

WARRANT - TOWN OF ASHLAND
MAY 1, 2019 ANNUAL TOWN MEETING



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS:

TO: A Constable of the Town of Ashland, in said county:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify the legal voters of the Town of Ashland to meet at the Ashland High School in said Town, on WEDNESDAY, the first day of May, in the year Two Thousand and Nineteen at 7:00 PM to act upon the following Articles of the Town Warrant.

Hereof fail not and make due return of this warrant by your doing thereon to the Town Clerk, at or before the time of the meeting aforesaid.

Given under our hands, at Ashland, on the 3rd day of April, in the year Two Thousand and Nineteen.

ASHLAND BOARD OF SELECTMEN

Robert K. Scherer, Chairman

Steven Mitchell, Vice-Chair

Yolanda Greaves, Clerk

Joseph J. Magnani, Jr.

Tara M. Ward, CMC/CMMC
Ashland Town Clerk

ATTEST: _____

POSTING CERTIFICATION

I, the undersigned, a Constable for the Town of Ashland, MA, do hereby certify that I have posted copies attested by the Town Clerk of the within warrant at least seven days before the time of said Town Meeting at the following places:

Town Hall, 101 Main Street, Ashland, MA (Precinct 1)
Ashland Police Station, 137 Main Street, Ashland, MA (Precinct 1)
Ashland Public Library, 66 Front Street, Ashland, MA (Precinct 1)
Marathon Mobil, 103 West Union Street, Ashland, MA (Precinct 2)
Ashland Convenience Store/Pizza Palace, 72 Union Street, Ashland, MA.
(Precinct 3)
Shaw's Supermarket, 307 Pond Street, Ashland, MA (Precinct 4)
Ashland Community Center, 162 West Union Street, Ashland, MA
(Precinct 5)



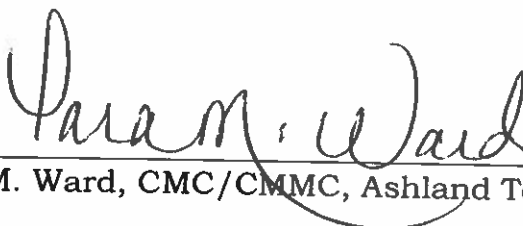
Constable's Signature

4/12/19

Date of Posting

BARRY SIMS

Constable's Name Printed

ATTEST: 

Tara M. Ward, CMC/CMMC, Ashland Town Clerk

TOWN OF ASHLAND

ANNUAL TOWN MEETING WARRANT
2019

Article 1: Hear Town Reports
Sponsor: Board of Selectmen

To see if the Town will hear the reports of several town committees and to accept those as printed in the Annual Town Report, or pass any vote or take any action relative thereto.

Article 2: Fiscal Year 2019 Budget Adjustments
Sponsor: Director of Finance/Town Manager

To see if the Town will vote to transfer or otherwise fund sums of money which are necessary to make adjustments to the FY2019 budget, or pass any vote or take any action relative thereto.

Article 3: Fiscal Year 2020 Budget
Sponsor: Town Manager

To see if the Town will vote to raise, appropriate and/or transfer from available funds in the treasury such sums of money as are necessary to defray charges and expenses of the town, including debt and interest, for the ensuing fiscal year, or pass any vote or take any action relative thereto.

Article 4: Capital Plan
Sponsor: Town Manager

To see if the Town will vote to raise, appropriate, transfer from available funds in the treasury and/or borrow funds in order to fund a portion of the Capital Plan and if a borrowing that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of the issuance of such bonds or notes, may be applied to payment of costs approved by this vote in accordance with G.L. c. 44 § 20 , thereby reducing the amount to be borrowed to pay such cost by a like amount , or pass any vote or take any action relative thereto.

Article 5: Establish an Economic Development Special Revenue Account
Sponsor: Board of Selectmen/Town Manager/Economic Development Director

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for Special Legislation entitled Town of Ashland Meals Tax Distribution to allow the Town to create a Special Revenue fund for Economic Development and appropriate the local meals tax revenue into the fund for the purpose of economic development activities.

Said Legislation to read as follows:

SECTION 1. (a) Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Ashland shall establish in the town treasury a special revenue account to be known as the Economic Development Special Revenue Fund, into which shall be deposited certain receipts comprised of the total local meals tax received annually by the town under section 2 of chapter 64L of the General Laws, as provided in subsections (b) and (c). The funds shall be used to support economic development activities, operations and administration in the Town of Ashland and in addition but not limited to Chapter 420 of the Acts of 2018, The Special Revenue Fund for an Economic Development Funding Program for the Town of Ashland.

(b) Notwithstanding any general or special law to the contrary, the amount of the local meals tax based on a rate in excess of 6.25 per cent collected under said section 2 of said chapter 64L by the town for the fiscal year beginning July 1, 2019 and each fiscal year thereafter shall be credited to the fund and shall be subject to further appropriation by a majority vote of the town meeting.

(c) Notwithstanding any general or special law to the contrary, any interest accruing on any amount on deposit in the fund shall be credited to the General Fund of the town of Ashland.

(d) Nothing in this act shall affect amounts distributed in any fiscal year to the town from the Local Aid Fund.

(e) If, by a majority vote of the town meeting pursuant to section 4B of chapter 4 of the General Laws, the town revokes its acceptance of the local meals tax rate in excess of 6.25 per cent under said section 2 of said chapter 64L, the town shall decide by a 2/3 vote of the town meeting whether the fund shall cease to have effect. If 2/3 of the town meeting votes that the fund shall cease to have effect, all unexpended and uncommitted amounts on deposit in the fund as of the date of the vote to revoke the rate in excess of 6.25 per cent shall be credited to the General Fund of the town on the first day of the calendar quarter following 30 days after the date of the revocatory vote; provided, however, that if 2/3 of the town meeting does not vote that the fund shall cease to have effect, the fund shall continue to have effect and all unexpended and uncommitted amounts on deposit in the fund as of the date of the vote to revoke the rate in excess of 6.25 per cent shall be subject to further appropriation by a majority vote of the town meeting.

(f) The town may close the fund by a 2/3 vote of the town meeting. The vote to close the fund shall designate: (i) that the fund shall cease to have effect; (ii) that all unexpended and uncommitted amounts on deposit in the fund as of the date of the vote shall immediately be credited to the General Fund of the town ; and (iii) that the portion of the total local meals tax in excess of 6.25 per cent received annually by the town under said section 2 of said chapter 64L and credited to the fund as set forth in subsections (b) and (c) shall be credited to the General Fund of the town .

SECTION 2. That the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

SECTION 3. This act shall take effect upon its passage.

Or pass any vote or take any action relative thereto.

**Article 6: Transfer the Robert Hill Way Revenue to the Affordable Housing Trust
Sponsor: Board of Selectmen**

To see if the Town will vote to appropriate, transfer or otherwise fund a sum of money to the Affordable Housing Trust the basis of which is the sale proceeds from land known as Robert Hill Way, or pass any vote or take any action relative thereto.

Article 7: Transfer to OPEB Trust:

Sponsor: Board of Selectmen

To see if the Town will transfer \$157,176 from OPEB Contribution Account #01915-51709 to the OPEB Trust, Account #88100-49710, or pass any vote or take any action relative thereto.

Article 8: Amend Agreement for the South Middlesex Regional Vocational School District

Sponsor: Board of Selectmen

To see if the Town will vote to amend the agreement among the towns of Ashland, Holliston, Hopkinton, and Natick, and the City of Framingham, with respect to Establishment of a Regional Vocational School District to incorporate prior amendments to said agreement, to eliminate outdated provisions, to recognize Framingham's change from a town to a city form of government, and to bring said agreement into alignment with the District's existing practices; or pass any vote or take any action relative thereto.

Article 9: Annual Consent Article - General

Sponsor: Board of Selectmen

To see if the Town will vote the following consent articles:

1. Grant Program Authorization - To see if the Town will vote to authorize the Board of Selectmen and/or the Town Manager to apply for, accept and enter into contracts from time to time for the expenditure of any funds allotted to Ashland by the Commonwealth of Massachusetts or the U. S. Government under any State or Federal grant program;
2. Road Contracts - To see if the Town will vote to authorize the Town Manager to enter into a contract with the Massachusetts Highway Department Commissioner or the Federal Government for the construction and maintenance of public highways in the Town of Ashland for the ensuing year;
3. Contracts in Excess of Three Years - To see if the Town will vote in accordance with the provisions of G.L. c. 30B, § 12(b), to authorize the Town Manager or the Superintendent of Schools to solicit and award contracts for terms exceeding three years, including any renewal, extension or option, provided in each instance the longer term is determined to be in the best interest of the Town by a vote of the Board of Selectmen or the School Committee, as appropriate;
4. Lease Purchase Agreements – To see if the Town will vote in accordance with the provisions of G.L.c. 44 §21C to authorize the Board of Selectmen to enter into lease purchase financing agreements to acquire equipment or improve a capital asset that may be financed by the issuance of dept under G. L. c. 44 or otherwise allowed by law, for a term up to the useful life of the property and to be procured in accordance with appropriate procurement laws. or take any other action relative thereto.
5. Revolving Funds: To see if the Town will vote to fix the maximum amount that may be spent during FY 2020 beginning July 1, 2019 for the revolving funds established in the town bylaws for certain departments, boards, committees, agencies or officers in accordance with G.L. c. 44 §53E 1/2, or take any other action relative thereto.
6. Grant Easements: To see if the Town will vote to authorize the Board of Selectmen and the School Committee to grant easements for access, water, drainage, sewer and utility purposes on terms and conditions the Board and the Committee deem in the best interest of the Town; or pass any vote or take any action relative thereto.

by the same aggregate amount, as allocable to each project, or to take any other action relative thereto.

Article 10: Annual Consent Article: Community Preservation Act
Sponsor: Community Preservation Committee

To see if the Town will vote the following consent articles:

- a. **Community Preservation Funds – FY20 Annual Appropriations** - To see if the Town will vote to appropriate or reserve from the Community Preservation annual revenues in the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other expenses in Fiscal Year 2019, with each item to be considered a separate appropriation:

Appropriations:

From FY 2019 estimated revenues to Committee Administrative Expense \$53,311.52

Reserves:

From FY 2020 estimated revenues to Historic Resources Reserve \$101,291.89

From FY 2020 estimated revenues to Community Housing Reserve \$101,291.89

From FY 2020 estimated revenues to Open Space Reserve \$101,291.89

From FY 2020 estimated revenues to Undesignated Reserve \$709,043.20

or pass any vote or take any other action relative thereto.

- b. **Community Preservation Funds – Oak Street Bond Payment** - To see if the Town will vote to appropriate \$168,150 in Community Preservation Act funds to fund the bond payment approved in Article 1 of the Special Town Meeting of November 26, 2007 that acquired by eminent domain a certain parcel of land off Oak Street, now or formerly owned by Stephanie A. and Kristen McCook consisting of 1,305,929 +/- sq. ft. and more particularly described as parcel #003D-005-000 on the Assessors Map and further defined in an Order of Taking by Eminent Domain filed with the Middlesex County Registry of Deeds Southern District on January 7, 2002, all in accordance with the Agreement for Judgment issued by the Superior Court Department of the Trial Court, Civil Action No. MICV2003-02643 which amount supplemented the funds raised in its vote of Article 6 of the Fall Special Town Meeting of October 20, 1999, for the acquisition of the aforesaid parcel, from the Community Preservation Fund Undesignated Reserve Account, to be added to 01710 Debt Service passed in Article 3 of this Town Meeting; or pass any vote or take any other action relative thereto.

- c. **Community Preservation Funds – H.S. Athletic Fields Bond Payment** - To see if the Town will vote to appropriate \$342,650 in Community Preservation Act funds to fund the bond payment approved in Article 11 of the Annual Town Meeting of May 4, 2011 to construct and equip athletic fields to be located at the Ashland High School and other ancillary uses and to pay for all related engineering and legal fees associated therewith from the Community Preservation Fund Undesignated Reserve Account, to be added to 01710 Debt Service passed in Article 3 of this Town Meeting; or pass any vote or take any other action relative thereto.

- d. **Community Preservation Funds – Warren Woods Bond Payment** - To see if the Town will vote to appropriate \$171,875 in Community Preservation Act funds to fund the bond payment for the purchase of that certain parcel of land which was owned by Northeastern University and described as Assessors' Map 28, Lots 070 and 072, consisting of approximately 118.36 +/- acres, more or less, known as Warren Woods and which the Town acquired by deeds dated June 5, 2012 and recorded in Book 59237, Page 246 and Book 59237 Page 252 and which said expenditure and purchase was approved in Article 8 of the Special Town Meeting of November 29, 2010 and further modified by Article 5 of the Special Town Meeting of October 18, 2011, from the following FY 2014 CPA reserve accounts;

Historic Resources Reserve	<u>\$ 55,000</u>
Open Space Reserve	<u>\$ 46,406</u>
Undesignated Reserve	<u>\$ 70,469</u>

or pass any vote or take any other action relative thereto.

Article 11: Transfer 1 +/- Acre at Warren Woods

Sponsor: Board of Selectmen

To see if the town will vote to transfer the care custody and control of a portion of the property known as Warren Woods more fully set forth as “Proposed Building Envelope” on a plan of land entitled “Plan of Land, “Proposed Building Envelope” Ashland, Massachusetts” by GLM Engineering Consultants, Inc, and dated February 9, 2016 consisting of approximately 43,866 square feet, more or less, and which is on file with the Town Clerk, from the Board of Selectmen to the Conservation Commission for the purpose of conservation and passive recreation purposes; and or to pass any vote or take any action relative thereto.

Article 12: Creation of an HRA Stabilization Fund

Sponsor: Director of Finance/Town Manager

To see if the Town will vote in accordance with G.L. c. 40 sec. 5B, to establish a special purpose stabilization fund known as the GIC Mitigation Stabilization Fund and transfer into said fund a sum of money related to employee health emergency funds to be used for the benefit of employees and retirees, and or pass any vote or take any action relative thereto.

Article 13: Accept Statute and Amend the Chapter 178 of the Town of Ashland Bylaws / Finger Printing

Sponsor: Board of Selectmen

To see if the Town will vote to accept G.L. c. 6 section 172B1/2 and amend the Town of Ashland General Bylaws by adding a new section 178-2, Fingerprint-Based Background Checks for applicants requesting licenses from the Town for certain specified occupations, as follows:

Chapter 178

Section 178-2 Fingerprint-Based Background Checks

§ 178-2 -1 Purpose and authorization.

A. In order to protect the health, safety, and welfare of the inhabitants of the Town of Ashland, as authorized by Chapter 6, Section 172B 1/2, of the Massachusetts General Laws as enacted by Chapter 256 of the Acts of 2010, this chapter shall require that:

- (1) Applicants for certain Town licenses to engage in specified occupational activities within the Town as enumerated in § 178-2-2 below, must submit to fingerprinting by the Ashland Police Department;
- (2) The Ashland Police Department must conduct criminal history record checks based on such fingerprints pursuant to Section 172B 1/2 of Chapter 6 of the Massachusetts General Laws and 28 U.S.C. § 534; and
- (3) The Town shall consider the results of such background checks in determining whether or not to grant a license.

B. Under this Chapter, fingerprints shall be submitted to the Identification unit within the department of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), or its successor, for a state criminal history records check and to the Federal Bureau of Investigation (FBI), or its successor, for a national criminal history records check, as may be applicable and consistent with this chapter. The Town authorizes the licensing authority and the Ashland Police Department to receive and utilize these state and FBI records in connection with such background checks, consistent with this chapter.

§ 178-2-2 Applicant's submission to fingerprinting by Ashland Police Department.

A. Any applicant for a license to engage in any of the following occupational activities within the Town shall submit, within 10 days of application, a full set of fingerprints taken by the Ashland Police Department for the purpose of conducting a state and national criminal history record check to determine the suitability of the applicant for said license:

- (1) Ice cream truck vendor, MGL c. 270, § 25.

B. At the time of fingerprinting, the Ashland Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's state and FBI criminal history records.

§ 178-2-3 Police Department processing.

A. Upon receipt of the fingerprints and payment of the applicable fee, the Police Department shall transmit the fingerprints obtained pursuant to this chapter to the Identification Section of the Massachusetts State Police, DCJIS, and/or the FBI or their successors as may be necessary for the purpose of conducting the fingerprint-based state and national criminal history records checks of license applicants specified in § 178-2-2.

B. The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including FBI records, consistent with this chapter. The Town authorizes the Ashland Police Department to receive and utilize state and FBI records in connection with such background checks, consistent with this chapter. The state and FBI criminal history will not be disseminated to unauthorized entities.

C. The Police Department shall provide the applicant with a copy of the results of their fingerprint-based criminal history record check and provide the applicant an opportunity to complete or challenge the accuracy of the information contained therein, including in the FBI identification record. The Police Department shall also supply applicants with information regarding the procedures for obtaining a change, correction, or updating of a criminal record, including a copy of 28 CFR Part 16.34 pertaining to FBI identification records.

D. The Police Department shall not communicate the fingerprint-based criminal history record check to the applicable licensing authority pursuant to the following subsection until it has complied with the preceding subsection and otherwise complied with the Town's policy applicable to Town licensing-related criminal history record checks.

E. The Police Department shall communicate the results of fingerprint-based criminal history record checks to the applicable licensing authority within the Town. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon their suitability for a license, or any felony or misdemeanor that involved force or threat of force, controlled substances, or a sex-related offense.

F. The Police Chief shall periodically check with the Executive Office of Public Safety and Security (EOPSS) which has issued an Informational Bulletin which explains the requirements for Town bylaws and the procedures for obtaining criminal history information, to see if there have been any updates to be sure the Town remains in compliance.

§ 178-2 -4 Reliance on results.

- A.** Licensing authorities of the Town shall utilize the results of fingerprint-based criminal history record checks for the sole purpose of determining the suitability of the applicant for the proposed occupational activity which is the subject of the license applications specified in § 178-2-2.

- B. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations, and Town policies bearing on an applicant's suitability in making this determination.
- C. The licensing authority shall not deny a license based on information in a criminal record unless the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.

§ 178-2 -5 Compliance with law, regulation, and Town policy.

Implementation of this chapter and the conducting of fingerprint-based criminal record background checks by the Town shall be in accordance with all applicable laws, regulations, and Town policies, including, but not limited to, the Town's policy applicable to licensing-related criminal record background checks which shall include record retention and confidentiality requirements. The Town shall not disseminate the results of fingerprint-based criminal background checks except as may be provided by law, regulation, and Town policy. The Town shall not disseminate criminal record information received from the FBI to unauthorized persons or entities.

§ 178-2 -6 Fees.

At the time of filing the application, each applicant shall pay a fee of \$60.00. A portion of the fee, as specified in MGL c. 6, § 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

§ 178-2 -7 Severability.

- A. The provisions of this chapter are severable. If a court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.
- B. Any bylaws in conflict herewith are hereby repealed to the extent of such conflict.

or pass any vote or take any action relative thereto.

**Article 14: Illicit Discharge and Connections Prohibitions/ Compliance with EPA MS4 Permits
Sponsor : Stormwater Advisory Committee**

To see if the Town will amend the Town of Ashland General Bylaws by renumbering the sections in Chapter 247 and adding a new section 247-1 entitled Illicit Discharge and Illicit Connections as follows :

Item 1. Retitle the Chapter to read "Stormwater Management and Illicit Discharges and Connections.

Item 2. Renumber the current sections 247-1 through 247-15 to read instead A. Stormwater Management and then 247-1-1 through 247-1-15 consecutively.

Item 3. Add a new section as follows;

B. Illicit Discharges and Illicit Connections

§ 247-2-1: Purpose

Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the waters of the Commonwealth including the town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

§ 247-2-2: Statutory Authority

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the federal Clean Water Act (40 CFR 122.34).

§ 247-2-3: Applicability

This bylaw shall apply to all water, and pollutants entering the municipal storm drain system directly, or indirectly, unless explicitly exempted by an authorized enforcement agency.

§247-2-4: Effect on Other Bylaws

Nothing in this bylaw is intended to replace the requirements of either the Town of Ashland Wetlands Bylaw, or any other bylaw that has been or may be adopted by the Town of Ashland. Any activity subject to the provisions of the above-cited bylaws must comply with the specifications of each applicable bylaw.

§ 247-2-5: Objectives

The objectives of this bylaw are to establish legal authority to:

- A. Prevent pollutants from entering the town's municipal separate storm sewer system (MS4) and the Waters of the Commonwealth;
- B. Prohibit illicit connections and unauthorized discharges to the MS4;
- C. Investigate suspected illicit connections and discharges
- D. Eliminate illicit discharges, and require the removal of all such illicit connections and discharges;
- E. Comply with state and federal statutes and regulations relating to stormwater discharges; and
- F. Ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

§ 247-2-6: Definitions

For the purposes of this bylaw, the following shall mean:

“Authorized Enforcement Authority or Enforcement Authority”

The director of the Department of Public Works (DPW) and her/his employees or agents designated to enforce this bylaw.

“Best Management Practices (BMP)”

An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

Structural, nonstructural, vegetative and managerial techniques that are recognized by the Massachusetts Stormwater Handbook Volume Two, Chapter Two or other established industry standards to be the most effective means to reduce erosion, prevent or reduce increases in stormwater volumes and flows, prevent point source and nonpoint source pollution, promote groundwater recharge, utilize low impact development (LID) techniques, and promote stormwater quality and protection of the environment to the maximum extent practical.

“Clean Water Act”

The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, and 40 CFR 122.34) as hereafter amended.

“Construction Activity”

Activities subject to the Stormwater Management Permit (pursuant to Chapter 343 of the Ashland Town Code), or the National Pollutant Discharge and Elimination System Construction Permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

“Discharge of Pollutants”

The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

“Groundwater”

Groundwater means all water that exists beneath the land surface in soils or geologic formations, specifically that part of the subsurface water in the Saturated Zone.

“Hazardous Materials”

Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“Illicit Connection”

A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal separate storm sewer system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.

“Illicit Discharge”

Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit.

“Impervious Surface”

Any surface that prevents or significantly impedes the infiltration of water into the underlying soil. This can include but is not limited to roads, driveways, parking areas and other areas created using non porous material; buildings, rooftops, structures, artificial turf and compacted gravel or soil.

Industrial Activity

Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

“Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain System”

The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Ashland.

“National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit”

A permit issued by United States Environmental Protection Agency or jointly with the State of Massachusetts that authorizes stormwater discharge to waters of the United States by establishing limits on pollutant discharge, requiring monitoring and reporting of discharges, and other provisions through the authority of the Clean Water Act.

“Non-Point Source Discharge”

Pollution resulting from many diffuse sources, in direct contrast to point source pollution which results from a single source. Non-point source pollution generally results from land runoff, precipitation, atmospheric deposition, drainage, seepage, or hydrological modification (rainfall and snowmelt) where tracing pollution back to a single source is difficult.

“Non-Stormwater Discharge”

Discharge to the MS4 not composed entirely of stormwater.

“Person”

An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

“Point Source Discharge”:

A point source is a single, identifiable source of pollution, such as a pipe or a drain.

“Pollutant”

Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include but are not limited to:

- (1) paints, varnishes, and solvents;
- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (7) dissolved and particulate metals;
- (8) animal wastes
- (9) rock, sand, salt, soils;
- (10) construction waves and residues;
- (11) noxious or offensive matter of any kind

“Premises”

Any building, lot, easement, or right of way, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

“Process Wastewater”

Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

“Recharge”

The process by which groundwater is replenished with precipitation by percolation of runoff, and surface water through soil.

“Sanitary Sewer Overflow”

A discharge of untreated wastewater from the sewer system. Herein referred to as “SSO”.

“Storm Drain System”

Publicly-owned facilities by which storm water is collected, and/or conveyed, including but not limited to any roads with drainage systems, streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

“Stormwater”

Water from the natural hydrologic cycle due to precipitation, runoff, snowmelt runoff, and surface water runoff and drainage.

“Stormwater Pollution Prevention Plan”

A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

“Surface Water Discharge Permit”

A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

“Toxic or Hazardous Material or Waste”

Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

“Watercourse”

A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

“Waters of the Commonwealth”

All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

“Wastewater”

Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

§ 247-2-7: Prohibitions

Illicit Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system, watercourses, or waters of the Commonwealth any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards.

Illicit Connections.

No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection. A person is considered to be in violation of this bylaw if the person connects a line conveying pollutants or other illicit discharges not listed in Section 8 of the bylaw to the MS4, or allows such a connection to continue.

Obstruction of Municipal Storm Drain System.

No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Director or Acting Director of the Department of Public Works.

Private drainage systems.

It is prohibited for anyone with a private drainage system from tying into the public storm water disposal system without a permit from the Department of Public Works. The maintenance of any, and all private drainage systems shall be the responsibility of the owners.

Sanitary Sewer Overflows.

Sanitary Sewer Overflows shall be prohibited from entering into the storm drain system or entering into waters of Commonwealth.

Upon detection of an SSO entering the storm drain system, or waters of the Commonwealth, the DPW shall notify the Massachusetts Department of Environmental Protection, the Board of Health, and the Conservation Commission. The system shall be eliminated as immediately as possible, and proper measures of mitigation to minimize the impacts of pollutants to and from the storm drain system and waters of the Commonwealth shall be undertaken.

Drains.

No one shall tie any pump, cellar, yard, roof or area drain directly into the storm water drainage system without a permit from the Department of Public Works. Any modification to existing drainage connections to the Municipal Stormwater System will require a permit from the Department of Public Works.

§ 247-2-8: Exemptions

The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwater provided that the source is not a significant contributor of a pollutant to the municipal storm drain system as determined by the DPW:

- A. Discharge or flow resulting from firefighting activities.
- B. Waterline flushing;
- C. Flow from potable water sources;
- D. Springs;
- E. Natural flow from riparian habitats and wetlands;
- F. Diverted stream flow;
- G. Rising groundwater;

- H. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- I. Water from exterior foundation drains, footing drains not including active groundwater dewatering systems, crawl space pumps.
- J. Discharge from landscape, irrigation water, or lawn watering or air conditioning condensation;
- K. Water from individual residential car washing
- L. Discharge from de-chlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- M. Discharge from street sweeping;
- N. Residential building wash waters free of detergents and pollutants.

§ 247-2-9: Administration

A. Enforcement Authority:

The Enforcement Authority shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Enforcement Authority may be delegated in writing by the Board of Selectmen to the Enforcement Authority.

B. Illicit Discharge Regulations:

The Enforcement Authority shall promulgate rules and regulations to effectuate the purposes of this bylaw, after public notice and public hearing is conducted. These regulations shall cover procedures, inspections, documenting, and enforcement. Failure by the Enforcement Authority to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

C. Right of entry:

The Enforcement Authority shall have the right to enter properties and easements to disconnect any suspected, known, or reported, Illicit Discharges that are connected into town-owned drainage systems or stormwater management structural Best Management Practices, to the extent of performing its duties under this bylaw and regulations. The Enforcement Authority may make inspections as deemed necessary and under this bylaw.

D. Monitoring of Discharges:

- 1) **Applicability:** This section applies to all facilities that have storm water discharges associated with commercial or industrial activity, including construction activity.
- 2) **Access to Facilities:** The Enforcement Authority shall be permitted to enter and inspect facilities subject to regulation under this bylaw as often as may be necessary to determine compliance with this bylaw provided proper notice is given to the property owner in non-emergency situations. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
 - a) Facility operators shall allow the Enforcement Authority ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
 - b) The Enforcement Authority shall have the right to set up on any permitted facility such devices as are necessary in its opinion to conduct monitoring and/or sampling of the facility's storm water discharge.
 - c) The Enforcement Authority has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained

at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated with secondary standards or better to ensure their accuracy.

- d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Enforcement Authority and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- e) Unreasonable delays in allowing the Enforcement Authority access to a permitted facility is a violation of this bylaw. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required.
- f) If the Enforcement Authority has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this bylaw or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Enforcement Authority may seek issuance of a search warrant from any court of competent jurisdiction.

§ 247-2-10: Emergency Suspension of Storm Drainage System Access

- A. **Emergencies or Imminent Risk:** The Enforcement Authority may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Enforcement Authority may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.
- B. **Suspension Due to Detection of Illicit Discharge:**
Any person discharging to the MS4 in violation of this bylaw may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Enforcement Authority will notify a violator of the proposed termination of its MS4 access. The violator may petition the Enforcement Authority for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the Enforcement Authority.

§ 247-2-11: Industrial and Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. All illicit discharges are prohibited under this by-law and in accordance with all applicable federal, state, and local regulations. All discharges are prohibited to the Ashland MS4 unless there is compliance with the NPDES stormwater discharge permit. The Enforcement Authority may request proof of compliance with the NPDES program before allowing any discharges to the Municipal Stormwater System.

§ 247-2-12: Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately

notify the municipal fire and police departments, Board of Health, and the Enforcement Authority. In the event of a release of non-hazardous material, the reporting person shall notify the Enforcement Authority no later than the next business day. The Conservation Commission shall be notified if these spills directly discharge to waters of the Commonwealth. The reporting person shall provide to the Enforcement Authority written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 247-2-13: Actions by the Enforcement Authority

The Enforcement Authority may take any of the actions outlined in “§ 247-2-15: Enforcement, Violations and Penalties”. Upon final abatement of violations, the Enforcement Authority shall document all reported, or suspected violations, actions taken to abate violations, expenses accrued to the Enforcement Authority to abate violations, and fees to be paid or already paid.

§ 247-2-14: Appeals

The decisions or orders of the Enforcement Authority shall be final. Further relief shall be filed with the Massachusetts Land Court or the Massachusetts Superior Court.

§ 247-2-15: Enforcement, Violations and Penalties

The Enforcement Authority shall have the authority through its power and duty to enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- A. **Penalties:** Any person who violates any provision of this bylaw, regulation, or permit issued hereunder, shall be subject to fines, civil action, criminal prosecution, and liens, as appropriate and as lawfully established by the Town of Ashland.
- B. **Abatement of the Violation:** The Town of Ashland shall require reimbursement to the town for the cost of work undertaken by the town that resulted from a violation under the provisions of this bylaw. The Enforcement Authority shall invoice the property owner of expenses utilized by the Town to abate the violation. The invoice shall be made available within 90 days of actions undertaken by the Enforcement Authority to abate the violation, and payment shall be made 90 days from the date of the invoice.
- C. **Criminal Penalty:** Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder, shall be punished by a fine not to exceed \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. **Orders:** The Enforcement Authority may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:
 - 1. Elimination of illicit connections or discharges to town-owned drainage infrastructure
 - 2. Performance of monitoring, analyses, and reporting;
 - 3. That unlawful discharges, practices, or operations shall cease and desist; and
 - 4. Remediation of contamination in connection therewith.

If the town determines that abatement or remediation of contamination is required, such abatement or remediation must be completed within 60 days. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

- E. **Civil Relief:** If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Enforcement Authority through the Board of Selectmen may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- F. **Non-Criminal Disposition:** As an alternative to criminal prosecution or civil action, the Town may utilize the non-criminal disposition procedure set forth in M.G.L. c. 40, § 21D.
 - 1. The Enforcement Authority shall enforce the non-criminal dispositions.
 - 2. The penalty for any person who violates any provision of this bylaw, regulation, order, or permit issued there under, shall be punished by a fine of \$300.00 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. **Remedies Not Exclusive:** The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 247-2-16: Severability

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

Or pass any vote or take any action relative thereto.