

**TOWN OF MARION  
TOWN MEETING WARRANT**



**SPECIAL TOWN MEETING  
at Sippican School Auditorium  
Spring Street  
October 21, 2019  
6:45 p.m.**

***BRING THIS COPY WITH YOU  
TO TOWN MEETING***

**TOWN OF MARION  
TOWN MEETING WARRANT  
For the Special Town Meeting to be Held  
October 21, 2019**



*Plymouth, ss:*

To either of the Constables of the Town of Marion in the Commonwealth of Massachusetts

**GREETINGS:**

In the name of the Commonwealth of Massachusetts, you are directed to notify and warn the inhabitants of the Town of Marion qualified to vote in Town election and Town affairs to meet at the Sippican School Auditorium in said Marion, on Monday, the 21st day of October next, at 6:45 o'clock in the evening, then and there to act on the following Articles, to wit:

**Article 1:**

To see if the Town will vote to transfer from available funds in the Waterways Account, the sum of twenty five thousand (\$25,000) dollars to fund a Feasibility Study for a New Harbormaster Building at 1 Island Wharf Road, said funds to be expended under the direction of the Marion Board of Selectmen, or do or take any other action in relation thereto.

*Finance Committee recommends this article*

**Article 2:**

To see if the Town will vote to authorize the Marion Board of Selectmen to sell, at a sum deemed in the best interests of the Town of Marion, the land and structures located on and at Atlantis Drive, Marion, Massachusetts, as shown on Marion Assessor's Map 24, Lot

13F Units 1 and 2, containing approximately 78,410 square feet, said parcel being shown as Lot 1 on a plan recorded with the Plymouth County Registry of Deeds as Plan number 1445 of 1988, and to authorize the Board of Selectmen to impose, in the best interests of the Town of Marion and in the Board of Selectmen's judgment, any lawful restriction on the future use of said land and/or structures, or do or take any other action in relation thereto.

*Finance Committee recommends this article*

**Article 3:**

To see if the Town will vote to expend twenty eight thousand, eight hundred (\$28,800) dollars to supplement Article 20 of the 2018 Annual Town Meeting to install epoxy floors in the apparatus room within the Marion Fire Station on Spring Street, and, that to meet this appropriation, \$28,800 to be transferred from the appropriation authorized by Annual Town Meeting 2016, Article 17, said amount to be spent for said purpose under the direction of the Marion Fire Chief, or do or take any other action in relation thereto.

*Finance Committee recommends this article*

**Article 4:**

To see if the Town will vote to expend forty-four thousand five hundred and seventy three (\$44,573) dollars from the appropriations authorized by Annual Town Meeting 2014, Article 11 (\$9,676.60), Annual Town Meeting 2016, Article 17 (\$10,798), Annual Town Meeting 2017, and Article 26 (\$24,099) to purchase a new fire tanker truck, said amount to be spent for said purpose under the direction of the Marion Fire Chief, or do or take any other action in relation thereto.

*Finance Committee recommends this article*

**Article 5:**

To see if the Town will vote to transfer thirty thousand four hundred (\$30,400) dollars from the Capital Stabilization Fund for the design of an emergency access/egress driveway from the Sippican

Elementary School to Route 6 (Mill Street), said amount to be spent for said purpose under the direction of the Marion Board of Selectmen, or do or take any other action in relation thereto.

*Finance Committee recommends this article*

**Article 6:**

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 64G, section 3A and thereafter, impose a six (6) percent local excise upon the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within the Town of Marion pursuant to the definitions and procedures set forth in Massachusetts General Laws c.64G et seq., or do or take any other action in relation thereto.

*Finance Committee recommends this article*

**Article 7:**

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 64G section 3D and thereafter, impose a community impact fee of three (3) percent of the total amount of rent upon each transfer of occupancy of a professionally managed unit that is located within the Town of Marion, pursuant to the definitions and procedures set forth in Massachusetts General Laws c.64G et seq., or do or take any other action in relation thereto.

*Finance Committee recommends this article*

**Article 8:**

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 64G section 3D and thereafter, impose a community impact fee of three (3) percent of the total amount of rent upon each transfer of occupancy of a short-term rental unit within the Town of Marion that is located within a two-family or three-family dwelling that includes the operator's primary residence, pursuant to the definitions and procedures set forth in

Massachusetts General Laws c..64G et seq., or do or take any other action in relation thereto.

*Finance Committee recommends this article*

**Article 9:**

To see if the Town will vote to authorize the Town Administrator, under the direction of the Board of Selectmen, to take any and all necessary actions to begin the process of withdrawing the Town of Marion from the Carver, Marion Wareham Regional Refuse District established by the General Court by Chapter 360 of the Acts of 1996, said necessary actions more specifically defined in the 1973 Agreement, revised in April 1995, by and between the Towns of Carver, Marion and Wareham, or do or take any other action in this matter.

*Finance Committee has no recommendation, as no financial impact*

**Article 10:**

To see if the Town will vote to rezone portions of three (3) certain parcels of land containing approximately 0.20 acres, 0.37 acres and 9.80 acres from their current zoning designation of Residence A and C to the zoning designation of General Business, said parcels located off of Front Street, Marion, Massachusetts and identified, respectively, on the Marion Assessor's Map as Map 11, Parcel 24E; Map 11, Parcel 25 and Map 11 Parcel 43 as are more fully shown on a Plan entitled "Proposed Zoning Change Exhibit Plan" prepared for Theodore Laycock and prepared by G.A.F. Engineering, August 14, 2019, scale 1"=100', or do or take any other action in relation thereto.

*Finance Committee has no recommendation, as no financial impact*

**Article 11:**

To see if the Town will vote to amend the Code of the Town of Marion Chapter 210 - Vehicles, Unregistered by revising the same as follows:

**§ 210-1. Limitations on number of vehicles stored.**

No person shall have more than ~~one~~ two unregistered cars or trucks stored outside on premises owned by him or under his control. See Table 4.2 item M.

**§ 210-2. Storage in front yard prohibited.**

Under no circumstances will an unregistered ~~car or truck~~ vehicle be permitted to be stored in a front yard.

**§ 210-3. Violations and penalties.**

Penalty for a breach hereof shall be in accordance with Chapter 1, Article I, § 1-4 of these bylaws, and each day during any portion of which a violation is permitted to exist shall constitute a separate offense.

**§ 210-4. Exception.**

This bylaw shall not apply to premises licensed under Chapter 140 of the General Laws.

*Finance Committee has no recommendation, as no financial impact*

**Article 12:**

To see if the Town will vote to amend the Code of the Town of Marion by adding a new Article III to Chapter 218 and deleting in its entirety Attachment 1 as follows:

**ARTICLE III**

**USE OF TOWN POTABLE WATER**

**218-16 Authority**

This bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under MGL c. 40,

§ 21 et seq., and implements the authority of the Board of Selectmen, acting as Water Commissioners, to regulate water use pursuant to MGL c. 41, § 69B.

### **218-17 Purpose**

The purpose of this bylaw is to protect, preserve, and maintain the public health, safety, and welfare of residents by providing a source of potable public water. The Board of Water and Sewer Commissioners in conjunction with Town Meeting approval has designed, built, and installed wells, water treatment facilities, and a piping system to provide the potable water.

### **218-18 Water Service Area and Expansion Service Area**

- a. The Water Service Area is the geographical area in which public water service is available, as shown on the Water Distribution System plan dated March 2011, as amended from time to time.
- b. An Expansion Service Area is the portion of the Water Service Area in which the Town has constructed a water extension.

### **218-19 Water Use**

- a. All properties (residential, commercial, industrial) located in a Water Service Area shall connect to the public water system.
- b. All properties (residential, commercial, industrial) located in an Expansion Service Area shall connect to the public water system within three months of the service availability.

### **218-20 Rules and Regulations**

The Board of Water and Sewer Commissioners shall adopt from time to time such Water Rules and Regulations as deemed necessary for the implementation of this Bylaw.

**Town of Marion**

**Marion Department of Public Works  
Water Division**

**INSTALLATION AND ACCEPTANCE OF WATER MAINS  
[Amended 11-6-2012]**

**GENERAL REQUIREMENTS**

~~All materials used shall be approved by the Water Division before installation and shall be installed in accordance with the manufacturer's recommendations.~~

~~The Board of Selectmen, Water and Sewer Commissioners, reserve the right to add, delete or otherwise modify these regulations at any time.~~

**<The entire 12 pages of this Attachment are deleted>**

*Finance Committee has no recommendation, as no financial impact*

**Article 13:**

To see if the Town will vote to amend the Code of the Town of Marion in Chapter 230, Section 2.2-Board of Appeals by revising the same as follows:

**230-2.2 Board of Appeals.**

A Board of Appeals shall be appointed as provided in MGL c. 40A consisting of five members for terms of ~~five~~ three years each and three associate members for terms of three years each. The term of ~~one~~ two members and one associate member will expire on May 31 of ~~each year~~ each of two successive years, one member and one associate member will expire on May 31 of the third year. When a vacancy occurs by resignation or otherwise, it shall be filled within 30 days for the unexpired term in the same manner as an original appointment.

*Finance Committee has no recommendation, as no financial impact*



**Article 14:**

To see if the Town will vote to amend the Code of the Town of Marion in Chapter 230, Section 4.2 – Table of Principal Uses, Sub-Section A (Residential Uses) and Sub-Section B (Institutional or Exempt Uses) by revising the same as identified by the letter “N” as follows:

Principal Uses	Districts						
	R	RE	GB	LB	MB	LI	MSOD
<b>A. Residential Uses</b>							
Dwelling, single-family	Y	Y	Y	Y	Y	BA	N
Conversion to 2 dwelling units	BA	BA	BA	BA	BA	BA	N
Dwelling in same building as principal nonresidential use	N	N	Y	Y	N	N	N
B and B	PB	PB	PB	PB	N	N	N
Association piers	PB	N	N	N	Y	N	N
Piers, accessory	PB	N	N	N	PB	N	N
Conservation subdivision	PB	<u>N</u>	N	N	N	N	N
Multifamily residence (see § 230-5.3)	<u>N</u>	PB	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
<b>B. Institutional or Exempt Uses</b>							
Use of land or structure for religious purposes	Y	Y	Y	Y	Y	Y	N
Use of land or structure for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation as allowed by MGL	Y	Y	Y	Y	Y	Y	N
Child-care facility in existing building	Y	Y	Y	Y	Y	Y	<u>N</u>

*Finance Committee has no recommendation, as no financial impact*

### Article 15:

To see if the Town will vote to insert into the Code of the Town of Marion a new section in Chapter 230, Section 5.1.I to read as follows:

**230-5.1.I** ~~(reserved)~~ On corner lots, an accessory structure, including but not limited to visual screening shall comply with the requirements relating to front and side setbacks for the district which it is located. No visual screening such as fences, shrubs, or trees shall block the sight triangle of oncoming traffic as to cause a safety hazard.

- a. A fence, hedge, wall or other enclosure may be maintained on a corner lot, provided that no structure or vegetation shall be over 3.5 feet in height from the road surface within the sight triangle
- b. The “sight triangle” is defined as the area within a triangle formed by two lines measured along the center of the nearest lane or the traveled way of intersecting streets from the point of intersection for a distance of 25 feet and a third line connecting the points of the two legs. The height restrictions shall designate the distance above each point in the plane of the sight triangle.

*Finance Committee has no recommendation, as no financial impact*

### Article 16:

To see if the Town will vote to amend the Code of the Town of Marion in Chapter 230, Section 5.3 (Multifamily residences) by revising the same as follows:

#### **230-5.3 Multifamily ~~residences~~ Residential Housing.**

##### **A. Purpose.**

(1) Regulations covering multifamily housing are enacted to encourage a limited amount of rental or ownership housing in Marion at a relatively low density to facilitate affordable housing and construction needs. Such housing must be served by public sewer and water. In keeping with the community’s desire to

maintain Marion as a place where single-family detached homes predominate, these regulations will apply only when the Marion Town Meeting decides to designate an area or areas as Residence E, Multifamily Residence.

(2) The intent of these regulations is to encourage low-density multifamily housing designed to be compatible with the neighborhood in which it may be located. Pursuant to Article IX, Site Plan Review and Approval, all development exceeding a minimum threshold will be required to obtain site plan approval.

**B. Dimensional requirements.**

(1) Maximum lot coverage: 40%, the same to include the gross ground floor area of all buildings and all parking areas.

(2) Minimum usable open space. There shall be provided for each lot or building site area a minimum usable open space of not less than 40% of the lot area. Usable open space shall include all the lot area not covered by buildings, accessory buildings and/or structures, or surface parking areas. The area devoted to lawns, landscaping, ~~walks, roadways, drives and exterior recreation areas~~ shall be included as usable open space. and other exterior uses provided they are permeable shall be included as usable open space.

**C. Density requirements.** The maximum allowable density shall be 12 dwelling units per acre in areas served by public water and sewer. In determining whether the density rate has been complied with, all land in the development lot or parcel not reasonably suited for residential development, such as wetlands, shall be excluded.

**D.** A special permit from the Planning Board, in compliance with the requirements of § 230-7.2, shall be required for all residential developments greater than four dwelling units.

*Finance Committee has no recommendation, as no financial impact*

**Article 17:**

To see if the Town will vote to amend the Code of the Town of Marion in Chapter 230, Section 8.1 (Flood Hazard District) by revising the same as follows:

### **230-8.1 Flood Hazard District.**

The intent of this bylaw is to prevent unnecessary loss of life or injury to waterfront residents, to reduce the need for rescue efforts and to prevent destruction of property by ocean water, waves and debris landward by high-wind storms.

The Floodplain/Flood Hazard District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Marion designated as Zone A, AE, AO, or VE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Marion are panel numbers 25023C0468J, 25023C0469J, 25023C0556J, 25023C0558J, 25023C0566J, 25023C0586J, and 25023C0587J dated July 17, 2012, and panel numbers 25023C0557K, 25023C0559K, 25023C0567K, 25023C0576K, 25023C0578K, and 25023C0579K dated February 5, 2014. The exact boundaries of the District may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Marion Town Clerk.

**A.** In Zones A and AE, 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 the floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

**B.** All subdivision proposals must be designed to assure that:

- (1)** Such proposals minimize flood damage;
- (2)** All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
- (3)** Adequate drainage is provided to reduce exposure to flood hazards;

(4) Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

C. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, § 40, of the Massachusetts General Laws and with the following:

- (1) Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal hazard areas;
- (2) Wetlands Protection Regulations, Department of Environmental Protection, DEP (currently 310 CMR 10.00);
- (3) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- (4) Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00);
- (5) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15.00).

Any variances from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

D. Within riverine floodplains, the Building Commissioner or his/her designee shall notify the following of any alteration or relocation of a watercourse: 1) abutting cities and towns; 2) NFIP State Coordinator (c/o Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104) and the 3) NFIP Program Specialist (c/o Federal Emergency Management Agency, Region I, 99 High Street, 6th Floor, Boston, MA)

E. Specific Marion requirements:

(1) There shall be no new residential construction of any sort on lots completely within the Marion Velocity Zone. The only exceptions are:

(a) Seawalls, piers, groins, wharves, weirs and similar structures are not prohibited by this section; and

**(b)** Lots created before the enactment of this bylaw whose areas lie completely within the Velocity Zone may be built upon, providing the structure(s) is located as far landward of mean high water as possible.

**(2)** In the case of lots created before the date of enactment of this bylaw and with areas both in the Velocity Zone and outside the Velocity Zone, all structures built after the enactment of this bylaw shall be located in the area outside the Velocity Zone. If this area is not sufficient to allow for the required zoning setbacks, the applicant may apply for a variance to allow lesser setbacks. The only exceptions are seawalls, piers, groins, wharves, weirs and similar structures.

**(3)** Every buildable lot created after the enactment of this bylaw shall have an adequate building area, plus the required setbacks outside the Velocity Zone, and all structures shall be placed within this area. The only exceptions are: seawalls, piers, groins, wharves, weirs and similar structures.

~~**(4)** New construction or substantial improvements of residential structures within the special flood hazard district must have the lowest floor (including basement) elevated to or above the level of the one hundred year flood.~~

~~**(5)** New construction or substantial improvements of nonresidential building within the special flood hazard district must have the lowest floor (including basement) elevated to or above the level of the one hundred year flood, or together with attendant utility and sanitary facilities, be flood proofed to meet applicable requirements up to the level of the one hundred year flood.~~

~~**(6-4)**~~ The landward line of the Velocity Zone must be located on the official lot plan by a licensed surveyor and registered with the plan at the Massachusetts Registry of Deeds.

~~**(7-5)**~~ Any use otherwise permitted or authorized by special permit in the district underlying the Flood Hazard District shall likewise be permitted or authorized by special permit in the Flood Hazard District subject to the special provisions of this section.

F. Any use otherwise permitted or authorized by special permit in the district underlying the Flood Hazard District shall likewise be permitted or authorized by special permit in the Flood Hazard District subject to the special provisions of this section.

*Finance Committee has no recommendation, as no financial impact*

**Article 18:**

To see if the Town will vote to amend the Code of the Town of Marion in Chapter 230, Section 8.2 (Water Supply Protection District) by revising the same as follows:

**§ 230-8.2. Water Supply Protection District.**

The purpose of the Water Supply and Aquifer Protection Districts is to promote the health, safety, and general welfare of the Town to protect, preserve, and maintain the existing and potential well sites and groundwater supply and watershed areas for the public health and safety; to preserve and maintain the existing and potential groundwater supply and ground water recharge areas within the Town for the public health and safety; to preserve and protect the streams, brooks, rills, marshes, swamps, bogs and other water bodies and watercourses in the Town; to protect the community from the detrimental use and development of land and water within the district; to preserve and protect the groundwater and water recharge areas within the Town; and to prevent blight and pollution of the environment.

A. District area (see Article III). [Amended 6-18-1990 STM by Art. 3]

- (1) There is hereby established within the Town an aquifer protection ~~area~~ district which is delineated on the Zoning Map of the Town of Marion, dated May 12, 2014. [Amended 5-12-2014 ATM by Art. 39]
- (2) Except as specifically provided otherwise, this section applies to the Water Supply and Aquifer Protection Districts hereby established. The Water Supply and Aquifer

Protection Districts are superimposed on existing zoning districts. All uses, dimensional requirements, and other provisions of the bylaw applicable to such underlying districts shall remain in force and effect, except where the restrictions and requirements of the overlay district are more restrictive, the latter shall prevail.

- (3) ~~The purpose of the Water Supply and Aquifer Protection Districts is to promote the health, safety, and general welfare of the Town to protect, preserve, and maintain the existing and potential well sites and groundwater supply and watershed areas for the public health and safety; to preserve and maintain the existing and potential groundwater supply and ground water recharge areas within the Town for the public health and safety; to preserve and protect the streams, brooks, rills, marshes, swamps, bogs and other water bodies and watercourses in the Town; to protect the community from the detrimental use and development of land and water within the district; to preserve and protect the groundwater and water recharge areas within the Town; and to prevent blight and pollution of the environment.~~

B. Permitted uses. [Amended 6-18-1990 STM by Art. 3]

- (1) Within the Aquifer Protection District the only uses allowed are as follows:
- (a) A single-family residence and uses accessory thereto connected to the municipal sewer prior to occupancy, providing all excavation and grading shall maintain a depth of at least four feet of clean fill above the high water table.
  - (b) A single-family residence and uses accessory thereto located on a lot not less than one acre in area, providing all excavation and grading shall maintain a depth of at least four feet of clean fill above the high water table.



- (2) Within the Water Supply Protection District the requirements of the underlying districts continue to apply, except that uses listed in Subsection C are prohibited and all uses other than single-family residences and uses accessory thereto shall require a special permit pursuant to Subsection D.

C. Prohibited uses. The following are prohibited as a principal or an accessory use in a Water Supply Protection District. Where lawfully existing, such uses may be continued but not expanded, added to, or enlarged:

- (1) Outdoor storage of salt, snow-melting chemicals, pesticides, herbicides, hazardous wastes or chemicals, and materials containing or coated with such chemicals susceptible to being carried into the surface or ground waters within the Water Supply Protection District.
- (2) Junkyards, salvage yards, open and landfill dumps, manufacture of pesticides, fertilizers, weed killers and herbicides, and commercial facilities for the storage or treatment of hazardous waste.
- (3) Disposal of hazardous toxic materials (as defined by federal and state regulations), solid waste, or hazardous toxic wastewater through an on-site subsurface disposal system.

D. Uses by special permit. [Amended 6-18-1990 STM by Art. 3]

- (1) All principal or accessory uses, other than those permitted in Subsection B, which are authorized in the underlying district and which are not otherwise prohibited by Subsection C, are permitted in a Water Supply Protection District upon issuance of a special permit by the Board of Selectmen, which shall consider the reports and recommendations of the Board of Health, Planning Board, and Conservation Commission.

- (2) The Board of Selectmen may waive all or part of the submission requirements upon the submission of evidence by the applicant that the surface or groundwater drainage from the applicant's site is not contributory to a municipal well field.
- (3) Submittals. The following information shall be submitted when applying for a special permit within the Water Supply Protection District:
  - (a) A complete list of all chemicals, pesticides, fuels, and other potentially toxic or hazardous material to be used and stored in quantities greater than those associated with normal household use, accompanied by a description of measures proposed to protect them from vandalism, corrosion, and leakage and to provide for spill prevention and countermeasures.
  - (b) A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal method.
  - (c) For underground storage of toxic and hazardous materials, evidence of qualified professional supervision of system design and installation.
- (4) Review and approval considerations.
  - (a) Special permits shall be granted only if the Board of Selectmen determined that at the boundaries of the premises the groundwater quality resulting from the on-site waste disposal, other on-site operations, natural recharge, and background water quality will not fall below the standards established by the DEP in "Drinking Water Standards of Massachusetts" or, for parameters where no standard exists, below standards established by the Board of Health, and wherever existing groundwater is already below those standards, upon determination that the proposed activity will result in no further degradation.

(b) A special permit issued by the Board of Selectmen shall be conditioned upon the following additional limitations to protect the water supply:

- [1] Safeguards. Provisions shall be made to protect against toxic or hazardous materials discharged or lost through corrosion, accidental damage, spillage or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for toxic or hazardous materials, and indoor storage provision for corrodible or dissolvable materials.
- [2] Location. Where the premises are partially outside the Water Supply Protection District, such potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the district.
- [3] Disposal. For any toxic or hazardous wastes to be produced in quantities greater than those associated with normal household use, the applicant must demonstrate the availability and feasibility of disposal methods which are in conformance with MGL c. 21C.
- [4] Drainage. All runoff from impervious surfaces shall be recharged on the site, diverted towards areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are infeasible and shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination.
- [5] Monitor test wells. Where fertilizers, pesticides, herbicides or other potential contaminants are to be applied, utilized or stored, and in the opinion of the Board of Selectmen are a matter of concern, a groundwater monitoring program shall be established before the special permit is granted. Such a program

shall adequately monitor the quality of the groundwater leaving the site through the use of monitor wells and / or appropriate groundwater sample analysis.

[6] Natural vegetation. Not more than 50% of natural vegetation, existing as of the effective date (June 18, 1990) of the adoption of this amendment to the bylaw on any lot, may be disturbed in any underlying district. However, to the extent that there is a finding that surface or groundwater drainage activity from the applicant's proposed use or activity on the site has decreasing, minimal or no impact on the municipal well field, the Board of Selectmen may relax the requirements of the preceding sentence, but in no event to a standard which is less restrictive than that set forth in the "minimum usable open space" paragraph of § 230-5.3B(2).

[7] Technical reference. The Board of Selectmen and applicants shall use the following technical reference in the preparation and review of plans under this section: 310 CMR 22.00

(5) Additional rules and regulations. The Board of Selectmen may adopt additional rules and regulations relative to the issuance of a special permit under this section. Such rules shall consider, but need not be limited to, requirements to control causes of pollution to underground surface water.

*Finance Committee has no recommendation, as no financial impact*

#### **Article 19:**

To see if the Town will vote to amend the Code of the Town of Marion in Chapter 230, Section 8.5 (Surface Water District) by revising the same as follows:

#### **230-8.5 Surface Water District.**

##### **A. Purpose.**

(1) The purpose of this section is to provide municipal control of the

use of coastal water areas which are not within any of the Town's land use zoning districts in order to protect and enhance the natural and man-made environmental qualities of the Town of Marion, encourage water-dependent uses where appropriate, and preclude uses which could evolve because other Town, state or federal laws and regulations do not provide sufficient protection of the public interest.

**(2)** All areas within the Surface Water District shall also be subject to the rules and regulations as are from time to time issued by the Marine Resources Commission or the Harbormaster in support of the authority granted under MGL c. 91 and further subject to any special bylaws as may be adopted by the Town, and further subject to the granting of licenses and/or permits required by the Town, state or federal boards or agencies exercising authority granted to them by laws other than MGL c. 40A.

**(3)** All traditional uses of the surface waters for recreational and commercial purposes shall be permitted except as otherwise set forth herein.

**B. District boundaries.** The district defined by these regulations shall cover all water areas within the municipal limits of the Town of Marion seaward of the low water mark as said mark is defined in Chapter 91 Regulations promulgated by the Massachusetts Department of Environmental Protection.

**C. Prohibited uses.** The following uses shall not be allowed within the Surface Water District:

**(1)** Boatels and similar facilities offering temporary sleeping and/or eating accommodations.

**(2)** Residential uses, except that a vessel equipped with a Type 3 holding tank or other Coast-Guard-approved wastewater device, and anchored or moored in accordance with applicable Town mooring regulations, may be used for human habitation for a period which cumulatively shall not exceed nine months within any calendar year.

**(3)** Floating office, industrial, and commercial uses except as they may be accessory to and allowed by special permit under § 230-8.5D.

**D. Special permit uses.**

**(1)** The Planning Board shall be the special permit granting authority. The following uses may be allowed within the Surface Water District only by special permit from the Planning Board:

**(a)** Boat launching ramps.

**(b)** Landing facilities.

**(c)** Marinas water-dependent, as defined by MGL c. 91, § 1.

**(d)** piers, commercial.

**(e)** Service facilities for the repair or maintenance of vessels.

**(f)** Underwater sewer, water and electrical lines and pipes.

**(2)** The following uses may be allowed in both the Surface Water District and an adjoining residential land use district by special permit from the Planning Board:

**(a)** Association piers subject to the provisions of § ~~230-7.4FD~~.

**(b)** Accessory use piers subject to the provisions of § ~~230-7.4EC~~.

**E. Special permit review procedure. Special permits shall be granted only after the Planning Board:**

**(1)** Reviews the written recommendations of the Marine Resources Commission, Harbormaster, Selectmen, Board of Health, and Conservation Commission. Upon receipt of the special permit application, the Planning Board shall forward a copy of the application to each of the above-named authorities for comment. Failure of any of the above-named authorities to submit written recommendations to the Planning Board within 35 days of the initial filing of the special permit application shall be deemed a favorable recommendation of said authority. If the Planning Board allows or denies a use which is contrary to the recommendations of the Marine Resources Commission, the Planning Board shall so state its reasons in writing when making the decision.

**(2)** Determines that the proposed use is consistent with the provisions of the Marine Land Use Plan or Master Plan and the Open Space Plan as they are from time to time adopted and amended.

**(3)** Determines that the proposed use is consistent with any Town of Marion Harbor Plan.

(4) Determines that the proposed use is a water-dependent use, meaning those uses and facilities which require direct access to or locations in marine or tidal waters and which therefore cannot be located inland (ref. MGL c. 91, Waterways Law).

(5) Determines that the landward facilities, such as parking and access ways, will not constitute an adverse influence on adjoining properties.

*Finance Committee has no recommendation, as no financial impact*

**Article 20:**

To see if the Town will vote to amend the Code of the Town of Marion in Chapter 230, Section 9.1 (Applicability; minor and major site plan review) by revising the same as follows:

**230-9.1. Applicability; minor and major site plan review.**  
[Amended 6-18-1990 STM by Art. 15; 3-10-1997 STM by Art. S12]

A. No permit to build, alter or expand any nonresidential building, structure or use of land in any district where such construction shall exceed a total gross floor areas of 500 square feet or require changes or alterations to a parking area shall be issued by the Building Commissioner until he or she shall have received from the Planning Board a written statement of site plan approval by the Planning Board in accordance with the provisions of this section. A building wholly or partially destroyed may be rebuilt without recourse to this section if rebuilt without change to the building footprint or the square footage of usable space.

(1) Pursuant to the provisions of § 230-2.1, all new uses and changes of use require a use permit issued by the Building Commissioner.

(2) The Building Commissioner shall enforce the fulfillment of any conditions which the Planning Board may impose. This section shall not include signs or normal maintenance.

B. Minor site plan review. Applications for permits to build, alter or expand any nonresidential building, structure or use in any district where such construction will exceed a total gross floor area of 500 square feet but not exceed a total gross floor area of 2,000 square feet, or will not generate the need for more than 10 parking spaces, shall require minor site plan review. For the purposes of computing the total gross floor area, the Planning Board shall aggregate all such applications made within the five previous calendar years. The following information shall constitute the submittal of a minor site plan for review:

(1) All of the information set forth in § 230-9.11A; provided, however, that the scale of the site plan may be one inch equals 80 feet; the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey, and the plan need not provide the information set forth in Subsection ~~A(11)~~ A(1)(k) of said section.

(2) All of the information set forth in § 230-9.11B.

(3) Such additional information as the Board shall require to determine compliance with the standards set forth in § 230-9.4.

C. Major site plan review. Applications for permits to build, alter, or expand any nonresidential building, structure or use in any district where such construction will exceed a total gross floor area of 2,000 square feet, or generate the need for more than 10 parking spaces, shall require major site plan review. For the purposes of computing the total gross floor area, the Planning Board shall aggregate all such applications made within the five previous calendar years. The following information shall constitute the submittal of a major site plan for review: all of the information set forth in §§ 230-9.4 and 230-9.11 in their entirety and §§ 230-9.6 and 230-9.12, if applicable.

*Finance Committee has no recommendation, as no financial impact*



**Article 21:**

To see if the Town will vote to amend the Code of the Town of Marion in Chapter 230, Section 11.2 (Terms Defined) by revising the same as follows:

**230-11.2 Terms defined.**

As used in this bylaw, the following terms shall have the meanings indicated:

**HAZARDOUS OR TOXIC MATERIAL**

A material which is hazardous to human health or to the environment, as defined by ~~the U.S. Environmental Protection Agency and under 40 CMR 250 and the regulations of the Massachusetts Hazardous Waste Act, MGL c. 21, § 1.~~310 CMR 40 (Massachusetts Contingency Plan) subpart P: Massachusetts Oil and Hazardous Material List and 301 CMR 41 (Toxic and Hazardous Substance List).

**Volume;**

The volume of buildings is the total volume included between the outer surface of the outer walls measured from the level of the lowest story to the roof of the building. Volume will be determined by habitable space. Attics and inhabitable basements shall not be calculated as habitable space.

*Finance Committee has no recommendation, as no financial impact*

**Article 22:**

To see if the Town will vote to amend the Code of the Town of Marion in Chapter 230, Section 16.4 (Roof Mounted Systems) by revising the same as follows:

**230-16.4. Roof-mounted systems.**

- A. Roof-mounted systems may be installed in all zoning districts by an applicant, requiring only that a building permit has been issued by the Marion Building Commissioner and that the

system conforms to the Marion Zoning Bylaw and to Subsections B, C and D below.

- B. Within , roof-mounted Systems shall conform to existing roof contours, extending not more than 12 inches above roof surfaces. Roof-mounted Systems shall be set back a minimum of eight inches from all roof edges (eaves, gutter line, ridge) of the roof surface and 24 inches from adjacent roof or abutting roof or walls of adjoining property. All residential flat roof systems shall conform to requirements of § 230-16.3E.
- C. Flat roof mounted systems shall have a four-foot setback from the edge of the building perimeter. Screening on the roof is not a requirement.
- D. In nonresidential districts, roof-mounted solar panels as part of the system may be installed at angles of up to 50° from the horizontal on flat roofs (defined as having a roof pitch less than two inches per foot). The topmost points of the solar panels shall not exceed a total height of four feet above the roof surface. On a pitched roof system (roof pitch equal or greater than two inches per foot), the topmost point of the solar panel shall not exceed two feet measured perpendicular to the roof surface. Systems shall be set back from building edge a minimum of four feet. All these systems are considered to be building-mounted mechanical systems and shall meet all requirements thereof. All flat roof systems shall conform to requirements of Subsection C above.

*Finance Committee has no recommendation, as no financial impact*

And you are directed to serve this Warrant by posting up attested copies thereof, one at the Elizabeth Taber Library, one at the Town House and one at the Marion Post Office, all in said Marion, fourteen days at least before the time of holding said meeting aforesaid.

Hereof fail not to make due return of this Warrant with your doings thereon to the Town Clerk at the time and place of meeting aforesaid.

Given our hands this 20th day of September in the Year Two Thousand and Nineteen.

Randy L. Parker  
Chairman

John P. Waterman  
Vice-Chairman

Norman A. Hills  
Clerk

BOARD OF SELECTMEN

A true copy, ATTEST:

I, John B. Garcia, being a duly appointed constable of the Town of Marion, in the County of Plymouth, Commonwealth of Massachusetts, hereby make affidavit that legal notice of the meeting called under this Warrant has been served on the voters of said Town of Marion by posting up attested copies in not less than three public places within the said Town on September 23, 2019 said date being fourteen days, at least, before the date of the meeting, in accordance with Chapter 64, Section 3 of the Code of the Town of Marion.

JOHN B. GARCIA  
CONSTABLE









**MARION TOWN HOUSE**  
**Two Spring Street**  
**Marion, MA 02738**

**ECRWSS**

**POSTAL PATRON**  
**Marion, MA 02738**

**PRSRT STD**  
**U. S. Postage**  
**PAID**  
**Rochester, MA**  
**Permit #115**