

TOWN OF ASHFIELD

ZONING BYLAWS

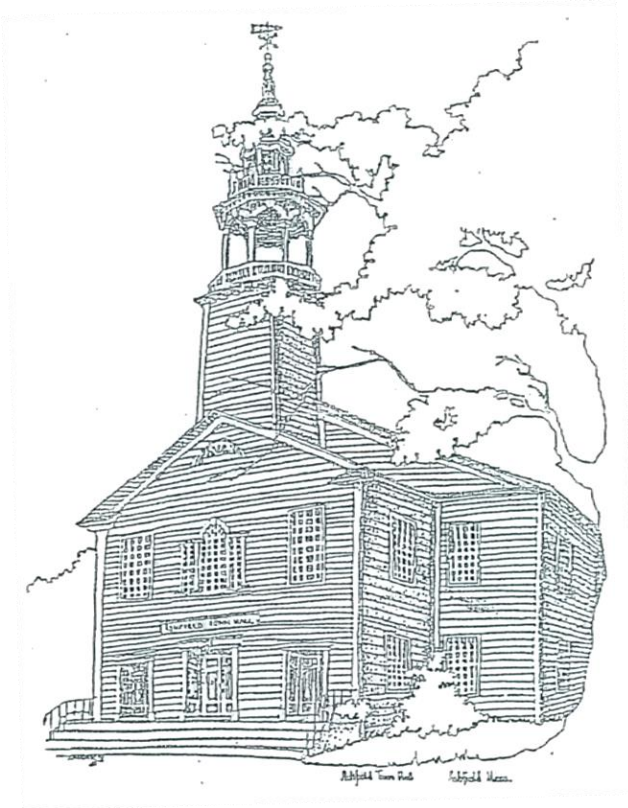


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Revision History

These zoning bylaws were adopted at a Special Town Meeting on April 19, 1995, and approved by the Attorney General's Office (AG) on May 19, 1995. The previous zoning bylaws (the protective bylaws) were repealed at the same Special Town Meeting on April 19, 1995.

When additions or amendments have occurred after April 19, 1995, the date of the change is noted within that section.

The Table of Contents was adopted at a Special Town Meeting on August 8, 2022, and approved by the AG on December 19, 2022.

Effective Date

The effective date of the adoption or amendment of a zoning bylaw is the date of adoption at Town Meeting (MGL Chapter 40A, § 5). In this document, the date approved by the AG is also included for informational purposes.

Non-Substantive Changes

Ashfield's General Bylaws authorize the Town Clerk, after consultation with the Select Board, to make non-substantive revisions for the purposes of clarity and consistency (NON-SUBSTANTIVE BYLAW CHANGES BYLAW).

On March 8, 2023, the Town Clerk added page numbers to the Table of Contents, added one section to the Table of Contents for completeness, removed two pages with information about bylaw approval dates, and added the bylaw approval dates within the relevant section so that this information can be more easily accessed. Also removed were two General Bylaws that should not appear in the zoning document (these can be found in the Bylaws of the Town of Ashfield). These changes were approved by the Select Board on April 10, 2023.

ASHFIELD ZONING BYLAWS

SECTION I: PURPOSE

The primary purposes of these by-laws are to promote and enhance the Town's rural atmosphere and character and to protect the health, safety, and general welfare of the inhabitants of the Town of Ashfield. Additional purposes are: to encourage agricultural activity; to reduce the hazard from fire, flood, and other hazards by regulating the location and use of buildings and the area around them; to encourage the appropriate use of land; to minimize congestion in the streets; to conserve the physical characteristics of neighborhoods; to promote the conservation of natural resources and to prevent pollution of the environment.

SECTION II: DEFINITIONS

General: As used in these bylaws, and unless the context of usage clearly indicates another meaning, the following terms and words shall have the meaning given herein. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended," or "offered," to be used or occupied; the words "buildings," "structure," "lot," "land," or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory. The masculine gender shall include the feminine.

Abandonment: the voluntary relinquishment or cessation for a period of two (2) years of a use of property, unless the owner demonstrates by physical evidence during that period the intent either to transfer rights to another owner or resume that use.

Accessory: Any use, structure, or building which is customarily associated with or enhances the function of or extends the amenities of a principal use, structure or building but is incidental to and subordinate to said principal use, structure, or building. If the accessory use, structure or building is residential or agricultural in nature, it need not exist on the same premises as its principal use, structure or building.

Acre: A unit of land measure equal to 43,560 square feet.

Agriculture: A use, whether principal or accessory, which has a primary purpose the raising of agricultural products or their byproducts.

Alteration: Any construction, rearrangement, reconstruction or other similar action resulting in a change in the structural parts, heights, number of stories, exits, size, use or location of a building or other structure.

Building: A structure having a combination of any materials making an enclosure within exterior walls and roof for the shelter of persons, animals, or property.

Building Lot: Any lot, or combination of adjacent lots, which meets the requirements of these bylaws together with other state and local regulations for constructing a dwelling or other principal building thereupon.

Common Driveway: A driveway serving two (2) or more adjoining lots.

Cottage Industry: Any incidental occupational use conducted by a resident of the premises in a detached structure accessory to a dwelling.

Driveway: A private way providing vehicular access for a lot.

Dwelling: A privately or publicly owned permanent structure which is occupied in whole or part as the residence of one (1) or more persons. The terms "one family," "two family," "three family" or "multi family" dwelling shall not include hotel, lodging house, hospital, membership club, mobile home, or dormitory.

Dwelling, One Family: A detached building containing one dwelling unit, also referred to as a "single family dwelling."

Dwelling, Two Family: A detached building containing two (2) dwelling units.

Dwelling Unit: One (1) or more living and sleeping rooms providing complete living facilities for the use of one (1) or more individuals constituting a single housekeeping unit, with permanent provision for living, sleeping, eating, cooking, and sanitation.

Hazardous Material: Any chemical substances or mixture of substances which is listed in the Massachusetts substance list compiled in compliance with the provisions of the state Right to Know Law, M.G.L. Chapter 111F, Section 4, and which is manufactured, processed, used or stored in the workplace, but which shall not include alcoholic beverages, or articles intended for the personal consumption of employees in the workplace, or consumer articles packaged for distribution to, and used by, the general public, or articles sold or used in retail food establishments and all other retail trade establishments, exclusive of articles used in processing and repair areas, or substances being transported in interstate commerce.

Hazardous Waste: A waste which is hazardous to human health or the environment as designated either by the U.S. Environmental Protection Agency under 40 CFR 250 or the Regulations of the Massachusetts Hazardous Waste Management Act, M.G.L., Chapter 21C. This includes, but is not limited to, inorganic mineral acids of sulfur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium and arsenic and their common salts; lead, nickel and mercury and their inorganic salts or metallic-organic derivatives; coal, tar acids such as phenol and cresols and their salts and all radioactive materials.

Home Occupation: Any incidental occupational use conducted entirely within the principal dwelling by a resident thereof.

Lot: An area or parcel of land, or any part thereof, with definite boundaries recorded with the Registry of Deeds.

Lot Frontage: The uninterrupted length of the front lot line, as defined herein, whether straight or not.

Lot Line, Front: One property line dividing a lot from a single public way.

Lot Line, Rear: Property line most nearly opposite from the front lot line.

Lot Line, Side: Any property line not a front or rear lot line.

Mobile Home: Manufactured housing with at least one dwelling unit and built in accordance with the National Housing Construction and Safety act (Title VI of Public Law 93-383, 88 Stat. 700, 42 U.S.C. 5401 et seq.) as regulated by the United States Department of Housing and Urban Development (HUD) and not otherwise regulated by the state building code.

Outward Manifestations: Any conspicuous feature of a lot or use of a lot that in the opinion of the Planning Board identifies the premises as having an occupational use.

Owner: The duly authorized agent or any person having vested or equitable interest in the use structure or lot in question.

Physical Characteristics: Attributes that include views, cleared land, land contours, historical and cultural resources, wildlife habitats, locally prevalent architecture style and structure density, road style and locations, traffic densities; patterns and speeds, audible noise levels and types, uses (such as income producing, common land, bedroom, recreational, religious, public, and educational), pathways, trails, and features of interest such as stone walls, exposed rocks and waterfalls.

Pollution: The introduction of any hazardous material or waste into the air, soil, or water of Ashfield.

Pre-Existing Lawfully Non-conforming Lot: Any lot created before December 12, 1967 with at least 50 feet of frontage, 5000 square feet of area and not contiguous with another commonly owned lot, or any lot created since that date in conformance with the then existing zoning regulations and which does not now conform in all respects to present zoning requirements.

Pre-Existing Lawfully Non-conforming Structure: Any structure under construction before December 12, 1967 or any structure created since that date in conformance with the then existing zoning regulations and which does not now conform in all respects to present zoning requirements.

Principal (use, building, or structure): The main or primary purpose for which a use, building or structure is designed or customarily designed that is neither incidental to nor subordinate to another use, building or structure.

Public Way: A State, County, or Town road that has not been abandoned by vote or law.

Receipt: For the purposes of these bylaws, receipt shall be the specific time when a board or agency or duly authorized agent has possession, as evidenced by an official signature, of properly and fully completed documents together with any required fees and supporting documents.

Setback: The minimum distance from a lot line to a building placed thereon, or feature thereof as measured in a straight line perpendicular to a lot line.

Setback, Front: Setback required from a front lot line and from any side lot line along a public way.

Setback, Rear: Setback required from a rear lot line.

Setback, Side: Setback required from a side lot line.

Sign: Anything deliberately placed to advertise or inform, visible from a public way.

Sign, Surface Area: For a sign, either free-standing or attached, the area shall be considered to include all letters, designs, symbols and background, whether open or enclosed, but not including any supporting framework and bracing, which are incidental to the display itself. For a sign consisting of individual letters, designs and symbols attached to or painted directly on the surface of a building, wall, window, awning/canopy or other surfaces, with no other background, the area shall be considered to be that of the smallest rectangle which encompasses all of the letters, designs, and symbols.

Special Permit Granting Authority (hereinafter SPGA): That board empowered to grant Special Permits, which may be the Zoning Board of Appeals, or the Planning Board. Where no specific board is named, the Planning Board shall have jurisdiction.

Special Permit: An authorization by the SPGA for an applicant to conduct a particular use or extend, alter or change a non-conforming lot or structure, subject to the Section authorizing the Special Permit as intended by M.G.L. Chapter 40A, Sections 6 and 9.

Structure: A combination of materials for permanent or temporary occupancy or use with a vertical dimension of at least 2 feet and at least one dimension over six (6) feet, such as, but not limited to, a building, tower, tank, tunnel, platform, swimming pools, shelters, piers, wharves, bins, recreational courts, satellite dishes. Fences shall be excluded.

Telecommunication Facilities: Includes towers, antennas, buildings and accessory structures designed or modified to provide personal communication services, radio and television broadcast or reception, microwave communications, or similar communication services that exceed the height dimensions as outlined in Section IV. Not included are antennas used for personal television and radio reception or radio facilities actively used under an FCC (Federal Communications Commission) amateur radio license. Antennas that do not exceed the dimensional requirements for residential buildings outlined in Section IV shall be allowed without a special permit. (Originally Adopted by STM on December 15, 1999 – Approved by AG on March 7, 2000; Revision Adopted by STM on November 15, 2016 – Approved by AG on May 22, 2018)

Use: The purpose for which a structure or lot is arranged, designed, or intended, or maintained.

Use, Accessory: see Accessory.

Use, Non-conforming: A use lawfully existing at the effective date of these bylaws, or any subsequent amendment thereto, which, does not conform to one (1) or more provisions of these bylaws.

Use, Principal: see Principal.

Variance: An exemption from the terms of these bylaws as the Zoning Board of Appeals; upon petition or appeal, is empowered to grant under the terms of these bylaws and M.G.L., Chapter 40A, Section 10.

SECTION III: GENERAL REGULATIONS

A. Pre-Existing Uses, Structures, and Lots

1. Continuation and Restoration

Any use or structure, whether conforming to these bylaws or not, may be continued and maintained if that use or structure was lawfully existing or begun at the time these or previous bylaws made it non-conforming. Necessary repairs and rebuilding of non-conforming structures after damage by fire, storm, or similar disaster, are permitted provided that a building permit for construction or restoration is obtained within 12 months and the construction or restoration is completed within 24 months of the disaster, and does not substantially change the character, size or use of the structures.

2. Alteration (as intended by M.G.L. C. 40A, Sec. 6)

a. Lawful non-conforming structures or lots or use of structures or land may be extended, altered, or changed, provided that no such extension, alteration or change shall be permitted unless:

- A Special Permit from the Zoning Board of Appeals is granted, or
- Such change does not significantly increase the non-conformity of the use, structure, or lot. (Adopted by STM on March 16, 1998 – Approved by AG on May 6, 1998)

b. A Special Permit may be granted if the extension, alteration or change will not be substantially more detrimental to the neighborhood than the existing non-conforming use, lot or structure. To determine whether or not a given extension alteration or change is substantially more detrimental, the Board shall consider the following factors in conjunction with criteria listed herein under "Special Permits":

- Dimensional Non-Conformity: Whether or not the extension, alteration or change of the lot or structure significantly increases the degree to which it is non-conforming, or
- Use Non-Conformity: Whether or not the use shall be extended, altered or changed so as to increase the objectionable quality of the original non-conforming use. The Board shall consider impacts on traffic, parking, noise, light, hours of operation, unsightly storage or conditions, objectionable odors, neighborhood character, safety, overcrowding, and pollution.

3. Abandonment

A non-conforming use, which has been abandoned, shall not be reestablished and any future use shall conform with these bylaws.

B. Conformance

Construction or operations under a Building Permit or Special Permit shall conform to any subsequent amendment of these bylaws unless the use or construction is commenced within a period of six months after the issuance of the Permit, and in cases involving construction,

unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

C. Sign Regulations

1. General Sign Regulations

- a. Lighting shall be arranged so that light visible from any public way is diffused. No sign or its source of illumination shall be mechanically or electronically driven to flash or move.
- b. No sign, except those customarily associated with mailboxes, temporary routing directions, and posted warnings, shall be placed within a public right-of-way, nor shall be placed within any side or rear lot setback, except by Special Permit issued by the Planning Board after good cause is shown. No sign, other than warning signs as barricades, shall impair pedestrian or vehicular traffic flow or sight.
- c. Double-sided signs with equal and parallel faces shall be measured on one side only in determining square footage.
- d. Freestanding signs may be not more than ten (10) feet in height above the road measured from the average road grade within twenty-five (25) feet of the sign.
- e. A sign may be affixed to, suspended from or incorporated as part of a building providing it meets all other pertinent criteria. Signs attached perpendicular to a building shall not project above the roofline or more than three (3) feet from the vertical wall plane.

D. Driveways

1. Each building lot shall have a frontage suitable for a driveway, in the opinion of the Planning Board, adequate for use by emergency vehicles whether or not said frontage is actually used for a driveway.
2. A common driveway may be allowed by Special Permit from the Planning Board. This subsection shall apply only to shared driveways constructed after (4/19/95), and to lawfully existing driveways changed after that date to connect with or serve one or more additional lots. It must conform as follows:
 - a. Up to three (3) lots may be connected to or otherwise share the same driveway.
 - b. The part of a driveway considered to be common driveway shall begin at the public way and extend to the final boundary entering the last lot served and otherwise to points on the driveway where it serves only one lot.
 - c. Common driveways shall have a maximum grade of fifteen (15) percent, and shall have a minimum cleared width of twelve (12) feet.
 - d. Maintenance of a common driveway shall be assured by a recorded deed, covenant, or landowner's association or other lawful agreement binding upon those served by the common driveway.
3. Driveways shall not obstruct or defeat existing drainage ditches and drainage features

along public and private ways. Slopes and drainage features of driveways shall be designed, built and maintained such that washed and eroded materials and flooding from driveways will not enter travel lanes of public ways.

SECTION IV: DIMENSIONAL REQUIREMENTS

A. Lot Size

Only one (1) dwelling or other principal building or structure or use shall be located on a lot. No dwelling or other principal building or structure shall be located on a lot having less than the requirements for a minimum lot unless the lot qualifies as a Pre-existing Lawfully Non-conforming Lot.

A minimum lot shall have:

1. An area of at least two (2) acres within the Town of Ashfield and shall not include land under permanent water bodies, and land within public ways, and
2. A lot frontage of at least two hundred (200) continuous feet within the Town of Ashfield.

B. Setbacks

1. The minimum distance between the front lot line and any building shall be twenty-five (25) feet;
2. The minimum distance between the side lot line and any building shall be twenty-five (25) feet; and
3. The minimum distance between the rear lot line and any building shall be twenty-five (25) feet.

C. No existing lot with a dwelling or other principal building on it shall be changed as to size or shape so as to result in violation of the requirements set forth in the above regulations for lot size and setbacks except as allowed by M.G.L. c. 41, sec. 81L.

D. No building or structure shall exceed fifty (50) feet in height above the average grade within twenty-five (25) feet of the building or structure.

E. Back Lots

(Adopted by STM on June 24, 2002 – Approved by AG on October 3, 2002)

1. Purpose

The purpose of this sub-section is to help preserve the rural and agricultural character and the natural resources of the town's roadsides by encouraging development removed from road frontage. The sub-section permits the creation of certain building lots ("back lots") whose frontage and dimensional requirements differ from those set forth above.

2. Eligible Parcels

Land eligible shall be limited to parcels that are already eligible for ANR development pursuant to M.G.L. Chapter 41, Section 81 et.seq., with roadside frontage of at least 400

feet, and sufficient acreage to accommodate back-lot development as specified below. The owner or prospective developer of such a parcel may petition for a special permit from the Planning Board to create back lots meeting the following description:

Each lot shall be at least one acre in area, shall have no roadside frontage, and shall be accessible from a public way by means of a deeded right of way. If two or more lots are created on a tract, they shall be served by a common driveway. All back lots shall be designed to minimize the impact on farmland and natural resources whenever possible. In exchange for a special permit to create back lots, the applicant shall place permanent conservation restrictions on roadside land that would otherwise have been eligible for ANR development. See "Conserved Front Lots" below.

3. Developed Back Lots

A special permit may be granted by the Planning Board if it finds that the applicant's proposal would serve the purposes set forth above better than an ANR division of land, and would meet the general criteria for special permits set forth in the Zoning Bylaws, and would meet the following additional, criteria.

- a. No more than four back lots shall share a common driveway. Common driveways created under this section shall not cross wetlands (as defined by C.M.R. 10.00) within the conserved front lot acreage. Common driveways shall otherwise conform to the specifications set forth in section 3, (d) paragraphs 2 and 3. Approval of a common driveway design shall precede the granting of a special permit for back lot development.
- b. No point on a back lot boundary shall be closer than 200 feet to the road on which the conserved land fronts, and the SPGA may require greater distances according to the configuration of the site. The principal structure on a back lot shall be at least 200 feet from any public way.
- c. Back lots shall be created with an effort to minimize fragmentation of natural resources, including, -but not limited to, wetlands, wildlife habitat, existing farm fields, arable land, and historic sites.
- d. Setback lines shall be 15 feet, but no building shall be sited closer than 25 feet to a common driveway.
- e. All buildings and common driveways shall be sited with an effort to minimize negative impact on farmland and other natural resources, as enumerated above. Applicants are encouraged to integrate dwellings and other structures into the landscape.
- f. Applications shall be accompanied by a written rationale explaining why the proposal is consistent with the goals of this section, and is preferable to ANR development.
- g. Once created, no back lot may be further divided.

4. Conserved Front Lots

- a. For every back lot created, at least two acres of roadside land, including at least 150 feet of frontage, shall be placed under conservation restriction, preservation restriction, watershed preservation restriction, or agricultural preservation restriction, as defined by M.G.L. Chapter 184, Section 31. Total road frontage conserved shall in no case be less than 400 feet.
- b. No roads or driveways shall cross conserved lands other than common driveways serving back lots.

F. Dimensional Requirements for Senior Citizens Housing

(Adopted by ATM on May 6, 2017 – Approved by AG on October 23, 2017)

1. Frontage requirements may be waived or modified for Senior Citizens Housing under special permit from the Planning Board for Senior Citizens Housing.
2. Density may be increased for Senior Citizens Housing by special permit from the Planning Board for Senior Citizens Housing.

SECTION V: DISTRICTS

A. The entire Town of Ashfield is a rural residential and agricultural district.

B. Flood Hazard District

(Adopted by STM on December 15, 1999 – Approved by AG on March 7, 2000)

A flood hazard district is hereby created as an overlay district comprising all areas designated as Zone A on the Town of Ashfield Flood Insurance Rate Maps, dated September 7, 1985, and on file with the Town Clerk. These maps are incorporated by reference. The following requirements apply in the Flood Hazard District:

1. Within Zone A, the applicant for a building permit shall obtain any existing base flood elevation data and submit it to the Building Inspector.
2. The Building Inspector shall determine whether the proposed project is within a Flood Hazard Zone.
3. The Building Inspector shall determine whether the proposed project meets elevation or flood proofing requirements of the State Building Code.
4. The Building Inspector shall inform the Conservation Commission of the proposed building activity within the overlay district.

SECTION VI: USE REGULATIONS

A. Uses

1. Single family and two family dwellings and their accessory buildings, uses and structures are allowed by right.
2. Buildings existing prior to 1975 may be altered for additional dwelling units by Special Permit from the ZBA. In addition to hereinafter listed Special Permit Criteria, a Special

Permit for additional dwelling units shall require:

- a. That the perimeter and height of the building not be substantially altered to incorporate the additional apartments and shall be as existing prior to (4/19/1995),
 - b. That each dwelling unit have separate sanitary facilities, and
 - c. That at least two off street parking places be available for each dwelling unit. Said parking places shall not be within the required frontage setback.
3. Industrial, Commercial and Business Enterprises, including political and government purposes, and their related facilities may be located, expanded or constructed within the Town by Special Permit granted by the Planning Board except as hereinafter provided.
 4. Land used for religious purposes and educational purposes protected by c. 40A of the General Laws and their related facilities may be located, expanded or constructed within Town provided:
 - d. Compliance is maintained with before stated Dimensional Requirements,
 - e. Buildings and paved areas shall not cover more than 50% of the lot area and,
 - f. Off street parking shall be provided for all patrons.

B. Public Nuisances

1. Accumulated or scattered junk, trash, debris, scrap materials or any other objectionable objects shall be stored safely and screened from view of public ways by natural evergreen barriers or fencing or being within buildings.
2. Any item, which constitutes a hazard to safety, shall be adequately fenced, covered, marked or otherwise secured to prevent injury. This includes, but is not limited to, such things as old refrigerators, machinery, swimming pools and wells (in use, or abandoned).

C. Building Requirements

1. A temporary dwelling, or mobile home, may be used during construction of a permanent residence in Ashfield, whether new or on the site of a residence which has been destroyed by fire or other natural holocaust, for a period of no longer than three (3) years from the date construction is commenced, provided construction starts within six (6) months of the granting of a building permit, and conforms to these bylaws. Any such temporary mobile home shall be subject to provisions of the State Sanitary Code.
2. Mobile homes will be otherwise permitted to rest in the Town of Ashfield for not more than six (6) months in any calendar year.

D. Cottage Industries and Home Occupations

1. Ashfield residents who intend to operate a Cottage Industry or Home Occupation shall file a notice with the Planning Board.
2. Cottage Industries and Home Occupations may be conducted within the town of Ashfield, but if the use has any outward manifestations that suggest occupational use, the following requirements apply and a permit must be obtained from the Building

Inspector prior to the commencement of the activity. The Building Inspector shall adopt rules, with the approval of the Planning Board, for the size, form, and content of the plans, drawings, and procedures for the submission and approval of such permit. These rules shall not be inconsistent with the General Laws or the provision of these bylaws. The Building Inspector may from time to time, with the approval of the Planning Board, amend these submission rules. Copies of the rules and application forms shall be on file and available for review at the office of the Town Clerk. For a permit:

- a. A Home Occupation shall have not more than two (2) non-resident employees, shall be characterized by outward manifestations, such as, but not limited to, traffic generation, noise, odor, public service and utility demand, not unlike those of a dwelling in the neighborhood, shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and shall not change the character thereof,
 - b. A Cottage Industry shall not have more than four (4) non-resident employees and shall require no significant exterior changes to the buildings or structures,
 - c. There shall be no display visible from public ways other than an identification sign pursuant to the sign regulations of these bylaws,
 - d. Adequate off street parking shall be available, and
 - e. If the Building Inspector rejects the application on the above criteria or for any other reason, the applicant may apply for a Special Permit from the Planning Board.
3. Before permit approval, any workplace to be doing tasks which may generate hazardous wastes or use hazardous materials shall have a handling, storage and disposal plan deemed satisfactory by the Hazardous Waste Coordinator, and the Building Inspector shall be provided sufficient evidence of such plan.

E. Prohibited Uses

The following uses are prohibited: non-municipal landfills, and junkyards.

F. Telecommunication Facilities

(Adopted by STM on December 15, 1999 – Approved by AG on March 7, 2000)

1. General Provisions

Telecommunication facilities may be allowed by special permit from the Planning Board pursuant to Section VII Special Permit. The general intent of the following conditions is to minimize the number of such facilities, as well as to minimize their adverse visual impact.

2. Conditions - The following shall apply:

- a. To the maximum extent possible, facilities shall be located on pre-existing structures, and all service providers shall co-locate on a single structure. Structures shall be designed to accommodate the maximum number of users technologically practical. The intent of this condition is to reduce the number of towers within the town.

- b. No facility shall exceed 80 feet in height as measured from the mean finished grade at the facility base. Exterior lighting of the tower and accessory structures shall be prohibited.
- c. New towers shall be freestanding mono-poles or other designs approved by the S.P.G.A.
- d. Facilities shall not be located within 100 feet of the crest or ridgeline or 500 feet of a summit of a hill and shall be located in such a way as to minimize the visual impact of the facility when viewed offsite. Notwithstanding the previous sentence, if in the opinion of the Planning Board such other location would be the least detrimental to the overall purpose of this section (6F), then such siting may be allowed.
- e. No tower, inclusive of any attachments, shall be erected nearer any property line than the distance equal to 125% of its vertical height.
- f. Fencing or other means shall be provided to control access to the telecommunication facilities and shall be compatible with the scenic character of the neighborhood and landscape.
- g. Existing on site vegetation shall be preserved to the maximum extent possible.
- h. All facilities shall be painted, or otherwise colored, so that they will blend in with the surrounding landscape or the structure on which they are located, including using a different color scheme below or above the tree or building line, as appropriate.
- i. There shall be no exterior storage of equipment on the site without the written approval of the S.P.G.A.
- j. To the extent feasible, all network intercommunications and power lines, to and from the facility, shall be underground.
- k. All facilities, attachments, and necessary structures, which have not been used for a period of one (1) year, shall be dismantled at the owner's expense. Such expense shall be secured with a performance guarantee in the amount determined by the Planning Board and posted in the name of the town.
- l. The Planning Board may require additional condition or vary the prescribed conditions upon a finding that such action is reasonably necessary to meet the purpose and intent of the Zoning Bylaws.
- m. The applicant shall be prepared to install the most appropriate and up-to-date camouflage if it will lessen impacts on the neighborhood character. (Adopted by STM on November 15, 2016 – Approved by AG on May 22, 2018)
- n. Towers shall be set back 10x their height from existing public school buildings, boundaries of existing town-owned parks, and the Ashfield Plain Historic District. (Adopted by STM on November 15, 2016 – Approved by AG on May 22, 2018)

- o. Towers shall be set back 5x their height from existing residences and other existing buildings, unless a right-of-way is obtained from the landowner. (Adopted by STM on November 15, 2016 – Approved by AG on May 22, 2018)

3. Special Permit Submittal Regulations - Telecommunication Facilities:

The following materials shall be submitted with the Special Permit Application:

- a. Site plan shall include four (4) view lines in a one (1) mile radius from the proposed site, shown beginning at True North and continuing clockwise at 90 degree intervals. The site plan shall include property lines, topography, roads, wetlands and other water bodies, vegetation, utilities and other important site features. In addition, the applicant shall set a six (6) foot diameter balloon at the location and height of the proposed towers for two (2) weeks prior to the public hearing.
- b. A report from a registered landscape architect or engineer shall:
 - i. Demonstrate that the facility complies with all applicable standards of the State and Federal governments;
 - ii. Describe the capacity of the tower or facility including the number and type of transmitter/receivers that it can accommodate;
 - iii. Describe all planned layout of all facilities in Ashfield and abutting towns.
 - iv. Describe all accessory structures to be constructed on site.
- c. A copy of the requests made by the applicant to the Federal Aviation Administration (FAA) and Massachusetts Aeronautics Commission, including responses from those agencies, demonstrating compliance with applicable regulations related to the facility.
- d. A locus map at an appropriate scale showing all buildings within five hundred (500) feet of the proposed facility.
- e. A copy of any co-location agreements.
- f. Independent professional verification of any material or data submitted as part of an application to the Planning Board shall be accomplished at the expense of the applicant.
- g. All applicable Federal Permits.
- h. If a NEPA study or any other impact study is required for FCC approval then the results shall be submitted with the application. (Adopted by STM on November 15, 2016 – Approved by AG on May 22, 2018)
- i. Collocation on existing conforming structures shall not require a special permit so long as the antenna does not make the structure non-conforming. (Adopted by STM on November 15, 2016 – Approved by AG on May 22, 2018)
- j. Collocation on existing non-conforming structures shall not require a special permit so long as the antenna does not make the structure substantially more non-

conforming. (Adopted by STM on November 15, 2016 – Approved by AG on May 22, 2018)

G. Large Scale Industrial & Commercial Facilities

(Adopted by ATM on May 5, 2018 – Approved by AG on January 8, 2019)

1. Purpose

The purpose of this Bylaw is to provide for the public health, welfare, and safety of the residents of the Town of Ashfield (the “Town”) through implementation of a zoning bylaw and performance standards for environmental and land use impacts associated with the construction or operation of large scale industrial and commercial facilities proposed to be located in the Town. This bylaw is adopted pursuant to the authority granted to towns in accordance with M.G.L. Chapter 40A. Large scale industrial or commercial facilities are also subject to all other requirements of the Town’s Zoning Bylaws and Subdivision Regulations to the maximum extent permitted by law. Specifically the purpose of this Bylaw is to:

- a. Reduce adverse environmental and public health impacts from the construction and operations of large scale industrial and commercial facilities;
- b. Minimize noise, earth removal and related disturbance impacts to surrounding residential properties, businesses, and municipal and institutional facilities;
- c. Preserve the pre-existing character of neighborhoods, especially in rural areas and on agricultural lands adjacent to large scale industrial and commercial facilities;
- d. Avoid exposing residents and public and private property to risk of injury or damage;
- e. Minimize accidental damage to facilities due to man-made events or natural forces such as severe weather events; and
- f. Ensure the construction and operations are in compliance with local, State and Federal requirements.

Application and study requirements required by this Bylaw are in addition to and should be coordinated with any other requirements of Ashfield’s Zoning Bylaws or Subdivision regulations.

2. Definitions

Large Scale Industrial and Commercial Facility (LSICF): A large-scale industrial or commercial facility is defined as any industrial or commercial facility, including any associated facilities, which requires the mandatory preparation of an Environmental Impact Report (EIR) pursuant to the Massachusetts Environmental Policy Act (MEPA). A LSICF shall also include: (1) any facility or use that creates 10 or more acres of impervious surface and (2) a facility or use which alters 50 or more acres of land, unless the project is consistent with an approved agricultural use plan or a forest cutting plan in accordance with State law.

Appurtenant Structure, Equipment or Facilities (ASEF): Any structure, equipment, or other facilities (e.g. parking, contractor's yards, staging areas, etc.) associated with the construction, operation or maintenance of the LSICF.

Applicant: Owner and/or Operator of the LSICF and/or ASEFs.

Special Permit and Certificate Granting Authority: The Planning Board shall be responsible for granting a Special Permit and issuing a Certificate of Compliance to construct and/or operate a LSICF and/or ASEF if it determines that such facility is in compliance with this Bylaw.

3. Applicability

- a. This article applies to all LSICF and ASEFs that will be permitted or constructed after the effective date of the article. This bylaw shall not apply to the maintenance, construction, or improvement of a local road or to any residential use. This bylaw shall not apply to Telecommunication Facilities (see Section VI.F.)
- b. All existing LSICF and ASEFs constructed prior to the adoption of this article shall not be required to meet the requirements of this article, provided that any modification to an existing LSICF or ASEF that occurs after the effective date of this article and which materially alters the size, type, location, or operation of the LSICF or ASEF shall require compliance with this Bylaw, as determined by the Planning Board.
- c. If any part or provision of this Bylaw or the application thereof to any person or business is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the remainder of this Bylaw, or the application thereof to other persons, businesses or circumstances unless by operation of law.
- d. An applicant for a proposed LSICF must seek a Special Permit from the Special Permit Granting Authority which is the Ashfield Planning Board. The Planning Board shall conduct a Special Permit process in accordance with Ashfield's Zoning Bylaws upon receipt of a completed Application and will determine if the proposed LSICF and ASEFs will meet the requirements of this Bylaw. The Planning Board may request additional information needed to determine compliance with this bylaw. The Applicant may not proceed with the construction or operation of the LSICF or ASEFs until a Special Permit has been granted by the Planning Board based on their determination that all the requirements of the Bylaw will be met.
- e. If a project has been determined to be exempt from local zoning due to Federal pre-emption, the LSICF or the ASEF shall still require a Certificate of Compliance that the project meets the requirements of this bylaw to the maximum extent feasible.
- f. No LSICF or ASEF shall be constructed, installed or modified without also obtaining a building permit and paying any required fees.

4. Compliance with Bylaw

- a. No LSICF or ASEFs shall be constructed or operated within the Town unless such facilities can meet all the requirements of this Bylaw. The Planning Board will make this determination based upon the application and any independent studies the Planning Board may require. In order to determine compliance, the Planning Board may require independent noise or engineering studies, air and water quality testing, or other tests or studies to be paid for by the Applicant in accordance with this Bylaw.
- b. The application for a LSICF and ASEFs shall be accompanied by a fee as established by resolution of the Planning Board consistent with State law.
- c. Any modification to an existing LSICF or ASEFs that materially alters its size, type, location, or operation shall require a new Application and must meet all requirements of this Bylaw. Like-kind replacements shall not require a new Application if so determined by the Planning Board.
- d. If the Planning Board finds the Applicant in conformance with this bylaw, the Planning Board may issue a Special Permit. Such Special Permit shall expire three (3) years from the date of issuance if construction has not begun.
- e. When construction is completed and the requirements of this Bylaw and the conditions of the Special Permit have been met, then the Planning Board will issue a Certificate of Compliance for Operation for the LSICF or ASEF which shall have a term of two years. If the Applicant wishes to continue the operation of the LSICF or ASEF beyond the two (2) year term it must request a renewal of the Certificate and demonstrate that the requirements of this bylaw and the conditions of the Special Permit continue to be met.
- f. If no Special Permit is required due to Federal preemption, a renewal of the Certificate of Compliance shall still be needed.

5. Pre-Application Conferences

- a. The Applicant (“Owner/Operator”) is strongly encouraged to meet with the staff or municipal officials of the Town to determine the requirements of and the procedural steps and requirements of the Application. The intent of this process is for the Applicant to obtain necessary information and guidance before entering into any commitments or incurring substantial expenses with regard to the site and Application.
- b. The pre-application conference is intended for the benefit of the Applicant in order to address the required submittals and is advisory only and shall not bind the Town of Ashfield.

6. Application

The Applicant shall provide to the Planning Board all of the following materials with eight (8) copies and an electronic version:

- a. A narrative describing an overview of the project, including the number of acres to be involved and the location, number and description of the planned facilities,

- including staging and storage areas and other locations needed during the construction, operation or maintenance of the LSICF and ASEFs.
- b. GIS mapping, in paper and digital versions, at an appropriate scale of the proposed location of the LSICF and ASEFs for the purpose of identifying properties that may be impacted by noise, earth removal or other related disturbances and to inform the Fire Chief, Police Chief, Emergency Management Director, Highway Superintendent and other emergency responders. Included in this map shall be an area within the development site for the location and parking of vehicles and equipment used in the transportation of personnel and/or development and use of the site. Such location shall be configured to allow the normal flow of traffic on public roads to be undisturbed.
 - c. The contact information of the Applicant and if different, the organization and individuals responsible for the construction, operation and maintenance of the LSICF and ASEFs shall be provided to the Planning Board and all emergency responders. Such information shall include a phone number where such individual or individuals can be contacted 24 hours per day, 365 days a year. Annually, or upon any change of relevant circumstances, the Applicant shall update such information and provide it to the Planning Board, Select Board and all emergency providers.
 - d. A certification or evidence satisfactory to the Town that, prior to the commencement of any activity related to the LSICF or ASEFs, the Applicant shall have accepted and complied with any applicable bonding or permitting requirements. Bonding shall be required to ensure repair by the Applicant of any damage to municipal property including but not limited to roads, culverts, bridges, water or sewer facilities, cemeteries, and buildings caused by the construction, operation or maintenance of the LSICF and ASEFs.
 - e. A description of and commitment to maintain safeguards that shall be taken by the Applicant and its agents to ensure that the Town's roads and property utilized by the Applicant shall remain free of dirt, mud and debris resulting from construction, operation or maintenance activities and the Applicant's assurance that such roads or property will be promptly repaired, swept or cleaned if damage, dirt, mud or debris occur as a result of Applicant's usage, with guaranties that meet the requirements of §13.0 of this article.
 - f. Verification that a copy of the Applicant's "Operation's Preparedness, Prevention and Contingency Plan" for public health and safety has been provided to the Planning Board and all emergency responders, including a statement that the Applicant/Owner, upon changes occurring to the Operation's Preparedness, Prevention and Contingency Plan, will provide to the Town and all emergency responders a revised copy marked with the revision date.
 - g. Assurance that, at least 30 days prior to the commencement of any construction activities, the Applicant shall provide an appropriate site orientation and training course of the Operation's Preparedness, Prevention and Contingency Plan for all emergency responders. The cost and expense of the orientation and training shall be

the sole responsibility of the Applicant. The Applicant or Owner shall be required to hold at least one site orientation and training course every six months under this section unless such requirement is waived by the Planning Board and Select Board in their sole discretion.

- h. A copy of the documents submitted to the Massachusetts Department of Environmental Protection (MassDEP) and a Community and Environmental Impact Analysis meeting the requirements set forth in §7.0 of this article.
- i. A copy of all permits and plans from the appropriate Federal, State, and/or local regulatory agencies or authorities issued in accordance with applicable laws, environmental requirements and regulations for the proposed use.
- j. A traffic impact study and roadway maintenance and repair agreement meeting the requirements set forth in §10.0 of this Bylaw.
- k. Assurance that before the commencement of any construction, operation, maintenance or emergency activities, information shall be provided to residents and businesses per the requirements in §9.0 of this Bylaw.
- l. Certification that private freshwater well testing will be completed in compliance with §11.0 of this article.
- m. Submission of a Water Withdrawal Plan identifying the source of the water, how many gallons will be used and withdrawn each day, the origination of the water, proposed truck routes, and all permits issued by the Commonwealth or any other governmental body. The site(s) for the treatment and disposal of the water shall also be identified.
- n. Submission of a Hazardous Materials Management Plan that includes a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use. For those activities using or storing such hazardous materials, a Hazardous Materials Management Plan shall be prepared and filed with the Fire Chief, Police Chief, Emergency Management Director and the Board of Health. The Plan shall include: provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures; provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces; evidence of compliance with the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection; and proposed down-gradient location(s) for groundwater monitoring well(s), should the Planning Board or Board of Health deem the activity a potential groundwater threat.
- o. Submission of a Stormwater Management, Erosion and Restoration Plan to the Planning Board and Conservation Commission that addresses any pre-construction, construction, operation or maintenance activities. The clearing of natural vegetation shall be limited to that which is necessary for the construction, operation,

and maintenance of the LSICF and ASEFs. Revegetation shall be provided for restoration areas required for construction but not necessary for ongoing maintenance or operations. Only native species typically found in the facility's environment may be used for restoration. Stormwater management shall meet all MADEP requirements and shall follow MADEP's Best Management Practices.

All Application materials shall be submitted to the Planning Board with copies sent to the Select Board, Conservation Commission, Board of Health, Zoning Board of Appeals, Fire Chief, Police Chief, Emergency Management Director and Highway Superintendent. Such boards and municipal officials shall have 45 days to identify concerns or deficiencies or to provide recommendations to the Planning Board with respect to the LSICF or ASEFs. The Planning Board shall hold a Public Hearing to provide interested parties with the opportunity to comment in accordance with the requirements of the Special Permit process. If no Special Permit is required due to federal preemption, a Public Meeting will be held at least 30 days before the issuance or denial of the Certificate of Compliance.

7. Community and Environmental Impact Analysis & Health Impact Assessment

- a. A Community and Environmental Impact Analysis Statement shall be submitted to the Planning Board to determine compliance with the requirements of this Bylaw and shall be drafted by a qualified environmental engineering consultant hired by the Applicant. The purpose of the statement is to determine the impact of the project on the environment of the existing site and the resultant changes the proposal will have on the site and surrounding area. This information will assist the Town to determine if the LSICF and ASEFs can meet the requirements of this Bylaw. The Town can also request a "peer review" of the Community and Environmental Impact Analysis by a qualified environmental engineering firm that the Planning Board selects at the Applicant's expense (see Section 8.0). At a minimum, the statement shall provide the following information:
 - i. A description of the proposed development, its purpose, a schedule of construction and length of operation. This information and technical data must be sufficient to allow a thorough assessment of the proposed LSICF and ASEFs impacts on municipal services, environmental resources and public health and safety during construction and operation.
 - ii. A comprehensive description of baseline environmental and infrastructure conditions including but not limited to ambient noise levels, air and water quality, stormwater and drainage patterns, and water and sewer infrastructure before any activities associated with the development occur.
 - iii. A description of the environmental impacts of the proposed development both during and after complete build out of the proposed development. This description should focus on the environmental resources most likely to be affected by the development proposal and on the broader regional aspects of the environment impacts, including ecological inter-relationships. These impacts shall be defined as direct or indirect changes in the existing environment and as either beneficial or detrimental. Whenever possible, these

- impacts should be quantified. This discussion should include the impact not only upon the natural environment but upon land use as well.
- iv. Provide a separate analysis of all potential hazard impacts and hazard areas that could be caused by man-made accidents and natural hazards (flooding, hurricanes, earthquakes, tornadoes, snow/ice storms) and their probabilities and risks, with supporting statistics developed by an analysis of similar LSICF and ASEF's in comparable locations.
 - v. A discussion of measures which are required by Federal, State or local regulations to protect or mitigate impacts upon the environment, including any associated research or monitoring. Include sufficient documentation and supporting material to demonstrate that the proposed measures will function as expected.
 - vi. A discussion of the unavoidable adverse impacts described in Subsections 7.b. and 7.c. — both the short-term impacts (i.e., those occurring during build out of the LSICF and ASEF's), the long-term impacts, and the cumulative impacts to the environment. Particular attention should be paid to the LSICF and ASEF's relationship to trends of other LSICF or ASEF's developments (i.e., cumulative noise or air quality degradation posed by other industrial or commercial development).
 - vii. Hydrologic analysis and information, including, but not limited to, a description, inventory, analysis and evaluation of the existing groundwater conditions and mapping of surficial geology. This analysis must be focused in terms of both surface water and groundwater quality and quantity; a discussion of likely and possible changes to these resources; and a discussion of measures to reduce or mitigate the identified impacts. Potential impacts on residents and businesses served by private wells located within 750 feet of the proposed LSICF and ASEFs (see Section §11.0) should be included in the analysis.
 - viii. Odor, vapors or particulate matter produced by the LSICF and ASEF's shall not exceed Federal or State air quality standards. Applicant shall identify all hazardous pollutants that will be emitted that affect air quality that are regulated by MassDEP or the EPA. For all air pollutants generated, Applicant shall hire a qualified consultant to perform air quality testing in accordance with Section 11.c.
- b. The express standards and conditions referenced herein shall be addressed by the Applicant and submitted with the Application. An escrow account for the review by professional consultants pursuant to M.G.L. Chapter 44, Sec. 53G shall be established by the Applicant in the initial amount of \$100,000 or such other amount as the Planning Board may determine. The escrow account shall be maintained following final approval of the Application to provide for inspections in accordance with §8.0 herein.

- c. The Applicant shall conduct a Health Impact Assessment of the proposed project as part of the Community Impact Analysis. An HIA is a systematic process that uses an array of data sources and analytic methods and considers input from stakeholders to determine the potential effects of the project on the health of a population and the distribution of those effects within the population. The HIA shall provide recommendations on mitigating, monitoring and managing those effects.

8. Hiring of Professional Consultants

As provided by M.G.L. Ch. 44 §53G, the Ashfield Planning Board may impose reasonable fees for the employment of outside consultants, engaged by the Planning Board, for specific expert services when in the opinion of the Planning Board the services are necessary for the Planning Board to come to a final decision on an application submitted to the Planning Board pursuant to the requirements of this bylaw. The Planning Board may also impose fees for other consultant services for the review of the plans, surveys or inspections. Expenses for advertising, notices, inspections, monitoring and testing, and professional review will be borne by the Applicant.

- a. As provided by M.G.L. Ch. 44 §53G, the Ashfield Planning Board may impose reasonable fees for the employment of outside consultants, engaged by the Planning Board, for specific expert services when in the opinion of the Planning Board the services are necessary for the Planning Board to come to a final decision on an application submitted to the Planning Board pursuant to the requirements of this bylaw. The Planning Board may also impose fees for other consultant services for the review of the plans, surveys or inspections. Expenses for advertising, notices, inspections, monitoring and testing, and professional review will be borne by the Applicant.
- b. During the construction, operation, maintenance, decommissioning or reclamation activities associated with the LSICF and ASEFs, the Town shall require the services of an on-site inspector with proven background and experience in the type of LSICF and ASEFs proposed to be constructed, whose role will include but not be limited to the following:
 - i. Review of all applications for construction or operation of the LSICF and ASEF.
 - ii. Inspection of the site of the LSICF or ASEFs during key phases of construction.
 - iii. Inspection of LSICF or ASEFs upon receipt of a written complaint and request for an inspection by the property owner.
 - iv. Communication with appropriate municipal personnel if the inspector believes the Applicant, Operator or contractor is violating a municipal code addressed in this Bylaw or another bylaw of the Town or any other State or Federal law or regulation.
 - v. Authority to request and receive any records, logs, reports relating to the status or condition of the LSICF and ASEFs needed to determine compliance with this Bylaw.

- vi. In the event a professional consultant is employed for the purpose of advising, counseling or representing the Planning Board relative to ensuring compliance with this Bylaw, the cost for such services of the professional consultant shall be assessed against and paid for by the Applicant or Owner of the LSICF or ASEF in addition to any other consulting fees or charges assessed pursuant to this Bylaw.
- c. A consultant(s) shall be hired to perform and/or review the testing and monitoring results collected pursuant to Section 11 and will prepare a report summarizing those results and identifying any concerns. Such reports shall be submitted to the Select Board, Planning Board and Board of Health, and as appropriate MADEP.
- d. Special Account. Funds received pursuant to this Section 8. shall be deposited with the Town Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Planning Board without further appropriation as provided in M.G.L. Ch. 44 §53G. Expenditures from this account shall be made only in connection with a specific project or projects for which a consultant fee has been collected from the Applicant and only in connection with the Planning Board carrying out its responsibilities under the law. Expenditures of accrued interest may also be made for these purposes. Any excess amount in the account attributable to a specific project, including any accrued interest, at the completion of said project shall be repaid to the Applicant or to the Applicant's successor in interest and a final report of said account shall be made available to the Applicant or to the Applicant's successor in interest.
- e. Reporting Requirements. The Town Accountant shall submit annually a report of said special account to the Select Board and Town Administrator for their review. The report shall be published in the Town annual report. The Town Accountant shall submit annually a copy of this report to the director or the bureau of accounts.
- f. Consultant Services. In hiring outside consultants, the Planning Board may engage professional engineers, planners, landscape architects, wildlife scientists, lawyers, designers, or other appropriate professionals able to assist the Planning Board and to ensure compliance with all relevant laws, ordinances, bylaws and regulations. Specific consultant services may include but are not limited to analysis of applications, title searches, mapping of lot and/or municipal boundaries and/or right of way, and environmental or land use law. Services may also include on-site monitoring during construction, or other services related to the project deemed necessary by the Planning Board. The consultant shall be chosen by, and report only to, the Planning Board and/or its administrator. Consultants retained shall have an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field.
- g. Appeals of Choice of Consultant. Applicants may appeal the selection of the consultant to the Select Board. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The required time limits for action upon an application by the Planning Board shall be extended by the duration of the

administrative appeal. In the event that no decision is made by the Select Board within one month following the filing of the appeal, the selection made by the Planning Board shall stand. Such an administrative appeal shall not preclude further judicial review if otherwise permitted by law, on grounds provided for in this section.

9. Information Provided to Municipal Officials and Residents

Prior to the commencement of any construction activities of the LSICF and ASEFs, but no later than ninety (90) days prior, the Operator shall provide the following information to the Select Board, Planning Board, Board of Health, Fire Chief, Emergency Management Director and Highway Superintendent. For natural gas transmission lines and associated venting, metering and compressor stations, the potential impact area appropriate for the diameter and maximum allowable operating pressure for the proposed pipeline will be determined and GIS mapping of the impacted areas will be provided to the Town and residents in those zones as well as information on what to do or not do in the event of an emergency.¹

- a. A GIS map of the location of the LSICF and ASEFs and a copy of the plans prepared by a professional engineer or land surveyor licensed in the Commonwealth of Massachusetts showing the proposed location of all construction activity including equipment and structures and all permanent improvements for the LSICF or ASEFs including any post-construction surface disturbance in relation to natural resources and public or private property in the surrounding area. Following the construction of the LSICF and ASEFs, “as-built” drawings based on surveys completed by a professional surveyor and stamped by a Professional Engineer shall be provided to the Select Board, Fire Chief, Police Chief, Emergency Management Director and Highway Superintendent. Both large scale paper copies and digital versions shall be provided at an appropriate scale.
- b. A detailed description of the planned operations at the LSICF and ASEFs.
- c. The contact information for the construction manager and/or Operator of the LSICF and ASEFs.
- d. The availability of the construction manager and/or Operator to hold a meeting with residents and municipal officials to allow for questions and answers. The meeting(s) shall be held at least three months prior to the start of construction and monthly thereafter until completion of construction.
- e. Applicant will identify any aspect of construction or operations of the LSICF or ASEFs that will cause a disturbance such as noise, vibration, pollution, erosion, etc. Applicant will certify that it will provide notice of any planned blasting, venting of gas or release of other hazardous materials at least 2 weeks in advance. Any venting of gas or release of other hazardous materials, erosion, or other disturbance

¹ A Model for Sizing High Consequence Areas Associated with Natural Gas Pipelines by Gas Research Institute and C-FER Technologies, 2000

created as a result of an emergency shall be reported to the Planning Board, Select Board and Board of Health within 24 hours of the event.

In addition, each resident, business or other non-residential use within 1,000 feet of any construction or staging area and any resident identified to be in a hazard zone (e.g. explosion, fire, etc.) shall be provided with information about the hazards and what to do in the event of an emergency. Residents within 1,000 feet of any construction or staging area and any resident identified to be in a hazard zone will be notified by the Applicant of public meetings scheduled to answer questions.

10. Road Use and Construction Site Access

The Operator shall provide a traffic impact study or description of the plan for transportation and delivery of equipment, machinery, water, chemicals, products, materials, water products and other items that may be utilized or produced in the siting, construction, completion, alteration or operation of the LSICF and ASEFs and maintenance after construction is completed. Such description shall include the following:

- a. A map showing the planned vehicular access route to the development, indicating all private access roads, all state, county and local roads, bridges and other transportation infrastructure that may be used, and the type, weight, number of trucks, and delivery schedule necessary to support each phase of the development.
- b. A list of all trucking contractors or employees of the Applicant who will travel to and from the development site with evidence of required registrations, licenses and insurance coverage.
- c. The proposed routes must be designed to ensure adequate capacity for existing and projected traffic volumes, allow for efficient movement of traffic, including appropriate turning radii and transition grade, and minimize hazards to users of public roads as well as adjacent property and human activity.
- d. To the maximum extent feasible, vehicle access to any construction or staging area proposed in the vehicular access plan should be an arterial or collector road.
- e. Use of local roads for construction vehicle access serving primarily residential neighborhoods requires written permission from the Select Board (see 12.a.i.) and MassDOT and must be in compliance with M.G.L. Chapter 85, Section 2.
- f. The Planning Board in consultation with the Select Board and Highway Superintendent reserves the right to designate alternate routes in the event the Applicant's proposed routes are deemed inadequate, unsafe or overly disruptive to normal vehicular traffic by a Massachusetts registered professional engineer working on behalf of the Town.
- g. In accordance with M.G.L. Chapter 90, Section 17C, the Select Board may reduce speed limits on local roads that may present public safety hazards for trucks hauling construction materials.

- h. The Applicant and Operator of the LSICF and ASEF's shall execute a roadway maintenance and repair agreement with the Town and post a bond in a form acceptable to the Planning Board, Select Board and its Town Counsel prior to beginning any work on the LSICF or ASEFs (see §13.0 of this Bylaw).
- i. The roadway maintenance and repair agreement shall require the Applicant and Operator to conduct an inventory, analysis and evaluation of existing conditions on Town roads, culverts and bridges along the proposed transportation route, including photography, video and core boring. The roadway maintenance and repair agreement will identify the responsibilities of the Applicant and Operator to prepare, maintain or repair Town roads, culverts or bridges before, during and immediately after construction and during operation of the LSICF and ASEF. The Applicant and Operator shall take all necessary corrective action and measures as directed by the Planning Board or Select Board pursuant to the agreement.
- j. Beginning with its intersection with a public road, any access road for the LSICF or ASEFs shall be improved in accordance with Planning Board, Select Board or Conservation Commission requirements to prevent water pollution and soil erosion or damage to roads. No water, sediment or debris shall be carried off-site onto any public or private property. If any substantial amount of mud, dirt or other debris is carried onto public property from the development site of the LSICF or ASEFs, the Operator shall immediately stop work, clean the mud, dirt or debris and implement a remedial plan as directed by the Planning Board, Conservation Commission or Select Board to manage stormwater and prevent runoff of mud, dirt or other debris onto public property including roads, wetlands and surface waters. Operator will be responsible for the clean-up of any sediment or debris carried onto private property if clean-up is requested by the private property owner and permission for access is given.
- k. All-weather access roads suitable to handle emergency equipment may be provided and maintained in accordance with the directions of the Select Board in consultation with the Fire Chief, Police Chief, Emergency Management Director and the Conservation Commission.
- l. The Operator shall take necessary safeguards to ensure appropriate dust control measures are in place.
- m. All applicable permits or approvals must be obtained, including access or driveway permits, to State, county or local roads, construction permits within State, county or local roads, and permits for overweight or oversize loads. Access directly to State roads may require MassDOT highway occupancy permits for overweight vehicles. The Applicant shall provide to the Planning Board and Select Board a copy of State permits and all other applicable permits or approvals.
- n. A suitable off-road area within the development site for vehicles to stand while gaining access to and from the LSICF and ASEF development site shall be provided so that the normal flow of traffic on public or private roads is undisturbed. Ingress and egress points to the development site from any public road shall be located and improved in order to meet the requirements of the 2006 MassDOT Project

Development and Design Guide² as amended. Private roads, easements, and driveways may not be used for access to the LSICF and ASEF development site unless written permission from the property owner is obtained and a copy of such permission is provided to the Planning Board and Select Board prior to the issuance of the Special Permit.

- o. The Operator shall take all necessary precautions to ensure the safety of persons in areas established for road crossing and/or adjacent to roadways (for example, persons waiting for public or school transportation). Where necessary and permitted, during periods of anticipated heavy or frequent truck traffic associated with the development, the Operator will provide flagmen in accordance with 701 CMR Section 7.0 to ensure the public safety and shall include adequate signs and/or other warning measures for truck traffic and vehicular traffic.

11. Water, Noise & Air Testing & Monitoring

- a. Water. The Applicant and Operator of a LSICF and/or ASEFs shall provide the Planning Board, Select Board, and Board of Health with the results of a pre-construction and post-construction water analysis and flow rate for each existing public freshwater well within 750 feet³ of the LSICF and/or ASEFs, and for each private freshwater well within 750 feet of the LSICF and/or ASEFs provided that written permission is given by the property owner. If surficial geology warrants a greater testing area, the Planning Board or Board of Health can direct the Applicant and Operator to conduct testing for additional wells within the larger area provided that written permission is given by the property owner. The tests shall conform to the following requirements and all costs to conduct the testing, including any restoration of the property, and the testing results will be provided to the property owner free of charge:
 - i. Water samples must be collected and analyzed utilizing proper sampling and laboratory protocol from an independent MassDEP certified water testing laboratory.
 - ii. Well samples shall be analyzed and flow rates (gpm) determined prior to any construction activity to document baseline water quality data and flow rates of the well, especially before any planned blasting.
 - iii. If permission is granted in writing by the property owner, a post-construction sample analysis shall be submitted for water quality testing by the Operator within three months after construction is completed for wells within 750 feet. Wells within 750 feet of the facility or associated structures shall be tested on an annual basis throughout the life of the facility with the results provided to the property owner with a copy to the Planning Board and Board of Health. If surficial geology warrants a greater testing area, the Planning Board or Board

² This footnote included a web link to the referenced file; the link no longer works. It is recommended that users search the web for the 2006 MassDOT Project Development and Design Guide as amended. (Town Clerk, 3/9/22)

³ MADEP Interim Wellhead Protection Area default radius for non-community sources for non-transient wells (NTNC).

of Health can direct the Applicant and Operator to conduct testing for additional wells within the larger area on an annual basis provided that written permission is given by the property owner.

- iv. Parameters to be tested for include, but are not limited to, methane, chloride, sodium, TDS, pH, arsenic, barium and strontium, radon, and a subgroup of the volatile organic chemicals (VOCs) called BTEX (benzene, toluene, etc.).
 - v. If the results of the pre-construction and post-construction sample analyses indicate that well water contamination, as defined by MA DEP or EPA standards, has occurred or flow rates have been reduced, the owner of the well should file a complaint against the Owner/Operator with the regional MassDEP office with a copy to the Town Board of Health. The Owner/Operator shall be required to conduct clean-up activities or repair or replace the well affected. After clean-up activities are conducted, the well shall be tested monthly for the contaminants listed in 11.a.iv. for a 24-month period to ensure that the clean-up has been properly completed. The well(s) shall be tested annually thereafter with the permission of the property owner.
 - vi. LSICFs or ASEFs that do not use any hazardous materials for their operations may request a waiver of water quality testing after the post-construction analysis has been completed if post-construction testing results find no decline in water quality or production rates in comparison to the base line water quality data. Such waiver must be approved by both the Planning Board and Board of Health.
- b. Noise. The Applicant and Operator shall test and monitor the noise resulting from the LSICF and ASEFs:
- i. Prior to the construction or operation of a LSICF and ASEFs, the Applicant shall identify ambient noise levels at the property line of each residential and business structure located closest to the proposed facility within a ¼ mile radius and at public buildings, schools, medical, emergency or other public High On-site Population locations closest to the proposed facility within a ¼ mile radius. For linear facilities such as pipelines, ambient noise level shall be measured at a minimum every ½ mile along the proposed route 300 feet away from the edge of the proposed easement and at each residence and business located within ¼ mile of the proposed easement. Any testing proposed to be completed on private property requires the written permission of the property owner. “Ambient” noise is defined as the background A-weighted sound level that is exceeded 90% of the time and the background C-weighted sound level that is exceeded 90% of the time measured during a 2 hour time period during the quietest part of the day or night (day 7:00 a.m. to 7:00 p.m.; night 7:00 p.m. to 7:00 a.m.). All testing required by this Bylaw shall be done by a qualified licensed professional acoustical engineer paid for by the Applicant. All testing shall be done in accordance with the professional standards of the appropriate accrediting agencies and the sound level meter used in conducting any evaluation shall meet the American National Standard Institute's standard for sound meters or an instrument and associated recording and analyzing

- equipment. The Planning Board may have the results of the noise testing “peer reviewed” in accordance with §8.0 of this Bylaw.
- ii. The Applicant shall provide to the Planning Board and Board of Health documentation of the established ambient noise levels prior to starting construction of a LSICF or ASEF.
 - iii. Complaints received by the Town shall be addressed by the Applicant and Operator of the LSICF or ASEF within 24 hours following receipt of notification by continuously monitoring for a period of 48 hours at the nearest property line to the complainant's residential or public building or 100 feet from the complainant's public building, school, medical, emergency or other High On-site Population public location or facilities, whichever is closer. Any testing proposed to be completed on private property requires the written permission of the property owner. The Applicant and Operator shall report the findings to the Planning Board and Board of Health and shall mitigate the problem to the allowable level of noise if the noise level exceeds the allowable standard (see Section 12. i.).
- c. Air. For all air pollutants generated, Applicant shall hire a qualified consultant to perform air quality testing to be conducted on a daily, weekly or more frequent basis at any LSICF or ASEF emission location including Compressor Stations, Metering Stations or Venting Stations located in the Town during the operation of the facility to protect public health and safety. Ambient air quality monitoring station(s) should be installed at least a year prior to the construction and operation of the LSICF or ASEF's in order to establish baseline conditions. Air quality reports should be provided to the Town and if requested by the State, to State officials on a monthly basis at a minimum.

12. Design, Installation & Reclamation

- a. Access.
 - i. To the maximum extent feasible and in accordance with State law, construction vehicle access to the LSICF and ASEFs shall be from an arterial or collector road. Unless permission is granted by the Select Board, no LSICF or ASEF construction or operations site shall have access solely through a local road.
 - ii. Accepted professional standards pertaining to minimum traffic sight distances for all access points shall be adhered to.
- b. Structure height.
 - i. Permanent structures associated with the LSICF and ASEFs shall comply with the height regulations for the zoning district in which the LSICF or ASEF is located.
 - ii. There shall be an exemption to the height restrictions contained in this section for the temporary placement of construction equipment necessary for the construction of a LSICF or ASEFs. The duration of such exemption shall not

exceed the actual time period of construction or re-construction of the LSICF or ASEF.

- (a) The time period of such exemption shall not exceed six months.
- (b) The Operator shall give the Planning Board and Select Board prior written notice of at least 30 days before the beginning date for its exercise of the exemption.
- c. Setbacks. Surface land uses affiliated with the LSICF or ASEF and all supporting equipment and structures shall be setback a minimum of seven hundred and fifty (750) feet from residential buildings and all commercial, industrial and institutional uses or a minimum of five hundred (500) feet from the nearest lot line, whichever is greater. Setbacks in areas of “High On-site Populations” shall be increased to ¼ mile (1,320 feet). The Planning Board shall determine whether setbacks should be increased beyond ¼ mile if the area that could be impacted in the event of an accident at the LSICF or ASEF is greater than ¼ mile. High On-site Populations⁴ are defined in the footnote below. Applicants that cannot comply with the setback requirements can request a waiver from the Planning Board to reduce the setback distance but must notify in writing any property owner(s) within the setback area that would be impacted by the requested reduction.
- d. Screening and fencing. The Applicant shall provide a plan prepared by a registered Landscape Architect licensed in Massachusetts showing landscaping proposed to be installed to screen and buffer surface land uses affiliated with the LSICF and ASEFs. The landscape plan shall incorporate the use of native vegetation, including evergreens, shrubbery and trees, which shall be of sufficient density to screen the facility. Security gates and/or fencing as appropriate to ensure public safety shall be installed after consultation with the Planning Board, Select Board, Fire Chief, Police Chief and Emergency Management Director with openings no less than 12 feet wide. Any fence installed shall be surrounded by native vegetation to provide screening. Existing vegetation in proximity to LSICF and ASEFs shall be preserved to the greatest extent possible. Emergency responders shall be given means to access all LSICF and ASEFs in case of an emergency. Warning signs shall be placed on the security gates or fencing associated with the LSICF or ASEFs, providing notice of the potential dangers and the contact information in case of an emergency.
- e. Lighting. To minimize night time light pollution, no LSICF and ASEFs shall be artificially lighted except as required for emergency night time access or by the FAA. Beacon light permitted only if required by the FAA with evidence of this FAA requirement submitted with the application. Any other lights shall be full-

⁴ High on-site populations are defined as the following: retirement housing; assisted living facilities; congregate living facilities; convalescent services; parks, churches, detention facilities; day care services (commercial); hospitals; medical offices exceeding 5,000 sq. ft. of gross floor area; and educational facilities (public or private) that pose a public safety concern due to the characteristics of the occupants, development, or site that would make evacuation difficult in the event of an emergency.

cutoff down lighting and shall be shielded so as to prevent intrusion upon roads and nearby properties.

- f. Shadow & Flicker. Wind Energy Facilities shall be located in areas that do not result in any shadowing or flickering on off-site inhabited buildings. The applicant has the burden of proving that any shadowing or flickering on off-site inhabited buildings will not occur.
- g. Odor. No LSICF and ASEFs shall produce odors detectable beyond its property boundaries.
- h. Noise. The Applicant and Operator shall minimize, to the extent possible, noise resulting from the LSICF and ASEFs and will conduct testing and monitoring as outlined in Section 11.b.:
 - i. Disturbance of soil cover shall be minimized.
 - ii. A source of sound will be considered in violation of this Bylaw if the source:
 - (a) Increases the broadband sound level by more than 5 dB(A) above ambient pre-construction noise levels during construction activities and subsequent operations or increases the broadband sound level by more than 5 dB(C) above the pre-construction ambient noise level during construction activities and subsequent operations; or
 - (b) Produces a “pure tone” condition, when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by three (3) decibels or more; or
 - (c) Results in sound or noise levels at any time greater than 35 dB(A) during the day or 30 dB(A) at night (typical range 30-40 dB(A) for rural or quiet residential areas); or
 - (d) For low frequency sounds or noise with octave center frequencies at or below 125 Hz, results in a maximum noise level outside the property boundary greater than 40 dB(C).
 - iii. Exemption from the standards established in this subsection may be granted by the Planning Board during the construction stages of a LSICF or ASEF development for cause shown and upon written agreement between the Applicant and the Planning Board. However, any such exceedances of the noise standards shall not be allowed between 7:00 p.m. and 7:00 a.m.
 - iv. LSICF and ASEFs shall be constructed and operated to mitigate sound levels and shall install devices or use other equipment to mitigate sound levels to ensure that the noise level standards at residential or public buildings, medical, emergency or High On-site Population locations are not exceeded.
- i. Hours of operation. Except for emergency operations, hours of construction activities or operation at a LSICF or ASEFs are limited to Monday through Friday, 7:00 a.m. to 7:00 p.m. and not permitted on weekends or legal holidays. Truck traffic related to the construction or operations of the LSICF or ASEFs shall be

allowed only during these hours of operation. Exemption from the standards established in this subsection may be granted by the Planning Board for cause shown and upon written agreement between the Applicant and the Town.

j. Reclamation/restoration of all disturbed areas.

- i. Reclamation shall be initiated as soon as weather and ground conditions permit after construction or re-construction of a LSICF or ASEFs, and reclamation shall be completed no more than six months after this point.
- ii. Reclamation shall be carried out on all disturbed areas and achieve the following objectives:
 - (a) Final soil profiles shall be designed to equal or reduce soil erosion potentials over stable pre-operation conditions, and final land forms shall be stable;
 - (b) Preexisting visual character of site shall be restored or enhanced through planting of local or adaptive vegetation. Invasive species shall not be considered acceptable; and
 - (c) Disturbance of soil cover shall be minimized.

k. Prohibitions.

- i. No LSICF or ASEF shall be allowed to be constructed or operated in the floodway (*see diagram*) designated as such in the Flood Insurance Study (FIS) and shown on the Federal Emergency Management Agency (FEMA) FIRM maps dated 7/2/80 or any successor maps issued by FEMA.
- ii. Construction or operation of a LSICF or ASEFs outside of the floodway but in the one-hundred-year floodplain is discouraged but may be permitted by the Planning Board in its discretion if the following provisions are met:
 - (a) The Applicant must provide conclusive documentation that no other location is more appropriate for location of the LSICF or ASEF other than a location within the floodplain.
 - (b) An adequate emergency evacuation plan shall have been produced by the Applicant and filed with the Town.
 - (c) No storage of chemicals shall be permitted within the floodplain. An exemption from this requirement may be granted by the Planning Board, in consultation with the Board of Health, if the Applicant and Operator can show that such storage will not potentially cause any harm to property, persons or the environment in the case of a one-hundred-year flood, and further provides security to the Town ensuring the Applicant's and Operator's ability to remedy any damage or injury that may occur.
 - (d) Only necessary and needed structures will be permitted within the floodplain.

- (e) All structures within the floodplain shall be designed to withstand a one-hundred year storm event.
- (f) An engineer registered in Massachusetts and qualified to present such documentation that the LSICF or ASEF will not cause additional flooding on adjacent, upstream and/or downstream properties shall provide such documentation to the Town.
- (g) The Applicant has received approval from the Conservation Commission if required.

13. Performance Bond, Insurance and Indemnity

- a. Performance Bond or Escrow Account. The Applicant shall submit to the Town a Performance Bond from a surety authorized to do business in the State to cover any damage to public property that occurs as a result of the construction of the LSICF and any ASEF's in an amount and for a term (e.g. construction period plus 2-3 years) determined by a professional engineer and acceptable to the Town. In addition, the Applicant shall provide a bond or establish an escrow account that will ensure that all testing and maintenance provisions required during the life of the LSICF or ASEF facility are completed in accordance with this bylaw and any agreement with the Planning Board related to the LSICF and/or ASEF.

The bonds shall provide, but not be limited to, the following condition: there shall be recoverable by the Town, jointly and severally from the principal and surety, any and all damages, loss or costs suffered by the Town in connection with the Applicant's geophysical operations within the Town. The rights reserved to the Town with respect to the bond are in addition to all other rights of the Town, and no action, proceeding or exercise of a right with respect to such bond shall affect any other rights of the Town.

- b. Insurance. Prior to conducting any operations hereunder, the Applicant, Operator and its contractors shall furnish certificates of insurance to the Planning Board showing the Town as an additional insured with respect to operations conducted within the Town and showing liability insurance covering commercial, personal injury, and general liability in amounts not less than \$1,000,000 per person, \$10,000,000 per occurrence, and \$10,000,000 property damage. The Applicant and Operator shall also provide certificates of insurance to the Planning Board and Select Board showing the Town as an additional insured under general liability umbrella insurance with a minimum amount of \$10,000,000.
- c. Indemnity. The Applicant shall protect, indemnify, defend and hold the Town, its officers, employees, agents and representatives harmless from and against all claims, demands and causes of action of every kind and character for injury to, or death of, any person or persons, damages, liabilities, losses and/or expenses, occurring or in any way incidental to, arising out of, or in connection with the Applicant or its contractors', agents', or representatives' construction or operation of the LSICF or ASEF, including attorneys' fees and any other costs and expenses incurred by the Town in defending against any such claims, demands and causes of action. Within 30 days of receipt of same, the Applicant and/or Operator shall

notify the Town in writing, of each claim for injuries to or death of persons, or damages or losses to property occurring or in any way incidental to, arising out of, or in connection with the Applicant's or its contractors', agents', or representatives' operations conducted or associated with the LSICF or ASEFs. At the Town's discretion, the Town may conduct an independent investigation, monitor, and review the processing of any such claim, to ensure that such claim is handled as required herein.

- d. Notwithstanding anything contained herein to the contrary, construction and/or operation of the LSICF or ASEF is not allowed until a copy of all Bonds, Insurance Certificates, Agreements or Studies required by this Bylaw have been completed and provided to the Planning Board, Select Board and Town Counsel. The Performance Bond and the Certificates of Insurance must also be filed with the Town Clerk.

14. Removal Requirements and Abandonment

- a. Any LSICF or ASEF which has reached the end of its useful life or has been abandoned consistent with Section 14.0 of this bylaw shall be removed. The Owner and/or Operator shall physically remove the installation no more than 180 days after the date of discontinued operations. The Owner or Operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - i. Physical removal of all LSICF or ASEF structures, equipment, security barriers and transmission lines from the site.
 - ii. Disposal of all solid and hazardous waste in accordance with local, State, and Federal waste disposal regulations.
 - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the Owner or Operator to leave landscaping or designated below-grade foundations or structures in order to minimize erosion and disruption to vegetation.
 - iv. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the LSICF or ASEF shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board and Select Board. If the owner or Operator of the LSICF or ASEF fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the Town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous or decommissioned LSICF or ASEF. The Applicant and Operator shall agree to allow entry to remove an abandoned or decommissioned installation. The Town's cost for the removal may be charged to the property owner in accordance with the provisions of M.G.L. 139.
 - v. The Owner/Operator of a LSICF or ASEF shall provide a form of surety, either through an escrow account, bond or other form of surety approved by

the Planning Board and Select Board in consultation with Town Counsel to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board and Select Board, in consultation with a Professional Engineer and Town Counsel, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the Applicant and the Town. Such surety will not be required for municipal or State-owned facilities. The Applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

15. Violations and Penalties

Any owner, Operator or other person who violates or permits a violation of this Bylaw shall pay to the Town a fine of \$300 per violation plus, to the extent permitted by law, all court costs, including, but not limited to, reasonable attorney's fees, incurred by the Town on account of such violation. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Town are hereby authorized to issue a cease and desist notice and/or to seek equitable relief, including injunction, to enforce compliance herewith.

H. Senior Citizens Housing

(Adopted by ATM on May 6, 2017 – Approved by AG on October 23, 2017)

1. General

- a. The purpose of this section is to allow development of Senior Citizens Housing within the Town of Ashfield.
- b. Under this section the Planning Board may grant special permits for Senior Citizens Housing.
- c. All criteria listed in this section and in Section VII Special Permits in the Ashfield Zoning Bylaws shall apply to Senior Citizens Housing.

2. Planning

- a. Only people fifty-five (55) years and older may reside in a Senior Citizens Housing development.
- b. The cumulative total number of Senior Citizens Housing units approved under this section shall at no time constitute more than twenty-five percent (25%) of the total number of dwellings within the Town of Ashfield. The cumulative total number of Senior Citizens Housing units approved under this section shall at no time constitute more than ten percent (10%) of the total number of dwellings within the sewer district of the Town of Ashfield.
- c. To the maximum extent possible developments shall provide for pedestrian access to amenities within three hundred (300) feet of the property. Snow removal of pedestrian walkways shall not be required under this section unless needed for emergency access.

- d. The Planning Board may allow mixed use development under this section by combined Special Permit, upon finding that said uses are not in conflict with the purpose of the Ashfield Zoning Bylaws and of this section. Such uses shall be no more than thirty-three percent (33%) of the total finished space and shall be included in all dimensional calculations. Uses that share a lot with senior housing shall be allowed only insofar as they would be allowed within that lot or structure without the presence of Senior Citizens Housing. Furthermore, all such uses shall be included in any parking or density calculations for the total lot.

3. Dimensional Requirements

- a. Each individual development shall be located on a single lot. No individual development shall exceed a density of six (6) housing units per lot. Bedrooms shall be limited to a maximum of ten (10) per lot. Legal non-conforming lots of less than two (2) acres shall be allowed one unit per one-quarter (1/4) acre. The Planning Board may further limit the size of any individual development according to considerations of topography, neighborhood character, and the other criteria governing the issuance of special permits.
- b. Each housing unit shall be either one (1) or two (2) bedrooms. One-bedroom units shall not exceed one thousand (1,000) square feet in floor area. Two-bedroom units shall not exceed twelve hundred (1,200) square feet in floor area. Total finished space as defined by the current building code on the lot shall not exceed five thousand (5,000) square feet. Pre-existing structures in excess of five thousand (5,000) square feet of finished space shall be exempt from this limit. This limit shall include any other finished space on the lot including commercial or common space.
- c. For new structures and additions, the height shall not exceed thirty-five (35) feet above average grade.
- d. Legal nonconforming lots or structures may be used for Senior Citizens Housing under this section. Renovation of existing nonconforming structures under this section shall not increase the dimensional nonconformity of the existing lot or structure.
- e. Thirty percent (30%) of the lot shall remain as open space exclusive of buildings, driveways and parking.
- f. Each development shall be required to insure adequate driveway access for emergency vehicles onto the lot and to the building(s). The Planning Board may require that any development containing more than five (5) units be served by at least two (2) means of vehicular access. The Planning Board may also require pick-up and drop-off space in the driveway.
- g. The developer shall provide a minimum of one and one-half (1.5) on-site parking spaces for each unit.
- h. New structures and additions within the Ashfield Plain Historic District shall have a minimum of fifteen (15) feet of front setback and a maximum of thirty (30) feet. Rear and side setback requirements within the Ashfield Plain Historic District may be reduced from the general setback requirements upon a finding that the purposes

of the Ashfield Zoning Bylaws are better served with the reduction than without it. This reduction shall not allow new buildings to be placed within twenty-five (25) feet of buildings on adjacent lots.

4. Administration

- a. Housing units constructed or converted under this section shall be either condominiums or apartments. Condominiums shall require a Condominium Association to oversee maintenance, enforcement of the requirements of this section, and any conditions of the special permit. Apartment developments shall require a Tenants Association to oversee maintenance, enforcement of the requirements of this section, and any conditions of the special permit. The majority of either association shall be residents of the development. The form and rules of these associations shall be approved by the Planning Board. These requirements shall be recorded as part of the permanent deed to the property or properties.
- b. Each year the Association shall file a list of residents including name and date of birth with the Ashfield Town Clerk. The Town Clerk shall certify that all residents are over (fifty-five) 55 years of age. The list of names will be copied to the Fire and Police Departments, as well as the Planning Board and the Building Commissioner. If any residents are under fifty-five (55) years of age the Planning Board and the Building Commissioner will be notified.
- c. Should the owner or owners of the property wish to change the use of the property to non-Senior Citizens Housing use, they must adjust the number of dwelling units to conform to the density allowed by the current Ashfield Zoning Bylaws at the time of the application for change of use. This shall include removing the entire kitchen from each unit to be eliminated.

I. Ground-Mounted Photovoltaic Facilities

(Adopted by STM on August 8, 2022 – Approved by AG on March 13, 2023)

Purpose, Applicability, and Administration

1. Purpose

The purpose of this Bylaw is to facilitate and appropriately regulate the responsible development of Ground-Mounted Photovoltaic Facilities (GMPVFs) in the Town of Ashfield by providing minimum standards for the placement, design, construction, operation, monitoring, modification and removal of such GMPVFs that support the goal of the Commonwealth of Massachusetts; to generate clean energy and reduce carbon emissions while also addressing the responsibility of the Town of Ashfield to protect public health and safety; to protect and preserve the scenic, natural and historic resources of Ashfield; to minimize undesirable impacts on abutting residential property and neighborhoods; and to provide assurance of adequate financial resources for the eventual decommissioning of such systems.

2. Applicability

The provisions set forth in this Bylaw for the construction, operation, maintenance/repair, and decommissioning of GMPVFs are divided into three Sections (see Table 1, below). The rated nameplate capacities and areas used to determine the scale of the GMPVFs are the totals for a lot and for adjacent lots under the same ownership. This Bylaw does **not** apply to photovoltaic systems

mounted on structures whose primary purpose is other than supporting the photovoltaic system (e.g. homes; barns).

Section 4 applies to small scale 40 kW or less DC rated nameplate capacity GMPVFs. A facility covered by this Section is referred to as a Small-Scale Ground Mounted Photovoltaic Facility (SSGMPVF).

Section 5 applies to GMPVFs of more than 40 kW and no more than 300 kW DC rated nameplate capacity and that occupy less than one and one half (1.5) acres including land covered by the solar cell array and auxiliary equipment such as inverters, batteries, etc. A facility covered by this Section is referred to as a Medium-Scale Ground Mounted Photovoltaic Facility (MSGMPVF)

Section 6 applies to GMPVFs of more than 300 kW DC rated nameplate capacity and/or that occupy one and one half (1.5) acres to ten (10) acres including land covered by the solar cell array and auxiliary equipment such as inverters, batteries, etc. A facility covered by this Section is referred to as a Large-Scale Ground Mounted Photovoltaic Facility (LSGMPVF).

Table 1

Section	Designation	DC Rated Name Plate Capacity	Area	Permit Application Requirement
4	Small-Scale Ground Mounted Photovoltaic Facility (SSGMPVF)	40 kW or less	<1.5 acres	As of right, with Building Permit – (basic) application submitted to Building Commissioner
5	Medium-Scale Ground Mounted Photovoltaic Facility (MSGMPVF)	greater than 40 kW and no more than 300kW	<1.5 acres	As of right, with Building Permit – (expanded) application submitted to Building Commissioner
6	Large-Scale Ground Mounted Photovoltaic Facility (LSGMPVF)	greater than 300 kW	1.5 to 10 acres	Special Permit – application submitted to Planning Board

3. Administration and Enforcement

3.1 Ownership

The ownership of the GMPVF and parties responsible for the compliance with this bylaw and state and federal regulations shall be identified during the application process. This information shall be kept up to date after any approval; any changes must be provided to the Building Commissioner (for any SSGMPVF or MSGMPVF) and the Building Commissioner, Planning Board and Select Board (for any LSGMPVF) within fourteen (14) days of their occurrence. This provision shall remain in effect through the construction, operation, and decommissioning of the GMPVF. Any new owners and operators must agree to abide by the conditions of the permit.

3.2 Enforcement

Violations of the requirements established for the GMPVF shall be treated in accordance with Section VIII.B of the Ashfield Zoning Bylaws.

3.3 Separability

If any provision of this Bylaw is held invalid by a court of competent jurisdiction, the remainder of this Bylaw shall not be affected thereby.

4. Small Scale Ground-Mounted Photovoltaic Facilities (SSGMPVF)

4.1 Applicability

This Section applies to smaller scale (i.e. 40 kW DC rated nameplate capacity or less) GMPVFs that occupy less than one and one half (1.5) acres on one (1) or more adjacent parcels in common ownership including land covered by the solar cell array and auxiliary equipment such as inverters, batteries, etc. A SSGMPVF is allowed by right, but must comply with the requirements of the Ashfield Zoning Bylaws.

4.2 General Requirements

4.2.1 Compliance with Laws, Ordinances and Regulations

4.2.1.1 The construction and operation of all SSGMPVF shall be consistent with all applicable local, state and federal requirements including but not limited to: all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a SSGMPVF shall be constructed in accordance with the State Building Code. Any discharges of liquids and airborne discharges must comply with state and federal regulations.

4.2.1.2 All appurtenant structures to SSGMPVF shall be subject to all applicable Sections of the Ashfield Zoning Bylaws, including the additional requirements listed in this Section.

4.2.2 Building Permit, Building Inspection

No SSGMPVF shall be constructed, installed, or modified without first obtaining a building permit. Operating of the facility shall not be allowed until the facility has been inspected and found to conform to all applicable codes and regulations, and the conditions of the building permit.

4.2.3 Visual Impact

Any SSGMPVF shall be designed, sited and constructed to minimize adverse visual impacts on public ways and abutters. Methods to accomplish this requirement may include orientation, buffering and best use of existing terrain.

4.3 Dimensional and Setback Requirements

4.3.1 Maximum Height

The maximum height above grade of the SSGMPVF shall be eighteen (18) feet at its tallest setting if located twenty-five (25) feet to fifty (50) feet from the nearest property line or public way; and up to a maximum height of twenty-one (21) feet if pole mounted and located more than fifty (50) feet from the nearest property line or public way.

4.3.2 Setback and Width

The minimum setback of the SSGMPVF shall be twenty-five (25) feet from any property line or public way. The total maximum width of any portion of a SSGMPVF shall be no greater than the distance from the nearest property line or public way. As an example, a single 25-foot wide array may be placed twenty-five (25) feet from the property line. Two additional 25-foot wide arrays may be placed behind the first array fifty (50) feet from the property line or public

way. Any applicant who cannot meet the above setback requirements may request a variance from the Zoning Board of Appeals.

4.4 Application Contents

The Building Commissioner shall determine the application materials required to obtain a building permit for a SSGMPVF.

5. Medium Scale Ground Mounted Photovoltaic Facilities (MSGMPVF)

5.1 Applicability

5.1.1 The provisions set forth in this Section shall apply to the construction, operation, and/or repair of MSGMPVF, i.e. facilities with more than 40 kW and no more than 300 kW DC rated nameplate capacity that occupy less than one and one half (1.5) acres on one (1) or more adjacent parcels in common ownership including land covered by the solar cell array and auxiliary equipment such as inverters, batteries, etc. A MSGMPVF is allowed by right, but must comply with the requirements of the Ashfield Zoning Bylaws, including the additional requirements listed in this Section.

5.1.2 This Section also pertains to physical modifications that materially alter the type, configuration, or size of these MSGMPVF or related equipment.

5.2 General Requirements

5.2.1 Compliance with Laws, Ordinances and Regulations

5.2.1.1 The construction and operation of all MSGMPVF shall be consistent with all applicable local, state and federal requirements including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a MSGMPVF shall be constructed in accordance with the State Building Code. All discharges of liquids and airborne discharges must comply with state and federal regulations.

5.2.1.2 All appurtenant structures to MSGMPVF shall be subject to all applicable Sections of the Ashfield Zoning Bylaws.

5.2.2 Building Permit, Building Inspection

No MSGMPVF shall be constructed, installed, or modified without first obtaining a building permit. Operating of the facility shall not be allowed until the facility has been inspected and found to conform to applicable codes and regulations, and the conditions of the building permit.

5.2.3 Building Permit Application – Requirements for Expanded Application

5.2.3.1 The Applicant shall provide the following documents to the Building Commissioner to obtain a permit for a MSGMPVF.

(a) A Project Description including:

- i. Any building and electrical permit applications;
- ii. General description of the proposed facility;
- iii. Documentation of the major system components to be used, including the electric generating components, energy storage components, transmission systems, mounting system, inverter, etc.;

- iv. Electrical diagram detailing the MSGMPVF, associated components, and electrical interconnection methods, with all utility-compliant and National Electrical Code-compliant disconnects and overcurrent devices;
 - v. Fire protection systems for electrical equipment including batteries;
 - vi. A list of any hazardous materials proposed to be located on the site in excess of household quantities, and a plan to prevent their release to the environment, as appropriate;
 - vii. A description of any potential liquid and airborne releases and provision to insure such releases meet state and federal regulations;
 - viii. Name, address, and contact information for proposed system installer; and
 - ix. Blueprints or drawings of the MSGMPVF, signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts and showing the proposed layout of the system including poles and above ground wires, if any, for the interconnection to the utility, location of equipment and construction staging areas, and location type and height of lighting fixtures.
- (b) A Site Plan that shows the following:
- i. Property lines and physical features including roads and topography, easements and rights-of-way, and existing utilities (including any underground utilities) on the project site;
 - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures including their height;
 - iii. Locations of wetlands, rivers and Priority Habitat Areas, Estimated Habitats of Rare Wildlife, and Natural Communities as defined by the Natural Heritage & Endangered Species Program (NHESP) and BioMap 2 or its current successor;
 - iv. Locations of floodplains, and inundation areas for moderate or high hazard dams;
 - v. A locus plan showing the distance from the proposed MSGMPVF to the areas listed in the National Register of Historic Places as well as the distance from Town boundaries;
 - vi. Emergency services plan showing access for fire trucks and any other features required by the Fire Department.
- (c) Signed approval of the plans by Emergency Services and the Conservation Commission.
- (d) Any approvals required by MassWildlife.

5.2.4 Visual Impact

Any MSGMPVF shall be designed, sited and constructed to minimize adverse visual impacts on public ways and abutters. Methods to accomplish this requirement may include orientation, buffering and best use of existing terrain.

5.2.5 Utility Connection

No staging, site clearing and construction of a MSGMPVF shall be permitted until evidence has been provided to the Building Commissioner that the utility company that operates the electrical grid where the installation is to be located has approved the MSGMPVF Owner and/or Operator's intent to install an interconnected photovoltaic generator and that the utility

can and will connect the proposed generator into its power grid. Off-grid systems shall be exempt from this requirement.

5.3 Siting, Performance, and Design Requirements

5.3.1 Maximum Height

The maximum height above grade of the MSGMPVF shall be eighteen (18) feet when rack mounted and twenty-one (21) feet when pole mounted.

5.3.2 MSGMPVF Front, Side and Rear Setbacks

Setbacks shall be measured from the outer edge of the disturbed area to the nearest property line or public way as follows:

- (a) Front yard: The front yard setback shall not be less than one hundred (100) feet;
- (b) Side yard: Each side yard setback shall not be less than one hundred (100) feet;
- (c) Rear yard: The rear yard setback shall not be less than one hundred (100) feet;
- (d) Other facilities: Any MSGMPVF shall not be less than three hundred (300) feet from any existing MSGMPVF or LSGMPVF.

Any applicant who cannot meet the above setback requirements may request a variance from the Zoning Board of Appeals.

5.3.3 Lighting

Lighting of all parts of the MSGMPVF, including appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Lighting of the MSGMPVF shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution. All lighting shall comply with International Dark Sky Standards FSA Certification Requirements. There shall be no illumination without personnel on site. Lighting of a MSGMPVF shall be consistent with local, state and federal laws.

5.3.4 Noise

Noise generated by a MSGMPVF, including cooling fans, inverters, associated equipment and machinery shall conform at a minimum to applicable state and local noise regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10. In addition, no noise, or sound from the Facility shall be normally perceptible more than fifty (50) feet from the Facility premises property line. The Facility shall be considered in violation of this bylaw if the source increases the sound level by more than 10 dB(A) above ambient, or produces a pure tone condition when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by more than three (3) decibels. These criteria are to be satisfied at the MSGMPVF property line and at the nearest inhabited residence beyond the property line.

Ambient is defined as the background A-weighted sound level that is exceeded ninety percent (90%) of the time during equipment operation times, as measured prior to operation of the facility, unless established by other means with consent of the DEP.

Noise reduction shall be considered and incorporated as needed during the design phase of the installation including the location of the noise generator, shielding, noise cancellation, filtering, and noise suppression.

5.3.5 Signage and Emergency Services

5.3.5.1 A sign consistent with Section III.C of the Ashfield Zoning Bylaws shall be required to identify the Owner and/or Operator and provide a 24-hour emergency contact phone number. The sign shall be located in a position approved by Town Emergency Services. A MSGMPVF shall not be used for displaying any advertising.

5.3.5.2 The MSGMPVF Owner and/or Operator shall coordinate with local Emergency Services in developing an emergency response plan. A sign showing the location of system shutdown features shall be provided in a position approved by Town Emergency Services. All means of shutting down the MSGMPVF shall be clearly marked.

6. Large Scale Ground Mounted Photovoltaic Facilities (LSGMPVF)

6.1 Applicability

6.1.1 This Section applies to any GMPVF larger than 300 kW – or occupying one-and-one-half (1.5) acres to ten (10) acres in common ownership including land covered by the solar cell array and auxiliary equipment such as inverters, batteries, etc. Any such GMPVF shall be designated a Large-Scale Ground Mounted Photovoltaic Facility (LSGMPVF). Any LSGMPVF, in addition to being in compliance with this Section, requires a Special Permit in accordance with the Ashfield Zoning Bylaws.

6.1.2 Special Permits for LSGMPVF shall comply with Section VII of the Ashfield Zoning Bylaws. Where conflicts between this Bylaw and Section VII of The Ashfield Zoning Bylaws occur, the more stringent requirement shall apply.

6.1.3 This Section also pertains to physical modifications that materially alter the type, configuration, or size of a LSGMPVF or related equipment.

6.2 General Requirements

6.2.1 No photovoltaic facility shall exceed ten (10) acres, including land covered by the solar cell array and auxiliary equipment such as inverters, batteries, etc.

6.2.2 Compliance with Laws, Ordinances and Regulations

6.2.2.1 The construction and operation of all LSGMPVF shall be consistent with all applicable local, state and federal requirements including but not limited to: all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a LSGMPVF shall be constructed in accordance with the State Building Code. All discharges of liquids and airborne discharges must comply with state and federal regulations.

6.2.2.2 All appurtenant structures to LSGMPVF shall be subject to all applicable Sections of the Ashfield Zoning Bylaws.

6.2.3 Building Permit, Building Inspection and Consultants

6.2.3.1 Once a special permit has been granted, no LSGMPVF shall be constructed, installed, or modified without first obtaining a building permit. Operation of the facility shall not be allowed until the facility has been inspected and found to conform to applicable codes and regulations, and the conditions of the building permit and the special permit.

6.2.3.2 The Planning Board may engage an independent consultant or consultants, at the Applicant's expense, to review the Applicant's designs and site plans for the LSMGPVF, pursuant to M.G.L. Chapter 44, Section 53G.

6.2.4 Visual Impact

Any LSGMPVF shall be sited, designed and constructed to minimize and mitigate adverse visual impacts to the maximum extent that is practical, including providing vegetative buffer, preserving natural vegetation, blending in equipment with the surroundings, and adding landscaping to provide an effective visual barrier to screen the facility from the view of abutting residential properties. Glare and reflection effects must meet the requirements of Subsection 6.4.3.5, below. For any LSGMPVF a Visual Impact Assessment per Subsection 6.3(h), below, shall be submitted for review.

6.2.5 Utility Connection

No staging, site clearing and construction of a LSGMPVF shall be permitted until evidence has been provided to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has approved the LSGMPVF Owner's and/or Operator's intent to install an interconnected photovoltaic generator, and that the utility can and will connect the proposed generator into their power grid. Off-grid systems shall be exempt from this requirement.

6.3 Application Contents

The Applicant shall provide the following documents.

(a) A Project Description including:

- i. General description of the proposed facility;
- ii. Description of features that will allow the proposed facility to meet the requirements called for in subsequent subsections of this Bylaw;
- iii. Documentation of the major system components to be used, including the electric generating components, energy storage components, transmission systems, mounting system, inverter, etc.;
- iv. Electrical diagram detailing the LSGMPVF, associated components, and electrical interconnection methods, with all utility-compliant and National Electrical Code-compliant disconnects and overcurrent devices;
- v. Fire protection systems for electrical equipment including batteries;
- vi. A list of any hazardous materials proposed to be located on the site in excess of household quantities, and a plan to prevent their release to the environment, as appropriate;
- vii. A description of all liquid and airborne releases and provision to insure such releases meet state and federal regulations;
- viii. Name, address, and contact information for proposed system installer;
- ix. Name, address, phone number and signature of the Applicant as well as all co-Applicants, if any, and property Owner(s);
- x. The name, contact information and signature of any agents representing the Applicant; and
- xi. Chain of ownership, complete to the top tier decision making and ultimately responsible parties.

(b) A Site Plan that shows the following:

- i. Property lines and physical features including roads and topography, easements and rights-of-way, and existing utilities (including any underground utilities) on the project site;
 - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures including their height;
 - iii. Locations of wetlands, rivers and Priority Habitat Areas, Estimated Habitats of Rare Wildlife, and Natural Communities as defined by the Natural Heritage & Endangered Species Program (NHESP) and BioMap 2 or its current successor;
 - iv. Locations of floodplains, and inundation areas for moderate or high hazard dams;
 - v. Locations of National Register Districts;
 - vi. Location of all existing trails, woods roads, stone walls, and historic features;
 - vii. A buffer, screening and landscape plan as required in Subsection 6.4.3.2;
 - viii. Location and approximate height of tree cover on the site at the time of application filing;
 - ix. Blueprints or drawings of the LSGMPVF, signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts and showing the proposed layout of the system including poles and above ground wires, if any, for the interconnection to the utility, location of equipment and construction staging areas, and location type and height of lighting fixtures;
 - x. A locus plan showing the distance from the proposed LSGMPVF to the Ashfield Town boundaries; and
 - xi. Emergency services plan showing vehicular access and any other required features.
- (c) Proof of sufficient liability insurance.
- (d) Description of financial surety that satisfies Subsection 6.7.3.
- (e) Signed approval of the plans by Emergency Services and the Conservation Commission.
- (f) Any approvals required by MassWildlife.
- (g) The results of a sound survey taken to measure ambient sound levels at the LSGMPVF property line and at the nearest inhabited residence beyond the property line prior to construction and operation of the LSGMPVF. Ambient is defined as the background A-weighted sound level that is exceeded ninety percent (90%) of the time during equipment operation times that is measured prior to operation of the LSGMPVF.
- (h) Visual Impact Assessment of the proposed LSGMPVF.

The Visual Impact Assessment shall include methods such as viewshed analysis, field verification, visual simulation and line of sight studies including ground truthing to determine the potential project visibility, particularly from abutting properties. Such assessment shall produce a map showing all areas within a three (3) mile radius of the installation where the installation can be seen and where it cannot be seen. With input from the Planning Board or its designee, the applicant shall assess the visual impacts in critical areas of concern using additional tools such as renderings, and/or two- or three-dimensional visualizations, as necessary. The Visual Impact Assessment shall describe the visible components of the proposed project, identify key views for visual assessment, assess the potential project

visibility, illustrate the appearance of the proposed project, and identify potential mitigation measures to minimize visibility to abutters and deleterious effects on viewsheds. The Visual Impact Assessment shall be taken into account when reviewing for compliance with subsection 6.4.3 – Visual Impact.

(i) Stormwater Management Design Description and Plan.

This document must be submitted with the stamp and signature of a Registered Professional Engineer who is licensed in the Commonwealth of Massachusetts. The Stormwater Management Design Description and Plan shall fully describe the project in drawings, narrative, and calculations, and shall demonstrate that the system and plan can satisfy the requirements specified in subsection 6.4.4.2 below. The plan shall include:

- i. The site's existing and proposed topography;
- ii. All areas of the site designated as protected open space;
- iii. A description and delineation of existing stormwater conveyances, impoundments, environmental resources on or adjacent to the site into which stormwater flows;
- iv. A delineation of 100-year flood plains, if applicable;
- v. Estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration;
- vi. Existing and proposed vegetation and ground surfaces with runoff coefficients for each;
- vii. A drainage area map showing pre- and post-construction water shed boundaries, drainage area and stormwater flow paths, including municipal drainage system flows, at a scale that enables verification of supporting calculations;
- viii. A recharge analysis that calculates pre- and post-construction annual groundwater recharge rates on the parcel;
- ix. A description and drawings of all components of the proposed stormwater management system; and
- x. Soils information from test pits performed at the location of proposed stormwater management facilities, including soil descriptions, depth to seasonal high groundwater and depth to bedrock. Soils information shall be based on site test pits logged by a Massachusetts Certified Soil Evaluator.

6.4 Siting, Performance, and Design Requirements

6.4.1 Setbacks

6.4.1.1 LSGMPVF front, side and rear setbacks – measured from the outer edge of the disturbed area – shall be as follows.

- (a) Front yard: The front yard setback shall not be less than one hundred fifty (150) feet;
- (b) Side yard: Each side yard setback shall not be less than one hundred (100) feet;
- (c) Rear yard: The rear yard setback shall not be less than one hundred (100) feet;
- (d) Historic areas: The LSGMPVF shall not be located within one-quarter (1/4) mile from any area shown in the Ashfield Plain Register District map, (see Attachment A);

(e) Other facilities: LSGMPVF shall not be less than three hundred (300) feet from any existing MSGMPVF and/or LSGMPVF.

6.4.1.2 Any Applicant that cannot meet the above setback requirements may request a waiver to be issued at the discretion of the Planning Board. To receive a waiver for setbacks the Applicant shall submit a written request to the Planning Board for review at the time of application. The Planning Board may ask for additional materials, including plans for extra screening or other mitigation to compensate for an insufficient setback.

6.4.2 Slope

LSGMPVF sites shall not exceed a ten percent (10%) grade prior to or subsequent to any grading, filling, or other re-contouring. The Applicant may request a waiver to relax this requirement up to a fifteen percent (15%) grade, provided that the Applicant can demonstrate that the installation of a GMPVF on such a slope will not result in an unacceptable visual impact or increased erosion. The results of clearing forests on the slope must be considered in evaluating erosion. The Planning Board may, at the Applicant's expense, hire a consultant to review and make recommendations concerning the Applicant's request for a waiver.

6.4.3 Visual Impact

6.4.3.1 System Siting and Design

LSGMPVF system siting and design, including buffers and screening, shall protect scenic vistas and viewsheds from residential uses and public roadways. For any LSGMPVF, results of the visual impact assessment called for in subsection 6.3(h) shall be taken into account when reviewing the facility for compliance with this paragraph and with subsection 6.2.4 of this Bylaw.

6.4.3.2 Screening

(a) A LSGMPVF shall be effectively screened year-round from all abutting properties. Except for vehicular and pedestrian access routes and permitted signs, setback areas shall be modified only for additional screening. Where existing vegetation in the setbacks is insufficient to achieve year-round screening, additional screening shall be provided including, but not limited to, planting of dense vegetation and/or making use of natural ground elevations – all depending on site specific conditions. Tree cutting within the required setback area shall not be permitted if it reduces the effectiveness of the year-round screening.

(b) If additional plantings are required for screening, a planting plan shall be submitted, subject to the approval of the Planning Board, meeting the following requirements:

- i. All types, sizes and locations of materials used shall be identified.
- ii. Trees shall be a minimum of six (6) feet in height at installation, and shrubs a minimum of three (3) feet in height at installation. All plants shall be staggered so as to fill the setback area and keep the arrays from view year-round.
- iii. A diversity of non-invasive plant species (specifically excluding plants listed in the most recent "Massachusetts Prohibited Plant List" maintained by the Massachusetts Department of Agricultural Resources) shall be used for screening and erosion control. Priority shall be given to native plants, with consideration for impacts of climate change on proposed species.
- iv. At least fifty percent (50%) of the plantings shall consist of evergreens and shall be spaced to provide effective screening in the setback area, at a spacing of eight (8) foot centers.

v. The Owner and/or Operator shall maintain vegetative screen plantings for the life of the facility, including replacement of any dead or unhealthy plants.

(c) Installation of vegetative screen-plantings shall be fully completed prior to connection of the facility.

6.4.3.3 Lighting

Lighting of all parts of the LSGMPVF, including appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Lighting of the LSGMPVF shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution. All lighting shall comply with International Dark Sky Standards FSA Certification Requirements. There shall be no illumination without personnel on site. Lighting of a LSGMPVF shall be consistent with local, state and federal laws.

6.4.3.4 Heights

The height of the photovoltaic array – as part of a LSGMPVF – shall not exceed eighteen (18) feet above finish grade when rack mounted and shall not exceed twenty-one (21) feet above finish grade when pole mounted. The Planning Board may vary the height requirement to facilitate agricultural activity within the Facility. Other structures associated with the LSGMPVF shall conform to the relevant sections of the Ashfield Zoning Bylaws.

6.4.3.5 Glare and Reflection

The design of the LSGMPVF shall prevent reflected solar radiation or glare from becoming a public nuisance or hazard to adjacent buildings, roadways, or properties. Designs may include, but not be limited to, deliberate placement and arrangement on the site, anti-reflective materials, solar glare modeling, and screening.

6.4.4 Environmental Requirements

6.4.4.1 Siting

LSGMPVF shall not be located in or within one hundred (100) feet of Priority Habitat Areas, Estimated Habitats of Rare Wildlife, and Natural Communities; or Priority Habitat, Core Habitat or Critical Natural Landscape, as defined by the Natural Heritage & Endangered Species Program (NHESP) and BioMap 2, or its current successor.

6.4.4.2 Stormwater Management System and Plan

For any LSGMPVF a stormwater system and plan shall be provided and adhered to such that all post-development stormwater, up to and including a 50-year return frequency 24-hour storm, shall be retained on the parcel containing the LSGMPVF and infiltrated into the soil through low impact development, retention and infiltration basins. The design shall address the effects of alterations to the site including clearing of vegetation and the immediate and long term effects of rain washing off impermeable surfaces of photovoltaic arrays and associated structures, and collecting as runoff rather than reaching the ground directly as diffuse rainwater.

Emergency overflows for storms in excess of the 50-year return frequency may be permitted, provided it is demonstrated that no flooding or damage would be caused by the overflow. Attenuation of the discharge may be required as needed, as determined by the Planning Board.

6.4.4.3 Ecological Requirements

(a) Land Clearing

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the installation. Existing root structures, flat gravel areas, and topsoil shall be maintained to the maximum extent practicable.

(b) Control of Vegetation

The Applicant shall consider alternatives to the use of licensed and registered herbicides for control of vegetation such as mowing, pasturing, or the use of crushed rock or geo-textile materials installed underneath the solar array.

(c) Open Areas

The disturbed area not covered by photovoltaic panels or forest shall be seeded with a pollinator mix and maintained as bird and insect habitat. Mowing is to be the minimum required to prevent unwanted growth. Alternative vegetation or cover options may be proposed by the Applicant in consideration of soil type and quality, and/or agricultural use, subject to the approval of the Planning Board.

(d) Topsoil

Except for well drained, stable gravel, six (6) inches of topsoil shall be applied to areas stripped of topsoil during contouring or other site preparation. Wherever practicable the Contractor shall re-use sufficient on-site topsoil from excavated areas to establish a vegetative cover that blends disturbed areas into the surrounding landscape when the work on the project is completed. Topsoil shall not be imported unless there is a demonstrated engineering need, and such imports must be approved by the Planning Board prior to any introduction, with particular attention paid to preventing importation of invasive species. No topsoil may be removed from the site. Provision shall be made to stabilize any topsoil banks or berms.

6.4.4.4 Hazardous Material

(a) Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste, as defined by the Department of Environmental Protection (DEP), pursuant to MassDEP regulations 310 CMR 30.000, and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains, to prevent discharge to the outdoor environment. If hazardous materials are utilized within the LSGMPVF electric equipment, impervious containment areas capable of preventing any release to the environment and preventing contamination of groundwater are required.

(b) Liquid Discharges

All liquid discharges from the facility must comply with applicable state and federal regulations.

(c) Airborne Discharges

All airborne discharges from the facility must comply with applicable state and federal regulations.

6.4.4.5 Noise

Noise generated by a LSGMPVF, including cooling fans, inverters, associated equipment and machinery shall conform at a minimum to applicable state and local noise regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10. In addition, no noise, or sound from the Facility shall be normally perceptible more than fifty (50) feet from

the Facility premises property line. The Facility shall be considered in violation of this bylaw if the source increases the sound level by more than 10 dB (A) above ambient, or produces a pure tone condition when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by more than three (3) decibels. These criteria are to be satisfied at the LSGMPVF property line and at the nearest inhabited residence beyond the property line.

Noise reduction shall be considered and incorporated as needed during the design phase of the installation including the location of the noise generator, shielding, noise cancellation, filtering, and noise suppression.

6.4.5 Safety Requirements

6.4.5.1 Emergency Services

The LSGMPVF Owner and/or Operator shall provide a copy of the project summary, electrical diagram, site plan and any other blueprints or drawings to the Ashfield Fire Chief. The Owner and/or Operator shall coordinate with local Emergency Services in developing an emergency response plan. A sign showing the location of system shutdown features shall be provided in a position approved by Town Emergency Services. All means of shutting down the LSGMPVF shall be clearly marked. The Owner and/or Operator shall identify to the Planning Board and Select Board a responsible person to promptly answer inquiries from the public, town, state, and federal officials and agencies throughout the life of the LSGMPVF.

6.4.5.2 Signage

A sign consistent with Section III.C of the Ashfield Zoning Bylaws shall be required to identify the Owner and/or Operator and provide a 24-hour emergency contact phone number. The sign shall be located in a position approved by Town Emergency Services. A LSGMPVF shall not be used for displaying any advertising.

6.4.6 Utility Connection

All utility connections from the LSGMPVF to existing overhead utilities shall be underground, unless the utility determines, in consultation with the Planning Board, that it is unsafe or not feasible. Electrical transformers for utility interconnections may be above ground, if required by the utility provider.

6.5 Construction

6.5.1. Site Control and Construction Monitoring

6.5.1.1 Site Control

The Applicant shall provide documentation to demonstrate legal access to and control over the proposed site sufficient to allow for the construction and operation of the proposed LSGMPVF. If the Applicant will be leasing the proposed site, the property owner of the site shall be required to sign the application as a co-applicant, to submit written consent to be a co-holder of the Special Permit if granted by the Planning Board.

6.5.1.2 Construction Monitoring

(a) Notice

Written notice shall be sent by certified mail to the Planning Board advising the Board that construction of the approved LSGMPVF will commence no sooner than fourteen (14) days from the date that such notice is mailed.

(b) Monitoring

During construction of the LSGMPVF the Owner and/or Operator shall allow the Town of Ashfield and its designees, representatives, and agents, the right to access the Property for site visits of the premises, to evaluate and enforce, if required, compliance with the terms of the Special Permit.

The Planning Board, Building and Electrical Inspectors, and – if appropriate – Conservation Commission members, shall be allowed access to the site throughout construction. For any LSGMPVF the Planning Board may hire, at the Applicant's expense, a third-party inspector, selected by and acting under the direction of the Planning Board or its agents, to monitor compliance with all terms, approvals and conditions during the construction of the LSGMPVF pursuant to M.G.L. Chapter 44, Section 53G.

(c) Delineation of Limit of Work

For any LSGMPVF, prior to any site disturbance and construction, the limits of work shown on the site plan shall be surveyed and clearly marked by a Professional Land Surveyor at the Applicant's expense. Upon completion of the survey, the Professional Land Surveyor shall verify in writing to the Planning Board that the limit of work, as shown on the approved application, has been established on the site.

6.5.1.3 Soil Compaction

Best Management Practices shall be employed during construction to minimize soil compaction.

6.5.2 Noise

The noise generated during construction of the Facility shall comply with the provisions of the MassDEP Division of Air Quality Noise Regulations (310 CMR 7.10), as amended, or the provisions of subsection 6.4.4.5 of this Bylaw, whichever are more restrictive. This subsection also applies to vehicles making deliveries to the site.

Exemption from the standards established in this subsection may be granted by the Planning Board during the construction stages of the LSGMPVF for cause shown and upon written agreement between the Owner and/or Operator and the Planning Board. However, any such exceeding of the noise standards shall not be allowed between the hours of 7:00 p.m. and 7:00 a.m.

6.5.3 Stormwater Management

To ensure proper containment and stabilization of the site during the construction phase, a Construction-Phase Stormwater Management Plan to control construction-related impacts including erosion, sedimentation, other pollutant sources, and soil compaction during construction and land disturbance activities shall be developed and implemented. Such plan shall be suitable to document compliance with Standard 8 of the Massachusetts Stormwater Handbook. This plan may be subject to review by an independent consultant hired by the Planning Board at the Applicant's expense pursuant to M.G.L. Chapter 44, Section 53G.

6.6 Operations

6.6.1 Maintenance and Site Access

The LSGMPVF Owner and/or Operator shall maintain the LSGMPVF and Stormwater Control or Management System in good condition. Maintenance shall include – but not be limited to – painting, structural repairs, maintenance of plantings, and integrity of security measures for the

life of the LSGMPVF. Site access shall be maintained to a level acceptable to the Ashfield Fire Chief and Emergency Management Director. The Owner and/or Operator shall be responsible for the cost of maintaining the LSGMPVF and any access road(s) for the life of the project.

Systems, plantings, and equipment shall be maintained and operated such that the LSGMPVF continues to meet the requirements of this Bylaw.

6.6.2 Inspections

The Building Commissioner may require annual site visits for the purpose of ensuring safety requirements are being met. Fees for such visits shall be consistent with those established for such visits by the Franklin County Cooperative Inspection Program or its successor agencies and shall be paid by the Owner and/or Operator.

6.6.3 Annual Reporting

The Owner and/or Operator of the LSGMPVF shall submit an Annual Report that certifies compliance with the requirements of this Bylaw and their approved site plan including control and maintenance of vegetation, and adequacy of road access. The Annual Report shall also provide information on the current ownership and responsible parties for the LSGMPVF, the maintenance completed during the course of the year and the amount of electricity generated by the LSGMPVF, any major alterations to equipment or the site, and any events of environmental or safety concern. The report shall be submitted to the Planning Board, Select Board, Fire Chief, Emergency Management Director, Building Commissioner, Board of Health, and Conservation Commission (if a wetlands permit was issued) no later than forty-five (45) days after the end of the calendar year.

6.7 Decommissioning

6.7.1 Decommissioning Requirements

Any LSGMPVF that has ceased to operate – or has been abandoned, as consistent with subsection 6.7.2 – shall be decommissioned. The Owner and/or Operator shall notify the Planning Board and Building Commissioner by certified mail of the proposed date of cessation of operations and plans for decommissioning. The Owner and/or Operator shall begin the physical removal of the LSGMPVF no more than one hundred fifty (150) days after the date of cessation of operation and complete the decommissioning within one (1) year of the date of the cessation of operation. If the decommissioning is not completed by this date, the Town of Ashfield may treat the facility as abandoned and complete the decommissioning at the expense of the Owner and/or Operator.

Any panel removed from the LSGMPVF array, and any other equipment removed from service during the facility's operating life may not remain on the parcel for more than one (1) year.

Decommissioning shall consist of the following:

- (a) Physical removal of all LSGMPVF structures, equipment, security barriers and transmission lines from the site;
- (b) Disposal of all solid and hazardous waste, in accordance with local, state, and federal waste disposal regulations; and
- (c) Stabilization or re-vegetation of the site, as necessary, to minimize erosion. The Owner and/or Operator may leave landscaping, below-grade construction and driveways if this can be shown to minimize erosion and disruption to vegetation. Any site that was deforested for the LSGMPVF shall be remediated to encourage a return to a condition consistent with

residential/agricultural use. The cost of plant replacement shall be incorporated into the financial surety stipulated in Subsection 6.7.3.

6.7.2 Cessation of Operations and Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the LSGMPVF shall be considered to have ceased operation when it fails to produce energy in the amount of at least twenty percent (20%) of its design energy output for more than one (1) year without the written consent of the Building Commissioner. If the owner/operator fails to begin decommissioning the LSGMPVF within one hundred fifty (150) days of its cessation operation, the facility will be deemed abandoned.

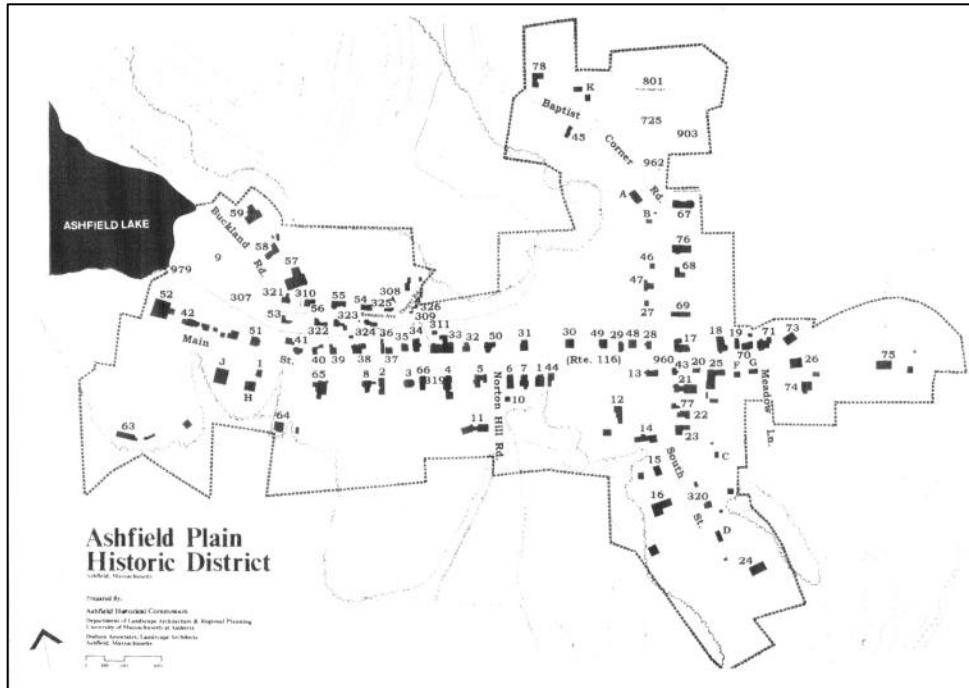
6.7.3 Financial Surety

6.7.3.1 Applicants of LSGMPVF shall provide a form of surety – either through escrow account, bond or otherwise – to cover the cost of removal, in the event the Town must remove the LSGMPVF and remediate the landscape. If the Owner and/or Operator fails to remove the LSGMPVF in accordance with the requirements of this section within one hundred fifty (150) days after either abandonment or the proposed date of decommissioning, the Town shall have the right, to the extent authorized by law, to enter the property and physically remove the system at the Owner's expense. As a condition of permit approval, the Owner and/or Operator and property owner shall agree to allow entry to remove an abandoned or decommissioned LSGMPVF. The cost for the removal will be drawn from the performance surety provided by the Applicant or charged to the property owner in accordance with the provisions of M.G.L. Chapter 139, Section 3A.

6.7.3.2 The amount and form of surety shall be determined by the Planning Board, but shall not exceed one hundred twenty-five percent (125%) of the cost of removal and compliance, with the additional requirements set forth herein, as determined by the Applicant and the Town. This surety may also be used to recover other debt to the Town that the Owner and/or Operator might owe at the time of decommissioning. The financial surety shall be maintained by the owner for the lifespan of the LSGMPVF, with annual certification notices from the surety company or bank for surety bonds submitted to the Planning Board and Select Board.

6.7.3.3 The Applicant shall submit a fully inclusive estimate of the costs associated with removal and site restoration, as prepared by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts. The estimate shall include the cost of removal of underground construction unless the Planning Board deems it acceptable for below ground construction to remain in place. The amount shall be no less than ten percent (10%) of the expected construction costs – exclusive of photovoltaic panel purchase costs – and shall include a mechanism for calculating increased removal costs, due to inflation.

Attachment A



#	Historic Name	Date	#	Historic Name	Date	#	Historic Name	Date
Contributing Structures			Contributing Structures			Non-Contributing Structures (less than 50 years old)		
1	Town Hall	1812	50	Fessenden-Henry House	1899	A	R. Anderson	
2	Wing-Cranson House	1845	51	Benjamin House	c.1890	B	D. Craft	
3	Belding Memorial Library	1914	52	Dupree Garage	1928	C	D. Nye	
4	Crafts-Hargraves House	1854	53	Collins-Parker House	1870	D	R. Pease	
5	Knowlton-Bacon House	1800	54	Reniff-Gibson Garage	1880	F	C. Buck	
6	Elmer's Store	c.1835	55	Howes-Jenkins House	1880	G	D. Lesure	
7	Whitehead House	1850	56	Stetson House	1880	H	Post Office	
8	Sanderson House	1798	57	Sanderson Academy	1939	I	Telephone Company	
9	Belding Park Site	1928	58	Braeman-Pease House	1850	J	Short Stop Variety	
10	Curtis Studio-Packard	1870	59	C.W. Ward House	1900	K	J. Dickenson	
11	Norton House	1793	60	Green Meadows	1916	903	Veteran's Monument	1980
12	Curtis House	1902	61	Belding Stable and Garage	1889			
13	St. John's Church	1827-28	62	Georgiana-Adelphi	1889			
14	Guilford House	pre-1850	63	Crafts-Dige House	1850			
15	Cook-Day House	c.1825	64	Ranney-Isserman House	1890			
16	Cook-Jones-Feldman House	c.1875	65	Hailway-Killings House	1910			
17	Ranney Block, Field Tavern	1792	66	Shippee Leonard	1850			
18	Congregational Parsonage	1870	67	Baptist Parsonage	1886			
19	Grange Hall	rebuilt 1869	68	Whitney House	1853			
20	Nye House	pre-1820	69	Congregational Church (first site)				
21	Nye-Lilly House	1796	70	IK Jones Darling House	1833			
22	Elmer Magee House	pre-1850	71	Vicarage-Cassidy House	1913			
23	Seth Wait's Tavern	1766	72	Five Acres (Lapping)	1900			
24	Mizzentop-Farragut	1883	73	G Ranney House	1890			
25	Nye-Edwards House	pre-1820	74	Nye Shop	1850			
26	Ferry House	pre-1793	75	O'Malley House	1897			
27	Plain School	1881	76	Flower-Cook Mill Site				
28	Selah Norton House	1793	77	Tobias-Bernaski House	c.1900			
29	Ashfield Historical Museum	1830	78	Hailway-Gardner Factory Site				
30	Congregational Church	1856	79	First Site of Sanderson Academy				
31	White Homestead	1794	80	Wylie-Dater House	1931			
32	VanNess-Cordelli House	c.1827	81	Howard-Pease House	1915			
33	Ashfield House	1830	82	Coughlin House	1892			
34	Porter House	1850	83	Groves-Colter House	c.1900			
35	Henry-Keys Store	1858	84	Anderson-Wiltanen House	c.1900			
36	VanNess Tin Shop	late 1800's	85	Guganig-Bennett	post-1900			
37	Fred Lilly House	1858	86	Fessenden Steps and Walk to Sanderson Academy				
38	Cady Howes House	1880	87	Bronson's Steps and Walk to Sanderson Academy				
39	Sandler-Dige-Ward House	1825						
40	Coleman-Phillips House	pre-1850						
41	Chet Bronson House	c.1890						
42	Old Sanderson Academy	c.1816						
43	Perry-Carter House	c.1820						
44	Fire Station	1900, 77						
45	Craft House	pre-1850						
46	Wes Hall House	1871						
47	McFarland-Graves House	c.1815						
48	Sandy Garage	1927						
49	Smith-Buck House	1906						
			Other Contributing Structures					
			801	Plain Cemetery				
			960	Curtis Watering Trough	1907			
			962	Civil War Monument	1917			
			979	Ashfield Lake Dam	1879			



J. Marijuana Establishment

(Adopted by STM on March 19, 2018 – Approved by AG on April 5, 2018)

1. Marijuana Establishments as defined by GL c 94G shall be considered a commercial use of land and/or structures and require a special permit from the planning Board.

SECTION VII: SPECIAL PERMIT**A. Intent**

1. Special Permits are intended to provide detailed review of certain uses, structures, or development, which may have substantial impact upon traffic, municipal services and the community character, among other considerations. The Special Permit review process is intended to insure that the proposed use, structure or development is consistent with the purpose and intent of these bylaws.
2. Special Permits shall be issued, denied, or issued with conditions by the Special Permit Granting Authority according to the provisions of Chapter 40A of the Massachusetts General Laws.

B. Special Permit Granting Authority (SPGA)

Pursuant to Section 9 of Chapter 40A of the Massachusetts General Laws, the SPGA shall adopt rules relative to issuing Special Permits. These rules and regulations may relate to the size, form, content and style of the plans and procedures for submission and approval of such Special Permits, and shall not be inconsistent with the General Laws or with provisions of this bylaw. The SPGA may from time to time amend these rules, Copies of the rules shall be on file and available for review at the office of the Town Clerk.

C. Receipt of Application

The time periods specified in M.G.L. Chapter 40A Section 9 shall commence upon receipt of the application. See definition of receipt.

D. Waiver

Upon written request from the applicant prior to the filing of an application, the SPGA may waive the submission of such materials, plans, studies, and analysis or parts thereof, as may not be needed for, or germane to, consideration of the application, if, in the opinion of the SPGA, the potential impact of the proposed use, structure, or development is minimal.

E. Impact Statement/Site Plan

Unless waived, the Special Permit application must be accompanied by an impact statement and a site plan which conform to the Rules and Regulations of the SPGA.

F. Review by SPGA

The SPGA will review both the site plan and the impact statement, giving weight to the criteria outlined below as they affect the future of the Town and of the neighborhood

adjacent to the project site. It may ask for further information where necessary to review the application adequately, and may make recommendations for modifications to the proposed project as it thinks proper to protect Town interests and physical characteristics.

G. Public Hearing

The SPGA shall hold a hearing under this section, in conformity with the provisions of M.G.L. Chapter 40A. The decision of the Board, and any extension, modification, or renewal of a decision, shall be filed in conformity with M.G.L., Chapter 40A.

H. Criteria

Before granting a Special Permit, the SPCA shall review the activity, traffic, site plan, and building design and shall find all of the following general conditions to be fulfilled:

1. The proposal will not overload any public water, drainage or sewer system or any other municipal services to such an extent that the Town will be unduly subjected to hazards affecting health, safety, or general welfare;
2. The impact on adjoining premises of sound, light, odor, noise, and other disturbances is avoided or minimized;
3. The proposal will avoid or minimize topographic change, unnecessary removal of mature trees, shrubs, or other botanical assets, erosion or siltation, storm water runoff, or displacement of rare or natural wildlife habitats;
4. The proposal will not cause surface or groundwater pollution, surface or subsurface drainage detrimental to abutting properties, or other adverse effects upon the natural environment' in the area where the use is located;
5. There is adequate traffic safety at entrances to public ways;
6. The proposal is compatible with the neighborhood character; and
7. Additional requirements before listed under General Regulations for Alterations, Off Premises Signs, and Driveways, and under Use Regulations for Residential Uses and for Cottage Industries and Home Occupations are met.

I. Lapse of Special Permit

Except for good cause, if substantial use or construction under a Special Permit has not commenced within one (1) year of the date of issuance of the Special Permit, that Permit shall lapse.

SECTION VIII: ADMINISTRATION

A. Enforcement

The Building Inspector shall administer and enforce these bylaws. If the Building Inspector ceases to serve, the Board of Selectmen shall administer or enforce these bylaws.

Applicants who wish to construct, alter, or change a use or structure are urged to consult with the Building Inspector to insure that all necessary permits have been received from those local, state, and federal agencies from which approval is required.

B. Penalty

Any person violating any of the provisions of these bylaws may be fined not more than three hundred dollars (\$300) for each offense. Each day that such violation continues shall constitute a separate offense.

C. Zoning Board of Appeals (ZBA)

1. There is hereby established a Zoning Board of Appeals consisting of three members and two associate members, to be appointed by the Selectmen for a term of three (3) years in the manner specified by M.G.L, Chapter 40A.
2. The Zoning Board of Appeals shall have the following powers:
 - a. To hear and decide appeals as provided in M.G.L, Chapter 40A, Sections 8 and 13, and these bylaws;
 - b. To hear and decide on the granting of variances including use variances, from the requirements of these by laws as provided in M.G.L, Chapter 40A, Section 10, and these bylaws;
 - c. To hear and decide upon the granting of Special Permits as provided in. M.G.L.; Chapter 40A, Section 9, and these bylaws; and
 - d. In exercising these powers, the Board may impose such limitations and conditions, as it deems appropriate.
3. The Zoning Board of Appeals shall adopt rules not inconsistent with these bylaws for the conducting of its business and otherwise carrying out its responsibilities and shall file copy of such rules with the Town Clerk.

D. Appeals

Appeals may be made to the Zoning Board of Appeals by any person aggrieved by reason of his or her inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L., Chapter 40A, or the provisions of these bylaws.

E. Special Permit Granting Authority

The Special Permit Granting Authorities (SPGA) shall be the Planning Board and the Zoning Board of Appeals. Special Permits shall be granted only for proposals in compliance with the provisions of these bylaws, and of M.G.L., Chapter 40A, and upon written determination by the SPGA that the proposal will not have adverse effects which outweigh its beneficial effects on the Town, as measured by the purposes of these bylaws. In acting on Special Permits, the SPCA shall apply the Special Permit Criteria listed herein and any additional criteria contained in the Section under which a Special Permit is sought.

Per M.G.L, Chapter 40A, Section 9, the Ashfield Planning Board, as Special Permit Granting Authority, shall have up to one associate member, who shall sit, when necessary, on the Board for the purpose of acting on Special Permit applications. This position will be filled by appointment by the Select Board upon recommendation of the Planning Board,

and the term shall be for up to three (3) years. (Adopted by STM on November 15, 2016 – Approved by AG on May 22, 2018)

F. Withdrawal of Application

Any application for a Special Permit or petition for a variance may be withdrawn without prejudice by the applicant prior to the publication of the public hearing notice, but thereafter may be withdrawn without prejudice only with SPGA or permit granting authority approval.

G. Validity

The invalidity of any section or provision of these bylaws shall not invalidate any other section or provision thereof.

H. Applicability

Where the application of these bylaws imposes greater restrictions than those imposed by any other governmental regulations, permits, restrictions, easements, covenants, or agreements, the provisions of these bylaws shall control.

I. Amendments

These bylaws may be amended from time to time in the manner prescribed in M.G.L., Chapter 40A. Page numbers, line numbers, section numbers and paragraph numbers are reference only and may be changed at the convenience of the Planning Board.

J. Hiring of Consultants

(Adopted by STM on December 17, 2018 – Approved by AG on April 10, 2019)

Expenses for advertising, notices, inspections and professional review will be borne by the applicant.

1. As provided by M.G.L. Ch. 44 §53G, the Ashfield Planning Board (“the Board”) may impose reasonable fees for the employment of outside consultants, engaged by the Board, for specific expert services when in the opinion of the Board the services are necessary for the Board to come to a final decision on an application submitted pursuant to the requirements of: The Town of Ashfield Zoning Bylaws, Town of Ashfield Subdivision Regulations, or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time. The Planning Board may also impose fees for other consultant services for the review of the plans, surveys or inspections under any of the above-referenced laws or regulations.
2. Consultant Services: In hiring outside consultants, the Planning Board may engage professional engineers, planners, landscape architects, wildlife scientists, lawyers, designers, or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, bylaws and regulations. Specific consultant services may include – but are not limited to – analysis of applications, title searches, mapping of lot and/or municipal boundaries and/or right-of-ways, and environmental or land use law. Services may also include on-site monitoring during

construction, or other services related to the project deemed necessary by the Board. The consultant(s) shall be chosen by, and report only to, the Planning Board and/or its administrator. Consultants retained shall have an educational degree in or related to the field at issue, or three or more years of practice in the field at issue, or a related field.

3. **Special Account:** Funds received pursuant to these rules shall be deposited with the Town treasurer, who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Planning Board without further appropriation as provided in M.G.L. Ch. 44 §53G. Expenditures from this account shall be made only in connection with a specific project or projects for which a consultant fee has been collected from the applicant, and only in connection with the Board carrying out its responsibilities under the law. Expenditures of accrued interest may also be made for these purposes. Any excess amount in the account attributable to a specific project, including any accrued interest, at the completion of said project shall be repaid to the applicant or to the applicant's successor in interest, and a final report of said account shall be made available to the applicant or to the applicant's successor in interest.
4. **Reporting Requirements:** The Town Accountant shall submit annually a report of said special account to the Select Board and Town Administrator, for their review. The report shall be published in the Town annual report. The Town Accountant shall submit annually a copy of this report to the Massachusetts Director of the Bureau of Accounts.
5. **Appeals of choice of Consultant:** Applicants may appeal the selection of the consultant to the Select Board. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The required time limits for action upon an application by the Planning Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Select Board within one month following the filing of the appeal, the selection made by the Planning Board shall stand. Such an administrative appeal shall not preclude further judicial review if otherwise permitted by law, on grounds provided for in this section.