District's estimated annual operating and transportation costs upon certification by the District treasurer as specified in section 8(b) below, such payment to be made by the respective town treasurer in four equal installments on the fifteenth day of August, November, February and May, by check payable to the District.

All other terms and provisions of the Regional Agreement Establishing the Southern Berkshire Regional School District as restated effective as of July 1, 2011, and including but not limited to subparagraphs i, and j of Section 4 APPORTIONMENT OF COSTS, remain in full force and effect in their entirety.

3.21.2019

Proposed Amendments to the New Marlborough Protective By-laws on District Zoning

Village Center Zoning District

Proposed changes are presented in italics underlined font

Proposed deletions are presented in strikethrough font

Comments are provided in a comment box for informational purposes only and are not intended to become part of the Protective Bylaws

Comment: Delete the text of existing "Section 2 – Definitions" and replace with text of a new "Section 2 – Zoning Districts" in order to establish two zoning districts, the Village Center Residential District and the Rural Residential District as further set forth below. This includes the adoption of a new zoning map (attached) that delineates the boundaries between the Village Center Residential District and the Rural Residential District. (Existing Section 2 – Definitions is moved to a new Section 12 – Definitions)

SECTION 2: ZONING DISTRICTS

2.1 Types of Districts

2.1.1 For the purpose of this bylaw, the Town of New Marlborough is hereby divided into two districts as follows:

Rural Residential District (RRD)

Village Center Residential District (VCRD)

2.2 The Zoning Map

2.2.1 The location and boundaries of these districts are hereby established as shown on a map entitled "Zoning Map of New Marlborough, Massachusetts" with date of adoption, bearing the signatures of the members of the Planning Board and on file in the office of the Town Clerk, which map, with all explanatory matters thereon, is hereby made a part of this chapter.

2.3 Interpretation of District Boundary Lines

- 2.3.1 Street. For the purpose of interpretation of district boundaries as shown on the Official Zoning Map, where a street constitutes a zone boundary, the centerline of that street is the boundary.
- 2.3.2 Water Bodies. Boundaries indicated as following shorelines of lakes or ponds shall be construed to follow such shorelines.
- 2.3.3 Other Boundaries. Boundaries which appear to run parallel to the features indicated above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- 2.3.4 Split Lots. Where a district boundary line divides a lot that was in single ownership on the effective date of this ordinance, the following rules shall apply:
- 2.3.4.1 The Board of Selectmen may permit, as a special permit, the extension of regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
- 2.3.4.2 The Board of Selectmen may authorize an access road from the less restricted portion of the lot through the more restricted portion of the lot upon the grant of a special permit.
- 2.3.5 Interpretation. In cases of uncertainty or disagreement concerning the exact location of a district boundary line or where physical features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered herein, the district boundary shall be determined by the Zoning Board of Appeals.

SECTION 2: ~~DEFINITIONS~~

- ~~2.1 **MAXIMUM GROSS FLOOR AREA (GFA):** The sum of all enclosed or covered areas capable of being used or finished for habitable space of each floor of the building, measured to the exterior faces of the enclosing walls, columns, or posts. A space shall be considered "capable of being used or finished for habitable space" if it meets Massachusetts Building Code occupiable ceiling height requirements. (ATM 5.4.15) (AG 11.4.15)~~
- ~~2.2 **ACCESSORY DWELLING:** A detached freestanding building located along with the principal dwelling unit on the lot shall be allowed as an accessory dwelling.~~
- ~~2.3 **AGRICULTURAL USE:** Any use of land for the purpose of raising agricultural products, livestock, poultry or dairy products, including necessary farm structures, vehicles and equipment. This use does not include kennels, commercial stables or facilities for the commercial raising of swine or fur bearing animals.~~

- 2.4 — **BUILDING:** A roofed or walled structure used or intended for supporting or sheltering any use occupancy.
- 2.5 — **CUSTOMARY HOME OCCUPATION:** Self-employed resident occupants in their private homes working at an occupation which is limited to the home, carried forth at the home and requiring no more off-street parking facilities that would ordinarily be used by the household, such as dress making, preserving or home cooking, photography, the giving of private music and dance lessons or a one chair beauty parlor. Customary home occupation does not include gift shop, antique shop, art gallery or similar retail establishment.
- 2.6 — **DWELLING UNIT:** One or more rooms constituting a separate independent housekeeping unit establishment with cooking, living, sanitary and sleeping facilities for the use of no more than one family.
- 2.7 — **DWELLING, SINGLE FAMILY:** A detached residential building designed for or occupied by one (1) family only, but not including mobile homes and trailers whether placed on foundations or not.
- 2.8 — **DWELLING, MULTI-FAMILY:** A residential building containing two (2) or more dwelling units.
- 2.9 — **FAMILY:** An individual or any number of individuals related by blood, marriage or other legal arrangement such as adoption, guardianship, foster care or up to six (6) unrelated individuals living in a single dwelling unit.
- 2.10 — **FRONTAGE:** That boundary of a lot, which lies along a road.
- 2.11 — **LOT:** An area of land in one ownership with definite boundaries, used or available for the use as the site of one or more buildings.
- 2.12 — **MUNICIPAL USE:** Any Town of New Marlborough use of land in accordance with the General Laws governing municipal powers and functions including participation in regional uses.
- 2.13 — **ROAD:** a. A public way or way which the Clerk of the Town certifies is maintained and used as a public way, or b. A way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or c. A way in existence when the subdivision control law became effective in New Marlborough on March 8, 1965 having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the building erected or to be erected thereon.
- 2.14 — **SETBACK:** The area of a lot extending inward from a lot line (or, in the case of front setback, the road line), for the distance specified in the zoning regulations in which no building or structures may be placed.

- 2.15 ~~**SETBACK, FRONT:** An area extending across the full width of the lot and extending inward from the road line of the lot.~~
- 2.16 ~~**SETBACK, REAR:** An area extending inward from rear of the lot between the side lot lines.~~
- 2.17 ~~**SETBACK, SIDE:** An area extending along a side lot line from the frontline to the rear line.~~
- 2.18 ~~**STRUCTURE:** Any construction, erection, assemblage or other combination of material upon the land necessitating pilings, footings, or a foundation for attachment to the land, including swimming pools and recreational courts.~~

Comment: Amendments are proposed to the headings and text of existing Sections 3.2, 3.3 and 3.4 to reflect the establishment of two districts as further set forth below. Section 3.4 is renumbered to correct a previous numbering error.

SECTION 3: PERMITTED USES/USE REGULATIONS

3.1 No dwelling, structure or land or any part thereof shall be used for any purpose unless authorized:

3.1.1 As a use by right

3.1.2 Under special permit granted by the Board of Selectmen

3.1.3 Under variance granted by the Board of Appeals

3.1.4 Under applicable law at the time such use began, and provided such use has continued until the present time

3.2 ~~***Rural Residential District and Village Center Residential District***~~ ~~***Town Residential District***~~

3.3 **Use by Right:** *The following uses are allowed by right in both the Rural Residential District and Village Center Residential District:*

3.3.1 Single Family Dwelling

3.3.1.2 Accessory Dwelling, existing on or before May 5, 2003, subject to the following conditions:

- A. The exterior appearance of the building shall not be altered except for the purpose of safety (stairs for fire escape), health (weather protection for the main entry such as enclosed entry or drip edge protection) or handicapped accessibility requirements (ADA compliance) or to meet building code requirements, nor shall the footprint of the building be enlarged.

- B. The minimum lot size requirement shall be two (2) acres and the minimum frontage requirement shall be 150 feet.
- C. One of the two units on the lot shall be occupied by the owner of the lot, and in the event of the sale of the property, the new owner shall occupy one of the two units as a primary residence.
- D. There shall be no more than one accessory dwelling per lot created under this bylaw.
- E. The maximum gross floor area (GFA) shall not exceed 1,200 square feet. (ATM 5.4.15) (AG 11.4.15)

3.3.1.3 Accessory Apartment

A. Purpose.

1. Add moderately priced rental units to the housing stock of the Town. (ATM 5.4.15) (AG 11.4.15)
2. Provide homeowner(s) with a means of obtaining rental income, accommodation for caregiver(s), companionship, security and/or services, thereby enabling him/her to stay more comfortably in their homes.
3. Protect property values and the single-family residential character of neighborhoods by ensuring that accessory apartments are permitted by right only on owner occupied premises.

B. Accessory Apartments. An accessory apartment may be permitted by right, as an accessory use where the principal use of the lot is an owner occupied single-family dwelling.

C. Accessory Apartment, shall be subject to the following conditions:

1. An accessory apartment shall only be constructed within an existing principal building or structure or an existing attached accessory building or structure.
2. Only one (1) accessory apartment shall be permitted on a lot.
3. The maximum gross floor area of an accessory apartment constructed within a principal building or structure shall not exceed forty percent (40%) of the maximum gross floor area of the principal building or structure. The maximum gross floor area of an accessory

apartment shall not be less than 300 square feet. The principal dwelling unit shall not be reduced to less than 300 square feet.

4. To qualify as an accessory apartment, the owner of the lot must occupy either the accessory apartment or the principal dwelling unit.

5. The principal or accessory structure or building that will contain an accessory apartment shall not be enlarged or extended in connection with the construction or modification of an accessory apartment, except to comply with building, safety or health codes as outlined in Section 3.3.1.2.A of these By-laws.

6. All parking for the occupant(s) of an accessory apartment shall be off-street in accordance with Section 7.3.1.4 of these By-laws.

7. An accessory apartment shall meet all applicable standards of the State Building Code (780 CMR) and the State Environmental Code, Title V (310 CMR 15.00) and subsequent revisions thereof.

3.3.2 Any lawful residential, municipal or non-profit recreational purpose.

3.3.3 Any religious or non-municipal educational purpose subject to Section 6.1.

3.3.4 Any agricultural use except commercial piggeries, fur farming, slaughterhouse or greenhouses.

3.3.5 The following commercial purposes, but no others:

3.3.5.1 The display and sale of natural products, the major portion of which are raised in the Town

3.3.5.2 The use of a room or rooms in a dwelling or accessory building by a resident occupant for the practice of a recognized profession or by a resident carpenter, painter, plumber, electrician or other artisan in connection with his trade, including display and sale of products produced on the premises, or by a resident engaged in the customary home occupation, provided that there is no evidence of business other than a permitted sign.

3.3.5.3 Renting of rooms and furnishing of board by an owner in his residence provided no independent kitchen facilities are maintained.

3.3.6 Buildings or structures related to the above uses.

3.4 Uses by Special Permit Only: The following uses may only be allowed by special permit in both the Rural Residential District and Village Center Residential District:

- 3.4.1 The following uses are permitted if approved, after a public hearing thereon, by permit from the Board of Selectmen who shall determine that the use will not be injurious, noxious or offensive, and that such use is consistent with the intent of the by-law.
- 3.4.1.1 Commercial Greenhouses
 - 3.4.1.2 Gallery
 - 3.4.1.3 Sawmill
 - 3.4.1.4 Antique, craft or gift shop
 - 3.4.1.5 Summer camp, golf course, boat livery, riding stable
 - 3.4.1.6 Ski tow
 - 3.4.1.7 Restaurant
 - 3.4.1.8 Facility for generating power from wind, sun or water
 - 3.4.1.9 Enclosed veterinary hospital
 - 3.4.1.10 Municipal and public service buildings, structures and use
 - 3.4.1.11 Display and sale of natural products, the major portion of which are raised outside of Town
 - 3.4.1.12 Scrap and salvage yard
 - 3.4.1.13 Sales and service of vehicles
 - 3.4.1.14 Accessory Dwelling either new construction or modification of an existing freestanding building constructed after May 5, 2003.
- 3.4.2 Multifamily dwelling, subject to the following requirements:
- 3.4.2.1 Construction plans elevations, and the location of the building(s) on the lot must be submitted to the Planning, Board of Health, Conservation Commission and the Building Inspector for their recommendations to the Board of Selectmen. The recommendations shall be submitted within thirty (30) days of the date the plans are submitted.
 - 3.4.2.2 Design plans shall contain provisions for not more than six (6) dwelling units. No building shall exceed thirty-five (35) feet in height. Such plans

shall also contain provisions for adequate water and sewage disposal facilities.

3.4.2.3 Lot shall contain a minimum of one (1) acre for the first dwelling unit and three (3) acres for each additional unit. The lot shall contain a minimum of one hundred fifty (150) feet of frontage for the first unit and one hundred (100) feet of frontage for each additional unit.

3.4.2.4 Dwelling units, parking areas and playgrounds shall not be less than one hundred (100) feet from all property lines.

~~(3.4.2.4.1)~~ 3.4.3 Conversion of a single family dwelling into a multifamily dwelling of two (2) or more units, without meeting the requirements of 4.1, if in the Rural Residential district, or 4.2, if in the Village Center Residential district, as to lot area, frontage and as to distance from property boundary line may be permitted by the Board of Selectmen provided that:

~~(3.4.2.5)~~ 3.4.3.1 The single-family dwelling has not been enlarged within seven (7) years of the proposed conversion.

~~(3.4.2.6)~~ 3.4.3.2 The lot area has not been reduced below the minimum within seven (7) years of the proposed conversion.

~~(3.4.2.7)~~ 3.4.3.3 Any fire escapes or outside stairways leading to a second story shall be located on any wall not facing a road and shall not occupy any part of the rear or side setback.

~~(3.4.2.8)~~ 3.4.3.4 No exterior addition to the original dwelling shall thereafter be made other than fire escapes and outside stairways.

~~(3.4.2.9)~~ 3.4.3.5 No dwelling shall be converted unless in connection therewith it is placed in reasonable state of repair.

~~(3.4.2.8.1)~~ 3.4.4 Accessory dwelling on a lot with less than two (2) acres or less than 150 feet of frontage, subject to the conditions set forth in Section 3.3.1.2 and Section 7.3.1.1

~~(3.4.3)~~ 3.4.5 Any other use determined by the Board of Selectmen to be similar in character to one or more uses specifically authorized herein, provided the Board finds that the proposed use is in harmony with the general purpose and intent of this by-law and not offensive or detrimental to the neighborhood.

~~(3.4.4)~~ 3.4.6 The Board of Selectmen may impose additional safeguards and requirements for any use under this section as in their judgment are necessary for the protection of the public health, safety and welfare.

~~(3.4.5)~~ 3.4.7 Every use permitted by right or authorized by special permit under the provisions of this by-law shall be subject to the State Building Code, State Sanitary Code and the Town's Board of Health Regulations and any other applicable statutes, bylaws and regulation, including Parking and Sign Regulations.

3.5 Nonconforming Structures, Uses and Lots

- 3.5.1 These procedures shall not apply to structures or uses lawfully in existence or lawfully begun at the time of the adoption of this by-law as provided in Section 6, Chapter 40A (MGL).
- 3.5.2 Any pre-existing nonconforming structures or uses may be rebuilt or reestablished within two (2) years if damaged or destroyed by fire or other catastrophe.
- 3.5.3 Pre-existing nonconforming structures or uses may be extended, altered or changed to another nonconforming use by Special Permit from the Board of Selectmen provided that the Board finds that such change, extension or alteration shall not be substantially more detrimental to the neighborhood than the existing nonconforming use.
- 3.5.4 A nonconforming use of land or structure which has been abandoned or not used for a period of two (2) years or more shall not be reestablished, except by Special Permit and any future use of such premises shall be in conformance with these instructions.
- 3.5.5 Nonconforming lots of record and lots shown on a plan endorsed by the Planning Board under the Subdivision Control Law are exempt from the provisions of this By-Law to the extent and as provided in Section 6, Chapter 40A (MGL).

Comment: Minor change proposed to existing Section 4.1 to reflect the establishment of two districts and set the dimensional standards for land located in the Rural Residential District – which remain unchanged. Add a new Section 4.2 and 4.3 to establish new dimensional standards for land located in the Village Center Residential District. Renumber existing Section 4.2 as new Section 4.4.

SECTION 4: LOT SIZE AND FRONTAGE

- 4.1 *In the Rural Residential District*, no dwelling or accessory building shall be erected or placed on a lot having less than one (1) acre in area or having less than one hundred and fifty (150) feet in frontage or be placed closer than forty (40) feet to the street line or twenty five (25) feet from side or rear lot line. No more than one (1) dwelling shall be erected or placed on any such lot.

4.2 In the Village Center Residential District, no dwelling or accessory building shall be erected or placed on a lot having less than one (1) acre in area or having less than seventy-five (75) feet in frontage or be placed closer than twenty (20) feet to the street line or twenty (20) feet from side or rear lot line. No more than one (1) dwelling shall be erected or placed on any such lot.

4.3 The maximum front setback for lots located in the Village Center Residential District shall be the average of the front setbacks of all principal buildings on the same side of the street within 100 yards on either side of the subject lot.

4.3.1 Vacant lots shall not be included in the front setback average.

4.3.2 If no principal buildings exist on the same side of the street within 100 yards on either side of the subject lot then the maximum front setback shall be thirty-five (35) feet.

4.3.3 The front setback is not to be less than twenty (20) feet.

~~(4.2)~~ 4.4 Nothing in this By-law, however, shall prohibit the construction, alteration or enlargement of a single family dwelling or other permissible building on a lot which contains a lesser area or frontage if the lot was separately owned and was so recorded in the Southern Berkshire Registry of Deeds at the time of the adoption or amendment of this By-law.

Comments: Add new Section 12 – Definitions – formerly existing Section 2

SECTION 12: DEFINITIONS

12.1 **MAXIMUM GROSS FLOOR AREA (GFA):** The sum of all enclosed or covered areas capable of being used or finished for habitable space of each floor of the building, measured to the exterior faces of the enclosing walls, columns, or posts. A space shall be considered “capable of being used or finished for habitable space” if it meets Massachusetts Building Code occupiable ceiling height requirements. (ATM 5.4.15) (AG 11.4.15)

12.2 **ACCESSORY DWELLING:** A detached freestanding building located along with the principle dwelling unit on the lot shall be allowed as an accessory dwelling.

12.3 **AGRICULTURAL USE:** Any use of land for the purpose of raising agricultural products, livestock, poultry or dairy products, including necessary farm structures, vehicles and equipment. This use does not include kennels, commercial stables or facilities for the commercial raising of swine or fur bearing animals.

12.4 **BUILDING:** A roofed or walled structure used or intended for supporting or sheltering any use occupancy.

- 12.5 **CUSTOMARY HOME OCCUPATION:** Self-employed resident occupants in their private homes working at an occupation which is limited to the home, carried forth at the home and requiring no more off-street parking facilities that would ordinarily be used by the household, such as dress making, preserving or home cooking, photography, the giving of private music and dance lessons or a one chair beauty parlor. Customary home occupation does not include gift shop, antique shop, art gallery or similar retail establishment.
- 12.6 **DWELLING UNIT:** One or more rooms constituting a separate independent housekeeping unit establishment with cooking, living, sanitary and sleeping facilities for the use of no more than one family.
- 12.7 **DWELLING, SINGLE FAMILY:** A detached residential building designed for or occupied by one (1) family only, but not including mobile homes and trailers whether placed on foundations or not.
- 12.8 **DWELLING, MULTI-FAMILY:** A residential building containing two (2) or more dwelling units.
- 12.9 **FAMILY:** An individual or any number of individuals related by blood, marriage or other legal arrangement such as adoption, guardianship, foster care or up to six (6) unrelated individuals living in a single dwelling unit.
- 12.10 **FRONTAGE:** That boundary of a lot, which lies along a road.
- 12.11 **LOT:** An area of land in one ownership with definite boundaries, used or available for the use as the site of one or more buildings.
- 12.12 **MUNICIPAL USE:** Any Town of New Marlborough use of land in accordance with the General Laws governing municipal powers and functions including participation in regional uses.
- 12.13 **ROAD:** a. A public way or way which the Clerk of the Town certifies is maintained and used as a public way, or b. A way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or c. A way in existence when the subdivision control law became effective in New Marlborough on March 8, 1965 having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the building erected or to be erected thereon.
- 12.14 **SETBACK:** The area of a lot extending inward from a lot line (or, in the case of front setback, the road line), for the distance specified in the zoning regulations in which no building or structures may be placed.
- 12.15 **SETBACK, FRONT:** An area extending across the full width of the lot
- 12.16 **SETBACK, REAR:** An area extending inward from rear of the lot between the side lot lines.

12.17 **SETBACK, SIDE:** An area extending along a side lot line from the frontline to the rear line.

12.18 **STRUCTURE:** Any construction, erection, assemblage or other combination of material upon the land necessitating pilings, footings, or a foundation for attachment to the land, including swimming pools and recreational courts.

Zoning maps available as a separate document.

