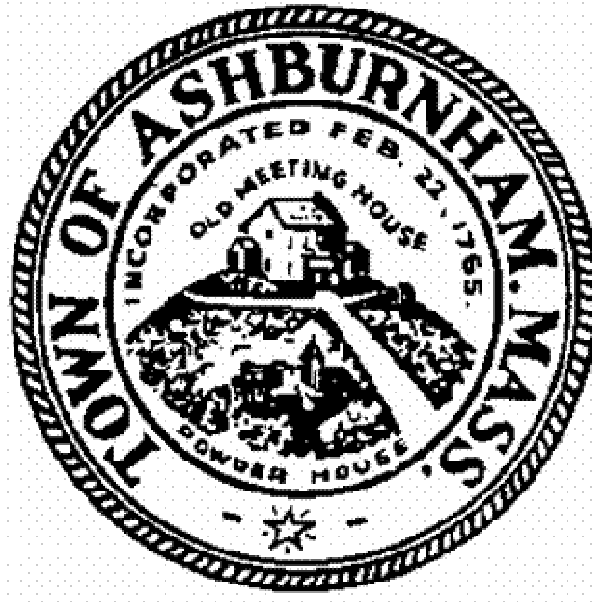


# TOWN OF ASHBURNHAM SPECIAL TOWN MEETING WARRANT ARTICLES



*November 17, 2010  
7:00 p.m.  
Oakmont Regional High School - Auditorium  
9 Oakmont Drive  
Ashburnham, MA 01430*

**The following is a list of warrant articles and the recommendations of the Board of Selectmen and the Advisory Board for the November 17, 2010 Special Town Meeting.**

		<b>Board of Selectmen Recommend</b>	<b>Advisory Board Recommend</b>
<b>Art. 1</b>	Transfer Insurance funds to cover Town Hall Flood	YES	YES
<b>Art. 2</b>	Transfer Free Cash to cover Town Hall Flood	YES	YES
<b>Art. 3</b>	Vote to rescind Art 18, May 2, 2009 Town Meeting for borrowing for dam inspection	YES	YES
<b>Art. 4</b>	Transfer Free Cash to cover Dam Inspections	YES	YES
<b>Art. 5</b>	Transfer Free Cash to Tax Title	YES	YES
<b>Art. 6</b>	Transfer Free Cash to cover Snow and Ice deficit	YES	YES
<b>Art. 7</b>	Transfer Free Cash to Pave Roads	YES	YES
<b>Art. 8</b>	Transfer Free Cash to pay a prior year bill	YES	YES
<b>Art. 9</b>	Raise and Appropriate to pay Briggs Borrowing cost	YES	YES
<b>Art. 10</b>	Transfer Free cash to fund a town wide household hazardous waste day	YES	YES
<b>Art. 11</b>	Vote to amend Art 2, May 8, 2010 to raise and appropriate additional funds for the Town Clerk's compensation	YES	YES
<b>Art. 12</b>	Implement Tax Amnesty	YES	YES
<b>Art. 13</b>	Vote to accept Ch 41 section 41B direct deposit	YES	YES
<b>Art. 14</b>	General By-Law changes	YES	YES
<b>Art. 15</b>	Town Charter Changes	YES	YES
<b>Art. 16</b>	Transfer Free Cash to Stabilization Fund	YES	YES
<b>Art. 17</b>	Transfer Free Cash to Capital Fund	YES	YES
<b>Art. 18</b>	Vote on new Briggs' School Project	YES	YES

**SPECIAL TOWN MEETING WARRANT  
TOWN OF ASHBURNHAM  
COMMONWEALTH OF MASSACHUSETTS**

**WORCESTER, SS**

**TO THE CONSTABLES OF THE TOWN OF ASHBURNHAM, IN WORCESTER COUNTY,  
GREETINGS**

**IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, YOU ARE HEREBY  
DIRECTED TO NOTIFY AND WARN THE INHABITANTS OF SAID TOWN QUALIFIED TO VOTE  
IN ELECTIONS AND TOWN AFFAIRS TO MEET AT OAKMONT REGIONAL HIGH SCHOOL,  
AUDITORIUM, 9 OAKMONT DRIVE, ASHBURNHAM, MASSACHUSETTS ON**

**NOVEMBER 17, 2010  
BEGINNING AT 7:00 P.M.**

**THEN AND THERE TO VOTE ON THE FOLLOWING ARTICLES AND RESOLUTIONS:**

**Article 1.**

**To see if the Town will vote to appropriate funds from the insurance proceeds account #21000-31590 for the purpose of paying the cost associated with the April 27, 2009 Town Hall Flood Damage, or act in relation thereto. *(Requested by the Town Administrator)***

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 2.**

**To see if the Town will vote to raise and appropriate, or appropriate by transfer from available funds, such sums of money to offset the Town Hall flood deficit due to the April 27, 2009 flood damage, or act in relation thereto. *(Requested by the Town Administrator)***

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 3.**

**To see if the Town will vote to rescind the vote under Article 18 of the May 2, 2009 Annual Town Meeting to borrow such sums of money as may be necessary to defray the expenses of inspecting four Town-owned dams, or act in relation thereto. *(Requested by the Town Administrator)***

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 4.**

**To see if the Town will vote to raise and appropriate, or appropriate by transfer from available funds, such sums of money to offset the cost associated with the FY10 Dam Inspection deficit, or act in relation thereto. *(Requested by the Town Administrator)***

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 5.**

**To see if the Town will vote to raise and appropriate, or appropriate by transfer from available funds, such sums of money to pay for legal and other professional services, as well as all other reasonable related expenses, in connection with the collection of certain delinquent taxes owed to the Town, or act in relation thereto. *(Requested by the Treasurer and Town Administrator)***

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 6.**

**To see if the Town will vote to raise and appropriate, or appropriate by transfer from available funds, such sums of money to offset the FY10 Snow and Ice deficit, or act in relation thereto. (Requested by the Town Administrator)**

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 7.**

**To see if the Town will vote to raise and appropriate, or appropriate by transfer from available funds, such sums of money for the reconstruction of town roads, or act in relation thereto. (Requested by the Town Administrator)**

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 8.**

**To see if the Town will vote to raise and appropriate, or appropriate by transfer from available funds, such sums of money to pay a bill incurred in a prior fiscal year, or act in relation thereto. (Requested by Town Administrator)**

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 9**

**To see if the Town will vote to raise and appropriate, or appropriate by transfer from available funds, such sums of money to pay the interest expense associated with the BAN issued for the Briggs Feasibility Study, or act in relation thereto. (Requested by the Treasurer and Town Administrator)**

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 10.**

**To see if the Town will vote to raise and appropriate, or appropriate by transfer from available funds, such sums of money to fund a town-wide Household Hazardous Waste Day, or act in relation thereto. (Requested by the Fire Department.)**

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 11.**

**To see if the Town will vote to amend the vote under Article 2 line 9 “Town Clerk” and line 29 “Employee Insurance Benefits” of the May 8, 2010 Annual Town Meeting and further to raise and appropriate, and/or appropriate by transfer from available funds such sums of money to defray the expenses of the Town for the fiscal year commencing July 1, 2010 and to set the salary of elected officials, as noted below; or act in relation thereto.**

Line	Item	May 8, 2010 ATM Vote	Amended
9	Town Clerk	\$37,835	\$38,970
29	Employee Ins. Benefits	\$1,064,880	\$1,063,745

**Setting of Elected Salaries under Article 2:**

- a. Town Moderator: \$100
- b. Board of Selectmen: Chairman - \$1,300; Clerk - \$1,100; Member - \$1,100
- c. Town Clerk: \$38,970
- d. Board of Health: \$140 per member

*(Requested by the Advisory Board and Town Clerk)*

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

## **Article 12.**

To see if the Town will vote to enact a temporary Tax Amnesty Program during the remainder of this fiscal year 2011, in accordance with Chapter 188, Section 68 of the Acts of 2010 with the following terms and conditions, or take any other action thereto.

**Section 1. Amnesty Period:** The amnesty program shall begin on November 18, 2010 and end on June 30, 2011.

**Section 2. Program Scope:** A taxpayer who meets all eligibility requirements set forth in Section 3 shall receive a waiver of 50% on the aggregate of all penalties, fees, charges, and accrued interest assessed by the collector or treasurer for the failure of a certain taxpayer to timely pay a subject liability provided, however, that the covered amount shall not include the subject liability itself or any fees and charges authorized or incurred for the past due subject liability for which notice has not been issued. **This program does not cover any penalties, fees, charges, and accrued interest resulting from the violation of any law.**

### **TYPE OF LIABILITY**

1. Real Estate
2. Personal Property
3. Motor Vehicle Excise
4. Boat excise

**Section 3. Eligibility Requirements:** To obtain the waiver set forth in Section 2, the taxpayer must meet all of the following requirements:

1. The taxpayer must apply for an amnesty waiver for FY09 taxes or prior through the Collector's Office.
2. The taxpayer must make full payment of the liability and the percentage of the amount not waived relative to interest, collection costs and penalties. Said payment may be made in a single installment or in multiple installments, provided that full payment of the liability is made before the end of the amnesty period.
3. The taxpayer must make payment in the form of cash, money order or certified check.
4. The taxpayer must pay all outstanding liabilities offered in this amnesty program in order to obtain any waiver.

*(Requested by the Board of Selectmen, Advisory Board and Town Administrator.)*

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

## **Article 13.**

To see if the Town will vote to accept Massachusetts General Laws Chapter 41 Section 41b "payment of public employees by direct bank credits", or act in relation thereto.

*(Requested by the Treasurer and Town Administrator)*

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

## **Article 14.**

To see if the Town will vote to amend the General By-laws as follows, or act in relation thereto.

*(Requested by the Board of Selectmen and Advisory Board)*

PLEASE NOTE: CHANGES/ADDITIONS WILL BE IN ***BOLD ITALIC*** AND DELETIONS WILL BE NOTED BY A ***STRIKETHROUGH***.

## CHAPTER I: GENERAL PROVISIONS

Section 4. Whoever violates any provisions of these by-laws, whereby any act or thing is enjoined or prohibited, shall, unless other provision is expressly made, forfeit and pay a fine ~~not exceeding seventy-five of one hundred dollars (\$75.00) (\$100.00)~~ for each offense.

Section 6. *These by-laws shall be reviewed every five (5) years under the direction of the Board of Selectmen.*

## CHAPTER III: GOVERNMENT OF TOWN MEETINGS

Section 1. ~~The quorum for the annual town meeting and the quorum for special town meetings will be established at (75) seventy-five registered voters whose names appear on the current official list of registered voters as posted by the Board of Registrars, provided however, that a number less than a quorum may adjourn the same to a time certain. This section shall not apply to such parts of meetings as are devoted exclusively to the election of town officers. (Passed by Attorney General 7/9/96)~~ *There shall be no quorum requirement for town meetings.*

Section 2. In case of an attendance at a town meeting, which exceeds the capacity of the floor of the auditorium, the moderator shall appoint tellers who shall permit, only registered voters to enter upon the floor of the auditorium. ~~The balcony may be open to the public.~~ When the attendance at any town meeting exceeds the capacity of the floor and balcony of the auditorium, it shall be the duty of the moderator to make suitable provision so that every registered voter at the Town Hall may hear and participate in the proceedings.

## CHAPTER VIII: RECORDS AND REPORTS

Section 1. All officers, boards and committees of the town shall cause minutes of their doings and of their meetings, and also accounts, to be kept in suitable books. Said books shall regularly be kept in appropriate places, except when in the custody of an authorized official. Such books shall, unless otherwise provided by law be open to public inspection at any reasonable time, but shall remain, during such inspection at any time, under the supervision of the officer, board, or committee having custody thereof. In addition, all such officers, boards and committees shall file with the Town Clerk copies of all meeting minutes ~~whether in draft or final approved form, within 45 days following each meeting. Said 45 days shall not include Saturdays, Sundays or legal holidays.~~ *within 10 days from approval thereof.*

## CHAPTER IX: LEGAL AFFAIRS

Section 1. ~~The selectmen~~ *Town Administrator* shall be the agent of the Town ~~to~~ *and with approval of the Selectmen may* institute, prosecute and defend any and all claims, actions and proceedings to which the Town is a party, in which the interests of the Town are or may be involved.

Section 2. The Selectmen may, at their discretion, compromise or settle any claim or suit to which the Town is a party, which does not require the payment by the Town of an amount in excess of ~~four thousand dollars (\$4,000)~~ *ten thousand dollars (\$10,000)*. No settlement or claim or suit obligating the Town in an amount in excess of ~~four thousand dollars (\$4,000)~~ *ten thousand dollars (\$10,000)*, shall be made, except as authorized by law, without the consent of the town meeting.

Section 4. The Selectmen shall annually ~~in March, after final adjournment of the annual town meeting,~~ appoint a person who is a member of the bar in good standing, ~~and preferably domiciled in the town,~~ to serve as Town Counsel for the term of one year from the first day of April following and until his *or her* successor is appointed and enters on the performance of his *or her* duties. They shall likewise fill any vacancy in said office for the unexpired term, and may employ special counsel whenever, in their judgment, necessity therefore arises.

## CHAPTER X: JUNK AND SECOND HAND DEALERS AND COLLECTORS

Section 7F. Any person or entity who violates this by-law shall be liable to a fine of ~~\$20.00~~ *fifty dollars (\$50.00)* for each day said violation continues.

## CHAPTER XI: USE OF PUBLIC WAYS AND PLACES

### Section 1.

Anyone who violates the provision of Chapter XI, Section 1 of the Town of Ashburnham's General Bylaw shall be punished by a fine ~~not to exceed~~ *of* three hundred dollars (\$300). Each day of violation shall constitute a separate offense.

- a. Road and/or Sidewalk Opening Permits shall be issued by the ~~Town Engineer or his/her designee,~~ *Superintendent of Highway/Parks, and Grounds or his designee*, and shall be obtained before any obstructing, cutting, digging up, or altering in any Town road or way, or sidewalk and right of way or any way the Town maintains.

The ~~Town Engineer~~ *Superintendent of Highway/Parks, and Grounds* or his/her designee, shall adopt, and may, from time to time, amend reasonable *design standards and forms for Road and/or Sidewalk Openings* to include fees and surety requirements with the approval of the Board of Selectmen.

- b. Driveway permits shall be issued by the ~~Town Engineer~~ *Superintendent of Highway/Parks, and Grounds* or his/her designee, and shall be obtained prior to construction of any and every new driveway, curb cut or alteration of any existing driveway at its intersection with the boundary line of any public street or way or any way the Town maintains, including sidewalks and any rights of way.

The ~~Town Engineer~~ *Superintendent of Highway/Parks, and Grounds* or his/her designee with assistance from the Planning Board shall adopt, and may from time to time, amend reasonable design standards and forms for driveways to include fees and surety requirements, with the approval of the Board of Selectmen.

~~Section 10. In order to provide a safe area for coasting, it shall be the duty of the selectmen, when practical, to designate streets and times where and when coasting shall be permitted, and such streets shall be closed to vehicle traffic during the period coasting is permitted. Except as provided above, no person shall coast on any sidewalk or any public way of the town.~~

Section 12. No person, unless lawfully authorized, shall set up, take down, cut or destroy any tree, post, fence, edgestone, *stone wall* or any part thereof in or on any street, highway, square or other public place in Town, or on any property owned or controlled by the Town, without a permit from the Selectmen *In the case of scenic roads, anyone wishing to change the scenery on such a road must also obtain written permission from the Planning Board in accordance with G.L. c. 40, Section 15C.* Any person or entity that violates

*this Section shall be liable for a fine of three hundred (\$300) dollars. Each day of violation shall constitute a separate offense.*

Section 16. No person or group of persons shall obstruct or impede the movement of traffic on any sidewalk, street or road, or prevent access to any public or private building adjacent to said sidewalk, street or road. Any person doing so and who refuses to move on the direction of a police officer shall be subject to a fine of ~~not more than (\$25.00)~~ **one hundred dollars (\$100.00).**

Section 19. No person shall drink any alcoholic beverages as defined in General Laws Chapter 138, Section 1, or have in his/her possession any opened container thereof while in any public park or on any playground or athletic field, to which the public has a right of access or on any public way. All alcoholic beverages used in violation of this by-law shall be seized and held until final adjudication of the charge against the person summoned before the Court, at which time they shall be returned to the person lawfully entitled to their possession. Any violation of this by-law shall be punished by a fine of ~~not more than~~ fifty dollars (**\$50**).

Section 20. Anyone who violates the provisions of Chapter 40, Section 15C of the Massachusetts General Laws concerning the designation and improvement of scenic roads shall be punished by a fine ~~not to exceed~~ **of three hundred dollars (\$300).** Each day of violation shall constitute a separate offense.

## **CHAPTER XII: NEW CONSTRUCTION**

Section 1. No person shall commence any new construction whose cost is estimated to exceed ~~five hundred (\$500)~~ **thirty-five hundred (\$3,500)** dollars in value in any calendar year until such proposed construction shall have been reported to the Board of Assessors on such form as they may prescribe.

Section 3. Whoever violates the provisions of the foregoing section shall be subject to a fine ~~not exceeding twenty (\$20)~~ **of two hundred and fifty (\$250) dollars** and each day of violation shall constitute a separate offense.

Section 4. The Town Administrator shall annually ~~in March~~ appoint an inspector of gas piping and gas appliances in buildings, who shall hold office for one year or until his successor is appointed, and whose compensation shall be fixed by said Board of Selectmen. Said inspector shall be a licensed gas fitter and shall enforce the rules and regulations adopted by the Board established under Section H. of Chapter Twenty-five of the General Laws.

## **~~CHAPTER XIV: SOIL REMOVAL~~**

Section 1. ~~Except as hereinafter provided, no person shall remove any soil, loam, sand or gravel from any land not in public use without a written permit from the Board of Selectmen granted after a public hearing, notice of the time and place of which shall have been given by publication in some newspaper having a circulation within the town at least seven days prior to the date thereof.~~

~~This by-law shall not apply to the removal of any of said substances from a pit in operation at the time this by-law becomes effective unless such use shall thereafter be discontinued for a period of more than one year, or to removal incidental to the construction or alteration of buildings on said land by planting, landscaping or grading or in connection with the construction of a public or private way on said land.~~



~~The Board will include in a permit any reasonable conditions, including provisions as to the distance from highways where removal operations shall be allowed, the method of removal, the re-establishment of ground levels and grades, the restoration of top soil and the planting of the area to suitable cover.~~

~~The Board will require a bond or other security to insure compliance with such conditions as it may impose, and may, after public hearing and proof of violation of the conditions of a permit, cancel, revoke or amend the same.~~

~~The penalty for any violation of any provision of this by law shall be for the first offense \$50, for the second offense \$100 and for each subsequent offense \$200.~~

**CHAPTER XIV: PAID VACATIONS FOR TOWN EMPLOYEES**

Section 1. ~~All regular full time employees of the Town and regular part time (20 hours or more per week) of the town on a prorated basis shall be entitled to a paid vacation as follows:~~

After completion of	
1 year of continuous service	2 weeks vacation
5 years of continuous service	3 weeks vacation
10 years of continuous service	4 weeks vacation

**9.14 Vacation Earning Schedule**

All vacation time shall be taken in the anniversary year in which it is earned. The amount of vacation earned shall be in accordance with the following schedule:

<del>First year of service after completion of the probationary period</del>	<del>.....(12 days/yr)</del>
*Completion of 1 year to completion of 5 years	.....(15 days/yr)
Completion of 5 years to completion of 10 years	.....(21 days/yr)
Completion of 10 years to completion of 20 years	.....(24 days/yr)
Completion of 20 years	.....(28 days/yr)

~~\*12 days must be taken within the last 6 months of the first year of employment.~~

*\* New employees with less than one year will be eligible to accrue vacation leave upon completion of their first month of employment at a rate of one day (up to 8 hours) pro-rated by scheduled hours worked per week. Employees with less than one year of service at the end of the fiscal year will continue at one day per month until their anniversary date. They will then get pro-rated vacation leave up to June 30<sup>th</sup> of the fiscal year. On July 1<sup>st</sup> they will receive their annual vacation leave based on the earning schedule.*

**CHAPTER XVI: MUNICIPAL DOG CONTROL LAW**

Section 1     Licensing of Dogs: The owner or keeper of any dog shall license such animals in accordance with the provisions of General Laws, Chapter 140, Section 137-139 inclusive except that fees for such licenses shall be as follows:

For a Male Dog:	\$ 11.00
For a Female Dog	\$ 11.00
For a Female Dog which shall have been spayed	\$ 7.00

*set by the Board of Selectmen.*

For dog licenses that are not renewed by June 1<sup>st</sup>, the ~~above~~ fee schedule ~~will be increased by ten dollars (\$10.00)~~. *shall be set by the Board of Selectman.*

### Section 3.

***(3B) Owners are responsible to collect and properly dispose of excrement deposited by their dog on property other than the owner's.***

Section 10: Alternative Procedures under General Laws, Chapter 140, Section 173A.

(10B) Any owner or keeper found in violation of the above mentioned procedures shall be subject to a fine of ***twenty five dollars (\$25.00)***. If the owner or keeper of a dog or dogs is a minor, the parent or guardian of such minor shall be held liable for any violation of this by-law.

***Section 12: Where any owner violates, or continues to violate, any provision of this Section, resulting in legal action by the Town, the Town may recover reasonable attorney's fees, court costs, and other expenses associated with such enforcement, including the cost of any actual damages incurred by the Town.***

## **CHAPTER XXII: WATER USE RESTRICTION**

### **SECTION 9 – PENALTIES**

Any person violating this bylaw shall be liable to the Town in the amount of ***fifty dollars (\$50.00)*** for the first violation and ***one hundred dollars (\$100.00)*** for each subsequent violation which shall inure to the Town for such uses as the Water and Sewer Commission may direct. Fines shall be recovered by indictment, or a complaint before the District Court, or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the General Laws. Each day of violation shall constitute a separate offense.

## **CHAPTER XXIII: UNREGISTERED MOTOR VEHICLE OR TRAILER REGULATIONS**

No more than two (2) unregistered motor vehicles or trailers or any parts thereof may be stored on any property in Town, except if such vehicles or parts thereof are stored inside a garage or other enclosed structure, or such vehicles are used for agricultural purposes, or such vehicles are on premises duly licensed under the provisions of Chapter 140 of the General Laws. Anyone who fails to remove or register such vehicles or parts thereof within ten (10) days of receipt of written notice by the Police Department shall be subject to a fine of one hundred dollars (***\$100.00***) each day or part thereof on which such vehicle or part thereof remains and continues to exist on the property shall constitute a separate offense.

## **CHAPTER XXV: STREET ADDRESS NUMBERING**

Enforcement: Enforcement of this By-Law shall be as follows:

3. Any property owner found to be in violation of any section of this By-Law shall be notified in writing of the violation by the Building Commissioner. Any person who permits said violation to continue for a period of sixty (60) days subsequent to the receipt of a written notice from the Building Commissioner concerning said violation shall be assessed a penalty by the Board of Selectmen of ~~not~~

~~more than one hundred dollars \$100.00~~ **two hundred fifty dollars (\$250.00)** for each violation. For the purposes of this By-Law, each successive day during which any violation is committed or permitted to continue after sixty (60) days of the receipt of a written notice from the Building Commissioner shall constitute a separate violation.

Penalty: ~~1<sup>st</sup> Offense \$25.00~~

~~2<sup>nd</sup> & Subsequent Offenses \$50.00~~

## CHAPTER XXVII: PERSONNEL

### SECTION 2 – CLASSIFICATION & PAY PLAN

#### 2.2 Position Description

A position description is a written outline of responsibilities for each job in the classification plan. Each position description includes a position title, a description of the representative duties, and the general level of responsibility and authority of the work, a statement of minimum qualification requirements for satisfactory performance of the work, and other pertinent information ***and shall be dated upon issuance. In addition, any changes to any position description shall also be in writing and bear the date of such change.*** The position description shall be standard for classifying individual positions and for determining when reclassification is warranted.

#### 2.42 Compensation Changes

***For other than employees who report to the Town Administrator,*** the Town Administrator, with input from the Department Head if appropriate, shall have the authority to make and approve changes in employee compensation resulting from such personnel actions as reclassification, promotions, demotions, and transfers, or because of abolishment, modification, or establishment of classes within the approved budget. ***For employees who report to the Town Administrator, the Town Administrator may recommend to the Board of Selectmen any changes in employee compensation resulting from such personnel actions as reclassification, promotions, demotions, and transfers, or due to the abolishment, modification, or establishment of classes within the approved budget. Said recommendations require approval of the Board of Selectmen for implementation.***

#### 2.81 Call Back Rates

There shall be a minimum of three hours paid overtime for non-exempt employees called back to work after their normal workday has ended ~~or begun~~. ***Non-exempt employees who are called to work prior to the start of their next shift and who return home prior to the start of their next shift shall be paid for the hours worked or a minimum of 3 hours paid overtime, whichever is less.***

#### 2.82 Emergency Closing

Emergency closing procedures for Town Hall and all other facilities shall be established by written policy of the Town Administrator. ***In any event where the Town Administrator orders an emergency closing which does not comply with the written policy, he or she shall attempt to notify the Chairman of the Board of Selectmen prior to exercising such a closing.***

## SECTION 3 – RECRUITMENT & SELECTION

### 3.10 Announcements

The Town Administrator shall make known all vacancies for positions by posting announcements of such vacancies on official Town bulletin boards. When it is necessary to recruit from outside the Town government pursuant to Section 3.00, the Town Administrator shall advertise in ~~newspapers and other publications~~ **three sources (newspapers, journals, etc.), the Town web site** and other publications to the extent necessary to insure sufficient numbers of qualified candidates.

### 3.11 Recruitment Expenses

It is recognized that various staff, professional, and supervisory positions may require recruitment from outside the area to obtain well-qualified applicants. Accordingly, in recruiting for and filling positions of this type, the Town Administrator may authorize payment of expenses for an applicant's trip for a personal interview **as may be approved by the Board of Selectmen**. Reimbursable expenses may include an allowance for transportation, meals, and lodging.

### 3.61 Regular Appointment/Probationary Period

A regular appointment shall mean that an employee is to work for the Town in either a full or part-time basis. Every employee who receives this type of appointment shall serve a probationary period following the original appointment in accordance with the provisions of Section 4 of this By-Law. Upon recommendation of the Department Head that the employee has satisfactorily completed the probationary period and approved by the Town Administrator, the employee's status of employment shall be changed from probationary to regular **in accordance with Section 4**.

## SECTION 4 – PROBATIONARY PERIOD

### 4.11 Probation Expiration

A. At least ten days prior to completion of the probationary period, the department head shall notify the Town Administrator in writing that:

- the employee's performance was satisfactory and that the individual should be retained as a regular employee in the position, or
- the employee's probationary period should be extended for another 3 months, or
- the employee's performance or conduct was unsatisfactory, and that removal is proposed as of a recommended date. The department head shall furnish reasons for the recommended removal, and may terminate the employee upon approval of the Town Administrator.

**B. In the case of Department Heads, the Town Administrator shall notify the Board of Selectmen in writing at least thirty days prior to the completion of the probationary period that:**

- **the employee's performance was satisfactory and that the individual should be retained as a regular employee in the position, or**
- **the employee's probationary period should be extended for another 3 months, or**
- **the employee's performance or conduct was unsatisfactory, and that removal is proposed as of a recommended date. The Town Administrator shall furnish reasons for the recommended removal, and may terminate the employee upon approval of the Board of Selectmen.**

## SECTION 5 – RULES OF CONDUCT

#### 5.35 Procedures for Complaint

- A. Complaint: The Town has designated a Sexual Harassment Grievance Officer. The Sexual Harassment Grievance Officers are Town Administrator and ~~Administrative Assistant to the~~ **Town Administrator** who can be reached at the Town Hall, 32 Main Street, Ashburnham, MA 01430 telephone number ~~978-827-4104~~ **978-827-4100**.

#### 5.40 Smoking/Tobacco Use

~~Smoking has been identified as the single most important detriment to an individual's health. For the smoker, the adverse effects of smoking contribute to a loss of personal health. Smoking also influences adversely the health of those who become innocent victims of second hand smoke. Consequently, smoking is prohibited in all public buildings or grounds.~~ ***The smoking or other use of any and all tobacco products is prohibited in all Town Buildings.***

#### 5.95 Use of Alcohol/Illegal Drugs

Use of alcohol or illegal drugs while driving Town Vehicles is prohibited.

### SECTION 10 – DISCIPLINARY ACTIONS

#### 10.26 Disciplinary Hearing

When a suspension hearing has been recommended, or in the case of a more serious incident and reduction in pay or termination is considered, the Town Administrator ~~will~~ **may** conduct a disciplinary hearing. ***If an employee is terminated without a hearing, the employee may, within five (5) days of such termination, request a hearing. If a hearing is held, the employee shall*** ~~will be~~ given a letter outlining the offending actions or behavior to be the subject of the hearing, the date, time and place of the hearing, the employee's right to be represented by counsel, the right to present witnesses in their own behalf and the right to cross-examine witnesses presented against them. ***At least five (5) days shall be allowed between the notice of hearing and the hearing itself.*** The Town Administrator shall have the authority to compel any Town employee to attend the hearing and to be questioned. Following the hearing, within 10 days the Town Administrator will decide what action is to be taken, from the following list:

SELECTMEN RECOMMENDATION: **YES** ADVISORY RECOMMENDATION: **YES** TAX IMPACT: **N/A**

### Article 15.

**To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to amend Chapter 428 of the Acts of 1986, entitled "An Act Establishing a Selectmen Administration Form of Government for the Town of Ashburnham," as follows: or act in relation thereto. (Requested by the Board of Selectmen and Advisory Board)**

***PLEASE NOTE: CHANGES/ADDITIONS WILL BE IN BOLD ITALIC AND DELETIONS WILL BE NOTED BY A STRIKETHROUGH.***

**SECTION 1:** Upon the effective date of this act, the Town of Ashburnham shall be governed by the provisions of this act. To the extent that the provisions of this act modify or repeal existing general laws and special acts or that body of law which constitutes the town charter Section 9 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this act shall govern. ***For the purposes of this act, all references to officers, employees or other personnel shall apply equally to males and females***

*regardless of the gender or pronoun used. This act shall be cited and shall be known as the Ashburnham Governmental Act.*

**SECTION 2:** The Board of Selectmen of said Town of Ashburnham shall appoint the Town Accountant, the Historical Commission, the Arts Commission, the Constables, the Water **and Sewer** Commissioners, the Housing Authority, **Town Counsel**, and all other boards, committees and commissions except those appointed by the Moderator or otherwise appointed in accordance with the provisions of this act. The Moderator shall continue to appoint officials heretofore appointed by the Moderator.

*The executive powers of the Town shall be vested in the Board of Selectmen who shall serve as the chief policy making agency of the Town. The Board of Selectmen shall continue to have and to exercise all of the powers and duties vested in boards of selectmen by the laws of the Commonwealth or by vote of the Town, except as otherwise provided herein.*

**SECTION 5.** The Selectmen elected as provided herein shall appoint, as soon as practicable, for a definite term to be set by the Selectmen, a Town Administrator who shall be a person especially fitted by education, training and experience to perform the duties of the office. The Town Administrator shall be appointed without regard to his political affiliations or beliefs. *The Town Administrator shall devote full time to the office and without prior approval of the Board, shall not hold any other public office, elective or appointive, nor shall he engage in any other business, occupation or profession during the term of office which would deprive him from devoting full time to his duties during normal working hours.* He need not be a resident of the Town or of the Commonwealth when appointed, but shall become a resident of the Town *or reside in any Massachusetts town within a 40 mile radius of Ashburnham* during the first year of his appointment unless otherwise provided by the Selectmen. He shall possess a college degree at the bachelor level and shall have had three years of full-time paid experience in a supervisory administrative position *a portion of which (full time or part time) must be in the public sector.* A Masters degree may substitute for not more than one year of said paid experience. He shall execute a bond in favor of the Town for the faithful performance of his duties in such sum and with such surety of sureties as may be fixed or approved by the Selectmen, the cost for which shall be paid by the Town. The Selectmen may enter into a formal contract with the Town Administrator ~~and~~ *for a probationary period of six (6) months with subsequent terms of up to three (3) years. The Selectmen shall cause said contract to be reviewed by legal counsel. The Selectmen* may set a job description for the Town Administrator which shall take precedence over any personnel by-laws.

*The Town Administrator shall receive such compensation for his or her services as the Board of Selectman shall determine but it shall not exceed the amount appropriated therefor by the town.*

**SECTION 6.** ~~Any vacancy in the office of Town Administrator shall be filled as soon as possible by the Selectmen. Pending the appointment of a Town Administrator or the filling of any vacancy, the Selectmen shall, within seven days, appoint a suitable person to perform the duties of the office.~~ *If the office of Town Administrator is vacant, as a result of death, removal, resignation, or otherwise, or the Town Administrator is on a leave of absence exceeding 2 weeks, the Board of Selectmen by affirmative vote of a majority of it's members, shall appoint a qualified individual to serve as acting Town Administrator. Any vacancy in the office of the Town Administrator shall be filled as soon as possible by the Selectmen.*

**SECTION 7.** The Town Administrator may designate, subject to approval by the Board of Selectmen, by letter filed with the Town Clerk, a qualified officer *or individual* of the Town to perform his duties during his temporary absence or disability. In the event of failure of the Administrator to make such designation, the Selectmen may, by resolution, designate an officer *or individual* of the Town to perform the duties of the Administrator until he shall return or his disability shall cease.

SECTION 8. The Board of Selectmen may ~~by a unanimous vote~~, remove the Town Administrator from office *in accordance with the following procedure*. ~~At least thirty days before such proposed removal shall become effective, the Selectmen shall file a preliminary written resolution with the Town Clerk setting forth in detail the specific reasons for the proposed removal, a copy of which resolution shall be delivered to the Town Administrator. The Administrator may, within ten days of service of such resolution, reply in writing to the resolution and may request public hearing. Service shall be deemed to have been accomplished by leaving a copy of such resolution at the Administrator's last known abode. If the Administrator so requests, the Board of Selectmen shall hold a public hearing not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if any, otherwise at the expiration of thirty days following the filing of the preliminary resolution and after full consideration, the Selectmen by a unanimous vote of the full membership of the Board, may adopt a final resolution of removal. In the preliminary resolution, the Selectmen may suspend the Administrator from duty, but shall in any case cause to be paid to him forthwith any unpaid balance of his salary during the period of consideration of the preliminary resolution following the filing of the preliminary resolution. Upon the adoption of a final resolution of removal; the Selectmen shall pay the Administrator severance pay in the amount equal to one month's pay for each full year of service to the Town, but in no event more than an amount equal to three month's pay.~~

- a. The Board of Selectmen shall adopt a preliminary resolution of removal by an affirmative vote of a majority of its members. Said preliminary resolution shall be in writing. At least thirty days before such proposed removal shall become effective a copy of the preliminary written resolution shall be sent to the Town Administrator by certified and first class mail to his address of record with the Town. In the preliminary resolution, the Selectmen may suspend the Administrator from duty, but shall in any case cause to be paid to him forthwith any unpaid balance of his salary during the period of consideration of the preliminary resolution following the service of said preliminary resolution upon the Town Administrator.*
- b. The Town Administrator may, within ten days of service of such resolution, reply in writing to the resolution and may request a public hearing. If the Town Administrator so requests, the Board of Selectmen shall hold said public hearing not earlier than twenty days no later than thirty days after the filing of such request. Following such public hearing, if any, and otherwise at the expiration of thirty days following the filing of the preliminary resolution, and after full consideration, the Selectmen by a unanimous vote of the full membership of the Board, may adopt a final resolution of removal. Upon the adoption of a final resolution of removal, the Selectmen shall pay the Administrator severance pay in the amount equal to one month's pay for each full year of service to the Town, but in no event more than an amount equal to three months pay.*

SECTION 9. ~~The town administrator shall receive such compensation for his services as the board of selectman shall determine but it shall not exceed the amount appropriated therefor by the town. Annually, for the ensuing year, the Board of Selectmen in conjunction with the Town Administrator shall define goals and performance objectives which both parties determine necessary for the proper operation and welfare of the Town and in the attainment of the policy objectives of the Board. The Board of Selectmen and Town Administrator shall further establish a relative priority among those various goals and objectives. Said goals and objectives shall be reduced to writing. During the first year of employment, the Board of Selectmen and the Town Administrator will meet and set goals and objectives after six months. The Board of Selectmen shall review and evaluate the performance of the Town Administrator on a formal basis once annually under the terms and conditions of this act. Said review and evaluation shall include, but not be limited to: the Town Administrator's progress and performance on the annual goals and objectives as described in this section; budgetary and financial administration; personnel~~

*administration; supervision and leadership; staff development; public relations; employee and labor relations; policy execution; and interaction with the Board of Selectmen as well as the governmental officials, departments, boards and committees. The Town shall provide the Town Administrator with a written evaluation report after each formal review and evaluation and shall provide the Town Administrator with an opportunity to discuss his review and evaluation with the Board of Selectmen in a workshop session and submit written comments in relation thereto*

**SECTION 10.** In addition to specific powers and duties provided in this act, the Town Administrator shall have the general powers and duties enumerated in this section.

- a. The Town Administrator shall *be responsible to the Board of Selectmen* ~~supervise the head of all departments and shall supervise and direct the general administration~~ *for the efficient administration* of all *departments*, commissions, boards and offices *placed in the town administrator's charge by this act, the Board of Selectmen or vote of town meetings*, except the Board of Selectmen, the Regional School Committee, the Municipal Light Board, the Advisory Board, the Library Trustees, ~~and the Moderator~~ *and other Boards, Committees, Commissions or officers whose* discretionary power is vested by statute. ~~He shall not however, exercise any control over the discretionary power vested by statute in any such board, committee, commission or office.~~
- d. Notwithstanding the provisions of section one-hundred and eight of chapter forty-one of the General Laws, but subject to all applicable provisions of chapter thirty-one of the General Laws, the Town Administrator shall fix the compensation of all town officers and employees subject to appointment by him, *except in the case of Department Heads and any employees under a written contract with the town. Compensation, changes in compensation or benefits, or contract renewals may be recommended by the Town Administrator and shall become effective only upon a majority vote of the Board of Selectmen.*
- f. The Town Administrator shall keep full and complete records of his office, and shall render as often as may be required by the Selectmen, but, in any case, annually, a full report of all operations during the period reported on. *The members of the Board of Selectmen shall have full access to records upon request unless access is restricted by statute and shall be bound by any confidentiality or privilege required by law.*
- l. The Town Administrator shall be the Selectmen's agent for collective bargaining and *shall negotiate within parameters as may be established by the Selectmen.* The Town Administrator may employ special counsel to assist him in the performance of these duties. *Any grievances filed by any collective bargaining unit group shall be brought to the attention of the Board of Selectmen by the Town Administrator.*
- m. The Town Administrator shall ~~secure on or before December first of each year from all offices, boards and committees charged with equipment a list of all such equipment upon forms approved by the Advisory Board. Such lists shall be filed with the Town Accountant who shall transmit them to the clerk of the Advisory Board~~ *assist the Capital Planning Committee in the preparation of the Town's capital plan.*
- o. The Town Administrator shall be responsible for the implementation of Town Meeting votes and shall report ~~annually~~ in writing ~~to~~ at the *Annual* Town Meeting on the status of prior Town Meeting votes on which implementation is not complete.



- q. The Town Administrator shall perform such other duties, consistent with this office, as may be required of him by the by-laws *or written policies* of the Town or by vote of the Selectmen or Town Meeting.
- r. *The Town Administrator shall act as grant coordinator for the Town. He shall collect and distribute information concerning grants, establish uniform procedures for grant applications, prepare and assist in developing grant proposals and shall monitor all Town grants to ensure fiscal and program compliance. Any grant that may add personnel or increase the operating costs of the Town in the current or future years shall be approved by the Selectmen prior to submission.*
- s. *The Town Administrator shall act as the Town's insurance coordinator. He shall be responsible for ensuring that all pertinent policies are in effect, that adequate insurance coverage is provided, that claims are properly processed, conduct cost benefit analyses on existing policies and propose changes. He shall render an annual report to the Board of Selectmen on all claims made and losses sustained.*
- t. *The Town Administrator shall plan, organize and supervise the operational audits of the activities of Town departments to evaluate the efficiency of resource utilization and the effectiveness of governmental services. Audit areas may include staffing, scheduling, vehicle management, and any other area requested by the Board of Selectmen.*
- u. *The Town Administrator shall ensure that the Town maintains a professional personnel system by monitoring the effectiveness of policies, procedures and practices as required by law, in accordance with proper personnel practices. He shall ensure that the recruitment, selection, promotion, transfer, discipline, and removal of employees are conducted in accordance with applicable state and federal laws, and with personnel by-laws and policies adopted pursuant to the same.*
- v. *The Town Administrator shall facilitate crisis intervention in emergency situations working with the key officials in Town including the Chair of the Board of Selectmen, Police Chief, Fire Chief, DPW and Water/Sewer Superintendents, Superintendent of Schools and Town Counsel.*

**SECTION 12.** The Town Administrator shall appoint, with the approval of the Board of Selectmen, the Town Treasurer, Tax Collector, the Assessors, the Commission of Trust Funds, the Industrial Commission Energy Conservation and Fuel Allocation Board, Council on Aging, Conservation Commission, Board of Registrars, Zoning Board of Appeals, Election Officials, Parks and Recreation Commission, *Town Clerk*, and all other Town officials whose appointment or election is not specifically provided for herein. Unless otherwise specified by statute, all boards, commissions, committees and councils which are appointed by the Town Administrator shall be appointed for a specific term of office, not to exceed five years, but so that at least one term expires each year. The Town Administrator shall appoint and may remove subject to the approval of the Board of Selectmen and subject to the provisions of Chapter thirty-one of the General Laws where applicable, all Department Heads, all officers and all subordinates and employees for whom no other method of appointment is provided in this act, except persons serving under other elected agencies and appointments made by representatives of the Commonwealth. *The Town Administrator's evaluations of all Department Heads shall be approved by the Board of Selectmen.*

**SECTION 13.** The registered voters of the Town of Ashburnham shall, in accordance with any applicable laws, by-laws, and votes of the Town, continue to elect the following:

- a) Moderator
- b) Board of Selectmen
- c) Regional School Committee Members

- d) Planning Board
- e) Board of Health
- f) Library Trustees
- g) Municipal Light Board
- ~~h) Town Clerk~~

**SECTION 16.** The Town Administrator shall be the chief fiscal officer of the Town. Warrants for the payment of Town funds prepared by the Town Accountant in accordance with the provisions of Section fifty-six of Chapter forty-one of the General Laws shall be submitted to the Town Administrator. The approval of any such warrant by the Town Administrator shall be sufficient authority to authorize payment by the Town Treasurer, but the Selectmen shall approve all warrants in the event of a vacancy in the office of the Town Administrator. ***The Town Administrator shall present all warrants to the Selectmen for review.***

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 16.**

**To see if the Town will vote to raise and appropriate, or appropriate by transfer from available funds, such sums of money to be transferred to the Stabilization Fund, or act in relation thereto.**

*(Requested by the Board of Selectmen, Advisory Board and Town Administrator)*

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 17.**

**To see if the Town will vote to raise and appropriate, or appropriate by transfer from available funds, such sums of money to be transferred to the Capital Improvement Fund, or act in relation thereto.** *(Requested by the Board of Selectmen, Advisory Board and Town Administrator)*

*(Requested by the Board of Selectmen, Advisory Board and Town Administrator)*

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: N/A

**Article 18.**

**To see if the Town will vote to appropriate, borrow, or appropriate by transfer from available funds, a sum of money to be expended under the direction of the School Building Committee for the design and construction of a new J.R. Briggs Elementary School, Williams Road, Ashburnham, Massachusetts, which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the Town may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"). The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town. Any grant that Ashburnham may receive from the MSBA for the Project shall not exceed the lesser of (1) \_\_\_ percent (%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA, or act in relation thereto.** *(Requested by the Board of Selectmen, Advisory Board and Town Administrator)*

*(Requested by the Board of Selectmen, Advisory Board and Town Administrator)*

SELECTMEN RECOMMENDATION: YES ADVISORY RECOMMENDATION: YES TAX IMPACT: \$1.15

And you are hereby directed to serve this warrant in accordance with the provisions of Section 3, Chapter II of the Town Bylaws by posting attested copies thereof as therein provided.

Hereof fail not and make due return of this Warrant with your doings thereon, to the Town Clerk on or before the said day and hour of the meeting.

\_\_\_\_\_  
Edward Vitone, Chair

\_\_\_\_\_  
Margaret Whitney, Clerk

\_\_\_\_\_  
Ronald W. Reed, Member  
ASHBURNHAM BOARD OF SELECTMEN

A true copy, Attest:

\_\_\_\_\_  
Constable

\_\_\_\_\_  
Date

RETURN TO: Selectmen's Office  
Town of Ashburnham  
32 Main Street  
Ashburnham, MA 01430



Date: \_\_\_\_\_

## APPLICATION FOR BOARD, COMMISSION OR COMMITTEE APPOINTMENT

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Phone: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_ (Cell) \_\_\_\_\_

E-mail: \_\_\_\_\_ Registered Voter: (Yes or No) \_\_\_\_\_

How long have you been a resident of Ashburnham? \_\_\_\_\_

Education: \_\_\_\_\_

Occupation: (Firm & duties) \_\_\_\_\_

Previous Elected/Appointed positions served in Ashburnham? \_\_\_\_\_

Have you served on any Committees/Boards in any other Town? (Please specify): \_\_\_\_\_

Please list the Committees you would like to serve on and why: \_\_\_\_\_

What special talents, experiences or qualifications do you have that would benefit the Committee: \_\_\_\_\_