TOWN OF ASHBURNHAM
ANNUAL TOWN MEETING
WARRANT ARTICLES

Saturday, May 5, 2012
10:00 a.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 May 5, 2012 Annual Town Meeting.

		Selectmen Recomm.	Capital Plan. Recomm.	Advisory Recomm.	Tax Rate Increase
	CONSENT AGENDA – Articles 1 thru 8	**YES**	**N/A**	**YES**	
Art. 1	**Accept reports of Town Officers and Committees**	**YES**	**N/A**	**YES**	
Art. 2	**Light Department PILOT payment**	**YES**	**N/A**	**YES**	
Art. 3	**Tax Anticipation Note Authority for Treasurer**	**YES**	**N/A**	**YES**	
Art. 4	**Authority for Town Administrator to Contract with Mass. Highway**	**YES**	**N/A**	**YES**	
Art. 5	**Authority to Expend Ch. 90 Road Repair Money**	**YES**	**N/A**	**YES**	
Art. 6	**Transfer of Cushing Academy Trust Fund Income**	**YES**	**N/A**	**YES**	
Art. 7	**Transfer Title V receipts to pay principal and interest on septic loans**	**YES**	**N/A**	**YES**	
Art. 8	**Offset receipt account for Waterways Improvement Fund**	**YES**	**N/A**	**YES**	

Art. 9	FY13 Budget	**YES**	**N/A**	**YES**	**$.26**
Art. 10	AWRSD Operating Budget Override	**YES**	**N/A**	**YES**	**TBD**
Art. 11	FY13 Water Enterprise Budget	**YES**	**N/A**	**YES**	
Art. 12	FY13 Sewer Enterprise Budget	**YES**	**N/A**	**YES**	
Art. 13	Payment of prior year invoice	**YES**	**N/A**	**YES**	
Art. 14	Vote for Capital Planning Committee recommended expenditures	**YES**	**YES**	**YES**	
Art. 15	Capital items for AWRSD	**YES**	**YES**	**YES**	
Art. 16	Open Space Residential Development bylaw amendment	**YES**	**N/A**	**YES**	
Art. 17	Adding Section 5.19 Planned Unit Development and amending Sections 3.1 and 5.34	**YES**	**N/A**	**YES**	
Art. 18	Rescind MGL Ch 41 section 108L-Quinn Bill	**YES**	**N/A**	**YES**	
Art. 19	Amendment to Regional Agreement	**YES**	**N/A**	**YES**	
Art. 20	Approval to transfer custody of South Station to Board of Selectmen	**YES**	**N/A**	**YES**	
Art. 21	Approval of PILOT Agreement	**YES**	**N/A**	**YES**	
Art. 22	Approval to purchase land	**YES**		**YES**	
Art. 23	Authorize BOS to grant a release of Town interest in parcel of land	**YES**	**N/A**	**YES**	
Art. 24	Disposition of Humvee	**YES**	**N/A**	**YES**	
	Total increase for tax rate if all passes:				**$.26**

Current Tax Rate for FY12 is $ 18.34
Estimated Tax Rate for FY13 is $18.60.

ANNUAL 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, MA ON

SATURDAY, THE FIFTH OF MAY, 2012
BEGINNING AT 10:00 A.M.

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

ARTICLE 1: To accept the reports of several town officers and all outstanding committees, or act in relation thereto. *(Requested by the Board of Selectmen)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***Annual article to accept the reports of Town officials and boards.***

ARTICLE 2: To see if the Town will vote to authorize a PILOT payment of $66,345 from any excess in the Municipal Light Plant Funds, to the town treasury, as authorized by its Light Board in accordance with Chapter 164 of the General Laws of the Commonwealth, or act in relation thereto. *(Requested by the Municipal Light Department)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***While the PILOT agreement has been a standard for many years at $40,000 there was no connection to a process or procedure. Last year, the two boards agreed to tie the payment to the annual kilowatt sales of the light department multiplied by a per kilowatt value. This will ease the calculation and put a standard process in place for future years.***

ARTICLE 3: To see if the Town will vote to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow money from time to time in anticipation of the revenue of the financial year beginning July 1, 2012, in accordance with the provisions of the Massachusetts General Laws, Chapter 44, Section 4, and to issue a note or notes as may be given for a period of less than one year in accordance with the Massachusetts General Laws, Chapter 44, Section 17, or act in relation thereto. *(Requested by the Town Treasurer)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***Precautionary article allowing the Treasurer to borrow operating funds for the Town if it becomes necessary due to cash flow shortages. Since the passage of quarterly tax billing we have not needed to make TAN borrowings.***

ARTICLE 4: To see if the Town will vote to authorize the Town Administrator to enter into a contract or contracts with the Massachusetts Highway Department for the construction and maintenance

of town roads in conformance with the Massachusetts General Laws, or act in relation thereto. *(Requested by the Town Administrator)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***This article allows the Town Administrator to contract with the State to do road repairs in Ashburnham. Roads such as Route 12 and Rindge Turnpike were repaved and this year we will be looking for Route 101 north to be done with state funds.***

ARTICLE 5: To see if the Town will vote to appropriate all funds which become available in the Fiscal Year 2013 from the Commonwealth of Massachusetts Department of Highways, Chapter 90 Bond Issue proceeds, to be used by the DPW for the repair and maintenance of town roads in conformance with Massachusetts General Laws, or act in relation thereto. *(Requested by the Town Administrator)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***This annual article allows the Town to expend its Chapter 90 state funds. For fiscal year 2013 the amount of those funds will be $348,783.***

ARTICLE 6: To see if the Town will vote to authorize the transfer of trust fund income not to exceed $2,500 from the Cushing Academy Trust Fund to pay for the fiscal year 2013 secondary school expenses, or act in relation thereto. *(Requested by Town Administrator)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***This is the transfer of funds (interest) from the Cushing Academy Trust fund ($116,000). When the Town students were removed from Cushing Academy they were required to deposit $114,000 into the Town's funds and the interest earned on these monies were to be used to offset the cost to the Town for secondary education in public schools.***

ARTICLE 7: To see if the Town will vote to transfer a sum of money from special assessments Title V Receipts Account (septic system loan program) to pay principal and interest due on notes payable to the Water Pollution Abatement Trust, or act in relation thereto. *(Requested by the Town Administrator)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***The Town established a Septic System Loan Program where the cost was established as betterments. Each year charges are levied on the tax bills, and the revenue required is reserved or appropriated. We then must transfer monies required to cover the loan payment.***

ARTICLE 8: To see if the Town will vote to transfer a sum of money not to exceed $3,500 from the Waterways Improvement Fund for the purpose of waterway improvement, maintenance, and safety, or act in relation thereto. *(Requested by the Ashburnham Lakes Coalition)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***The Waterways Improvement Fund is funded by a portion of the boat excise tax to be used for waterways maintenance, access, law enforcement or fire prevention. The Lakes Association has been given the charge of recommending uses of these monies to***

the Board of Selectmen who then approve or disapprove expenditures. In the past these monies have been used for Police boat patrols, lifesaving courses, purchase of a Police boat and other water related expenditures.

ARTICLE 9: To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds such sums of money as may be necessary to defray the expenses of the Town for the fiscal year commencing July 1, 2012 and to set the salaries of elected officials; or act in relation thereto. *(Requested by the Board of Selectmen and Advisory Board)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **$ .26**

LINE	DEPARTMENT	FY11 SPENT	FY12 BUDGET	FY13 DEPARTMENT REQUEST	FY13 ADVISORY BOARD RECOMMEND
1	Moderator	100	100	100	100
2	Board of Selectmen	4,094	6,405	6,473	6,473
3	Town Administrator	166,667	179,645	186,527	186,527
4	Advisory Board	173	75,500	50,500	75,500
5	Town Accountant	74,959	78,438	71,920	78,438
6	Board of Assessors	97,873	100,402	96,275	96,275
7	Treasurer	85,718	86,059	81,927	81,927
8	Tax Collector	64,572	66,072	67,959	67,959
9	Information Technology		114,123	145,534	145,534
10	Town Clerk	50,695	49,200	52,860	52,860
11	Land Use	18,977	27,498	28,132	28,132
12	Town Hall	57,734	38,786	40,132	40,132
13	Town Buildings	94,273	169,641	141,072	141,072
14	Non-Departmental	163,202	85,505	88,187	88,187
15	Police	806,401	859,877	1,059,133	1,014,774
16	Emergency Dispatch	213,551	239,045	245,226	245,286
17	Fire	477,026	490,627	585,622	515,249
18	Inspections	37,873	42,451	59,506	119,506
19	Dog Officer	28,123	34,503	42,250	42,250
20	Monty Tech	331,566	329,892	380,964	380,964
21	Ash-West Regional School District	6,668,639	6,339,404	6,866,158	6,277,741
22	DPW	578,979	606,707	632,601	632,601
23	Snow and Ice	248,221	180,000	180,000	180,000
24	Board of Health	16,765	17,050	19,311	19,311
25	Conservation Commission	8,853	24,336	24,865	39,865
26	Council on Aging	23,999	22,963	20,740	20,740
27	Veterans' Services	22,134	15,187	57,687	57,687
28	Library	177,055	149,256	185,045	185,045
29	Agricultural Commission	-	300	300	300
30	Parks & Recreation Committee	-	-	8,730	8,730
31	Historical Commission	64	100	2,000	2,000
32	Debt Service	944,993	851,635	840,911	841,911
33	Employee Ins. Benefits	993,812	1,066,637	1,126,097	1,126,097
	ARTICLE 9 TOTAL	**$12,457,091**	**$12,347,345**	**$13,394,744**	**$12,799,173**

Setting of Elected Salaries under Article 9:

a. Town Moderator: $100
b. Board of Selectmen: Chairman - $1,300; Clerk - $1,100; Member - $1,100
c. Board of Health: $140 per member
d. Town Clerk: $41,140 includes a $1,000 longevity stipend

Brief Explanation: ***Annual budget article as noted.***

ARTICLE 10: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the operating budget of the Ashburnham-Westminster Regional School District, in addition to the sum voted under Article 9 for said operating budget, provided that no funds shall be expended and no bonds shall be issued unless the Town has first voted at an election to exempt this expenditure from the provisions of Proposition 2½, so called, and further provided that the Town of Westminster also votes to approve and fund its proportional share of such additional appropriations, or act in relation thereto. *(Requested by the Board of Selectmen)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **TBD**

Brief Explanation: ***This article if passed with a subsequent ballot question will add monies to the AWRSD budget to support their assessment request.***

ARTICLE 11: To see if the Town will vote to raise and appropriate a sum of money to operate the Water Department for the fiscal year beginning July 1, 2012 , or act in relation thereto. *(Requested by the Town Administrator)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***Annual budget article for the Water Department. This budget is an increase of $61,967 increase from the FY12 budget, due to a 3% wage increase, debt service on the Water Tank temporary loan. Indirect costs will be appropriated in the General Funds so there is no need to do it here. The funding for the indirect charges will come from the enterprise funds to be paid back to the General Fund.***

ARTICLE 12: To see if the Town will vote to raise and appropriate a sum of money to operate the Sewer Department for fiscal year beginning July 1, 2012, or act in relation thereto. *(Requested by the Town Administrator)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***Annual budget article for the Sewer Department. This budget is an increase of $10,679 increase from the FY12 budget, due to a 3% wage increase. Indirect costs will be appropriated in the General Funds so there is not need to do it here. The funding for the indirect charges will come from the enterprise funds to be paid back to the General Fund.***

ARTICLE 13: To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds the sum of money for the payment of bills from a prior year, or act in relation thereto. *(Requested by the Town Administrator)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***This article is to pay an invoice from the previous fiscal year. The invoice was misplaced and not received in time for FY11. Payment is going to come out of the Water Fund (current balance $117,689).***

Veolia Water (operates water plant) $12,449.96

ARTICLE 14: To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds the sum of $437,250 to fund the recommendation of Capital Planning Committee to include the following:

Line	Item	Amount
1	Replace Medic #1, with F150 4 dr. 4 wheel drive vehicle	$ 39,500
2	Replace Chevy Trailblazer with Ford Explorer	$ 32,000
3	Replace Ford Expedition with Police Utility Vehicle	$ 41,000
4	Replacement of Turn-out Gear	$ 10,500
5	Replacement of Radio Equipment	$ 4,000
6	Last Yr. Payment – Lease 2012 Volvo L70D Loader	$ 57,000
7	Last Yr. Payment – Lease 2012 International Dump Truck	$ 77,000
8	Road paving	$100,000
9	Trade-in 2001 Ford 550 Truck and Purchase new one	$ 56,000
10	Municipal Buildings Repair	$ 10,000
11	Computer System Upgrades	$ 10,250

And to authorize the Board of Selectmen to sell, trade in, or dispose of any equipment being replaced or act in relation thereto. *(Requested by the Town Administrator)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **YES**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***The Capital Planning Committee has developed a sustainable capital plan that can be funded within the raise and appropriated tax levy. This year's plan includes spending $450,848 which is within the proximity of the yearly $450,000 budgeted.***

ARTICLE 15: To see if the Town will vote to raise and appropriate or transfer from available funds, the sum of $13,598 (Ashburnham's share) to be used to fund the following items in the Ashburnham-Westminster Regional School District Five Year Capital Plan:

1. $6,675 - Riding floor scrubber at Overlook Middle School (both Towns)
2. $9,793 – Replace of 2 network controllers for HVAC system at Oakmont Regional High School (both Towns)
3. $13,354 – Repair of storm drains and parking lot pavement at Oakmont Regional High School (both Towns)

Provided that the Town of Westminster also votes to approve and fund its share of the cost of the items in the article, or act in relation thereto. *(Requested by the Capital Planning Committee)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **YES**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***The AWRSD submitted this motion as a part of their Capital Improvement Plan, which, per the regional agreement meets the $5,000 threshold. The three expenditures will be divided by the per pupil costs associated to each individual school.***

ARTICLE 16: To see if the Town will vote to amend the Town's Zoning Bylaws by deleting Section 5.13, Open Space Residential Development in its entirety and replacing with the following new

Section 5.13, Open Space Residential Development and delete Section 3.36 and Section 5.15 in their entirety as follows:

"Section 5.13 Open Space Residential Development

5.13.1 Introduction

"Open Space Residential Development" (OSRD) in accordance with this bylaw shall be allowed by right as a type of subdivision in the RA, RB and GB zones, on one or more parcels of land in common ownership, except for parcels located in the Flood Plain District. OSRD may consist of any combination of single family and two-family structures in which the buildings are clustered together in one or more groups in accordance with this by-law. Multifamily structures of not more than four (4) units may also be permitted by the Planning Board if they serve the purpose of the OSRD Bylaw, as stated in § 5.13.2. The land not included in the building lots shall be preserved as Open Space.

5.13.2 Purpose

The purpose of an OSRD is to encourage the preservation of open land by providing an alternative pattern of development through which the following objectives are likely to be met:

A. Greater flexibility and creativity in the design of residential subdivisions provided that the overall density of the development is no greater than that which is normally allowed in the district;

B. The permanent preservation of open space, agricultural lands, forest lands, and other natural resources and to encourage a less sprawling form of development that consumes less open land;

C. Maintain the traditional New England rural character and land use pattern in which small villages contrast with open space and farm land;

D. The construction of street(s), utilities and public services in a more economical and efficient manner;

E. Respect for the natural features of the land, including wetlands, watercourses, forests, prime agricultural land, steep slopes, plants, wildlife, historic sites, scenic areas, and rural character;

F. Promote alternatives to strip residential development lining the roadsides in the town to preserve the unobstructed natural views from roadways;

G. Promote the development of housing affordable to low and moderate-income families;

H. Provide wildlife corridors connecting open spaces, needed by wildlife to ensure their survival;

I. To protect and enhance the value of real property;

J. To provide for a diversified housing stock.

5.13.3 Definitions

Affordable Units - shall mean any combination of dwelling units restricted in perpetuity as affordable to persons or families qualifying as an income eligible household. The affordable restriction shall be approved as to form by the town counsel, and a right of first refusal upon transfer of such restricted units shall be granted to the Town or its designee for a period of not less than 120 days after notice thereof.

Basic Maximum Number – The number of dwelling units that would be allowed under the Ashburnham Zoning Bylaw.

Common Open Space - shall mean any Open Space set aside, dedicated, designated or reserved for use as passive, recreation, conservation, agriculture, forestry, natural buffers, and active recreation as permitted by this by-law. Common Open Space shall be Contiguous Open Space wherever possible and shall not include roadways, parking areas or private yards.

Income Eligible Household – shall mean a household of one or more persons whose maximum income does not exceed 80% of the area median income, adjusted for household size, or as otherwise established by the Massachusetts Department of Housing and Community Development in guidelines.

Open Space - shall mean any parcel or area of land or water essentially unimproved or set aside, dedicated, designated or reserved for public or private use and enjoyment of the owners and occupants of an OSRD as permitted by this by-law.

5.13.4 Authority

The Planning Board shall act as the approving authority for OSRD applications. The Planning Board may adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this bylaw and G.L. c. 40A and other provisions of the General Laws, including Rules and Regulations Governing the Subdivision of Land, and shall file a copy of said Rules and Regulations with the Town Clerk.

5.13.5 Applicability

A. An Open Space Residential Development (OSRD) may be proposed in accordance with this bylaw within the RA, RB, and GB zoning districts.

B. Subsection A above applies only to subdivisions of land as defined in MGL Ch. 41, §81L, and not to construction of homes or businesses on individual lots that existed prior to (Town Meeting Date) or to lots created through the "Approval Not Required" process with frontage on public ways existing as of May 5, 2012 described in the Ashburnham Planning Board Rules and Regulations Governing the Subdivision of Land. However, if a subdivision approval is not required because a new roadway is not proposed; an applicant may nevertheless apply for an Open Space Residential Development under this Section 5.13. In such a case, the application shall be subject to Site Plan Review as described in Section 5.10.

5.13.6 Design Process

At the time of the application for an OSRD, applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a multidisciplinary team of which one member must be a certified Landscape Architect and considered in determining the layout of proposed streets, house lots, unit placement if treated as a condominium, including designation of all common areas and open space.

A. Identifying Conservation Areas. Identify preservation land by two steps. First, Primary Conservation Areas (such as wetlands, riverfront areas, and floodplains regulated by state or federal law) and Secondary Conservation Areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archaeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.

B. Locating House Sites. Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community.

C. Aligning the Streets and Trails. Align streets in order to access the house lots or units. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.

D. Lot Lines. Draw in the lot lines using assumed lot lines if the ownership is in condominium, cooperative or other similar form of common ownership.

5.13.7 Design Standards

The following Generic and Site Specific Design Standards shall apply to all OSRD Plans and shall govern the development and design process:

A. Generic Design Standards

1. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, surface water buffers, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.

2. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.

3. All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

4. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

B. Site Specific Design Standards

1. Parking. Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation. Calculations for parking spaces in these developments shall be rounded up to the nearest integer where necessary. The Planning Board may choose to modify these requirements during the review process in response to conditions specific to an individual proposal.

2. Drainage. The Planning Board shall encourage the use of Low Impact Development techniques that reduce impervious surface and enable infiltration where appropriate.

3. Screening and Landscaping. All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan.

4. On-site Pedestrian and Bicycle Circulation. Walkways, trails and bicycle paths shall be provided to link residences with recreation facilities (including parkland and open space) and adjacent land uses where appropriate.

5. Additional Criteria for Multi-family Development:

(a) The design and location of the structure(s) on the site shall be consistent with the visual scale and character of single-family development.

(b) No more than three (3) bedrooms shall be permitted per multi-family dwelling unit.

5.13.8 Design Criteria

A. Where the proposed development abuts a body of water, a portion of the shoreline, as well as reasonable access to it, shall be part of the common open space.

B. Residences shall be grouped so that the greatest number of units can be designed to take advantage of solar heating opportunities; so that scenic views and long views remain unobstructed, particularly those seen from roads; so that habitat areas and species listed as endangered, threatened, or of special concern by the Massachusetts Natural Heritage Program shall be protected; and so that historic and prehistoric sites and their environs shall be protected.

C. In areas greater than twenty (20%) percent slope or upon hilltops and ridgelines, lots shall be laid out, to the greatest extent possible, to achieve the following objectives;

1. Building sites shall be located so that the silhouettes of structures will be below the ridgeline or hilltop or, if the site is heavily wooded, the building silhouettes shall be at least ten (10) feet lower than the average canopy height of the trees on the ridge or hilltop.

2. Where public views will be unavoidably affected by the proposed use, architectural and landscaping measures shall be employed so as to minimize significant degradation of the scenic or aesthetic qualities of the site.

3. The removal of native vegetation shall be minimized.

4. Any grading or earthmoving operation in conjunction with the proposed development shall be planned and executed in such a manner that the final contours are consistent with the existing terrain, both on and adjacent to the site.

5. Safeguards shall be employed where needed to mitigate against environmental degradation from erosion, sedimentation, water pollution, or flooding.

5.13.9 Roads

The principal roadway(s) serving the site shall be designed to conform to the standards of the Rules and Regulations of the Planning Board. OSRDs shall have access on a public way, a way approved by the Planning Board or a way approved under the Subdivision Control Law.

5.13.10 Open Space Requirements

A. A minimum of fifty percent (50%) of the site shall be open space. The percentage of this open space that can be wetland shall not exceed the percentage of wetland for the entire site under existing conditions as shown on the OSRD Plan. Percentage is calculated by dividing the total wetland acres by the total site acres. A sample calculation is provided below:

Sample Calculation

Existing Conditions:
12-acre site with 3 acres of wetland
3 ÷ 12 = 25% wetland coverage

Open Space Requirements:
50% Open Space = 6 acres

Wetland Allowance:
6 acres * 25% wetland coverage = 1.5 acres

Open Space can be 4.5 acres of upland and 1.5 acres of wetland

B. Description of Restriction on Open Space

Further subdivision of open space, or its use for other than conservation, agriculture, forestry, or non-commercial recreation shall be prohibited, and the approved plan shall be so endorsed in writing. These restrictions shall be granted in a Conservation Restriction in accordance with G.L. c. 184 Sec. 31 and 32 in perpetuity, to a grantee approved by the Planning Board, a copy of which is filed with the Massachusetts Executive Office of Environmental Affairs recorded in the Northern District Worcester County Registry of Deeds, shall be enforceable by the Town of Ashburnham, and shall provide that such land shall be kept in an open or natural state and not built upon for residential use or developed for accessory uses including parking or roadways.

1. At least seventy (70%) percent of the Common Open Space shall be Contiguous Open Space, unless otherwise approved by the Planning Board.
2. The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, outdoor education, passive recreation, aquifer protection, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes. The Planning Board may permit a small portion of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths) so long as it supports the primary and secondary purposes of the OSRD and is consistent with state and local level environmental protections.
3. Limited access to common open space may be allowed in the form of a walking or hiking/biking path, the total area of which must be no more than two (2%) percent of the total common open space area.
4. If the OSRD is located in an area currently in agricultural use or containing agricultural soils as determined by the U.S. Soil Conservation Service, the landowner is not required to sell that part of the property, which is to become permanent agricultural open space. Said owner shall, however, convey the development rights of that open space in a Conservation Restriction pursuant to G.L. c. 184, Sec. 31 & 32, et. seq. filed with the Massachusetts Executive Office of Environmental Affairs and enforceable by the Town of Ashburnham, prohibiting future development of the property.
5. Any wastewater and stormwater management systems serving the OSRD may be located within the open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required unless approved by the Planning Board. Open space serving such systems is required to be under the control/ownership of either the developer or homeowners association to allow for maintenance.

5.13.11 Ownership of the Open Space

The open space shall be conveyed to:

A. To the Town of Ashburnham, for a park or open space use if accepted by the Town; or,

B. A nonprofit organization, the principal purpose of which is the conservation of open space; or,

C. A corporation, trust, or association owned by the owners of the lots or residential units within the development; or,

D. Remain under ownership of the original property owner, who has conveyed the development rights to this part of the parcel to the developer who in turn has

conveyed an undivided equal interest in these rights to each new homeowner in the development; or,

E. A new owner, subject to the conditions in §5.13.11 (D), above; or any combination of the above, subject to approval of the Planning Board.

F. Where applicable, a nonprofit incorporated homeowner's association shall be established requiring membership of each lot owner in the OSRD. The Homeowner's Association shall be responsible for the permanent maintenance of all commonly owned water and septic systems, open space, recreational and thoroughfare facilities, including but not limited to private ways and common driveways. A Homeowner's Association agreement or covenant shall be submitted with the OSRD application guaranteeing continuing maintenance of such common land and facilities, and assessing each lot a share of maintenance expenses. Such agreement shall be subject to the review and approval of the Town Counsel and the Planning Board.

G. In any case when the Common Open Space is not to be conveyed to the Town, the application for an OSRD shall include a description of how and when the Common Open Space shall be preserved in perpetuity. The applicant shall also provide as part of this description, a proposal agreement authorizing and empowering the Town to perform any and all maintenance of the Common Open Space, and any other facilities in common ownership in the event of a failure to comply with Common Open Space preservation plan or agreement and/or any other agreement whether a homeowner's agreement or otherwise, to maintain the Common Open Space and/or any facilities in common ownership, and providing that, if the Town is required to perform any maintenance work, the owners of the lots within the OSRD shall pay the costs thereof and that these costs shall constitute a lien upon those lots until such costs have been paid in full.

5.13.12 Common Driveways

A. Common driveways serving no more than five (5) residential units may be allowed in the OSRD, provided that they meet one of the following:

The provision of individual driveways to the lots to be served by the proposed common driveway would require curb cuts which are separated by less than sixty (60) feet along the exterior street line;

The provision of individual driveways to the lots to be served by the proposed common driveway would allow no alternative but to cross a "Wetland Resource Area", as defined by G.L. c. 131 Sec. 40, and/or the Town of Ashburnham Wetlands Protection By-law, or to cross any land in the Flood Plain District as described in § 2 of the Town's Zoning By-laws;

One or more alternate individual driveways which would be necessary in the absence of the proposed common driveway would intersect the roadway at a point of insufficient traffic sight distance, as determined by the Planning Board;

The provision of individual driveways to the lots to be served by the proposed common driveway would adversely affect a significant natural feature or vista.

B. The common driveway shall access the property over the frontage of at least one of the lots being served by the driveway.

C. The common driveway shall not be in excess of five hundred (500) feet in length.

D. The owners of the properties to be served by the common driveway shall provide evidence to the Planning Board that they have a deeded right to the common driveway.

E. The common driveway shall provide adequate access and turnaround for vehicles including moving vans, snowplows, ambulances, fire, and police vehicles. To provide such adequate access, the common driveway shall be built to meet standards as outlined in the Town of Ashburnham Planning Board Rules & Regulations, as amended.

F. All installation of utilities shall meet the requirements as outlined in the Town of Ashburnham Planning Board Rules & Regulations, as amended.

G. Permanent signs indicating the street number address assigned to each lot served by the common driveway shall be installed within ten (10) feet of the intersection of the common driveway with the street, as well as within ten (10) feet of the intersection of an individual lot driveway with the common driveway. Numbered signs shall be placed in a manner that will not cause them to be blocked during heavy snow pack and/or snow removal.

H. Approval of a common driveway(s) in an OSRD shall be subject to a covenant by and between the developer and the Planning Board recorded in the chain of title and running with the land, on a form approved by the Planning Board, acknowledging that the common driveway approval was granted in consideration of the conditions contained within the decision of an OSRD and the grant of covenant, and that the owner, his heirs, executors, successors and assigns, agree that the common driveway shall never be submitted to Town Meeting for a vote to have it become an accepted street. This paragraph authorizes the Planning Board to accept the covenant on behalf of the Town.

I. A lot in an OSRD may be served by a Common Driveway only if it meets the requirements of § 5.13.13 of this by-law, and the ownership of the lot provides mandatory membership in an owners' association responsible for annual and long term maintenance, including, but not limited to, removal of ice and snow from the common drive. The plan required under § 5.13.15 shall identify all land that is to be held and administered by the mandatory owners' association. It shall bear restrictions satisfactory to the Planning Board, to run with the land, restricting the way shown to remain private property and not to be extended, and any other restrictions and easements that are required for common driveway development by these by-laws. It shall incorporate by reference the document(s), satisfactory to the Town Counsel and the Planning Board, creating the mandatory owners' association and setting forth restrictive covenants and easements binding present and future owners of all the lots served by the common driveway. Such document(s) must include, at a minimum the following:

1. Specific standards for the maintenance of all structures designed to be requirements of a common driveway, including, but not limited to the travel way, drainage system, and signage;
2. Provisions for allocating responsibility for snow removal, maintenance, repair, or reconstruction of the common driveway, drainage system, and signage;
3. Text of proposed easement including the metes and bounds description;
4. A procedure for the resolution of disagreements.

5.13.13 Reduction of Dimensional Requirements

Applicant may propose to modify lot size, unit placement, shape, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

A. Frontage. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSRD; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) will further the goals of this bylaw. The minimum frontage may be reduced from the frontage otherwise required in the zoning district; provided, however, that no lot shall have less than 50 feet of frontage.

B. Setbacks. Every dwelling fronting on the proposed roadways shall be set back a minimum of 20 feet from the roadway right-of-way, and 10 feet from any rear or side lot line. In no event shall structures be closer than 20 feet to each other. Where structures containing three to four dwelling units are being proposed, the side lot lines between units may be 0 feet, however the distance between structures shall be a minimum of 20 feet.

5.13.14 Increases in Permissible Density.

The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number for an OSRD Plan. The density bonus for the OSRD shall not, in the aggregate, exceed thirty percent (30%) of the Basic Maximum Number. Computations shall be rounded down to the next whole number. A density bonus may be awarded in the following circumstances:

A. For each additional ten percent (10%) of the site (over and above the required 50%) set aside as open space, a bonus of one (1) additional dwelling unit beyond the Basic Maximum Number may be awarded.

B. For every two (2) dwelling units restricted in perpetuity to occupancy by persons or families that qualify as income eligible households, one (1) dwelling unit may be added as a density bonus beyond the Basic Maximum Number. Affordable housing units may be used toward density bonuses only if they can be counted toward the Town's affordable housing inventory as determined by the Massachusetts Department of Housing and Community Development. The applicant shall provide documentation demonstrating that the unit(s) shall count toward the community's affordable housing inventory to the satisfaction of the Planning Board.

Additional lots allowed under § 5.13.14.B will become buildable as additional dwelling unit(s) upon completion and sale of said deed-restricted home, or upon donation of, and recording of a deed to, the lot set aside for such deed-restricted home to the Town or to a public or non-profit housing agency or trust. The permanently deed-restricted affordable home or lot shall not be subject to the growth management provisions of § 5.11.

C. For every historic structure preserved and subject to a historic preservation restriction, one (1) dwelling unit may be added to the Basic Maximum Number.

5.13.15 Administration

A. Relation to Subdivision Control Law. To facilitate timely processing, promote better communication and avoid misunderstanding, applicants are encouraged to submit a preliminary subdivision plan. This plan should include alternative OSRD designs and must include how a non-OSRD, or conventional, subdivision design would appear. Such plan shall show the basic maximum number of dwelling units that would be allowed under Ashburnham Zoning Bylaw via conventional residential subdivision.

B. Submission requirements

(1) Each OSRD application and plan shall be prepared in accordance with the requirements of the Ashburnham Planning Board Rules and Regulations Governing the Subdivision of Land as adopted from time to time by the Planning Board.

(2) Each OSRD application and plan shall provide the following additional information:

(a) The location and acreage of areas to be devoted to specific uses.

(b) The proposed location of parks, open spaces, and other public and community uses.

(c) Developments on municipal sewer systems: written approval certifying tie-in to municipal sewage from the Ashburnham Water and Sewer Commission.

(d) On-site septic development: a sanitary survey sewage feasibility report by a Registered Professional Civil Engineer licensed in Massachusetts. The purpose of the report is to evaluate the feasibility of the ground for subsurface disposal of septic tank effluents, based on soil characteristics and test borings, water table, natural drainage patterns and other observation by the engineer.

[1] The report shall take into consideration the following factors: location of deep holes, to be shown on the appropriate map; topographic and ground level conditions; natural drainage patterns; flood heights of nearby waterways; underlying soil characteristics, absorption qualities, maximum groundwater elevations and distances to bedrock; and location and dimensions of abutting off-site sewage disposal systems if within 100 feet of property lines to be shown on an appropriate map.

[2] The report shall contain a statement by the civil engineer of why the septic system design and location is the most suitable of considered alternatives for on-site sanitary sewage disposal systems as indicated in Title V, the State Environmental Code. The Ashburnham Board of Health has final jurisdiction over all on-site septic systems.

(e) The organization the applicant proposes to own and maintain the open space land, in accordance with Section 5.13.11.

(f) Draft copies of all proposed covenants, agreements, and other restrictions the applicant proposes and is required to provide in accordance with this bylaw.

(g) Proposed gross density of entire development tract, amount of open space required in accordance with Section 5.13.10, and amount of open space retained.

(h) A Yield Plan shall also be provided showing the basic maximum number of dwelling units that could be created for residential purposes via a conventional residential subdivision.

(i) Any and all other information from the definitive subdivision regulations of the Town of Ashburnham that the Planning Board may require to assist in determining whether the proposed OSRD meets the objectives and standards as set forth in this bylaw.

C. Review and approval process

Applications under this bylaw shall be processed and reviewed in accordance with the subdivision control law including but not limited to Planning Board

review of the reports and recommendations of the Conservation Commission, Board of Health and Town Engineer.

D. Fees

See Planning Board Rules Governing Fees and Fee Schedule

5.13.16 No endorsement of a plan will be made until the Conservation Commission has completed an Order of Conditions and has been registered with the Northern Worcester County Registry of Deeds and made part of the plans. Any further changes required by the Conservation Commission shall meet the approval of the Planning Board's consulting engineer prior to endorsement.

5.13.17 The OSRD Plan shall show compliance with the requirements of this by-law and shall show any other particular features of the OSRD as requested by the Planning Board or required by the applicable Rules and Regulations to enable the Planning Board to determine compliance with this by-law.

5.13.18 Waiver of Compliance

The Planning Board may waive strict compliance with such requirements of this section, where such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Act or this section.

5.13.19 Validity

The invalidity of any section or provision of this by-law shall not invalidate any other section or provision thereof."

Deletion of Section 3.36 in its entirety.

Deletion of Section 5.15 in its entirety.

Or act in relation thereto. *(Submitted by the Planning Board)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: Back at the November 2008 Special Town Meeting, Ashburnham Town Meeting Voters approved a comprehensive re-write to the existing Open Space Residential Development (OSRD) Zoning Bylaw. The Planning Board had submitted this re-write after experiencing some difficulty in administering and implementing the existing Bylaw since its passage back in 2004. The Board had also received comments from a number of developers that the existing Bylaw does not offer flexibility as to the housing unit types and lot pattern layouts.

In March 2009, however, the Mass. Attorney General subsequently disapproved the OSRD Zoning Bylaw re-write based on the Major Residential Development (MRD) provision within Ashburnham's Zoning Bylaw, which required an OSRD for subdivisions above a certain size and was to be approved by via a Planning Board Special Permit. The Attorney General noted that requiring a subdivision with Special Permit approval was found to be "inconsistent with (Massachusetts's) Subdivision Control Law, as articulated in Wall Street Development Corporation v. Planning Board of Westwood, 72 Mass.App.Ct. 844, (2008)." Meanwhile around this same time, a number of Massachusetts communities began to develop and approve zoning bylaws that provide for a by-right OSRD approval process. The Mass. Attorney General has approved this type of zoning provision. Hence the Planning Board is now proposing a re-write to the OSRD Zoning Bylaw, which includes removing the MRD provision and providing for a by-right OSRD approval process.

One of the most important elements of OSRD design is an upfront identification of all the conservation areas on the land proposed for subdivision. Only then are the roads, buildings and lot lines added to the

development plan. This process is lacking in the Town's existing OSRD Bylaw, which prevented a greater wooded buffer from being made part of the Lakeside Village OSRD approval, for example. Therefore, a section to add this design process has been proposed to be added to the Bylaw.

Other features of the bylaw that are designed to make it easier to administer and implement, as well as promote its use by developers (over a cookie-cutter, conventional subdivision plan) include: a) easier and more consistent calculations of any density units, b) greater simplicity in the definition of what constitutes an affordable unit, c) allowing multi-family units, but only up to 4 units per building with a max. of 3 bedrooms per unit (to help minimize impacts from school children on the Town's budget), d) greater flexibility in lot sizes.

Article: 17: To see if the Town will vote to amend the Town's Zoning Bylaws by adding a new Section 5.19, Planned Unit Development and amending Sections 3.1 and 5.34 as shown in ***bold italic:***

"Section 5.19 Planned Unit Development"

5.19.1 Purpose and Intent/Introduction

The purpose and intent of the Planned Unit Development (PUD) provision is to allow via Special Permit an alternative use and pattern of land development for large tracts and for redevelopment of smaller parcels in built-up areas by allowing single-family and multi-family clustered residential development along with a mix of nonresidential uses as permitted in this Section, while encouraging the conservation of open space within the PUD.

The PUD is a flexible zoning tool designed to meet the following objectives:

A. Encourage innovation in commercial and residential development so that the growing demand for more and varied housing may be met by a greater variety in type and design of living units;
B. Encourage a less sprawling form of community development which makes more efficient use of land, requires shorter networks of streets and utilities and which fosters more economical development and less consumption of developable land;
C. The permanent preservation of open space, agricultural lands, forest lands, and other natural resources;
D. Maintain the traditional New England rural character and land use pattern in which small villages contrast with open space and farm land;
E. Respect for the natural features of the land, including wetlands, watercourses, forests, prime agricultural land, steep slopes, plants, wildlife, historic sites, scenic areas, and rural character;
F. Encourage historic preservation, infill development and adaptive re-use of historic structures in applicable zoning districts;
G. Provide opportunities to allow greater density and intensity of residential development than would normally be allowed provided that the land usage can be shown to be in the public good;
H. Provide wildlife corridors connecting open spaces, needed by wildlife to ensure their survival;
I. To protect and enhance the value of real property;

5.19.2 Definitions

Developable Land: All land located within the PUD exclusive of wetlands as said terms are defined in the Wetlands Protection Act (Chapter 131, Section 40 of Massachusetts General Laws).

Floor Area Ratio: As used in this Section, the floor area ratio is the ratio of the gross floor area of all buildings within a PUD to the area of developable land within the PUD provided, however, that the gross floor area of garages and attics, which are not designed to be used or occupied as living areas, shall be excluded.

5.19.3 Applicability

Any development under the PUD provisions of this Section of the Ashburnham Zoning Bylaw requires a Special Permit approval from the Ashburnham Planning Board.

Planned Unit Developments (PUDs) shall be allowed within parcels included in the Planned Unit Development (PUD) Overlay District subject to the issuance of a Special Permit and provided that the use complies with all requirements set forth in this Section. The minimum size of any PUD shall be a parcel or contiguous parcels of land having an area of at least four (4) acres within the PUD Overlay District. The Planning Board may allow a PUD on a parcel or contiguous parcels of land smaller than 4 acres upon a finding that the proposed development is consistent with the objectives of this section and Section 1.1 of the Zoning Bylaw.

The PUD Overlay District is established over all the zoning districts of the Town of Ashburnham, except the following parcels: Map 28 Parcels 1 & 2 and Map 29 Parcels 8-13. The PUD Zoning Overlay District is located and bounded as shown on a map entitled "Planned Unit Development Zoning Overlay District", Ashburnham, MA prepared by the Montachusett Regional Planning Commission, dated _____, and on file with the offices of the Town Clerk, Zoning Enforcement Officer and Planning Board.

5.19.4 Permitted Uses

A. Any use allowed by-right (Y) or by special permit (SP) in at least one of the underlying zoning districts within which the PUD is located, shall also be allowed by-right or allowable by special permit, as the case may be, in any location within that PUD, including within underlying districts where such use is not otherwise allowed, with the following exceptions:

   i. Dwelling units are allowed by right within all PUDs without limitation on form of tenure or structure type, including single-family, two-family, multi-family, Assisted Elderly, or Supportive Housing. A maximum of twenty (20) dwelling units shall be allowed in any one building.
   ii. Retail operations with more than ten thousand (10,000) square feet of gross floor area on any individual floor shall be prohibited within any PUD.
   iii. Hotel, motel or inn, and commercial indoor amusement or recreational place or place of assembly, are allowed uses within all PUDs.

B. Residential uses shall comprise not less than 25% and not more than 75% of the gross floor area planned within any PUD.

5.19.5 Dimensional and Area Regulations

A. Applicability

The dimensional and area regulations set forth in this Section shall apply to the total area of developable land within the PUD and shall not regulate individual lots therein.

B. Maximum Allowable Density

   i. The Planning Board shall have the discretion to reduce or suspend the minimum requirements otherwise applicable under Section 4 (Dimensional Regulations) of the Zoning Bylaw for a Planned Unit Development, provided that the Planning Board finds that the conditions present on the site are adequate to support the proposed development, protect the surrounding neighborhood, and meet the purposes and objectives of this section, and further provided to meet the following requirements:

      (a) There shall be at least 10,000 square feet of developable land for each bedroom created in a PUD.
      (b) Meet the Floor Area Ratio, Ground Coverage and Setback requirements as specified within this section.

(c) Residential uses are limited to the overall gross floor area limitations specified in Section 4(B) of this Bylaw.

ii. Increases in Permissible Density.

The Planning Board may award a density bonus to increase the number of dwelling units beyond the base density of dwelling units based on subsection (i) above. The density bonus for the PUD shall not, in the aggregate, exceed thirty percent (30%) of the Basic Maximum Number. Computations shall be rounded down to the next whole number. A density bonus may be awarded in the following circumstances:

(a) For each additional five percent (5%) of the site (over and above the required 25%) set aside as common open space, a bonus of one (1) additional dwelling unit beyond the base density may be awarded.

(b) For every two (2) dwelling units restricted in perpetuity to occupancy by persons or families that qualify as income eligible households, one (1) dwelling unit may be added as a density bonus beyond the base number. Affordable housing units may be used toward density bonuses only if they can be counted toward the Town's affordable housing inventory as determined by the Massachusetts Department of Housing and Community Development. The applicant shall provide documentation demonstrating that the unit(s) shall count toward the community's affordable housing inventory to the satisfaction of the Planning Board.

Additional housing units allowed under this subsection will become buildable as additional dwelling unit(s) upon completion and sale of said deed-restricted home, or rental of such affordable housing unit, or upon donation of, and recording of a deed to, the lot set aside for such deed-restricted home to the Town or to a public or non-profit housing agency or trust.

iii. Developments on municipal sewer systems: written approval certifying tie-in to municipal sewage from the Ashburnham Water and Sewer Commission indicating that the proposed density is feasible.

iv. On-site septic development: a sanitary survey sewage feasibility Report by a Registered Professional Civil Engineer licensed in Massachusetts, indicating that the proposed density is feasible. The purpose of the report is to evaluate the feasibility of the ground for subsurface disposal of septic tank effluents, based on soil characteristics and test borings, water table, natural drainage patterns and other observation by the engineer.

[1] The report shall take into consideration the following factors: location of deep holes, to be shown on the appropriate map; topographic and ground level conditions; natural drainage patterns; flood heights of nearby waterways; underlying soil characteristics, absorption qualities, maximum groundwater elevations and distances to bedrock; and location and dimensions of abutting off-site sewage disposal systems if within 100 feet of property lines to be shown on an appropriate map.
[2] The report shall contain a statement by the civil engineer of why the septic system design and location is the most suitable of considered alternatives for on-site sanitary sewage disposal systems as indicated in Title V, the State Environmental Code. The Ashburnham Board of Health has final jurisdiction over all on-site septic systems.

C. Floor Area Ratio Requirement

The ratio of the gross floor area of all buildings, residential and commercial, within the PUD, to the total area of developable land within the PUD shall not exceed 32% (0.32).

D. Ground Coverage Requirement

The ground coverage of all residential and commercial buildings, and parking lots and impervious landscaping within the PUD shall not exceed 40% of the total area of developable land within the PUD. The ground coverage of all roadway areas and associated sidewalks shall be excluded from this requirement.

E. Setback Requirements

Setbacks within a PUD shall conform to the following requirements; provided however that the Planning Board may reduce the setback requirements or may require greater setbacks to provide additional buffers to residences abutting the PUD or to enhance the aesthetic appearance or planning objectives of this Bylaw.

i. Perimeter Setbacks

All structures within a PUD shall have a minimum setback requirement of 50 feet from the PUD boundary line.

ii. Front Setback Requirements

All structures within a PUD shall have a minimum setback from any lot line or any street line of 20 feet.

iii. Separation of Buildings

All buildings within the PUD shall have a setback of at least 20 feet from any other building therein.

F. Maximum Height Requirement

No buildings in the PUD shall exceed the height allowed by the underlying zoning district.

G. Solar Orientation of Buildings.

Spacing of buildings and landscaping, wherever possible and practical, shall be oriented to optimize solar exposure for buildings located within the PUD.

H. Flexible Design and Orientation of Buildings.

More than one principle building shall be allowed on any lot located in the Planned Unit Development, subject to issuance of the PUD Special Permit by the Planning Board, along with a finding that such buildings would be in keeping with the purpose of the Village Center Zoning District(s), per Section 2.1 of the Zoning Bylaw, and the additional findings:

i. No principal building shall be located in relation to another principal building on the same lot, or on adjacent lot, so as to cause danger from fire;

ii. All principal buildings on the lot shall be served by access ways suitable for fire, police, and emergency vehicles;

iii. All of the multiple principal buildings on the same lot shall be accessible via pedestrian walkways connected to the required parking for the premises, and to each principal building.

5.19.6 Open Land/Open Space

A. Basic Requirement

Open space shall be provided within a PUD in accordance with the requirements of this section.

B. Public Open Space

Significant areas of land within the PUD which are not developable and are classified as wetlands in accordance with the Mass. Wetlands Protection Act (M.G.L. Ch. 131 Section 40) and the DEP Regulations promulgated thereunder, including the wildlife protection regulations, shall be designated as "Public Open Space." Said areas shall be preserved as

open space in perpetuity and either conveyed to the Town of Ashburnham Conservation Commission, or to a nonprofit organization, the principal purpose of which is the conservation of open space, or shall be protected as a means of a conservation restriction imposed on the land pursuant to M.G.L. Ch. 184, Section 31.

C. Common Open Space

A minimum of 25% of the total developable land within the PUD, exclusive of the land set aside for streets, shall be designated "Common Open Space." Common Open Space shall include all developable land not dedicated to roads, parking areas, buildings and structures. At least 50% of the required common open space maybe used for recreational facilities; and for passive open space and buffer areas. Common open space shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation or agricultural purposes by residents of the PUD; and, where possible, be located such that significant areas of continuous open space are distributed throughout the PUD. There shall also be significant areas of common open space near areas containing high concentrations of housing units.

The approximate location of major areas of Public Open Space and Common Open Space shall be identified as part of the Preliminary Development Plan. The granting of a Special Permit shall include as a condition that the large areas of open space identified on the Preliminary Development Plan be preserved approximately as shown, with the understanding that the precise definition of such open space might be altered with the submittal and approval of Definitive Development Plans.

D. Ownership of Common Open Space, Restrictions Thereon

The required open land shall be conveyed to a non-profit corporation or trust comprising a condominium or homeowner's association. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall cause to be recorded at the Northern Worcester District Registry of Deeds a Declaration of Covenants and Restrictions which shall, at a minimum, provide for the following:

i. Mandatory membership in an established association, as a requirement of ownership of any condominium unit, rental unit, building or lot in the tract.

ii. Provisions for maintenance, assessments of the owners of all condominium units, rental units, buildings or lots in order to ensure that the open land is maintained in a condition suitable for the users approved by the homeowner's association. Failure to pay assessment shall create a lien on the property assessed, enforceable by the association.

iii. Provisions which, so far as possible under the existing law, will ensure that the restrictions place on the use of the open land will not terminate by operations of law.

iv. Provisions for limited easements to significant areas of open space and natural resources for recreational use by residents of the Town, and to provide linkages to open space of abutting properties.

The developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the association is capable of assuming such responsibility.

5.19.7 Design Standards, Off-street Parking and Loading Requirements

A. Basic Requirements

The PUD shall be designed and constructed in accordance with the Design Standards and Specifications set forth in Section 5 of the Town of Ashburnham Planning Board Rules and Regulations Governing the Subdivision of Land.

B. Off-Street Parking

Off-street parking facilities for structures and uses within a PUD shall conform to all regulations and design standards as set forth in Section 5.3 of the Zoning Bylaw. However, the Planning Board is given flexibility for provision of off-street parking facilities as provided for under Section 5.34 of the Ashburnham Zoning Bylaw

Off-street parking areas within any PUD shall meet the screening standards as specified within Section 5.107.2 of the Zoning Bylaw.

C. Off-Street Loading

Off-street loading facilities for structures and uses within a PUD shall conform to all regulations and design standards as set forth in Section 5.33 of the Zoning Bylaw.

D. Garages

The construction of individual garages attached to or within housing units is encouraged where feasible, taking into consideration the topography, layout, type, architectural design and price of the unit. The location of such garages is encouraged where feasible to be located to the rear of townhome and/or apartment units.

5.19.8 Contents and Scope of Application and Review Procedure

A. Pre-Application Conference

Prior to investing in extensive professional design efforts for a Planned Unit Development, it will often prove useful to review the proposed development/use of land with the Planning Board, in order that general approaches and potential problems can be freely explored. The Planning Board encourages Applicants to meet with the Planning Board Chairman to review their development proposals and/or Applicants are invited to submit a Pre- Application Sketch of the proposed project to the Planning Board at the Public Comment period at a regular meeting of the Planning Board. Sketches, which need not be professionally prepared, will assist the discussion and might show some but not all of the information required to be shown on a site plan.

B. Preliminary Plan

The Applicant may file a preliminary plan accompanied by the form "Form B Preliminary Subdivision Application" and the "Form B Preliminary Subdivision Application Check List" to the Planning Board. The Applicant shall include any required filing fee as established in the Planning Board Rules Governing Fees and Fee Schedule. The Planning Board shall upon receipt of the complete preliminary plan application and supporting documents follow the requirements of Section 4.2 of the Planning Board Rules and Regulations Governing the Subdivision of Land related to the review and decision of such Preliminary Plan.

The Planning Board may suggest modifications and changes to the preliminary plan in anticipation of filing of the final plan. If the Planning Board fails to act within 45 days of receipt of a complete preliminary plan and application, the applicant may proceed to file a final plan.

C. Final Plan Application:

i. The application for Planned Unit Development (PUD) Special Permit shall be made in accordance with Section 5.105 of the Ashburnham Zoning Bylaw.

ii. Coordination with Other Boards. Upon receipt of the PUD Final Plan application, the Planning Board shall transmit a copy of the Application and Plan to the Selectmen, Fire Department, Water and Sewer Commission, Board of Health, Highway Department, Conservation Commission, Building Inspector, Historical Commission, Police Department, Light Department and the Planning Board's Consulting Engineer for their written recommendation. Failure to respond to the Planning Board within 30 days shall indicate approval by said agencies. The

Planning Board decision shall address any departure from the recommendations of the other town agencies.

iii. The Applicant shall provide a narrative Development Impact Statement detailing the impact of the proposed use on municipal services and the environment. Such statement shall conform to Section 4.3.6, Development Impact Statements, of the Town of Ashburnham Planning Board Subdivision Rules and Regulations.

iv. Public Hearing: The Planning Board shall hold a public hearing on any properly completed application within 65 days after filing of a complete application, shall properly serve notice of such hearing, and shall render its decision within 90 days of the close of said hearing. The hearing and notice requirements set forth herein shall comply with the requirements of G.L. c. 40A, Sections 9 and 11.

v. Review of applications for any use-related special permits may be consolidated into the Planned Unit Development Special Permit process, while being voted on separately.

D. The Planning Board shall grant the Special Permit only if it finds the application satisfies the objectives of a PUD as defined in Section 1.

E. A PUD Special Permit granted pursuant to this Section shall establish and regulate the following as conditions of approval:

i. Location of all primary streets and ways within the development, including access to existing public ways, with the layout, design, construction and other relevant standards for such streets and ways to confirm to the *Town of Ashburnham Planning Board Rules and Regulations Governing the Subdivision of Land.*

ii. Locations of significant areas of public open space and common open space.

iii. Boundaries of lots to be created within the development, if any.

iv. Overall project density, including the distribution of housing units to avoid undue concentration of development, as well as maximum number of housing units that may be built within the development, including maximum number of building permits that may be issued within any twelve month period.

v. Location and boundaries of each development phase.

vi. Location of non-residential establishments.

vii. Development timetable.

viii. Off-site traffic improvements and environmental mitigation measures, if any to be performed by the Applicant, including timetables and procedures for implementation of the same.

ix. Requirements for instruments to be executed by the owners of the land and recorded with the Registry of Deeds waiving all rights to previously issued permits and approvals for residential or non-residential buildings and uses for the land, if any, and to future uses of the land which would otherwise be otherwise permitted by the zoning district in which it is located, except as specifically allowed under this PUD Special Permit.

x. Such other terms, conditions or restrictions as the Planning Board may deem appropriate.

5.19.9 Relation to Subdivision Control Law

In the event the Applicant seeks subdivision approval for streets and lots within the PUD pursuant to the Subdivision Control Law M.G.L. Chapter 41, Section 81, the Applicant shall file an "Application for a Definitive Plan" pursuant to Section 4.3 of the *Town of Ashburnham Planning Board Rules and Regulations Governing the Subdivision of Land.* In order to facilitate the processing the Planning

Board shall consider said application simultaneously with the application for a PUD Special Permit, and may adopt regulations establishing procedures for the simultaneous submission and consideration of the applications; provided however, that nothing contained herein shall be deemed to require approval of streets and ways within a PUD under the Subdivision Control Law. Any subdivision of land within the PUD shall in no way diminish the effect of any conditions, agreements or covenants imposed or made as part of the grant of the PUD Special Permit.

5.19.10 Administration

A. The Planning Board may adopt, and from time to time amend, Rules and Regulations relating to the administration of this Planned Unit Development Zoning provision consistent with the provisions of this bylaw and G.L. c. 40A and other provisions of the General Laws, including Rules and Regulations Governing the Subdivision of Land, and shall file a copy of said Rules and Regulations with the Town Clerk.

B. Fees – See Town of Ashburnham Planning Board Rules Governing Fees and Fee Schedule.

C. Waiver of Compliance

The Planning Board may waive strict compliance with such requirements of this section, where such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Act or this section.

D. Separability

The invalidity of one or more provisions or clauses of this Section shall not invalidate or impair the Section as a whole or any other part hereof.

And amend Section 3.1 of the Ashburnham Zoning Bylaw as shown in ***bold italics***:

"The Planning Board is designated as the Special Permit Granting Authority (SPGA) for all Special Permits requiring Site Plan Review under section 5.10 of this bylaw ***and any Special Permits being granted in conjunction with a Planned Unit Development (PUD) Special Permit under Section 5.19 of this bylaw***."

And amend Section 5.34 of the Ashburnham Zoning Bylaw as shown in ***bold italics***:

"5.34 Parking in the Village Center Zoning District ***and in a Planned Unit Development (PUD)***

The standards of Section 5.32 must be met for the additional parking demand created by new buildings, additions or changes of use unless, in performing a Site Plan Review and Approval under Section 5.10 ***or issuing a Special Permit under the provisions of Section 5.19, Planned Unit Development (PUD)***, the Planning Board determines that special circumstances dictate a different provision in order to meet all parking needs. In performing a Site Plan Review ***and issuing a PUD Special Permit***, the Planning Board may authorize a smaller number of parking spaces because of staggered hours of use or other circumstances. The Planning Board shall determine all parking space calculations based on information in the most recent edition of the Parking Generation manual by the Institute of Transportation Engineers (ITE), on studies and surveys done by qualified persons regarding parking, on parking requirements and use for similar facilities in the Montachusett region and/or other appropriate information."

Or act in relation thereto. *(Submitted by Planning Board)*

SELECTMEN	CAPITAL PLAN. COMM.	ADVISORY BD.	TAX RATE
RECOMMEND: **YES**	RECOMMEND: **N/A**	RECOMMEND: **YES**	IMPACT: **N/A**

Brief Explanation: The Planned Unit Development (PUD) is a form of development that usually includes a mix of housing units and nonresidential uses in one unified site or subdivision. Communities can minimize sprawling growth by replacing it with alternative development patterns such as Planned Unit Development projects which combine residential, retail, office, and public institutional uses in compact, pedestrian-friendly villages or clusters. PUDs create opportunities to live and work close to shopping, and services; and placing housing and jobs in close proximity reduces the number of vehicle trips to work, home, or shopping, limiting air pollution. The PUD can also encourage innovation in

commercial and residential development so that the growing demand for more and varied housing may be met by a greater variety in type and design of living units than conventional subdivisions can provide.

Under the PUD Bylaw provision, the Planning Board would be authorized to approve PUD projects subject to the issuance of a Special Permit. The minimum size of a PUD would be at least 4 acres – though Planning Board could approve smaller sized projects upon a finding. The allowed uses of the underlying zoning district where a PUD is proposed/located will generally guide the mix of uses except a variety of residential allowed uses are allowed on a by-right basis, including elderly housing. However, there is a maximum of 20 dwelling units is allowed in any one building. The residential mix shall be between 25% and 75% of the gross floor area planned within the PUD. There shall be no retail operations with greater than 10,000 square feet on a single story, in order to maintain a Village-scale environment. The Planning Board is given authority to grant flexibility to the Town's Zoning Dimensional Requirements except that there shall be 10,000 square feet of developable land for each bedroom (e.g. a 4-bedroom house would need an acre of land). There is an Open Space requirement, similar to the Open Space Residential Development Bylaw.

ARTICLE 18: To see if the Town will vote to rescind Article 12 of the April 3, 1999 Annual Town Meeting, Chapter 41, Section 108L (the Quinn Bill), or act in relation thereto. *(Requested by the Town Administrator.)*

SELECTMEN	CAPITAL PLAN. COMM.	ADVISORY BD.	TAX RATE
RECOMMEND: **YES**	RECOMMEND: **N/A**	RECOMMEND: **YES**	IMPACT: **N/A**

Brief Explanation*: **In February of 2012 the Supreme Court of Massachusetts made a ruling that allowed the municipalities to revert to their collective bargaining agreements regarding the Quinn Bill. During negotiations the Town will look to incorporate an educational incentive separate from the Quinn Bill rendering the Bill ineffective to our Town.***

ARTICLE 19: To see if the Town will vote to amend the Agreement between the Towns of Ashburnham and Westminster, Massachusetts as pertains to the Ashburnham-Westminster Regional School District, a copy of which has been placed on file with the Town Clerk, or act in relation thereto. *(Requested by the AWRSD Committee.)*

SELECTMEN	CAPITAL PLAN. COMM.	ADVISORY BD.	TAX RATE
RECOMMEND: **YES**	RECOMMEND: **N/A**	RECOMMEND: **YES**	IMPACT: **N/A**

Brief Explanation: ***Last year the School Committee committed to review the regional agreement. After much consideration they have presented changes to the agreement for town meeting consideration.***

ARTICLE 20: To see if the Town will vote to transfer custody to the Board of Selectmen for purposes of sale or lease, and to authorize the Board of Selectmen to sell or lease the land and buildings at 39 South Main Street also known as the South Fire Station, being the same property shown on Assessors' Map 58, Parcel 101 recorded in the Worcester Northern Registry of Deeds at Book 760, Page 250, upon such terms and conditions as are in the best interests of the Town, or act in relation thereto. *(Requested by the Town Administrator.)*

SELECTMEN	CAPITAL PLAN. COMM.	ADVISORY BD.	TAX RATE
RECOMMEND: **YES**	RECOMMEND: **N/A**	RECOMMEND: **YES**	IMPACT: **N/A**

Brief Explanation: ***The Board of Selectmen has determined that South Station will no longer be used by town departments and as such they are looking to either sell or lease the property.***

ARTICLE 21: To see if the Town will vote to authorize the Board of Selectmen to enter into two (2) Payment In Lieu of Taxes (PILOT) Agreements pursuant to G.L. c. 59 §38H, with Investar Renewable Energy, LLC (IRE) for approximately 17.01 acres of land located at 296 Winchendon Road

(Worcester Northern District Registry of Deeds Book 3387, Page 2), and for approximately 89.73 acres of land located off Gardner Road (Worcester Northern District Registry of Deeds Book 5974, Page 299), and to approve said PILOT Agreements under which IRE shall make annual payments to the Town in the amount of twenty-five thousand ($25,000) dollars per megawatt for twenty (20) years in lieu of personal property taxes attributable to the projects, subject to calculation adjustments for any increases and decreases in the projects' capacity as may occur over time, said PILOT Agreements being on file in the Town Clerk's office, and further to authorize the Board of Selectmen to negotiate any amendments to these PILOT Agreements in compliance with the amendment provisions therein, or act in relation thereto. *(Requested by the Town Administrator.)*

SELECTMEN	CAPITAL PLAN. COMM.	ADVISORY BD.	TAX RATE
RECOMMEND: **YES**	RECOMMEND: **N/A**	RECOMMEND: **YES**	IMPACT: **N/A**

Brief Explanation: ***The Board of Selectmen is looking to enter into a 20 year PILOT agreement with Investar LLC. The Town will receive $25,000 per megawatt a year for the 3MW installation. Associated with this deal is a PPA that the Light Department will execute which will purchase the power generated by this facility at reduced rates.***

ARTICLE 22: To see if the Town will vote to acquire, by purchase, eminent domain or otherwise as provided by the General Laws a parcel of land located at Williams and Platts Roads consisting of 41 acres, being the same land shown on Assessors Map 20, Parcels 49 & 50, for DPW purposes, and to raise and appropriate or transfer from available funds a sum of money to pay for any and all costs associated with such acquisition, or act in relation thereto. *(Requested by the Town Administrator.)*

SELECTMEN	CAPITAL PLAN. COMM.	ADVISORY BD.	TAX RATE
RECOMMEND: **YES**	RECOMMEND:	RECOMMEND: **YES**	IMPACT: **N/A**

Brief Explanation: ***The Board of Selectmen, since the disbandment of the DPW Relocation Committee, has been looking for a suitable site for the DPW. This property has just recently become available and was identified by the Relocation Committee as the number two recommended site. The number one site was determined to be too wet for use. Although the relocation may not actually occur for several years the Board felt this location critical to the project.***

ARTICLE 23: To see if the Town will vote to transfer custody to the Board of Selectmen for purposes of conveying, and to authorize the Board of Selectmen to convey whatever right, title or interest the Town of Ashburnham may have in a certain parcel of land located at Sherbert and Heald Roads, consisting of approximately 1,730 square feet shown as Lot 19A on a plan prepared by Michael S. Szoc Surveyor dated October 30, 1972 entitled "Revision of Lot #19 owned by Thomas J. Kymalainen Inc., Ashburnham, Mass." recorded in the Worcester Northern Registry of Deeds in Plan Book 175, Page 4, being the same land shown on Assessors Map 13, Parcel 52, also being the same land the Town voted to accept with no consideration under Article 2 of the June 18, 1972 Special Town Meeting, or act in relation thereto. *(Requested by the Town Administrator.)*

SELECTMEN	CAPITAL PLAN. COMM.	ADVISORY BD.	TAX RATE
RECOMMEND: **YES**	RECOMMEND: **N/A**	RECOMMEND: **YES**	IMPACT: **N/A**

Brief Explanation: ***In 1973 the Town voted to accept a small parcel shown as Lot 19A on an ANR plan. It appears to be a leftover piece from that division of land in 1972. It's about 1700 sq. ft. and the annual tax bill is about $55.00. No deed was ever recorded. The owner has an opportunity to sell this lot and this vote is needed to clarify the deed.***

ARTICLE 24: To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation as follows:

"AN ACT authorizing the Town of Ashburnham to dispose of certain equipment.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the Town of Ashburnham, acting by and through its Board of Selectmen, may dispose of a 1987 Military HMMWV by transferring ownership of said vehicle to the Ashburnham Firefighters Association, which provided the funds for its purchase.

SECTION 2. This act shall take effect upon its passage.
Or act in relation thereto." *(Requested by the Town Administrator)*

SELECTMEN RECOMMEND: **YES**	CAPITAL PLAN. COMM. RECOMMEND: **N/A**	ADVISORY BD. RECOMMEND: **YES**	TAX RATE IMPACT: **N/A**

Brief Explanation: ***The 1987 Military HMMWV was purchased from the Fire/Rescue Fund. The Fire Department has no use for this vehicle now and the Firefighters Association wants to take possession.***

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

Gregory Fagan, Clerk

Ronald W. Reed, Member

ASHBURNHAM BOARD OF SELECTMEN

A true copy, Attest:

Constable

Date 4/25/12