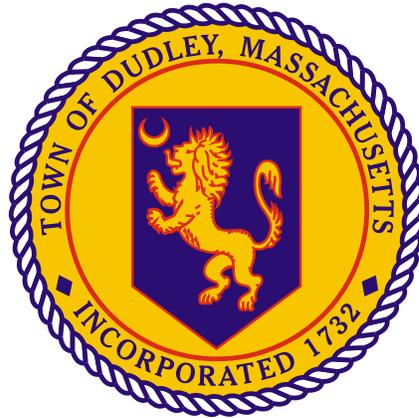


# BY-LAWS



## TOWN OF DUDLEY MASSACHUSETTS

DECEMBER 18, 1952 AS AMENDED  
WITH REVISIONS AND ADDITIONS  
THROUGH AUGUST 26, 2019

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## **ARTICLE 1 TOWN MEETINGS**

### **Section 1.**

The Annual Town Meeting for the adoption of the fiscal budget and other business shall be held the Monday preceding Memorial Day and a second session for the consideration of financial articles and other business shall be held on a Monday in the month of October or November after a public meeting by the Board of Selectmen in June of each year to vote on the date. Town Meetings shall be held at Town Hall or other adequate place to be designated by the Board of Selectmen in the warrant announcing the meeting.

### **Section 2.**

The election of Town Officers shall be held on the Monday following the second Saturday of June, in the Town Hall or any other adequate place to be designated by the Board of Selectmen in the warrant announcing the meeting.

**Amended:**

**Sec. 1&2 (1974); Sec. 1 (1981); Sec. 1 (1998); Sec. 2 (05/21/2012); Sec. 1 (05/23/2016)**

## **ARTICLE 2 WARRANTS FOR TOWN MEETINGS**

### **Section 1.**

Every warrant of town meetings shall be served by posting an attested copy hereof at the Dudley Municipal Center and of the Town of Dudley Web Site and notice of availability of the warrant on one Cable Access Channel. All warrants shall be posted in accordance with Massachusetts General Law Chapter 39 §10.

**Amended: Section 1 (05/22/2017)**

## **ARTICLE 3 RULES OF PROCEDURE AT TOWN MEETINGS**

### **Section 1.**

Every town meeting for the election of officers by official ballot shall promptly at the appointed for such meeting, be called to order by the proper presiding officer; In the absence of such officer the Town Clerk shall call the meeting to order and shall preside until the arrival of such officer or the election of a temporary presiding officer.

### **Section 2.**

Immediately after the calling of the meeting to order by the proper presiding officer, the warrant for the town meeting and the return of the person who served the same shall first be read by the Town Clerk, unless the meeting votes that the reading of the articles in the warrant be dispensed with and immediately thereafter the polls shall be declared open for voting.

### **Section 3.**

Every town meeting for the transaction of municipal business, other than the election of Town Officers by official ballot, shall promptly at the appointed time or as soon thereafter as fifty-one (51) registered voters are in attendance be called to order by the Moderator. In the absence of the Moderator, such meeting shall be called

to order by the Town Clerk who shall preside until a temporary Moderator is chosen who shall act during the absence of the Moderator.

#### **Section 4.**

Immediately after calling the meeting to order by the Moderator, the Warrant for the Town Meeting and the return of the person who served the same shall first be read by the Town Clerk, unless the meeting votes that the reading of the articles in the warrant be dispensed with.

#### **Section 5.**

Unless otherwise ordered by the Moderator or by vote of the meeting, no person whose name is not on the list of registered voters shall be admitted to the hall where the meeting is being held; this provision shall be enforced with the use of the check list and the Moderator shall determine the bounds of the hall.

#### **Section 6.**

Immediately after the calling of the meeting to order, unless otherwise ordered by the Moderator or by vote of the meeting, all persons shall be seated with heads uncovered. No person shall remain standing, except when he addresses the Moderator. While the meeting is in session, no one shall converse or otherwise distract the attention of himself or others from the business under consideration.

#### **Section 7.**

The Moderator shall preserve order and decorum. He may speak on points of order in preference to other voters and he shall decide all questions subject to an appeal as hereafter provided in Section 9. Every question of order with the decision thereon shall be entered by the Clerk in the records of the meeting.

#### **Section 8.**

The Moderator may appoint a voter to perform the duties of the Moderator while he addresses the meeting or in case he is called away from the meeting.

#### **Section 9.**

On matters requiring a two thirds vote by statute a count need not be taken unless the vote so declared is immediately questioned by seven or more voters as provided in Massachusetts General Laws, Chapter 39, Section 15.

#### **Section 10.**

There shall be a quorum requirement of Fifty-One (51) voters for the transaction of business at any Town Meeting.

#### **Section 11.**

Such elective town officers as are not required by law to be chosen by ballot shall be elected by voice vote unless the meeting at which they are chosen determines otherwise.

#### **Section 12.**

The procedure and conduct of the business meeting of the town not otherwise herein provided for shall be governed by the latest edition of Robert's Rules of Order, revised so far as they are applicable and are not inconsistent with by-laws of the town.

#### **Section 13.**



Amended:  
 Sec 1 (1961); Sec 1 (1980); Sec. 1, paragraph e (1977)

## **ARTICLE 5 FINANCE, APPROPRIATION AND ADVISORY COMMITTEE**

### **Section 1.**

There shall be a Finance, Appropriation and Advisory Committee for the town who shall perform the duties set forth in the following sections of this article and be governed by the provisions thereof. Said committee shall consist of nine citizens of the town and said committee shall be appointed as provided in the following section and no person already holding an elective or appointed town office or town employee shall be eligible to serve on said committee. \*Quorum for said committee shall be a majority of the members currently appointed." The term already means once a person is appointed to the Finance, Appropriation and Advisory Committee, may appoint members to serve on town committees that require such service by either town vote or by town by-law. All members of such committee shall be sworn to the faithful performance of their duties, said committee to be known as the F.A.A. Committee. Nothing in these By-Laws shall be interpreted so as to prevent a member of the Finance, Appropriation and Advisory Committee from being appointed to serve on a committee, board or commission of the Town of Dudley as a representative of the Finance, Appropriation and Advisory Committee.

### **Section 2.**

The Moderator shall appoint from the citizens of the town five (5) members of said committee to serve staggered terms of three years. The Board of Selectmen shall appoint from the citizens of the town two (2) members of said committee to serve staggered terms of three years. The Town Treasurer shall appoint from the citizens of the town two (2) members of said committee to serve staggered terms of three years. The term of office of said appointees shall expire on June 30 of the fiscal year following which their successors are appointed. Said committee shall choose its own officers and shall serve without pay, excepting, however, that the secretary thereof may receive such compensation as the town may by vote, provide. Said committee shall cause to be kept a true record of its proceedings.

### **Section 3.**

To this committee shall be referred all articles in any warrant for a town meeting hereafter issued. The Selectmen, after drawing any warrant for a town meeting, shall transmit immediately a copy thereof to each member of the committee and said committee shall consider all articles. A public hearing shall be held on any article, unless a public hearing by some other tribunal is required by law and a notice of such hearing shall be given by posting a copy thereof at the main entrance of the Town Hall. No provision of these By-Laws shall prevent the Finance, Appropriation and Advisory Committee from sponsoring articles to be included in Town Meeting warrants and from holding hearings on such articles and making recommendations with regard to such articles.

### **Section 4.**

It shall be the duty of the F.A.A. committee to consider the annual budget to the F.A.A. by the Board of Selectmen and add another column to the Town Administrator's prepared statement, giving the amounts which in its opinion shall be appropriated for the ensuing year and shall prepare a statement giving explanations and suggestions in relation to the proposed appropriations as it may deem expedient and report thereon as provided in Section 7 below.

### **Section 5.**

Said committee shall have control of the Reserve Fund as provided in Chapter 40, Section of MGL.

## **Section 6.**

Whenever any vacancy shall occur in said committee by resignation, removal from town, death, failure to qualify or otherwise, said vacancy shall be filled by the Moderator. If any member is absent from three consecutive meetings of said committee, or attends less than seventy-five percent of the meetings scheduled, except in case of illness, or extenuating circumstances voted by said committee, his position shall be declared vacant and filled by the Moderator after consultation with said committee. The term of office of all persons chosen as aforesaid to fill vacancies, shall expire at the town election next succeeding said vacancy and within 7 days after said annual town election. The Moderator shall appoint a successor to fill out the unexpired term of each member whose office has been vacated.

## **Section 7.**

It shall be the duty of said committee to make a report in print and in a local newspaper, if possible, with recommendations relative to all articles in the warrant; the report to be available prior to the meeting.

### **Amended:**

**Sec. 6 (1977); Sec. 1 (06/27/1995); Sec. 3 (06/17/1996); Sec. 1 (06/17/96); Sec. 1 (10/30/2006); Sec. 4 (10/25/2010); Sec/ 2 (11/04/2013)**

### **Added:**

**Sec. 1 (10/17/2001)**

## **ARTICLE 6                    DUTIES OF TOWN OFFICERS**

### **Section 1.**

The Selectmen are authorized to prosecute and defend all suits or other actions to which the town is party and may settle claims against the town provided the amount to be paid shall not exceed twenty thousand dollars. (\$20,000.00)

### **Section 2.**

Each Town Officer, Board, and Committee, shall annually on or before the fifteenth day of March each year, prepare and submit to the Board of Selectmen, a report in writing covering clearly and concisely the work of his department for the preceding year and submit annual estimates on or before the first day of February, in accordance with Chapter 41, Section 59 of the General Laws.

### **Section 3.**

The Treasurer in his annual report shall set forth specifically as follows:

- a) The objects, if any, for which the debt of the town was increased during the preceding year.
- b) A statement of all expenditures and receipts of the Town in such detail as to give a fair and full exhibit of the objects and methods of all expenditures.
- c) A list of all obligations issued by the Town during the year, showing the purpose for which the money was borrowed, the date, the amount, rate of interest and date of maturity of each.
- d) A list of obligations paid by the Town during the year and a list of all outstanding obligations of the Town with date of maturity thereof.
- e) A list of all properties placed in his charge by law or by virtue of any gift, devise, bequest, deposit or otherwise.
- f) A summary of the financial condition of the Town and a statement showing the expenditures and debt of the Town during the last ten years.

**Section 4.**

Upon request in writing by any Town Department authorized to collect town monies, the Treasurer shall withhold payment of any money payable to any person indebted to said department to an amount not exceeding the unpaid account.

**Section 5.**

No Town Officer and no salaried employee or member of any standing committee of the Town or any agent of such officer or employee shall receive any compensation or commission for work done by him in his own department, except his official salary and fees allowed by law, without permission of the Board of Selectmen expressed in a vote which shall appear on their records with the reason thereof.

**Section 6.**

No officer or appointee of the Town shall in his official capacity make or pass upon or participate in making or passing upon, any sale, contract or agreement or the terms or amount of any payment in which the town is interested and in which such officer has any personal financial interest (direct or indirect).

**Section 7.**

Every contract entered into by the Town exceeding Ten Thousand Dollars (\$10,000.00) shall be accompanied by a suitable bond for the faithful performance of the same or by the deposit of money or security to the amount of said bond.

**Section 8.**

No contract involving the creation of an obligation against the Town exceeding the sum of Two Hundred Dollars, shall at any time be made except by vote of the Committee or Board having supervision of the department to which the same relates and in all cases where the contract exceeds the amount of Five Hundred Dollars (\$500.00) the same shall be in writing signed by at least a majority of the Board or Committee making such contract and a duplicate of the same shall be furnished to the Town Accountant within 7 days of the signing of said contract.

**Section 9.**

No contract for construction work, whether for repairs or original construction, or for the purchase of apparatus, supplies or materials, the estimated cost of which amount to Fifteen Thousand Dollars (\$15,000.00) or more, except in the case of special emergency involving the health or safety of the people or their property, shall be awarded unless proposals for the same have been invited by the officer, board or committee authorized by the town to make the contract, by advertisement in a local newspaper published once a week for at least one week before the time specified for the opening of said proposals. Such advertisement shall state the time and place where plans and specifications of proposed work or apparatus, supplies or materials may be had and the time and place for opening the proposals in answer to said advertisement and shall reserve for the Town the right to reject any or all such proposals. All proposals shall be opened in public. No contract or preliminary plans and specifications therefore shall be split or divided for the purpose of evading the provisions of this section.

**Section 10.**

All resignations of elected officers or appointees of the Town shall be sent to the Town Clerk, who shall notify the Selectmen.

**Section 11.**

The location of all Fire Alarm Boxes shall be determined by the Board of Selectmen.

**Section 12.**

All bills, accounts and vouchers presented to the Selectmen for payment shall bear the signature of approval, in their own handwriting, of a majority of the members of each department contracting the same.

**Section 13.**

All bills of the Town, including payroll, shall be paid as often as once a week, or at the discretion of the town accountant.

**Section 14.**

THE COLLECTOR OF TAXES: The annual report of the Collector of Taxes shall contain a statement of the amount committed to him for collection; amount of interest collected; amount paid to the Treasurer; amount of abatements and discounts; amount of uncollected taxes, water charges, sewer and sidewalk assessments, for each year and cash on hand. The Collector of Taxes shall maintain an office in the Town Hall building with the Collector or a bonded deputy collector in attendance. Reasonable office hours to meet the requirements of the public shall be approved by the Board of Selectmen.

- a) The collector of Taxes shall collect, under the title of Town Collector, all accounts due the Town except interest on investments of trust funds.
- b) All accounts coming due the Town shall forthwith be committed by several officers, boards and committees of the Town to the Town Collector, together with all available information in relation thereto.
- c) If it shall seem advisable to the Town Collector that suit should be instituted on behalf of the Town for the establishment or collection of any account due the Town, he shall so notify the Selectmen, and he shall report to them from time to time, as they may direct, upon all uncollected accounts in his hands. The selectmen shall take such action with respect to all such accounts as they may deem expedient and consistent with the interests of the Town.

**Section 15.** Tree Warden and Moth Superintendent:

- A. Appointment. Pursuant to M.G. L. Chapter 41 Section 106, the Board of Selectmen shall appoint the Tree Warden.
- B. Term. The Appointment of the Tree Warden shall be for three (3) years.
- C. Pay for Services. Any person or firm requiring the service of the Tree Warden and Moth Superintendent shall pay for services at an hourly rate equal to the hourly rate of the General Foremen of the Department. Said costs shall be paid to the Town of Dudley.

**Section 16.**

The following official offices; Town Clerk, Treasurer, Collector, Personnel Board, Board of Assessors, Board of Health, Building, Planning and Zoning Board of Appeals, Water & Sewer Commissions, Conservation and the Board of Selectmen to have office hours one (1) night a week without any increase in the number of hours currently worked and that the Board of Selectmen set the appropriate day and time within the week. Upon request, the Board of Selectmen may waive this requirement for a specific office.

**Section 17.**

TOWN ADMINISTRATOR: All proposed expenditures by individuals or departments for the next fiscal year shall be submitted to the Town Administrator, no later than the third Friday in January. The Town Administrator

shall prepare a budget for the Board of Selectmen to adopt pursuant to the provisions of Chapter 39, Section 16, of the Massachusetts General Laws. Upon adoption of the budget, the Board of Selectmen shall forthwith submit the budget to the F. A. A. Committee for its consideration pursuant to the provisions of ARTICLE V of these By-Laws.

### **Section 18.**

If any appointed committee, board or commission member is absent from three (3) or more consecutive meeting of said committee, board or commission or attends less than seventy-five percent of the meetings scheduled, except in the case of illness or extenuating circumstances as determined & voted by said committee, board or commission, the member's position shall be declared vacant by said committee, board or commission and filled by the appropriate appointing authority. The term of office of all persons chosen to fill aforesaid vacancies, shall be appointed to fill out the unexpired term of the member whose office has been vacated.

#### **Amendments:**

Sec. 7 (1955); Sec. 2 (1956); Sec. 9 (1966); Sec. 12 (1966); Sec. 15 (1966); Sec. 2 (1974); Sec. 1 (1979); Sec. 13 1979; Sec. 9 (1980); Sec. 9 (05/19/1997); Sec. 9 (10/017/2001); Sec.16 (05/21/2007); Sec. 15 (11/05/2007); Sec. 1 (10/29/2018)

#### **Added:**

Sec. 16 (05/24/1999); Sec. 18 (05/19/2008)

## **ARTICLE 7 COLLECTORS AND DEALERS OF JUNK AND KEEPERS OF JUNK SHOPS**

### **Section 1.**

The selectmen may license suitable persons to be Collectors of, Dealers in, or Keepers of shops for purchase, sale or barter of junk, old metals or second-hand articles; and no person shall be a dealer in or keeper of a shop as aforesaid without a license; and the Selectmen may revoke such license at their pleasure.

### **Section 2.**

The Selectmen shall require that any place, vehicle or receptacle used for the collection or keeping of the articles aforesaid, may be examined at all times by the Selectmen or by any person by them authorized to make such examination.

### **Section 3.**

No person licensed as junk collector shall, directly or indirectly, either purchase or receive by way of barter or exchange any of the articles aforesaid, except rags or bottles, of a minor or apprentice knowing or having reason to believe him to be such.

## **ARTICLE 8 USE OF STREET AND SIDEWALKS**

### **Section 1.**

All warnings, signs or other projections of buildings shall be at least seven feet above the sidewalk, and then only by permission of the Selectmen.

### **Section 2.**

No person shall use any sidewalk, street, or property of the Town for display of merchandise or other articles of personal property without first obtaining written permission to do so from the Selectmen.

### **Section 3.**

No person having charge of a wagon, truck or other vehicle shall allow the same to stand up on sidewalk or street crossing in said town, so as to obstruct travel thereon, without first having provided a convenient passage for pedestrians.

### **Section 4.**

Every owner, tenant or occupant of an estate abutting upon a hard finished sidewalk shall keep the sidewalk free from all dirt, rubbish, refuse, oil, snow and ice or other like substance.

### **Section 5.**

No person or persons shall in any of the public ways of the town throw stones, snowballs, sticks or other missiles, or kick a football or play at any game in which a ball is used, or engage in any other game or exercise, interfering with free, safe and convenient use of said street or highway by any persons traveling or passing along the same.

### **Section 6.**

Three or more persons shall not stand in a group or near each other on any sidewalk or public way or in a doorway in such a manner as to obstruct a free passing for foot passengers, after a request to move on, made by any of the constables or police officers.

### **Section 7.**

Riding of bicycles with over 16 inch wheels and coasting on any sidewalk is prohibited.

### **Section 8.**

Traffic Control.

The Chief of Police possesses the discretion to determine the appropriate level of police service as well as the qualifications of persons to perform traffic direction in the Town of Dudley to ensure public safety. Therefore, notwithstanding any regulation to the contrary, the Chief of Police has the discretion to require the presence of a sworn police officer, including but not limited to one employed on a paid detail basis, in all instances where there is a street opening or any work to be done on a public way or at a public function in Town. The Chief of Police has the further discretion to determine the number and ranks of officers assigned in any such instance necessary to maintain public safety or other legitimate interest of the community or department.

Added: Sec. 8 (05/18/2009)

## **ARTICLE 9**

## **HIGHWAY COMMISSIONERS**

### **Section 1.**

No person except the Highway Commissioners or the Superintendent of Streets in the lawful performance of their or his duties or those acting under their or his orders, except such other persons as are or may be authorized under statute shall break or dig up a public way without obtaining a written permit from the Highway

Commissioners, which shall state the regulations under which the work shall be done. All persons acting under such permit shall erect and maintain suitable railing or fence around that part of the street so broken up, as long as the same shall remain unsafe or inconvenient for travelers, and he or they shall keep two or more lighted lanterns or flares fixed to such railing or fence, or in some other way exposed, every night from sunset to sunrise as long as such street or way shall remain unsafe or inconvenient for travelers. The work done under said permit shall be in accordance with said regulations and upon the completion of said work, the surface of said street or way shall be restored to a condition satisfactory to the Highway Commissioners.

## **Section 2.**

Whenever the Highway Commissioners or the Superintendent of Streets are about to construct or repair any street or way, the surface of which is hard finished, they or he shall before beginning the work, give reasonable notice to such intention to the Departments of the Town, to corporations liable to be affected thereby and to all abutting owners having connections by drains or otherwise with structures in the street. If such parties have any work to be done in such public street or way, they shall consult and arrange with said Highway Commissioners or Superintendent of Streets in order that such work may be done before the surface of such street or way is again prepared for and opened to public travel. After such notice and opportunity has been given, such parties shall not for the space of two years break up or disturb the surface of said street or way within the area so constructed or repaired except in case of reasonable necessity and then only on written permission of the Highway Commissioners.

## **Section 3.**

Any person who intends to erect, repair or take down any building on land abutting on any way which the Town is required to keep in repair and desires to make use of any portion of said way for the purpose of placing therein building materials or rubbish, shall give notice thereof to the Highway Commissioners. Thereupon the Highway Commissioners may grant a permit to such portion of said way to be used for such purposes as in their judgement, the necessity of the case demands and the security of the public allows; such permit in no case to be for a period longer than ninety days and to be on such conditions as the Highway Commissioners may impose including without limitation the condition that from sunset to sunrise of every night during the progress of the work, the public way shall sufficiently be lighted by lantern or otherwise so as to be thereby reasonably safe and convenient for travelers. The Highway Commissioners may before granting such permit, require such person to furnish a bond with satisfactory sureties to indemnify and save harmless the town from and against any loss, damage, claim or suit which may arise from such use of the street and to insure the faithful compliance with the conditions of said permit.

## **Section 4.**

The Highway Commissioners shall be responsible for approving all proposed street names in the Town of Dudley. The naming of any street shall be approved by the Highway Commissioners prior to an approval of a sub-division or the issuance of a house number.

**Added:**  
**Sec. 4 (05/24/99)**

**Amended:**  
**Sec. 4 (05/18/09)**

## **ARTICLE 10                      PARKING RULES**

### **Section 1.**

All vehicles shall be parked on the right hand side of road parallel with and within twelve inches of the curbing where sidewalks are curbed and parallel with the lines of the road and as far off the traveled way as can be reasonably done, where there is not curbing. In no case shall a vehicle be allowed to stand diagonally on the streets of the town.

## Section 2.

No person shall park a vehicle in any of the following places and vehicles found parked in violation of the provisions of this section may be moved to a place where parking is permitted.

- a) Within an intersection
- b) Upon any sidewalk
- c) Upon a crosswalk
- d) Upon any roadway where parking of vehicles does not leave a clear and unobstructed lane at least ten feet wide for passing traffic
- e) Upon any street or highway within ten feet of a fire hydrant
- f) Upon or in front or within 10 feet of any alley, private road or driveway
- g) Upon any street or highway within twenty feet of an intersecting way

## Section 3.

On the following streets or highways or parts thereof, parking is strictly prohibited.

- a) Upon any highway or street or way abutting school grounds or property.
- b) Upon any highway designated by the Chief of Police and Selectmen at any time or for any period of time.
- c) The owner of the vehicle or person in whose name it is registered shall not allow, permit or suffer such vehicle to stand or park in any street, way, highway or parkway under the control to the Town of Dudley in such manner as to interfere with the work of plowing snow or removing snow or ice.
- d) The Superintendent of Streets, for the purpose of plowing snow or removing snow or ice from any way, may remove or cause to be removed to some convenient place, including in such term a public garage, any vehicle parked in violation of Section 3C of this article. The cost of such removal and the storage charges shall not exceed the rates then prevailing for removal and storage of such vehicle.
- e) That no person, firm or corporation shall plow or deposit upon any town highway or road or public way in the Town of Dudley, any accumulation of snow or ice that poses a hazard or restraint to the flow of traffic. Any person violating this By-Law shall be given a warning for the first offense and shall be fined \$25.00 for any subsequent offense.
- f) Restricted hours for on street parking between November 1st and March 30th, and authorize a schedule of penalties for violations of this bylaw. The Board of Selectmen/Highway Commissioners, Chief of Police or Superintendent of Streets may declared a Snow Emergency upon which on street parking shall be prohibited. Notification to the public shall be in the official Town of Dudley website and other electronic means that are available. The Snow Emergency shall expire within twenty-four (24) hours, unless it is specifically extended.

## Section 4.

Mass. Gen. Law c. 40, S21: "Clause 24" for prohibiting or regulating the leaving of vehicles unattended within parking spaces designated as reserved for vehicles owned and operated by disabled veterans or handicapped persons and within certain other areas. The penalty for such violation shall be One-Hundred Dollars (\$100.00) for the first offense and Three Hundred Dollars (\$300.00) for each subsequent offense according to M.G.L. c. 40, sec. 21 and shall amend the amount presently set for such violations listed in the Town of Dudley Traffic Rules and Regulations under Article IV, Section 4-1, Letter N. Clause 14. "For prohibiting or regulating the leaving of vehicles unattended within the limits of private ways furnishing means of access for the Fire apparatus to any building. The penalty for such violation shall be Fifty dollars (\$50.00) and shall amend the amount presently set for such violations listed in the Town of Dudley Traffic Rules and Regulations under Article IV, Section 4-1, letter D".

### Amended:

Sec. 3e (1978); Sec. 4 (10/17/2001); Sec. 3f (05/22/2017)

### Added:

Sec. 4 (06/27/1995)

## ARTICLE 11                    LICENSES AND PERMITS

### Section 1.

No license in any form shall be granted by the Selectmen or Licensing Board for the sale of alcoholic beverages at any location within the Town within five hundred (500) feet of any church or school premises.

### Section 2.

No license or permit shall be issued for any coin operated machines which are games of chance.

- a) Coin operated machines which are games of chance shall mean slot machines, or any other device which offers money paid out to winners.
- b) The licensing authorities may grant a license for automatic amusement devices which are used for games of skill or amusement only.

The licensing authority shall not issue more than One Hundred (100) automatic amusement device licenses to any one establishment nor to any one location in town.

Automatic amusement device in this section shall mean: Coin operated pool tables, shuffle alley machines, coin operated kiddie rides, video games or any other device which does not offer free plays or money paid out to winners.

The annual fee for each automatic device or for any renewal thereof, shall be twenty dollars (\$20.00). The fee for any change of premises shall be two dollars (\$2.00). Any violation of any of the provisions of this section shall for each and every offense forfeit and pay penalty of not more than twenty dollars (\$20.00) to the use of the town.

**Added: Sec. 4a & 4b (03/02/1974**

**Amendments:    Sec 4a (10/27/2008)**  
**Sec 4b (05/05/1979; 05/24/1982; 05/24/1993; 05/18/2009; 11/02/2009)**  
**Sec 2 (05/24/2010) deleted-sections renumbered**  
**Sec 3 (05/24/2010) deleted-sections renumbered**

## ARTICLE 12                    MISCELLANEOUS PROVISIONS

### Section 1.

No person shall meddle with any hydrant, gate, gate box, or water pipe placed or located within the limit of any public way in this town without the permission from the Superintendent of the Water Department or any member of the Board of Water Commissioners.

### Section 2.

“No person shall operate any motorized vehicle or bicycle on the Grounds of the Sanitary Landfill or on or within 15' (fifteen feet) of the base of any publicly owned dam in the Town of Dudley.”

**Repealed:**  
**Sec. 2 (1987)**

**Added:**  
**Sec. 2 (05/18/1998)**

**ARTICLE 13****PENALTIES****Section 1.**

Whoever shall offend against or fail to comply with any of the provisions of these By-Laws except persons covered in Article 6 shall for each and every offense, forfeit and pay a penalty of not more than Twenty Dollars (\$20.00) to the use of the Town.

**Section 2.**

Whoever shall offend against or fail to comply with any of the provisions of Article 6 of these By-Laws shall be immediately relieved of his duties and replaced in the manner prescribed.

**Section 3.**

No person, except persons covered in Article 6, shall be prosecuted for any offense against any of the provisions of these By-Laws, unless complaint for same shall be instituted and commenced within thirty (30) days from the time of committing such offense.

**Section 4.**

It shall be the duty of the Selectmen, Police Officers, and Constables Of Dudley to see that the provisions of these By-Laws are enforced.

**Section 5.**

The preceding sections notwithstanding any person violating the provisions of any section of these by-laws which is subject to a specific penalty may be penalized by a non-criminal disposition as provided in M.G.L. c 40s. 21D and c. 90C and is subject to Dudley Town By-Laws regulating unpermitted smoking. The non-criminal method of disposition may also be used for violations of any rules or regulations of any town officer, board or department which is subject to a specific penalty. Without intending to limit the foregoing, the following by-laws, rules and regulations are to be included within the scope of this section, the specific penalties listed shall apply and in addition to police officers, who in all cases shall be enforcing officers, the Town personnel listed shall also be enforcing officers.

a. Illegal dumping and/or disposal of trash, refuse and debris in violation of Article 35.

Penalty: \$300.00

Enforcing Officer: Board of Health Agent

b. Violations of Board of Health Smoking Regulations: Penalty: Any person having control of a public place of work place \$200.00. Any person who smokes in violation: \$50.00.

c. Prohibition against illegal sewer hookup or of failure to report in violation of Article 18, Section 3:

Penalty \$300.00 per day.

Enforcing Officers: Superintendent of Sewers.

Nothing herein shall limit or restrict any person's authority to seek criminal prosecution of any violation listed herein. Each day on which any violation exists shall be deemed to be a separate offense.

d. Violations of the State Building Code, and any local or state Rules or Regulations, statutes or By-Laws the purpose of which is to regulate the building of structures or development of land in the Town shall be enforced by the Building Inspector, and violations shall be enforceable by rescinding permits, issuing cease and desist orders and levying fines per day that such violation remains uncorrected. Such fines shall be enforced through non-criminal complaint procedures.

**Amendments:**

**Sec. 1 (1956); Sec 5 (1994); Sec 5 (2014)**

**Added:**

**Sec. C (1998)**

## **ARTICLE 14 POLICE DEPARTMENT TOWN OF DUDLEY**

**Part 1.** An act providing that members of the Police Department of the Town of Dudley be exempt from the Civil Service Law and Rules and further providing for the appointment of said members.

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

### **Section 1.**

Notwithstanding any contrary provision of law, appointments to the police department of the Town of Dudley shall not be subject to the civil service law and rules.

### **Section 2.**

Appointments to the police department of said town shall be subject to rules and regulations established by a committee of 5 members consisting of the town administrator, the chief of police and 3 members appointed by the town moderator, 2 of who shall be members of the board of selectmen and 1 of who shall be a member of the finance committee of the town.

### **Section 3.**

The provisions of section one of this act shall not impair the civil service status of any member of the police department of the Town of Dudley who holds such status on the effective date of this act.

### **Section 4.**

This act shall take effect upon its passage.  
(s/August 5, 1975; app. August 13, 1975. #H6462 – Ch. 511)

**Part 2.** An Act Clarifying the Civil Service Status of Certain Members of the Police Department of the Town of Dudley.

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

### **Section 1.**

Section 3 of Chapter 511 of the acts of 1975 is hereby amended by inserting after the word “act”, in line 4, the words: and any member of said police department who on the effective date of this act is serving his probationary period as required by chapter thirty-one of the General Laws shall, upon the satisfactory completion of such probationary period, be deemed to have been permanently appointed as a member of the Police Department of said town under the civil service law.

### **Section 2.**

This act shall take effect as of August thirteenth, nineteen hundred and seventy-five.

**Part 3.** It is Ordered, Adjudged and Decreed;

1. The Town of Dudley Police Rules Committee established under c. 511, section 2 of the 1975 Acts and Resolves of the Legislature may make reasonable rules and regulations governing initial or original appointments to the Police Department. Establishing a "Police Evaluating Committee" to make recommendations regarding initial or original appointments to the Town of Dudley Board is within the scope of the authority granted by the legislature of the Town of Dudley's Police Rules Committee.
2. The Town of Dudley Rules Committee does not have the authority to create an appellate body to review the promotions, demotions or termination decisions made by the Board pursuant to their authority under MGL c.41, Section 97A.
3. The rules governing promotions, demotions, termination and other general personnel policies of the Police Department with the sole exception of appointments are those rules created by the police chief and approved by the Board under authority of G.L. 41, Section 97A
4. The Town of Dudley's subsequent passage of c 511 adopted rules and regulations incorporating G.L. c. 31, Section 43. The Town of Dudley does not have the right to confer jurisdiction on an agency of the Commonwealth. The Town however, must attempt to comply with the provisions of G.L. c 31, Section 43 in so far as possible as it existed at the time the Town adopted the rules and regulations.
5. The Town of Dudley shall adopt rules and regulations governing police personnel conforming to laws of the Commonwealth.

**NOTE: Chapter 31 G.L. Section 49 adopted 3-26-44/approved 4-12-44. A. Part 1 1975; A Part 2, 1979 effective 1975; Ruling Part 3. Superior Court #88-3003 1990/Part 1, Sec. 2 amended by Special Act Chapter 196 07/29/2010**

## **ARTICLE 15                    INVENTORY**

### **Section 1.**

All town officers and departments shall maintain an inventory of books, records, tools and equipment which are not expendable. Whenever changes within town offices or departments are made, the responsible member shall check and sign for the existing inventory in that department. A signed copy of the inventory will be kept on file in the Town Clerk's office. At least once a year, this inventory will be brought up to date and a signed copy shall be filed with the Town Clerk.

## **ARTICLE 16                    ACCEPTANCE OF NEW STREETS**

### **Section 1.**

- a. Streets shall be accepted only at Annual Spring Town Meeting.
- b. All materials, hereafter referred to as the "Street Acceptance Package," shall be submitted in entirety to the Town Administrator's Office not before the first business day in January and not later than the last business day of January prior to the Annual Spring Town Meeting where street acceptance will be placed on the warrant.
- c. Private Road Adoption. Developers/ property owners who are seeking to have their private roads put on the Town's Annual Town Meeting warrant for acceptance shall have the finish coat of asphalt no more than two years old at the time of acceptance. Roads that have a finish coat of asphalt more than two years old shall be required to have improvements and/or additional maintenance made to them before they can be accepted. The improvements that are needed will be determined by the Highway Department Superintendent or designee, Planning Board, Consultant, Town Engineer and the Selectmen or their designee.

Improvements will include at least one of, but are not limited to, the following:

- Crack filling along with oil and sand sealing of the entire roadway, or portions as determined;
- One-and-one-half inch to two inch (1-½" – 2") overlay of asphalt including any necessary blending of driveways and the raising of any roadway structures, to a height flush with the new pavement;
- Complete reclamation and re-grading of the roadway and a minimum of four inches (4") compacted thickness of asphalt, installed in two lifts and related work;
- Any other improvements the bodies named above or their designees may deem necessary for acceptance.

## Section 2.

- a. A check for \$500.00 must accompany a written request for acceptance of the street. The funds shall be called a "review fee" and used for document review and/or physical review by any qualified person or agency deemed necessary by the Board of Selectmen to ensure the health, safety, welfare and/or general convenience of the Town will be maintained by the acceptance of this street. The unexpended portion shall be returned to the check's account holder within 30 days of the town meeting where a decision to accept or not accept the street is made. A vote to pass over the question of street acceptance will result in the unexpended portion of the funds being deposited in an interest-bearing account with the funds to be released to the account holder within 30 days of their request to withdraw the street for possible acceptance.
- b. If the street is part of a newly constructed subdivision and if the developer has a minimum of \$500.00 per street to be accepted in their escrow account, then no check need accompany the written request for acceptance. However, a completed inspection form (Form H) for each street, proof of escrow balance from the Town Accountant or designee, and other documents as required by the Rules and Regulations Governing the Subdivision of Land in Dudley Massachusetts must be submitted as part of the "Street Acceptance Package."
- c. If at any time prior to street acceptance the review fee account, including escrow accounts for newly constructed subdivision streets, falls below anticipated expenditures, the check's account holder will be notified in writing by the Town Administrator's office.

## Section 3.

The following is a list of materials to be included in the street acceptance package. Newly constructed subdivision streets are required to submit all of the documents listed below, as well as any documents required by the Rules and Regulations Governing the Subdivision of Land in Dudley Massachusetts. The Board of Selectmen may request additional materials and may provide a waiver for any of the materials to be included in the street acceptance package:

- a. Original written request for street acceptance
- b. Check for \$500.00 (or Town Accountant proof of \$500 minimum per street to be accepted in the subdivision's escrow account, controlled by the entity requesting street acceptance)
- c. Original Street Acceptance Checklist signed by the Board of Selectmen showing any waivers from the requirements
- d. Original, stamped, reproducible street acceptance plan
- e. Original, stamped, reproducible as-built street plan

- f. Six (6) copies of the following, collated to form six packages ready for distribution, in this order
1. Copy of the Street Acceptance Checklist
  2. Copy of the written request for street acceptance
  3. Copy of the Town Accountant proof of escrow, if a new street
  4. Copy of the street acceptance plan
  5. Copy of the as-built plan
  6. Plans of any infrastructure within the taking, such as drainage, underground utility services, etc.
  7. Maintenance plans and manufacturer's specifications as deemed applicable by the Highway Supervisor, engineer, or their designee
  8. Legal description
  9. Copies of all easements within the cart way or taking. Proof of recordation of these easements must be provided to the Town Administrator's office before any street voted to be accepted at town meeting is to be finally accepted.
  10. Any other material as requested by the Town Administrator, Board of Selectmen, Highway Supervisor, or their designee.

#### **Section 4.**

In order to meet the requirements for the street acceptance package, it is recommended that signatures are obtained as early as possible. Those requesting street acceptance should plan on attending at least one Board of Selectmen's meeting and any public hearings where acceptance of the street will be discussed.

**Amendments:**  
1971, 1979, 2008

**Added:**  
Sec. 2 (10/30/2006)

**Added:**  
Sec 1, paragraph c (05/23/2011)

## **ARTICLE 17 EXCAVATIONS/FILL**

### **Section A. EARTH REMOVAL/IMPORTATION**

#### **1. Purpose.**

The primary intent of this by-law is to establish guidelines and regulate the removal, importation, and filling of any material for the protection and human health, public safety, welfare, and the integrity of the natural resources including aquifers, bodies of water and the wetlands of the Town of Dudley.

#### **2. Definitions.**

The following definitions shall apply to this by-law:

**Board:** The Board of Selectmen.

**Earth:** Soil, loam, sand, gravel, borrow, rock, sod, peat, humus, clay, coal or other earth material.

**Excavate:** To dig out and remove material.

**Fill:** To deposit, use, redistribute or move any material on or within any land area or water body. Also, any material which is used for this purpose.

**Import:** To bring any material from outside of the Town to any land area or water body within the Town.

Material: Any geologic, manmade, recycled or processed material including in its entirety or as a proportion containing clay, rock, sand, gravel, topsoil, loam, humus, peat, sod, borrow rock, sediment, wood, plant or animal matter, glass, paper, plastic, metal, bituminous pavement, or concrete.

### 3. Permit required/Exceptions.

The removal, importation or filling of any material to or from any parcel of land in the Town of Dudley is prohibited unless a written permit therefor is obtained first from the Board. If said fill project is in excess of 100,000 cubic yards over the life of the project or projects, an Administrative Consent Order from the Massachusetts Department of Environmental Protection or successor agencies or their equivalent is required as part of the permitting process as herein provided.

No permit shall be necessary when material must be removed, imported or filled for the following:

A. To construct a single or multi-family building being built in accordance with a permit issued by the Building Inspector. The importation or removal of up to 1,500 cubic yards of material shall be exempt from permitting. A permit from the Board is required for importation or removal of material in excess of 1,500 cubic yards.

B. To construct a commercial building or facility that has met Board and town approvals for a permit. Importation or removal of material for the purpose of such construction is permitted up to the amounts necessary to complete project according to approved plans. Additional importation or removal beyond the scope of construction of over 3,000 cubic yards shall require a permit from the Board, except for municipal or school buildings or facilities.

C. To construct a public or private way within the town that has met all requisite town approvals and after the developer has put a covenant in place and recorded said covenant along with the conditions of approval by the Board, or by the Planning Board, as apt. Additional importation or removal of the material beyond the scope of construction of over 3,000 cubic yards shall require a permit from the Board. Definitive Subdivision Plans approved by the Planning Board pursuant to the Subdivision Control Law are exempt from this By-Law.

D. Operate a licensed landscape/materials facility to sell/remove materials produced offsite and hauled into said facility.

E. General property improvement or maintenance, such as the installation of swimming pools, landscaping, construction of septic systems, and/or other property improvement or maintenance. The importation or removal of up to 1,500 cubic yards of material for the purpose of such improvement or maintenance shall be exempt from permitting. A permit from the Board is required for importation or removal beyond 1,500 cubic yards.

F. Removal, importation, or filling of materials is not considered part of a normal operation of a farm or garden and is not exempt from this by-law.

G. Any project or series of projects, which involves over the lifetime of the project the importation or filling of greater than 100,000 cubic yards of material as referenced in the beginning of this section for the purpose or reclamation or any other purpose, may be regulated by Administrative Consent Order (ACO) and/or other state or federal regulations. (See Interim Policy of the Re-use of Soil for Large Reclamation Projects, Policy #COMM15-01). If the project is in compliance with an ACO and/or other state or federal regulations, the Board may deem that the requirements of this by-law are satisfied and shall issue a permit stating that the project is in compliance of this by-law. Such a permit must be issued before a project can commence. If at any time during the project the Board determines that there are violations of the terms of the ACO and/or any other applicable state or federal regulations, the Board shall issue a cease and desist order and suspend or revoke the permit.

### 4. Application for permit.

A. Any person wishing to obtain a permit to remove, import or fill material to or from any parcel of land within the Town shall file a written application with the Board, which shall include the following information and documentation:

1) The legal name and address of the applicant. The name, address and telephone number of the individual overseeing the proposed excavation and/or fill project.

- 2) The location of the proposed excavation and/or fill project.
- 3) The legal name and address of the owner of the property to be filled or excavated.
- 4) A list of abutters, and abutters to abutters, within 300 feet of the location of the proposed excavation and/or fill project, as appearing in the records maintained by the Assessor's Office of the Town.
- 5) A Site Plan of the land prepared by a registered land surveyor or registered professional engineer, as apt, showing the existing contours and topography of the entire site of the proposed excavation and all abutting land within 100 feet of the proposed excavation and/or fill project. The site plan shall locate monuments sufficient to delineate the perimeter of the site at intervals of not less than 500 feet.
  - a. Existing conditions, including grades, manmade features, elevations, property boundaries, dimensions, owners of the land who are entitled to notice under this by-law, access points, water bodies and watercourses, wetlands, and environmental sample locations;
  - b. Process diagrams indicating removal and/or fill sequence, transport routes, and security measures;
  - c. Drainage, water flow and sedimentation control before and after the proposed removal and/or filling, and storm water and erosion control and groundwater recharge structures and features to be utilized during removal and/or fill operations;
  - d. Final grade plans depicting proposed finish elevations, slopes, permanent storm water and erosion control and groundwater recharge structures and features, the methods of final stabilization of all material and the proposed cover material and cover vegetation.
  - e. Unless otherwise determined by the permit granting authority, map scales shall be no more than 60 feet to the inch and elevation contour intervals shall not exceed two feet. Elevation contours are required only for areas of removal and or fill, 100 feet beyond the perimeter of the removal and/or fill areas and along abutting property lines.
- 6) The applicant shall submit an appropriate number of copies to the Board to allow members to review the application and to distribute a copy to all appropriate Town officials and boards for their review. To allow other Town boards and officials time to comment and make recommendations on applications, the Board shall wait 45 days after submission of a complete application before issuing a permit.
- 7) For filling projects a Soil Management Plan shall be submitted and signed by a Massachusetts Licensed Site Professional (LSP). The LSP shall be hired by the Town at the applicant's expense. All charges incurred by the LSP related to any aspect of the project shall be paid by the applicant. Failure of any applicant or permit holder to make timely payments for these services shall be grounds for denial of a permit and/or for issuance of a cease and desist order and/or for revocation of the permit. The following shall be included in the Soil Management Plan.
  - a. A statement by the LSP verifying that the Soil Management plan meets the requirements of the Excavation/Fill by-law of the Town of Dudley and other applicable federal and state law or regulation pertaining to the transport, use and/or disposal of any materials for fill;
  - b. That bills of lading will be required for each load of material transported in or within the Town. Each bill of lading shall state the point of origin of the material, the exact location where the material was placed, the amount of material by weight or volume, and the date of transport;
  - c. Complete descriptions of pre-fill environmental conditions and findings and sample locations;
  - d. Procedures for verification of material origin and acceptance;
  - e. Recordkeeping practices;
  - f. Site security, fill operation inspection and site control;

- g. Transport routes, times and days of operation, locations of equipment parking and storage and duration of fill activities;
  - h. Qualifications of applicant personnel responsible for adhering to the soil management plan and this by-law;
  - i. Erosion, dust, and storm water controls and inspection and maintenance thereof;
  - j. Effects of the filling on groundwater recharge;
  - k. Quality assurance/quality control procedures;
  - l. Emergency response and notification procedures, including telephone numbers and contact individuals/firms;
  - m. Total proposed volume of materials used for fill;
  - n. Daily personnel procedures and operation management procedures, including types, numbers, locations and hours of operation of any processing equipment on site;
  - o. Environmental monitoring plan to maintain protection of human health, public safety, welfare and the environmental during the following fill operations;
  - p. Cover material, revegetation, erosion and pollution control, and monitoring and maintenance plan; and
  - q. Any other information required by the Board.
- 8) A plan of the land showing the proposed contours and topography of the site when the proposed excavation and/or fill project is completed, showing a typical cross-section of the proposed final cover as well as any drainage or other structures that may be necessary.
- 9) A proposal concerning the provisions of security for the final completion of the excavation and/or fill project in accordance with plans submitted and any additional conditions that may be attached to the permit.
- 10) The Board shall submit application materials to the Building Inspector/Zoning Enforcement Officer for review, approval and comments if a residential use shall occur.
- B. The Board may, by regulation, prescribe forms for initial applications, extensions, and renewals, and such forms may require additional information as the Board shall determine to be necessary.
5. Procedure for issuing permit.
- A. Prior to issuing any permit hereunder, the Board shall hold a public hearing, notice of which shall be given by publication in a newspaper having general circulation within the Town and copies of which are mailed to each of the abutters shown on the list submitted with the application, at least seven days prior to the hearing.
- B. Prior to such hearing the Board shall also send notice of the application to the Board of Health, Conservation Commission, and Planning Board and request such comment or advice as said Boards or Commission may deem appropriate.
- C. If, after hearing, the Board determines that the permit application conforms to the requirements of ARTICLE 17, SECTION A.3 of this by-law, and that the permitted operation would conform with the requirements of public health and welfare and be consistent with the sound development of the Town, the Board may issue such permit upon the terms specified in this by-law and subject to such additional conditions the Board may determine to be necessary.
6. Conditions of permit.

Every permit issued shall be subject to the following conditions:

- A. The portions of the permitted premises which have been filled or excavated shall be graded and leveled to conform to the approved final contour plan at least annually.

- B. After final grading and leveling and not later than October 15 of each year, the filled or the excavated portion shall be covered with not less than four inches of suitable topsoil, and shall be seeded and planted with suitable ground cover within 200 feet of current excavation operations. All final contour slopes will conform to a 2 to 1 maximum. That is for every two (2) feet of horizontal travel only a one (1) foot drop maximum is allowed.
- C. No fill or excavation shall be undertaken within 100 feet of a public or private way or within 150 feet of a building or structure, unless the Board specifically finds that such fill or excavation will not undermine the way or structure or otherwise be seriously detrimental to the neighborhood and such finding is endorsed on the permit.
- D. No swamp, pond, watercourse, or other wetland will be altered or polluted in any way without all necessary permits and no watercourses, drains, swales, culverts or other water channeling contours or structures shall be constructed unless shown on the plan submitted and approved.
- E. For all filling projects, materials shall include only sand gravel, clay stone, quarried rock or other subsurface products free from solid waste, with an aggregate size of six inches or less, and have no solid waste, refuse, junk, industrial waste, or volatile, explosive or flammable materials. This material shall have no concentration of oil or hazardous material, toxic substance or infectious biological material greater than federal, state or local reportable or action criteria OR greater than pre-fill concentration of oil or hazardous material, toxic substance or infectious biological material prevailing in the area to be filled. The fill material shall also be free from organic material, such as trees, stumps, waste, building materials, and construction and demolition debris and shall contain 10% or less of total organic carbon by lab analysis.
- F. For all filling projects, the Board may require such borings and test pits, inspections, monitoring, certifications, reports and test by licensed site professionals, engineers, laboratories and/or other qualified persons needed to evaluate the application and/or to monitor performance under a permit and/or establish compliance with the conditions of a permit and this by-law. It shall be a condition of all permits that the applicant pay for all such borings and test pits, inspections, monitoring, certifications, reports and tests and that they be conducted by persons selected by and responsible to the Board. Failure of any applicant or permit holder to make timely payment for any borings and test pits, inspection, certification, monitoring, report or test or to carry out any step or to submit any information required by the Board shall be grounds for denial of a permit and/or for issuance of a cease and desist order and/or for revocation of the permit.
- G. No fill or excavation will begin until security by surety bond, cash, or other approved method is provided to ensure that the excavation will be carried out in accordance with the permit and that the final grades and cover are provided. Such security shall not be less than \$2,000 for each acre of the proposed site. The security shall be released when suitable vegetation has been reestablished on the portion of the site for which it was provided.

#### 7. Duration of permit.

Every permit granted under this by-law shall be valid for a period not to exceed one year. Any permit issued may be renewed by the Board, without hearing, if the proposed fill or excavation will be conducted in accordance with a plan previously approved and if the annual report required by ARTICLE 17, SECTION A.8, Documentation and Inspection of this by-law has been filed. Any expansion or extension of a permitted excavation will also be subject to a public hearing.

#### 8. Documentation and Inspection.

A. For projects only involving excavation and removal, one month prior to permit expiration, the permitted operator of an excavation shall submit a report showing the following information for the preceding permitted period of operation:

- 1) The amount of material excavated.
- 2) The type of material excavated.
- 3) The area (square feet or acres) excavated and the area regraded, covered, and seeded.

B. For projects involving any filling, the permit holder shall at the end of each calendar month during which any filling activity occurred, provide a dated letter from the LSP stating the following:

- 1) That the material used for fill is not otherwise prohibited from use as fill material in accordance with this by-law or other applicable federal or state laws, regulations, standards or guidelines;
  - 2) That the LSP has compared analytical results of testing of the materials to the existing, pre-fill conditions at the fill location and determined that the concentrations of oil or hazardous material, toxic substance or infectious biological material in the materials intended for use as fill are not greater than existing, pre-fill concentrations for that location.
  - 3) That such analytical results are based on sampling techniques which adequately assess the material.
  - 4) That bills of lading for each load of a material have been reviewed by the LSP and that each bill of lading is on file and available for review by the Town.
- C. Every permitted excavation or fill project shall be open for inspection by the proper local officials and the Town's Engineer at all reasonable times. Every November the Town Engineer, at the applicant's expense, will do an annual site visit to verify that proper restoration has been completed according to the submitted plan and report findings to the Board.

9. Permit fees.

The Board of Selectmen thereto shall set all application and renewal fees. The applicant is responsible for peer review fees for new applications, annual renewal of applications, inspections, plan review and site visits for the Town's Engineer as deemed necessary.

10. Violations and penalties.

Each day of fill or excavation without the permit required, or otherwise, in violation of this by-law shall constitute a separate offense and shall be individually punishable by the fine provided in MGL c. 40 §21, Clause (17) or MGL Chapter 40 Section 21D, whichever is applicable.

Section B BARRIERS

1. Safety measures required.

Every person excavating land, in charge of such excavation, or owning land which has been excavated shall erect barriers or take other suitable measures to protect the public within two days after having been notified in writing by the Board or the Building Inspector that in their opinion such excavation constitutes a hazard to public safety. Policing Authority shall reside with the Board following consultation with the Building Inspector/Zoning Enforcement Officer.

2. Barriers - Violations and penalties.

The penalty for failure to comply with such written notice by the Board or the Building Inspector/Zoning Enforcement Officer shall be \$200 per day for every day such person is in violation of such notice commencing with the fourth day thereof.

Section C PROCEDURE

1. Compliance.

Compliance of the requirements and conditions of this by-law may be waived by the permitting authority subject to Mass General Law, as amended, and any other applicable laws.

2. Written Permit.

The written permit issued shall include any special conditions in addition to the general conditions of this by-law.

3. Validity and Severability.

The invalidity of one or more sections, subsections, clauses or provisions of this by-law shall not invalidate or impair the by-law as a whole or any part thereof.

#### 4. Transition Rules.

All excavation, importation or filling of material that takes place after the effective date of this by-law shall be subject to the requirements of this by-law. All persons engaged in non-exempt excavation, importation or filling of material when this by-law becomes effective shall file an application for a permit under this by-law within 30 days thereafter. If the Board determines in its reasonable discretion that such a person has not filed a required application on time, the Board may issue a temporary order to suspend or limit such operations. Any such temporary order shall remain in effect until terminated or modified or a permit is granted by the Board. Any excavation, importation, or fill material placed in the Town pending the granting of a permit under this by-law shall be subject to the documentation requirements detailed in ARTICLE 17, SECTION A.8 of this by-law.

**Soil and Loam Removal deleted in its entirety 05/22/2017 and replaced with Excavations/Fill**

## ARTICLE 18 WATER AND SEWER

### A. WATER AND SEWER LINES

#### Section 1.

Whenever water and/or sewer lines are laid in accordance with a vote of the town, the cost of installing such water and sewer lines including cost of pipes, materials, labor and incidental expenses shall be paid, one-third by the town and two-thirds by the owners of the land benefitting. If however, the water and/or sewer line is necessary for the proper maintenance of the Water and/or Sewer Department, the cost shall be paid by the town with abutter tying into the line at this or any other future date be assessed on the basis of a uniform rate per Equivalent Residential Unit (ERU) in the area served by each project, whereby the construction costs are divided among the total existing and potential sewer units to be served. A unit is equal to a single-family residence, with non-residential units put on an equivalent basis. Notice of this assessment shall be filed in the Registry of Deeds in accordance with Chapter 332, Acts of 1955.

#### Section 2.

No article for water or sewer line extension shall be submitted to a town warrant unless the Water or Sewer Departments, as pertains to their respective departments, shall have contacted and notified all abutters of the proposed water or sewer line and the said Water or Sewer Department shall have obtained agreement thereto in writing from the owners of sixty-six and two-thirds (66 2/3) percent of the assessable frontage, said agreements to be certified by the Board of Assessors and filed with the Town Clerk. If however, the water line or sewer line is necessary for the health, safety or comfort of the town or for the proper maintenance of the Water and Sewer Department, then the article may be submitted without obtaining written agreement from the abutters.

#### Section 3.

No land or property shall be connected to the Town of Dudley Sewer System unless said connection has been approved by the Dudley Sewer Commission. Any landowner or property owner whose land or property is connected to the Dudley Sewer System and who is not charged for the use of the System, must report said connection to the Sewer Commission forthwith. "Connection" as used herein includes, but is not limited to, connections of normal household plumbing, gutters, perimeter drains, sump pumps, downspouts, garage drains, driveway drains and storm drains.

#### Section 4.

All new construction in need of wastewater disposal must connect to the Town of Dudley Sewer System at time of construction of within 300' of an existing sewer line.

## B. WATER USE RESTRICTION BY-LAW

### Section 1. Authority

This bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. C.40, sec. 21 et seq. and implements the Town's authority under M.G.L. C. 40, sec.41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

### Section 2. Purpose

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

### Section 3. Definitions

Person shall mean any individual, corporation, trust, partnership or association, or other entity. State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. C21G, sec. 15-17. State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to section 4 of this bylaw. Water Users or Water Consumers shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

### Section 4. Declaration Of a State of Water Supply Conservation

The Town, through its Board of Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under section 6 of this bylaw before it may be enforced.

### Section 5. Restricted Water Uses

A declaration of a State of the Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under section

6.

- a) Odd/Even Day Outdoor Watering Outdoor watering by water user as with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.
- b) Outdoor Watering Ban Outdoor watering is prohibited
- c) Outdoor /Watering Hours Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- d) Filling Swimming Pools Filling of Swimming pools is prohibited
- e) Automatic Sprinkler Use The use of automatic sprinkler systems is prohibited

Section 6. Public Notification of a State of a Water Supply Conservation: Notification of DEP

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under section 5 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

Section 7. Termination of a State of Water Supply Conservation: Notice

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by section 6.

Section 8. State of Water Supply Emergency: Compliance with DEP Orders

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency

Section 9. Penalties

Any person violating this bylaw shall be liable to the town in the amount of \$50.00 for the first violation and \$100.00 for subsequent violation which shall inure to the town. Fines shall be recovered by indictment, or on complaint before the district Court, or by non-criminal disposition in accordance with section 21D of chapter 40 of the general laws. Each day of the violation shall constitute a separate offense.

Section 10. Severability

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

**Amendments:**

1956; Sec. 1 (1962), (1970); A. Sec. 2 (1956); Sec. 2 (1959), (1962), (1966); Sec. 1 & 2 (06/25/1996); Sec. 1 (05/21/2001)

**Added:**

A. Sec.3 (05/018/1998)

**ARTICLE 19 AMENDMENTS / ALTERATIONS OF BY-LAWS EXCLUDING ZONING**

No alteration or amendment can be made to these by-laws unless by an article inserted in the warrant for the annual town meeting, when it shall require a majority vote of the voters present and voting. This article shall pertain to all Town by-laws with the exception of zoning by-laws.

**Adopted:**

03/05/1966

**ARTICLE 20 HISTORICAL COMMISSION – UNDER THE PROVISIONS OF M.G.L. CHAPTER 40, SECTION 8D**

There shall be established under the provisions of the General Laws, Chapter 40, Section 8D, a Historical Commission of the Town of Dudley for the purpose and with the rights and duties provided by law to be composed of seven (7) members, appointed by the Board of Selectmen for terms of three (3) years except that the initial appointment shall be two members

who shall serve one (1) year, two members who shall serve for two (2) years and three members who shall serve for three (3) years.

## **ARTICLE 21 STORAGE OF UNREGISTERED MOTOR VEHICLES**

### **Section 1.**

No more than one unregistered motor vehicle, assembled or disassembled shall be kept, stored or allowed to remain on a lot in the Town except by a duly licensed under M.G.L. Chapter 140, Section 59 and except as provided in Section 3 of this article.

### **Section 2.**

For the purpose of this article, the word "lot" shall mean a parcel of land held in identical ownership throughout including all contiguous land held in the same ownership.

### **Section 3.**

The Selectmen may issue a permit to keep, store or allow more than one such vehicle on a lot after holding a public hearing thereon, first causing at least seven days notice of the time, place and subject matters of such hearing to be given at the expense of the applicant by 1) publication in a newspaper of general circulation in the town and 2) assessors most recent valuation list as the owners of the property abutting said lot. The Selectmen shall not issue such a permit unless it finds that the presence of more than one vehicle of such lot 1) will not nullify or substantially derogate from the intent or purpose of this article, 2) will not constitute a nuisance and, 3) will not adversely affect the neighborhood in which such lot is situated.

### **Section 4.**

Each permit issued by the Selectmen under this article shall 1) specify the maximum number of such vehicles that may be kept, stored or allowed to remain on such lot, 2) be limited to a reasonable period of time and 3) be a personal privilege of the applicant and not a grant attached to and running with the land comprising the lot.

### **Section 5.**

The provision of this article shall not apply to vehicles which are 1) stored within an enclosed building or 2) designed and used for farming or other agricultural purposes.

Adopted: 1980

## **ARTICLE 22 INTOXICATING BEVERAGES ON TOWN OWNED PROPERTY**

### **Section 1.**

No person shall consume intoxicating beverages on Town owned property or in Town owned buildings or have in his possession in such places an open bottle, can or container containing any such beverage unless a special permit is secured from the Board of Selectmen. Anyone violating this by-law shall be subject to a fine of twenty-five (\$25.00) dollars and may be subject to arrest without a warrant by a police officer.

### **Section 2. Public Consumption Of Marijuana or Tetrahydrocannabinol"**

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds,

cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

This by-law may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c. 40, § 21, or by non-criminal disposition pursuant to G.L. c. 40, § 21D, by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be in addition to any civil penalty imposed under G.L. c. 94C, § 32L.

**Adopted: 1976**

**Amended:**  
**Add Sec. 2 (05/18/09)**

## **ARTICLE 23 SWIMMING POOLS AND HOT TUBS**

### **Section 1.**

Every "above ground swimming pool or hot tub" if allowed to remain in place year round shall be equipped with a ladder which shall either be removed or raised to an upright position at all times when the pool is not in use.

### **Section 2.**

Every "outdoor in-ground swimming pool or hot tub" shall be completely surrounded at all times by a suitable fence or wall not less than four feet in height (nominal). A building may be used as part of such enclosure. All gates or door opening through such enclosure shall be equipped with a self-closing and self-latching device located not less than three and one half feet above the ground or wall for keeping the gate or door securely closed at all times when not in actual use. The door of any dwelling which forms a part of this enclosure need not be so equipped. Each such gate or door shall be kept locked at all times when the swimming pool is not in use.

### **Section 3.**

Penalty: Any person violating any provisions of this by-law may be fined not more than One Hundred (\$100.00) Dollars for each offense. Each day that such violation continues shall constitute a separate offense.

### **Section 4.**

All existing above ground or in-ground pools or hot tubs will comply with this section by July 1, 1985.

### **Section 5.**

The owner of property have a fence or other protective in existence at the time this article is accepted by the town, may seek a special permit from the Planning Board to exempt him from strict compliance with this article. Such permit must be applied for prior to June 30, 1985.

### **Section 6.**

Any owner of property may seek a special permit from the Planning Board for any safety device other than a fence as called for in this article prior to obtaining a building permit and prior to installation of the above ground swimming pool or hot tub and every outdoor in-ground swimming pool or hot tub.

**Adopted: 1984**

## **ARTICLE 24                    ARTICLES FOR TOWN MEETING**

Articles appearing on the warrant of the Town Meeting that voters have rejected or passed over, may not be resubmitted prior to the next Annual Town Meeting unless the Selectmen have declared the article of an "emergency nature" or unless by petition of voters in accordance with M.G.L. Chapter 39, Subsection 10 as amended, or unless passed over for additional information.

The Town Clerk, or an agent designated by the Town Clerk, shall be authorized to assign appropriate numbers to sections, subsections, paragraphs, and subparagraphs of Town general by-laws where none are approved by Town Meeting.

Where Town Meeting has approved numbering of sections, subsections, paragraphs and subparagraphs of Town general by-laws, the Town Clerk or an agent designated by the Town Clerk, after consultation with the Town Administrator, shall be authorized to make non-substantive editorial revisions to the numbering to ensure consistent and appropriate sequencing, organization and numbering of the by-laws.

Adopted: 1982 / Amended 10/30/2017

## **ARTICLE 25                    RULES AND REGULATIONS USE OF LAKES AND PONDS WITHIN THE TOWN WITH PENALTY TO APPLY UNDER ARTICLE 13 OF THE TOWN BY-LAWS PENDING ANY VIOLATION.**

### **Section 1.**

Waterskiing is to be done in a counter-clockwise motion.

### **Section 2.            Age limits:**

- a) No one under 10 years of age may operate a powerboat.
- b) Ages 10-14 years may operate a powerboat with an accompanying adult.
- c) Ages 14-16 years may operate a powerboat with a coast guard certificate or an accompanying adult.
- d) Ages 16 and up may operate a powerboat with no other requirement.

### **Section 3.            Speed limits:**

- a. When operating a powerboat within 50 feet of shore minimum throttle setting (idle speed) is to be used.
- b. When operating a powerboat from 50 feet (to shore) to 100 feet (to shore) speed shall be limited to 15 miles per hour.
- c. When operating powerboat in excess of 100 feet (to shore) speed shall be limited to 40 miles per hour.

### **Section 4.            Winter use of waterways:**

- a. Recreational and all-terrain vehicles shall be operated by no one under 10 years of age and those persons between 10 and 16 years of age will operate with supervision of an adult.
- b. Ice fishing holes shall be limited in diameter to eight (8) inches.

Adopted: 1986

NOTE: ATTY. GEN. APPROVAL GIVEN SUBSEQUENT TO THE APPROVAL THEREOF BY THE DIRECTOR OF LAW ENFORCEMENT PURSUANT TO MGL. CHAPTER 131, SECTION 45. (LTR 9/13/89) DIVISION OF LAW ENFORCEMENT FAILED TO RESPOND IN 180 DAYS, HENCE BY LAW 25 APPROVED (LTR 5/3/89)

## ARTICLE 26 CEMETERY BY-LAWS

### Section 1.

Reconveyance: Any reconveyance of the lot one deeded by the Town shall require the Cemetery Commissioners and the Town Clerk to be notified of such transfer and a fee will be charged in accordance with Chapter 262, Section 34, clause 78 and the records shall be open to the public at all reasonable times.

### Section 2.

Any lots which are purchased containing one or more burial plots shall be held indivisibly and upon the decease of the proprietor of such lot, the title of such lot shall vest in accordance with the provisions of M.G.L. Chapter 114, Subsection 29.

### Section 3.

All monumentation of grave sites must be approved by the Cemetery Commissioners or their designee prior to installation.

### Section 4.

The interment of more than one body per burial plot shall only be allowed with the approval of the Cemetery Commissioners.

### Section 5.

Re-transfer: If the owner of a lot containing one or more than one unused burial plot with bodies interred in the lot wishes to transfer or convey the remaining unused burial plots, they shall make application to the Cemetery Commissioners who will confirm the unused burial plots and issue a new deed for the remaining burial plots. The fee for such re-deeding shall be set by a vote of the Cemetery Commissioners annually. The re-deeded lot shall be registered with the Town Clerk's office in accordance with plans locating the unused burial plot or plots.

### Section 6.

- a) The Cemetery Commission shall have the power and authority upon written request from a lot owner, to empower and permit if they deem fit, the subdivision of an existing cemetery lot. Upon approval of the subdivision the Cemetery Commission will issue new deeds for the newly created lots to the respective lot owners.
- b) The Commission will set a fee to offset the administrative costs of the Subdivision process.
- c) Perpetual care charges will be the responsibility of the new lot owner at the current rate.
- d) The sale price of a lot must be paid in full prior to the approval of any subdivision. The owner must provide proof of payment to the Commission prior to the issuance of new deeds.
- e) The lot owner shall indemnify and hold harmless the Cemetery Commission and the Town of Dudley, for any and all damages which may arise as a result of the subdivision of any lot and subsequent sale to a

new owner. This is to include but not be limited to the sales price, method of payment, method of collection, court costs and attorney's fees.

## **Section 7. Veteran's Lots**

This section in the cemetery called "veterans lots" may be used for the interment of any resident veteran, with a grave opening charge only, predicated on and subject to available space in said veteran's lot and subject to the rules and regulations. Said space will be set aside for the burials of honorably discharged veterans residing in the Town of Dudley at the time of their enlistment into the service and/or at the time of their death, proof of having been established by the Veterans Agent and subject to the approval of the Cemetery Commissioners. Spouses shall be buried beside veteran and subject to fees within the rules and regulations. The lifting of the turf for flower beds is prohibited on any veteran's grave.

**Amended:**

**Add Sec.7 (10/29/2019)**

## **ARTICLE 27 ANIMAL CONTROL BY-LAW**

### **Section 1. DEFINITIONS**

As used in this by-law, unless the context otherwise indicates.

- A. "ANIMALS"** - All dogs, cats, domesticate and wild animals of any species, both male and female.
- B. "OWNER" OR "KEEPER"** - Any person or persons, firm, association or corporation owning, keeping, or who has in his possession, for eleven (11) consecutive days in any calendar year, an animal, licensed or unlicensed; and cannot show to the satisfaction of the Animal Control Officer that such animal was sold, had died, was given away or otherwise disposed of. Further, if the owner or keeper of an animal were a minor, the parent or guardian of such minor shall be held liable for any violation of this by-law.
- C. "RUN-AT-LARGE"** - Free of restraint and permitted to wander on private or public ways at will.
- D. "COMMERCIAL BOARDING OR TRAINING KENNEL"** - An establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that "commercial boarding or training kennel" shall not include an animal shelter or animal control facility, a pet shop licensed under section 39A of chapter 129, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.
- E. "COMMERCIAL BREEDER KENNEL"** - "An establishment, other than a personal kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers or pet shops in return for consideration."
- F. "DOMESTIC CHARITABLE CORPORATION KENNEL"** - A facility operated, owned or maintained by a domestic charitable corporation registered with the department or an animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals, including a veterinary hospital or clinic operated by a licensed veterinarian, which operates consistent with such purposes while providing veterinary treatment and care.
- G. "PERSONAL KENNEL"** - A pack or collection of more than three (3) dogs or three (3) cats over the age of six (6) months owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and

provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the department, may be sold, traded, bartered or distributed if the transfer is not for profit. The number of litters permitted shall be limited to four (4) per licensing year regardless of the number of adult dogs approved for the Personal Kennel.

- H. **"KENNEL"**- A pack or collection of dogs on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel.
- I. **"LICENSE PERIOD"** - The time between January 1 and December 31, both dates inclusive.
- J. **"ANIMAL CONTROL OFFICER"** - Any officer appointed by the Board of Selectmen to enforce the laws relating to dogs or cats or other animals.
- K. **"K-9 Law Enforcement Dog"** – a certified dog trained specifically to assist law enforcement with their duties and responsibilities.
- L. **"Service Animal"** - any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

## Section 2. DOGS REQUIRED TO BE LEASHED

- A.No owner or keeper of a dog shall permit such dog, whether licensed or unlicensed, to run-at-large within the Town of Dudley. No person shall permit a dog owned or kept by him beyond the confines of the property of the owner or keeper unless a leash, which shall not exceed six (6) feet in length, physically restrains the dog.
- B.No person shall permit a dog owned or kept by him to run freely within the confines of the property of the owner or keeper unless the owner or keeper or other person of adequate age and discretion accompanies the dog and who has "full control" of the animal. If unaccompanied, the dog must be leashed so as to restrain the dog in such manner that the dog is securely confined to the premises of the owner or keeper by fencing or appropriate barriers.
- C. For the purpose of this section, "full control" means that the dog will respond to the command, order or signal of the owner or other person responsible for the dog and shall at all times, by his command, order or signal prevent his dog from bothering, worrying, annoying, chasing or barking at any person, domestic animal or livestock.
- D. This section shall not apply to property owned and/or controlled by the Commonwealth of Massachusetts where a separate set of rules and regulations apply.
- E.A dog may for the purpose of events such as working, hunting, field trails or training purposes be exempt from the restraining order during such period of time as the dog is actually engaged in the event or sport, provided the dog is under the direct supervision of a person to properly control its action.

## Section 3. LICENSE REQUIREMENTS, VACCINATION, FEES, EXCEPTIONS

- A. **License:** Any owner or keeper of a dog six (6) months of age or older in the Town of Dudley shall cause that dog to be licensed as required by Massachusetts General Laws Chapter 140 during the month of January of each year, or within 30 days after a dog becomes six months old. The license will be obtained from the Town Clerk. Each license shall be numbered and contain the color, breed, gender and special markings of the dog; the name, residential address and phone number of the owner; the expiration date of the rabies vaccination; and other information as the Town Clerk deems appropriate. Each license shall be issued upon the condition that the owner or keeper shall comply with the provisions of this by-law, rule or regulation relating to the ownership and control of dogs.

- B. **Tags:** The owner or keeper of a licensed animal shall cause the animal to wear around its neck or body a collar or harness to which shall be securely attached a tag issued by the Town Clerk at the time of licensing. A fee of \$1.00 (one Dollar) shall be charged to replace a lost tag.
- C. **Veterinarian's Certification:** The Town Clerk shall not issue any license including personal kennels unless the owner or keeper provides either a veterinarian's certification that such dog has been vaccinated against rabies by a licensed veterinarian, therein, provided, or a notarized letter from a veterinarian that a certification was issued.

D. **KENNEL:**

1. Any owner or keeper of more than three (3) dogs or three (3) cats must acquire a personal kennel license and is subject to the Dudley Zoning by-Laws.

2. All Kennels must be fully licensed pursuant to the provisions of M.G.L. Chapter 140 and subject to Dudley's Zoning By-laws.

3. All kennels shall be available to inspection by the Animal Control Officer, a Natural Resource Officer, Fish and Game Warden, Police Officer or the Board of Health.

E. **Vaccination:** All dogs (6) six months of age or older must be currently vaccinated against rabies as per M.G.L. Chapter 140, Section 145b.

F. **Fees:** The annual fee for every animal license, kennel license and all fines relevant to dog control shall be as follows:

1. **Establishing Fees.** The Board of Selectmen, at its discretion, on or before by September 30th of the preceding calendar year, may review and establish animal control fees pursuant to this Article 27 of the General By-Laws.

2. Annual Dog Fee. The fee for all dogs (male, neutered, female, spayed) and kennels shall be as established by the Board of Selectmen.

3. No fee shall be charged for a license for a K-9 Police Dog or a Service Animal as defined in Section 1 of this by-law. The individual who is responsible for a K-9 Police Dog must provide a written statement from the law enforcement unit stating that the dog is actively working. The owner of a Service Animal must show written evidence that the animal is a service dog.

4. No license fee shall be refunded in whole or in part for any reason.

5. There shall be no license fee for the first or second dog owned by persons aged 70 and older as of January 1st of the licensing year. Each additional dog shall be licensed and pay the fee in accordance with this section. This section shall not apply to kennel licenses.

G. **Town Clerk:** The registering, numbering, describing and licensing of dogs shall be performed in the office of the Town Clerk on a form prescribed and supplied by the Town, and shall be subject to the condition expressed therein that the dog so licensed shall be controlled and restrained from killing, chasing or harassing livestock or fowls.

H. **Failure to License:** Should any owner or keeper of an animal fail to license that animal as required under M.G.L. Chapter 140 before April, 1, the owner or keeper shall pay a late fee of ten (\$10.00) Dollars before obtaining said license, except a dog brought into the Town as provided by M.G.L. Chapter 140, Section 138. This late fee shall be applicable from the 61st day after the arrival of such dog. Any person maintaining a kennel in the Town of Dudley who fails to license as prescribed by this section and the laws of the Commonwealth, shall pay a late fee of fifty (\$50.00) Dollars, commencing April 1. Any owner or keeper of a dog failing to license by June 15th in any year shall be subject to a fine of Twenty-Five (\$25.00) Dollars per dog. Any person maintaining a Kennel who fails to license by June 15th in any year shall be subject to a fine of Seventy-Five (\$75.00) Dollars upon the complaint of the dog officer or Town Clerk. All late fees and fines are in addition to the license fee upon the complaint of the dog officer or Town Clerk.

I. **Unpaid Fees:** In addition to all other sums due and owing for any license fee hereunder, a person who applies for license hereunder shall be obligated to pay all prior amount of license fees and late fines determined to be due and owing by the

Town Clerk pursuant to this By-law, for past periods in which said person was obligated to obtain license. It shall be a violation of the By-law to fail to pay any said sum due hereunder; this remedy shall be cumulative.

#### **Section 4. RABIES CONTROL**

All dogs and cats owned by a resident of the Town of Dudley shall be properly vaccinated in accordance with Massachusetts General Laws Chapter 140 Section 145B. Unvaccinated dogs and cats acquired or moved into the Town of Dudley shall be vaccinated within sixty (60) days or upon reaching the age of six (6) months, whichever occurs first.

Those dog owners found in violation of the rabies requirement of Massachusetts General Laws Chapter 140, Section 145B, shall, at the owner's expense, have their dogs properly vaccinated by a licensed veterinarian within ten (10) days of said violation and will receive a fine of fifty dollars (\$50.00).

Any dog without current proof of rabies vaccination that is impounded by the Animal Control/Dog Officer will be vaccinated at the owner's expense prior to release by the Animal Control/Dog Officer.

Any animal that is quarantined and requires vaccination shall be vaccinated at the owner's expense. Notification of such vaccination shall be sent to the Animal Inspector within ten (10) days of said vaccination.

Any dog or cat that is not currently vaccinated that bites or scratches any person shall be confined in an approved, adequate boarding facility for a period of not less than ten (10) days, at the owner's expense.

Any dog or cat that is currently vaccinated that bites or scratches any person shall be confined at the home of the owner for a period of not less than ten (10) days.

Any veterinarian bills incurred for vaccinating or preparing any animal for rabies testing shall be at the owner's expense.

Any owner or keeper moving an animal subject to quarantine shall notify the Board of Health in writing prior to moving the animals. The Town of Dudley shall be given the name, address, and phone number as to where the animal is going to be housed.

Any owner or keeper of any animal in the Town of Dudley who has received written notice of quarantine and does not comply with said quarantine order, or if the quarantined animal is found outside the approved enclosure of its owner or keeper and not under his/her immediate care, shall be subject to an immediate order to destroy or order to be housed at an approved boarding facility at the owner's expense.

It shall be the duty of the Animal Inspector to investigate and enforce the provisions of this by-law, and to give written notice to the Board of Health, Animal Control/Dog Officer and the animal owner in regards to all quarantines.

#### **Section 5. MUZZLING DOGS**

A. Any owner or keeper of a dog may be ordered to muzzle said dog by a duly appointed Animal Control Officer/Animal Inspector and, in his/her absence, by a police officer for either of the following reasons:

- (1) for having bitten, injured or physically molested any person; or
- (2) for having physically injured any dog or other animal.

B. This order shall remain in effect until removed by the officer after having been satisfied that the dog is unlikely to repeat its offense. Such decisions by the officer to remove the said order shall not be unreasonably withheld. A dog muzzled under the provisions of this section shall be monitored by the Animal Control Officer or Police Officer so long as the muzzle is in place. The Animal Control Officer or Police Officer may delegate the monitoring to a party subject to written guidelines provided by the Animal Control Officer. In no event shall the order exceed a period of 5 (five) hours except for extraordinary circumstances.

#### **Section 6. IMPOUNDING, RELEASE AND DISPOSITION OF ANIMALS**

- A. The Animal Control Officer/Animal Inspector or in his/her absence, police officers may cause an animal to be impounded for any of the following causes:
- (1) if found without a license when a license is required; or
  - (2) if found unrestrained as set forth in Section 2 of this By-law; or
  - (3) for violation of a muzzling order as provided for in Section 5 of this By-law; or as provided under M.G.L. Chapter 140, Section 167, as amended; or
  - (4) for having bitten, injured or physically molested any person; or
  - (5) for having physically injured any dog or other animal; or
  - (6) to restore peace when the owner or keeper of an animal is otherwise unavailable, unwilling, or physically unable to restrain his/her animal from causing a nuisance by continuous barking or howling; or
  - (7) to ensure the safety and well-being of the particular animal; or
  - (8) for any violation of this by-law.
- B. No later than (2) days after the impounding of any animal, the owner or keeper shall be notified, or if the owner or keeper of the animal is unknown, or, after reasonable efforts, is not contacted, written notice shall then be posted for ten (10) consecutive days in the location for posting notices in the Town Hall, which notice shall describe the animal and the place and time of taking. Animals impounded and unclaimed by the owner or keeper after such ten day period shall be disposed of in accordance with the provisions of M.G.L. Chapter 140, Section 151A. Prior to the end of said ten day period, the owner or keeper may obtain the release of such dog or other animal upon payment of all pound fees, fines, and notification costs, if any; and in the case of a violation of A (1) of this Section, upon obtaining a license as required by law.
- C. No animal shall be turned over or sold in any manner inconsistent with M.G.L. Chapter 140, S.151 or disposed of inconsistent with the provisions of S. 151A.
- D. In the case of a dog bite to a human, if a current rabies inoculation cannot be confirmed, the owner/keeper shall voluntarily subject the animal to euthanasia and rabies testing or subject the animal to mandatory, strict isolation and examination as prescribed by the Massachusetts Department of Public Health. All expenses incurred, including but not limited to transportation, to be the responsibility of the owner/keeper of said animal.

## **Section 7. PERSON CONVICTED OF CRUELTY TO ANIMALS**

Any person or persons found guilty of a violation of any provisions of Sections 77, 80A, 94 or 95 or M.G.L. Chapter 272 will forfeit the right to own or keep any animal within the Town of Dudley and must immediately, upon conviction, surrender all animals in his/her possession to the Animal Control Officer.

## **Section 8. COMPLAINT OF DANGEROUS DOGS / EXCESSIVE BARKING**

If written complaint is made to the Board of Selectmen or Chief of Police regarding a vicious or dangerous dog or excessive barking/howling or in any other manner disturbs the peace and quiet of any neighborhood or endangers the safety of any person or animal, such complaint shall be acted upon in conformance with M.G.L. 140, S. 157 and S. 158.

## **Section 9. WARRANT TO ANIMAL CONTROL OFFICERS**

The provisions of M.G.L. Chapter 140, S. 153 are incorporated herein.

## **Section 10. LIABILITY OF OWNER**

- A. The Owner or Keeper of a dog or animal which has done damage to livestock or fowl shall be liable for such damage, and the Selectmen may order the owner or keeper to pay such damages after an investigation as set forth in M.G.L. Chapter 140.
- B. In the event that the owner or keeper of such dog or animal known to have done damage to livestock or fowl refuses to pay upon the order of the Selectmen, the Selectmen shall enter or cause to be entered a complaint in the District Court for the enforcement of the order.

- C. In addition, the Board of Selectmen or their agent thereto authorized in writing, may, after written notice to the owner or keeper, enter upon the premises of the owner or keeper of any dog or animal known to them to have killed livestock or fowls, and then and there kill such dog, unless such owner or keeper whose premises are thus entered for the said purpose shall give a bond in the sum of two hundred dollars (\$200.00), with sufficient sureties approved by the Board of Selectmen, conditioned that the dog or animal is continually restrained. If the owner or keeper of the dog or animal declares his intention to give such a bond, said Selectmen or their agents shall allow him seven (7) days, exclusive of Sundays and holidays, in which to procure and prepare the same and to present it to them, or to file it with the Town Clerk.
- D. If a dog or animal which has previously been ordered restrained by the Selectmen or upon review by the District Court, wounds any person or shall maim or kill any livestock or fowls, the owner or keeper of such dog or animal will be liable to the person injured thereby in triple the amount of damages sustained by him.
- E. The owner or keeper of any animal injured or killed by a motor vehicle shall be responsible for the cost of all response, emergency care, treatment and/or disposal of said animal.

### Section 11. ENFORCEMENT/PENALTIES

- A. The Animal Control Officer(s) duly appointed or, in their absence, police officers shall enforce the provisions of this Animal Control By-law, and shall attend to all complaints or other matters pertaining to animals in the Town of Dudley.
- B. Notwithstanding any provisions of the General Laws to the contrary, any person(s) who:
  - (1) refuses to answer or answers falsely questions of an Animal Control Officer or a police officer pertaining to his/her ownership of an animal; or
  - (2) is found guilty of cruelty to animals which shall include but not be limited to confining an animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, the Animal Control Officer or law enforcement officer who has probable cause to believe that this section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or person; or
  - (3) refuses to turn over any animal to the Animal Control Officer upon demand as authorized by sections 6 and 7 of this By-law; or
  - (4) violates a Selectman's order shall be punished by a fine not less than one hundred dollars (\$100.00), nor more than three hundred dollars (\$300.00).
- C. Any owner or keeper who:
  - (1) violates the provisions of this By-law; or
  - (2) is the owner/keeper of any animal who shall be found by the Animal Control Officer to have defecated on private property other than that of its owner/keeper, or on public property without proper disposal and removal; or
  - (3) is the owner/keeper of any animal who intentionally allows any such animal to cause a nuisance by barking, howling or otherwise disturb another person's right to peace; or
  - (4) is the owner/keeper of an animal found to have bitten or injured any person, dog or other animal may be penalized by non-criminal disposition as provided in M.G.L. Chapter 40, section 21D, and shall be punished by the imposition of fines as follows:
    - a) A fine of \$50.00 for the first offense.
    - b) A fine of \$75.00 for the second offense
    - c) A fine of \$100.00 for the third offense and each subsequent offense.
  - (5) failure to obtain dog license will be subject to a \$50.00 fine per dog

Fines not to exceed Five Hundred (\$500.00) Dollars in a licensing year.

- D. HEAT SEASON: The owner of any un-spayed female or un-neutered male unleashed dog found by the Animal Control/Dog Officer roaming at large in heat season off the premises of the owner or keeper shall be subject to a fine of \$50.00.
- E. Where applicable, each day shall constitute a separate offense.

## Section 12. REDEMPTION OF DOGS AND ANIMALS

A. Redemption of Impounded Dogs and Animals: The owner or keeper of any dog or animal impounded under the provisions of the by-law may redeem such dog or animal provided he first reimburse the Animal Control Officer for his/her expenses at the rate Thirty (\$30.00) Dollars per handling of such dog or animal , plus Ten (\$10.00) Dollars for each day, or portion thereof that he/she has confined such dog or animal and procures from the Town Clerk's office a license and tag for any such dog or animal that is not licensed, if required.

B. The owner or keeper of any dog or cat impounded under the provisions of this by-law may redeem such dog or cat provided show proof of a current rabies vaccination before dog or cat is released.

## Section 13. ALTERNATE PROCEDURE UNDER M.G.L. CHAPTER 140, SECTION 173A

A. Notwithstanding any provisions of the General Laws to the contrary, any Animal Control Officer who takes cognizance of a violation of:

(1) this By-law; or

(2) failure to license animals pursuant to M.G.L. Chapter 140 and this By-law; or

(3) failure to obtain kennel license; or

(4) failure to vaccinate against rabies pursuant to M.G.L. Chapter 140, section 145B may issue or mail a Notice of Complaint of Violation of Municipal Dog Control By-law to the owner or keeper of such animal.

***These violations shall be subject to fines as set forth in MGL Chapter 140, Section 173A.***

## Section 14. DISCLAIMER/SEVERABILITY CLAUSE

A.Nothing contained within this By-law shall limit or restrict any enforcement officer's authority to seek criminal prosecution of any violation of State or Federal law.

B.If any part, section or provision of this By-law is found to be invalid, the remainder of this By-law shall not be affected thereby.

### Amendments:

**Sec. 1, (D & E), Sec. 3, (B, G & J) - 05/18/09; Sec. 1, (A, B & G); Sec 10, (A, B, C, D & E); Sec. 12 (A / add new paragraph B); Dog Officer changed to Animal Control Officer – 11/07/11; Sec. 3 (G) (05/21/12); Sec. 1 (add H & I) 11/04/2013, Sec. 3 (C & G) 11/04/2013, Sec. 3 (G) 05/19/2014, Sec (A) § H & I, Sec. 3 § C & G renumbered 05/19/2014; Sec. 3 § G 05/23/2016; Sec 3 § F8 10/24/2016; Sec. 1. (D,E,F,G, H), Sec. 2 (A,D), Sec. 3 (D,H), Sec. 4 (paragraph 2), Sec. 11 (C – Subsections 4&5), Sec. 12, Delete Sec. 15. – 05/20/19**

## ARTICLE 28 DISCHARGE OF WATER

No artificial collection of standing water, sump pump discharge or underground drainage shall be diverted in such a manner so as to be discharged onto a town highway.

Adopted: 1987

## ARTICLE 29 FEES

Section 1.

In accordance with M.G.L. Chapter 40, Section 21 (13), all town officers shall pay into the town treasury all fees received by them by virtue of their office.

Section 2.

Any municipal board or officer empowered to issue a license, permit certificate, or to render a service or perform work for a person or class of persons, may, from time to time, fix reasonable fees for all such licenses, permits certificates pursuant to statute or regulation wherein the entire proceeds of the fee remain with such issuing city or town, and may fix reasonable charges to be paid for a service rendered or worked performed by the city or town or any department thereof, for any person or class of persons; provided, however, that in case of a board or officer appointed by an elected board the fixing of fees shall be subject to the review and approval of such elected board.

A fee or charge imposed pursuant to this section shall supersede fees or charges already in effect, or any limitations on amounts placed thereon for the same service, work, license, permit or certificate; provided, however, that this section shall not supersede the provisions of section 31 to 77, inclusive, of chapter 6A, chapter 80, chapter 138, section 121 to 131N, inclusive, of chapter 140 or section 10A of chapter 148. The provisions of this section shall not apply to any certificate, service, or work required by chapter fifty-six, inclusive, or by chapter sixty-six. The fee or charge being collected immediately prior to acceptance of this section for any license, permit, certificate, service or work will be utilized until a new fee or charge is fixed under this section.

The provisions of this section may be accepted in a city by a vote of the city council, with approval of the Mayor if so required by-law, and in a town by vote of the town meeting, or by vote of the town council in towns with no town meeting.

### Section 3. LATE CHARGES FOR MUNICIPAL COLLECTIONS-

All municipal charges and bills shall be due and payable within thirty (30) days of date of mailing by the Treasurer/Collector or other Town Official empowered to do so.

All receivables which remain unpaid after said thirty (30) days shall accrue interest payable to the Town at an annual interest rate of twelve percent (12%) as permitted by State Law.

This By-law is authorized under the provisions of Chapter 40, Section 21E, of the Massachusetts General Laws:

M.G.L. c. 40, section 21E reads as follows: “Any city or town may, by ordinance or by-law, and any district by vote of the district meeting, establish due dates for the payment of municipal charges and bills, and may fix a rate at which interest shall accrue if such charges remain unpaid after such due dates; provided, however, that the rate of interest shall not exceed the rate at which interest may be charged on tax bills under the provisions of section fifty-seven of chapter fifty-nine”.

**Adopted: 1988**

**Amendments: Section 3 (05/22/2017)**

**Add: Section 2 (05/18/2009); Add Section 3 (10/24/2016)**

## **ARTICLE 30 MUNICIPAL INSURANCE FUND – ACCEPTED M.G.L. CHAPTER 40, SECTION 13**

To establish and maintain a Municipal Insurance Fund, into which the Town may appropriate an amount not exceeding in any one year one twentieth of one percent of the equalized valuation as defined in section one of Chapter 44, but no money shall be appropriated for which purpose while the fund equals or exceeds one percent of such equalized valuation. Dividend from insurance and income from such fund shall be paid directly to and become included in the Municipal Insurance Fund. The Town may vote appropriations from such fund and the income thereof, as for the purpose of paying a proper charge for effecting fire insurance on municipal buildings or other municipal property against loss or damage by fire, lightning or otherwise. Such fund shall be managed and administered by the Town Treasurer as a trust fund of the Town.

**Adopted: 1988**

## **ARTICLE 31 WORKER’S COMPENSATION INSURANCE FUND – ACCEPTED**

**M.G.L. CHAPTER 40, SECTION 13A**

To establish and maintain a Workers' Compensation Insurance Fund, into which the Town may appropriate an amount not exceeding in any one year one twentieth of one percent of its equalized valuation as defined in section one of Chapter 44, but no money shall be appropriated for such purpose while the fund equals or exceeds one percent of such equalized valuation. Dividends from insurance and income from such fund shall be paid directly to and become included in the Workers' Compensation. Such fund shall be managed and administered by the Town Treasurer as a trust fund of the Town.

Adopted: 1988

**ARTICLE 32                      PERSONNEL POLICIES AND PROCEDURES AUTHORIZED PURSUANT TO  
M.G.L. CHAPTER 41, SECTION 108A AND 108C**

PERSONNEL POLICIES AND PROCEDURES:

Section 1. Purpose

The purpose of this by-law is to establish a Personnel Board and the scope of its responsibilities. The Board's mission is to establish equitable personnel and employee relations practices for the people who work for the Town of Dudley. This action is authorized by Massachusetts General Laws, Chapter 41, Section 108A and 108C and Article LXXXIX of The Constitution of the Commonwealth.

Section 2. Scope

The Provisions of this by-law shall apply to all employees, Boards and Commissions of the Town, who are not covered by collective bargaining agreements as provided in those agreements.

Section 3. Organization

- a) The Board shall consist of \*five citizens of the Town who are not paid employees of the Town. The terms of office shall be for three years. Any member may after a hearing, if requested by the member, be removed for cause by the appointing authority.
- b) The members of the Board upon the expiration of the present members' terms, shall be appointed by the Board of Selectmen for two members, the Town Moderator for one member and the Finance & Advisory Committee for two members. \*No members shall be from either appointing committee or board. Whenever a vacancy occurs on the Board, the original appointing authority shall fill the vacancy for the unexpired term.

Section 4. Responsibilities

The Personnel Board shall serve as the policy making authority of the Town in personnel matters and shall perform the following functions:

- a. Approve and recommend Classification and Pay Plan to Finance Advisory & Appropriations Committee and Board of Selectmen;
- b. Review and recommend employee benefit programs and conditions of employments;
- c. Review and analysis personnel procedures and administrative practices.
- d. The Board shall administer a final, binding problem solving system, by which Town employees may present and resolve disputes and grievances.
- e. In the event that a specific provision of this bylaw should conflict with a specific provision of a collective bargaining agreement, adopted in conformance with M.G.L. Chapter 150E, the

provision of the particular collective bargaining agreement shall prevail.

- f. The Board shall research and propose a method to evaluate performance of Town elected and appointed officials.
- g. The Board shall recommend compensation for all presently compensated town positions elected and appointed not otherwise covered by the Town's wage and salary system.

#### Section 5. Method

a. The Town Administrator or his or her designee shall serve as Personnel Director of the Town, and in this role makes recommendations to the Personnel Board on policy matters, and administers the day to day personnel practices, procedures and systems of the Town, including but not limited to:

- 1. Employee recruitment/testing/selection appraisal/evaluation;
- 2. Employee training and development;
- 3. Employee benefits and service programs, except that the Treasurer shall remain as Insurance Administrator and be responsible for group health insurance and worker's compensation;
- 4. Employee safety and health programs;
- 5. Employee discipline and grievance procedures.

b. No rule or regulation promulgated by the Board shall be adopted until prior notification is made to all effected Boards, Commissions, Departments and Employees.

#### Section 6. Severability

The provisions of the by-law and any rules and regulations adopted under its authority are severable. If any section of the by-law or regulation is declared invalid, the remaining provisions and regulations shall be unaffected.

#### Section 7. Annual Hourly Sick Leave Buy-Back

Regular full-time employees may elect to have the Town buy back unused sick leave at the employee's accrued hourly rate of pay at the time of request. The maximum number of days the Town will buy back in one fiscal year is 15 days at the rate of 20% of the accrued hourly rate except at the time of retirement. Regular part-time employees are eligible as above at the prorated basis. Exempt employees may accrue 15 days per year to a maximum of 65 days. Regular full-time employees with over 65 days on June 30, 2005 shall retain the days saved, but may not accrue any more until their total shall fall below 65 days. Exempt employees are not eligible for sick time buy back except at the time of retirement at 20% of the accrued rate. Elected town officials are not eligible for any sick time buy back including any heretofore accrued.

Adopted: 11/13/1989

Amended:

1991; Section 4e declared invalid (1992); Section 3a-d (05/22/2000); Section 2 (05/27/2004); Section 7 added (05/23/2005); Section 4e (06/19/2006); Section 4 & 5 (10/29/2018)

### ARTICLE 33

### FISCAL YEAR- IN ORDER TO CONFORM WITH M.G.L. CHAPTER 44, SECTION 56

The fiscal year of all towns of the Commonwealth shall begin with July 1<sup>st</sup> and end with the following June 30<sup>th</sup> and the returns made to the direction under Section 43 shall show the financial condition of the town at the close of business on June 30<sup>th</sup>; provided that the Treasurer shall, until July 15<sup>th</sup>, enter in his books all items for the payment of bills incurred and salaries and wages earned during the previous fiscal year.

Adopted: 05/21/1990

#### **ARTICLE 34 FLOODLIGHTED AREAS – DISCHARGE FIREARMS**

There shall be no outside floodlighted areas to allow firearms to be discharged after sunset.

Adopted: 06/19/1991

#### **ARTICLE 35 ILLEGAL DUMPING AND/OR DISPOSAL OF TRASH, REFUSE AND DEBRIS.**

No person, on any public or private property, except property owned by the party against whom the enforcement is sought, in the Town of Dudley, shall deposit, drop or throw upon such public or private property, except property owned by the party against whom the enforcement is sought, and suffer to remain there, rubbish or refuse unless it is deposited, dropped or thrown into a receptacle provided for the purpose or unless such activity is pursuant to a lawful permit or license issued by the Town of Dudley or the Commonwealth of Massachusetts.

Adopted: 05/23/1994

#### **ARTICLE 36 ALARM SYSTEM REGULATIONS**

##### A. Definitions:

For the purpose of this bylaw the followings terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number; and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

1. The term “Alarm System” means an assembly of equipment and devices, or a single device such as a solid state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which the Police and/or Fire Department are expected to respond. Alarm Systems on motor vehicles are specifically excluded from the provisions of this bylaw.
2. The term “Alarm User” or “User” means any person on whose premises an alarm system is maintained within the Town. Excluded from this definition are:
  - a) Municipal, county, state and federal agencies
  - b) Central Station personnel
  - c) Persons who use alarm systems to alert or signal persons within premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. However, if such an alarm system employs an audible signal or a flashing light outside the premises; the user of such an alarm system shall be within the definition of “alarm user” and shall be subject to this bylaw.
3. The term “Central Station” means an office to which remote alarm and supervisory signal devices are connected where operators supervise circuits or where guards are maintained continuously to investigate signals.
4. The term “False Alarm” means a) the activation of an alarm system through mechanical failure, malfunction, improper installation, negligence of the user of an alarm system or of his employees or agents, or a deliberate, malicious act: or b) any signal or oral communication transmitted to the Police Department and/or Fire Department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises or no attempted robbery or burglary at the premises

or no actual fire or smoke condition. Excluded from this definition are activation of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes and similar conditions.

5. The term "Chief" means the Chief of Police of Dudley or his designated representative when dealing with unauthorized intrusions or attempted robberies or burglaries. The term Chief means the Fire Chief of the Town of Dudley or his designated representative when dealing with fire alarm issues.
6. The term "Department" means the Town of Dudley Police Department or the Town of Dudley Fire Department or any authorized agent thereof.
7. For the purpose of this bylaw, the term "Public Nuisance" means anything which annoys, injures, or endangers the comfort, repose, health or safety of any person(s) or of any community or neighborhood.

#### B. ADMINISTRATIVE RULES

The Police Chief and Fire Chief may jointly promulgate such rules as may be necessary for the implementation of this bylaw.

#### C. CONTROL AND CURTAILMENT OF SIGNALS EMITTED BY ALARM SYSTEMS:

1. Every alarm user shall submit to the Police Chief the names, addresses and telephone numbers of the user and at least two other persons who can be reached anytime, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. The list of names, addresses and telephone numbers of the responders must be kept current at all times by the alarm user and shall be submitted during the first month of each fiscal year. (July 1<sup>st</sup>).
2. All alarm systems for unauthorized intrusion only, which use an audible bell or horn, shall be equipped with an automatic shut off device which will deactivate the system within fifteen (15) minutes. All alarm users with an audible bell or horn must comply with this section within ninety (90) days of the adoption of this bylaw.
3. Alarms used for fire detection and protection shall not be included in the previous section.
4. Any alarm which fails to comply with the above paragraph 2 and emits a continuous and uninterrupted signal for more than thirty (30) minutes which cannot be shutoff or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph one (1) of this section and which disturbs the peace, comfort or repose of a community or neighborhood of the area where the alarm system is located, shall constitute a public nuisance. The Police Chief shall record the time each complaint was made.

In the event that the Police Chief is unable to contact the alarm user, or members of the alarm user's family, or those person's designated by the alarm user under paragraph (1) of this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system and if the Police Chief is otherwise unable to abate the nuisance, he may direct a Police Officer or a Firefighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance.

After entry upon the property has been made in accordance with this section and the nuisance abated, the Police Chief shall have the property secured if necessary. The reasonable cost and expense of abating a nuisance in accordance to this section may be assessed to the alarm user and assessment not to exceed \$50.00

5. The Town of Dudley, the Dudley Police Department, the Dudley Fire Department or any agent or person acting on their behalf shall not be liable for any damages and loss as a result of an action after a nuisance alarm has been abated.

#### D. TESTING OF EQUIPMENT

No alarm system designed to transmit emergency messages directly to the Police Department and Fire Department shall be worked on, tested or demonstrated without obtaining permission from the Police Department and Fire Department communications section. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the Police Department or Fire Department. An unauthorized test constitutes a false alarm.

#### E. PENALTIES

The following acts and omissions shall constitute violations of this bylaw punishable by fines as herein provided:

1. An alarm user whose alarm system transmits or otherwise causes a false alarm shall be fined for the first alarm by a written warning letter, the second false alarm by a fine of \$25.00 and for the third and subsequent false alarm by a fine of \$50.00 per false alarm.
2. For a false alarm as a result of a malicious act, the fine structure shall be first alarm in a 12 month period, written warning letter. Second alarm in a 12 month period, \$50.00. Third alarm in a 12 month period, \$100.00. Fourth and any subsequent alarm in a 12 month period, \$500.00.
3. Unregistered or late registered false alarm, \$25.00, with an additional \$25.00 for each month in non-compliance.
4. Failure to provide current list of responders \$25.00, with an additional \$25.00 for each month in non-compliance.
5. Failure to install automatic shutoff device (intrusion or burglar alarm only) \$25.00 with an additional \$25.00 for each month in non-compliance.
6. Alarm causing public nuisance \$50.00.
7. Improper testing of alarm systems \$25.00.
8. Penalties and fines structure may be changed and updated from time to time by the Board of Selectmen following a public hearing.
9. All fines are payable to the Town of Dudley and received by the Parking Clerk.

#### F. SEPARABILITY

If any clause, sentence, paragraph or part of this local bylaw of the application thereof to any person or circumstances shall for any reason be adjudged by a Court to be invalid, such judgement shall not affect, impair or invalidate the remainder and the application thereof to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgement shall have been rendered and to the person or circumstances involved. It is hereby declared to be the intent of the Town of Dudley that this enactment would have been adopted had such invalid provisions not been included therein.

Adopted: 05/18/1998

### ARTICLE 37 STREET NUMBERING

Street numbers shall be attached to each dwelling, business, industry and other buildings, which are not accessory in nature in the Town of Dudley.

- a) The numbers shall be made of permanent, weatherproof materials, shall be numeric Arabic numbers at least (3) three inches in height in a contrasting color, and shall be clearly visible from the public way upon which the structure fronts.
- b) Any structure that is not visible from the street or roadway shall have the assigned number posted on a suitable support at the entrance to the driveway that services such structure.
- c) The numbers posted shall be those assigned to each structure as filed in the office of the Assessor. The Assessor shall advise the owners of the property of the assigned or reassigned number in writing at the property's tax address.
- d) It shall be the responsibility of each property owner in the Town to display and maintain the assigned street number within 90 days of adoption of this bylaw at the Town Meeting. The bylaw shall be enforced by the Police Department. Failure to comply with this bylaw shall subject property owners to a fine of not more than Twenty-Five Dollars (\$25.00) per day for each offense. Each day shall be a separate offense.

Adopted: 05/18/98 - approved by Attorney General, 7/20/1998

## ARTICLE 38

### CAPITAL IMPROVEMENT PLANNING COMMITTEE

**Section 1.** The Board of Selectmen shall establish and appoint a committee to be known as the Capital Improvement Planning Committee, composed of one member of the Board of Selectmen, one member of the Finance Committee, the Town Treasurer and four members at large. The Town Administrator and the Town Accountant shall be ex-officio Committee members without the right to vote. The Committee shall choose its own officers.

**Section 2.** The Committee shall study proposed capital projects and improvements involving major non-recurring tangible assets and projects which: 1) are purchased or undertaken at intervals of not less than five years; 2) have a useful life of at least five years; and 3) cost Twenty Thousand Dollar (\$ 20,000) or more.

All officers, boards and committees, shall, by June 30<sup>th</sup> of each year, give to the Committee, on forms prepared by it, information concerning all anticipated projects requiring Town Meeting action during the ensuing five years. The committee shall consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the town.

No appropriation shall be voted for a capital improvement requested by a department, board or commission, unless the proposed capital improvement is considered in the Committee's report, or the Committee shall first have submitted a report to the Board of Selectmen explaining the omission.

**Section 3.** The Committee shall prepare an annual report recommending a Capital Improvement Budget for the next fiscal year, and a Capital Improvement Program including recommended capital improvements for the following five fiscal years. The report shall be submitted to the Board of Selectmen for its consideration and approval and to the FAA for its recommendation. The Board shall submit its approved Capital Budget to the Fall Annual Town Meeting for adoption by the town.

**Section 4.** The Capital Improvement Program, after its adoption, shall permit the expenditure on projects included therein of sums from departmental budgets for surveys, architectural or engineering advice, options or appraisals; but no such expenditure shall be incurred on projects which have not been so approved by the town through the appropriation of sums in the current year or in prior years, or for preliminary planning for projects to be undertaken more than five years in the future.

**Section 5.** The Committee's report and the Selectmen's recommended Capital Budget shall be published and made available in a manner consistent with the distribution of the Finance Committee report. The Committee shall deposit its original report with the Town Clerk.

Adopted: 10/30/2017

**ARTICLE 39 DEMOLITION DELAY FOR STRUCTURES OF HISTORICAL OR ARCHITECTURAL SIGNIFICANCE BY-LAW**

**12.01.00 Declaration of Policy**

Finding that the economic, cultural and aesthetic standing of the Town of Dudley can best be maintained and enhanced by due regard for the historical and architectural heritage of the Town and by striving to discourage the destruction of such cultural assets, it is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of structures of historical and architectural significance, located within the Town of Dudley is a public necessity and is required in the interest of the prosperity, civic pride and general welfare of the people.

**12.02.00 Purpose**

The purpose of this Bylaw is to:

- a. Designate, preserve, protect, enhance and perpetuate those structures and sites within the town that reflect outstanding elements of the Town's cultural, artistic, social, economic, political, architectural, historic or other heritage;
- b. Foster civic pride in the vestiges and accomplishments of the past;
- c. Stabilize or improve the aesthetic and economic vitality and values of such structures and sites;
- d. Protect and enhance the Town's attraction to tourists and visitors;
- e. Promote the use of historical or architectural structures and sites for the education and welfare of the people of the Town;
- f. Promote good urban design including the perpetuation of related private open spaces;
- g. Promote and encourage continued private ownership and utilization of such buildings and sites now so owned and used; and
- h. Provide owners of significant structures with time to consider alternatives to demolition.

**12.03.00 Definitions**

The provisions of this bylaw shall be liberally construed to effect the purposes expressed or implied in Section 12.02.00. Definitions of the following words and phrases shall be construed and understood according to their common and usual meaning unless the contrary is clearly indicated:

"Commission" – The Dudley Historical Commission

"Demolition" – Any act of pulling down, destroying, removing or razing a structure or portion thereof, whether interior or exterior, or commencing the work of total or substantial destruction with the intent of completing the same.

"Demolition Permit" – A permit issued by the Building Inspector under the State Building Code for the demolition of a building or structure.

"Significant Structure" – A structure or site found by the Dudley Historical Commission to contribute to the historical or architectural heritage or resources of the Town pursuant to Section 12.05.00 of this Bylaw.

**12.04.00 Procedure**

- a. No permit for demolition of a significant structure shall be issued except as provided in the Bylaw.
- b. Every applicant for a demolition permit shall be made upon a form provided by the Building Inspector and shall be signed by the owner or the owner's agent under the power of attorney. Every application shall include such locational information, plans and narrative description and justification of the proposed demolition as shall be required under Historical Commission rules and regulations for such applications.

- c. Upon receipt of any application for a demolition permit, the Building Inspector shall within five (5) days transmit a copy thereof to the Dudley Historical Commission.
- d. Within forty-five (45) days of the Commission's receipt of a copy of the application for a demolition permit, the Commission shall hold a public hearing on such application, and shall make a determination as to whether the structure is a significant structure under one or more of the criteria set forth in Sections 12.05.00 a., and 12.05.00 b. The Commission shall give written notice of the time and place of the hearing, not less than seven (7) days prior to the hearing, to the owner by certified mail, and by posting and by publication once in a local newspaper. The Commission may conduct a site visit prior to the hearing.
- e. If within forty-five (45) days of the Commission's receipt of a copy of an application for a demolition permit, no public hearing has been held or no finding by the Commission has been filed with the Building Inspector, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, Bylaws, rules and regulations, issue the demolition permit.
- f. If after holding a public hearing the Commission shall determine that the structure is not a significant structure because it fails to meet one or more of the criteria set forth in Section 12.05.00, or if the Commission shall determine that the structure is a significant structure meeting one or more of the criteria set forth in Section 12.05.00, but that the proposed demolition would not be detrimental to the historical or architectural heritage or resources of the Town, then the Commission shall notify the Building Inspector in writing of its findings within fourteen (14) days of said determination. Upon receipt of such notification, or upon expiration of said fourteen (14) days without such notice, the Building Inspector may issue a demolition permit, subject to the requirements of the State Building Code and any other applicable laws, Bylaws, rules and regulations.
- g. .If after such hearing the Commission determines that the structure is a significant structure and that the proposed demolition would be detrimental to the historical or architectural heritage or resources of the Town, then it shall file written notice with the findings of its determination to the applicant and the Building Inspector and no demolition permit shall be issued until twelve (12) months after the date of such determination by the Commission , or the issuance of a court decree pursuant to an appeal of such determination, whichever may be later. During the twelve month waiting period, the owner shall make continuing, bona fide attempts to find a buyer or alternative use for the building or structure that will result in its preservation. When a buyer is found, then the owner is obligated to engage in a good faith effort to consummate the transaction.

## **12.05.00 Standards for Designation as a Significant Structure**

The Historical Commission shall determine that a structure be designated as a significant structure if it meets one or more of the following criteria:

- a. It is listed on or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register, or;
- b. The Commission determines that the structure meets one or more of the following three criteria:
  - 1. **Historical Importance.** The structure meets the criteria of historical importance if it:
    - a. Has character, interest or value as part of the development, heritage or cultural characteristics of the Town of Dudley, the Commonwealth of Massachusetts or the nation, or;
    - b. Is the site of an historic event, or;
    - c. Is identified with a person or group of persons who had some influence on society, or;
    - d. Exemplifies the cultural, political, economic, social or historic heritage of the community.
  - 2. **Architectural Importance.** The structure meets the criteria of architectural importance if it:
    - a. Portrays the environment of a group of people in an era of history characterized by a distinctive architectural style, or;
    - b. Embodies those distinguishing characteristics of an architectural type, or;
    - c. Is the work of an architect, master builder or craftsman whose individual work has influenced the development of the Town, or;

- d. Contains elements of architectural design, detail, materials or craftsmanship which represents a significant innovation.

3. **Geographic Importance.** The structure meets the criteria of geographic importance if:

- a. The site is part of, or related to, a square, park or other distinctive area, or;
- b. The structure, as to its unique location or its physical characteristics, represents an established and familiar visual feature of the neighborhood, village center, or the community as a whole.

**12.06.0 Demolition**

Notwithstanding the provisions in Section 12.04.00 g., the Building Inspector may issue a demolition permit for a significant structure under any of the following circumstances.

- a) If at any time after inspection, the Building Inspector shall determine that the structure poses an imminent threat to the public health or safety of the community under Section 12.07.00 d., and so advises the Commission in writing, or;
- b) The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is or will be willing to purchase, preserve, rehabilitate, restore or relocate such building and so advises the Building Inspector in writing, or;
- c) The commission is satisfied that the owner has made continuing bona fide and reasonable efforts to locate a purchaser who would be willing to preserve, rehabilitate, restore or relocate the subject building but that such efforts have been and will continue to be unsuccessful, and so advises the Building Inspector in writing.

**12.07.00 Emergency Demolition**

- a) If a building or structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request issuance of an emergency demolition permit from the Building Inspector.
- b) Upon receipt of any application for an emergency demolition permit, the Building Inspector shall within five (5) days transmit a copy thereof to the Dudley Historical Commission.
- c) As soon as is practicable, but within fourteen (14) days after receipt of such an application, the Building Inspector shall inspect the building or structure with a team consisting of the Building Inspector, Town Engineer, Fire Chief, Historical Commission Chair and two (2) other members of the Commission selected by the Chair, or the designees of said officials.
- d) Within five (5) days after inspection of the building or structure, and after consultation with other members of the inspection team, the Building Inspector shall determine: 1) whether the condition of the building or structure represents a serious and imminent threat to public health and safety, and; 2) whether there is any reasonable alternative to the immediate demolition of the building or structure which would protect public health and safety.
  - I. The Building Inspector finds; 1) that the condition of the building or structure poses a serious and imminent threat to public health and safety, and; 2) that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Inspector may issue an emergency demolition permit to the owner of the building or structure.
  - II. If the Building Inspector finds; 1) that the condition of the building or structure does not pose a serious and imminent threat to public health and safety, and/or; 2) that there are reasonable alternatives to the immediate demolition of the building or structure which would protect public health and safety, then the Building Inspector may refuse to issue an emergency demolition permit to the owner of the building or structure.
- e) Upon issuing an emergency demolition permit under the provisions of this section, the Building Inspector shall submit a brief written report to the Commission describing the condition of the building or structure and the basis for his/her decision to issue an emergency demolition permit.

Nothing in this section shall be inconsistent with the procedure for the demolition and/or securing of buildings and structures established by M.G.L. Chapter 143, Sections 6-10.

#### **12.08.00 Enforcement and Remedies**

The following enforcement and remedies shall apply under this bylaw:

- a) The Historical Commission is authorized to adopt rules and regulations to carry out its duties and functions under this Bylaw.
- b) The Commission and the Building Inspector are each authorized to institute any and all proceedings in law or equity they shall deem necessary and appropriate to obtain compliance with the requirements of this Bylaw, or to prevent a violation thereof.
- c) No building permit shall be issued with respect to any premises upon which a structure has been demolished in violation of this bylaw for a period of five (5) years from the date of the completion of such demolition.

#### **12.09.00 Severability**

If any section, paragraph or part of this Bylaw be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect to the extent that the overall purposes of this article can still be met.

#### **12.10.00 Transferability of Permit**

Demolition Permits issued under the provisions of this By-Law shall not be transferable by the applicant and shall become null and void at such time as the underlying property is transferred. A change in control of a business entity shall be considered a transfer by the applicant and shall render the demolition permit null and void.

**Amended:**

**Sec 12.08.00 (c) - 05/21/2007, Sec. 12.04.00 (d & e) – 10/25/2010**

### **ARTICLE 40 HOME RULE BY-LAW (FOR FIRE CHIEF)**

#### **DUDLEY FIRE DEPARTMENT**

- |             |  |
|-------------|--|
| Section 1.  | Definitions  |
| Section 2.  | Establishment  |
| Section 3.  | Function   |
| Section 4.  | Personnel; Appointing Authority                      |
| Section 5.  | Head of Department                                   |
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| Section 7.  | Incident Authority of Fire Chief                     |
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| Section 16. | Absence or Disability of Fire Chief                  |
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| Section 19. | Rules and Regulations                                |
| Section 20. | Effective Date and Transition                        |

## Section 1. Definitions

Unless a contrary intention clearly appears, the terms used in this bylaw shall be construed as follows:

“**Chief**” – shall mean the head of the Fire Department

“**Department**” – shall mean the Fire Department

“**Employees**” – shall mean all the personnel of the Fire Department other than the members of the uniformed firefighting force;

“**Uniform Member**” – shall mean a member of the uniformed firefighting force, including all officers and firefighters;

“**Fire Officials or Officers**” – shall mean the Chief, the deputy chief(s), the captains, and the lieutenants;

“**Firefighter**” – shall mean a uniform member with the lowest rank also know as “private.”

## Section 2. Establishment

Under the authority of the Home Rule Amendment of the Massachusetts Constitution there is hereby established under the jurisdiction of the Board of Selectmen, a department to be known as the “*Fire Department*” (hereinafter “*Department*”).

## Section 3. Function

It shall be the function of the Department to provide fire protection, firefighting, ambulance services, and other emergency services to the town; to carry out the fire prevention duties described by the General Laws and the Fire Prevention Code; and to investigate fires.

## Section 4. Personnel; Appointing Authority

The Department shall consist of the Chief and such other full-time members and employees as the Board of Selectmen shall authorize, *subject to appropriation by Town Meeting*. The Board of Selectmen shall be the Appointing Authority for all full-time members and employees through a committee established by the Board of Selectmen.

## Section 5. Head of Department

The Department shall be headed by the Chief who shall be appointed by the Board of Selectmen.

## Section 6. Duties & Responsibilities of Fire Chief

It shall be the duty and responsibility of the Chief:

- (a) to perform all duties prescribed by chapters forty-eight and one hundred and forty-eight of the General Laws and by rules and regulations of the Department;
- (b) to provide fire protection, firefighting, fire prevention, ambulance services, and other emergency service for the Town, including but not limited to, salvage and overhauling operations;
- (c) to examine the conditions of all property of the Department and to cause the same to be kept in good condition and repair and ready for immediate service;
- (d) to have care and custody of all equipment and supplies of the Department;
- (e) to inspect the fire companies and equipment;
- (f) to train the uniform members and the fire companies in fire and ambulance operations and to provide each uniform member with a manual containing the rules and regulations of the Department and pertinent bylaws and to enforce the same;
- (g) to maintain discipline within the Department;
- (h) to assign uniform members and employees to duties and tasks;
- (i) to schedule uniform members and employees for work;
- (j) to conduct the inspection prescribed in the General Laws and the Fire Prevention Code;
- (k) to maintain adequate books and records and inventory of Department equipment and supplies in such detail to furnish all information necessary for the operation of the Department and to permit analysis and report to the Board of Selectmen;
- (l) to prepare the Department Budget for submission to the Board of Selectmen;
- (m) to administer the Department; and

- (n) to perform such other duties as may be prescribed by law.

### **Section 7. Incident Authority of Fire Chief**

The Chief, or, in his absence, the officer in charge shall have sole command at the location of any fire or during the emergency response to any release of hazardous materials over all members of the Department and all other persons who may be present and shall have authority to direct all measurers for the extinguishment of fires, protection and preservation of property and life, preservation of order and the observance of laws, bylaws and rules and regulation respecting fires or hazardous materials at such incidents.

### **Section 8. Aid to Other Cities and Towns**

The Chief is authorized to extend such aid as he may deem necessary to another city, town, fire district or area under federal jurisdiction for extinguishing fires therein. The Chief shall notify the Town Administrator of any aid outside of the Town of Dudley.

### **Section 9. Fire Inspection**

- (a) It shall be the duty of the Chief to have the Department conduct fire inspections and to assign uniform members to conduct such inspection.
- (b) Any uniform member, while making such inspection, shall be in uniform and wear the badge of the Department.
- (c) Records of these inspections shall be kept at the office of the Chief and shall be available for inspection by the Board of Selectmen.
- (d) The Chief, in his annual report, shall give the results of these inspections, stating the number of inspections made and a list of cases requiring the enforcement of the provisions of the Fire Prevention Code.

### **Section 10. Excusing Uniform Members from Duty**

- (a) The Chief shall determine the time and manner of excusing uniform members of the Department from duty. A member so excused shall be exempt from duty and from attendance at a fire station or other place, but otherwise shall be subject to all laws and rules and regulations relating to a uniform member of the Department.
- (b) The Chief shall have the authority, whenever in his judgement, any public emergency or any demand for the services of the Department requires, to prevent any uniform members of the Department taking time off when the member is entitled thereto at the time assigned therefore or to recall such uniform member back to duty for such duration and to such extent as the Chief deems necessary.

### **Section 11. Off-Duty Employment of Uniform Members**

No full-time member of the Department shall, during off-duty hours, enter the employ of any persons, firm, corporation, or engage in any gainful occupation without the express written permission of the Chief. In granting of any such permission, the Chief shall first determine that:

- (a) such employment or occupation is not incompatible with the full-time members' employment as a firefighter nor tend to bring the Department into disrepute;
- (b) such employment or occupation will not impair the full-time member's efficiency.

### **Section 12. Traffic Control by Uniform Members**

Notwithstanding any contrary provisions of the Bylaws, uniform members of the Department, if so authorized by the officer in charge, may direct traffic as may be required to permit fire vehicles to leave or enter a firehouse or to park at the scene of any emergency.

### **Section 13. Drawing Water from Hydrants or Reservoirs**

No uniform member or any employee of the Department shall draw water from the reservoirs or hydrants except in case of fire or other emergencies unless specifically authorized by the Chief to do so.

#### **Section 14. Taking Department Property Out of the Town**

No property belonging to the Department shall be taken out of town limits unless by order of the Chief.

#### **Section 15. Forest Warden**

Under the authority of the General Laws, chapter 48, sec. 8, there shall be within the Department, the position of Forest Warden. The Board of Selectmen shall appoint the Forest Warden in accordance with the General Laws for a term of one year. The Forest Warden shall perform such duties as may be prescribed by law.

#### **Section 16. Absence or Disability of Fire Chief**

The Board of Selectmen shall, by rule, determine what officer shall act, with full duties and authority, in the place of the Chief during the absence or disability of the Chief.

#### **Section 17. Assistance and Responsibility**

(a) The deputy fire chief(s), and all other uniform members shall perform their duties prescribed by law or by the Chief under the direction and command of the Chief and shall aid the Chief in the performance of his duties prescribed by this Bylaw.

(b) In the administration of the Department, the Chief shall be responsible to and under the supervision of the Board of Selectmen.

#### **Section 18. Ambulance Service**

The Department shall provide the ambulance service for the Town. All full-time members shall be licensed as emergency medical technicians and shall perform such duties under the command of the Chief. The Chief shall establish and provide for appropriate billing and collection of ambulance service charges to the users of the service. The Chief shall set the rates of the ambulance service with the approval of the board of Selectmen. The Chief shall ensure that the ambulance service and uniform members comply with the state regulations regarding the ambulance service.

#### **Section 19. Rules and Regulations**

The Chief shall promulgate, with the approval of the Board of Selectmen, rules and regulations for the operation of the fire department, and the uniform members, and employees, including the off duty conduct of uniform members.

#### **Section 20. Effective Date and Transition**

On the effective date of this Bylaw, the Board of Fire Engineers shall be abolished and all uniform members and employees of the Board shall be transferred to the Dudley Fire Department. This Bylaw shall not impair any contract of the Board of Fire engineers, which shall be assumed by the Town of Dudley. Any rules and regulations and policies of the Board of Fire Engineers shall continue in full force and effect, unless conflicting with this Bylaw, until superseded by policies and rules and regulations adopted under Section 6 and Section 19 of this Bylaw.

### **ARTICLE 41 INVESTMENT POLICY**

#### **TOWN OF DUDLEY INVESTMENT POLICY**

##### POLICY

It is the policy of the town of Dudley to invest all public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the entity and conforming to all state statutes and local by-laws governing the investment of public funds.

##### AUTHORITY

The treasurer shall receive and take charge of all money belonging to the town, and pay over and account for the same according to the order of the town or of its authorized officers. The treasurer shall invest all public funds except those required to be kept

uninvested for purpose of immediate distribution. Invested funds are required to be placed at the highest possible rate reasonably available, taking into account safety, liquidity, and yield.

### LEGAL INVESTMENTS

Massachusetts General Laws (MGL), chapter 44, section 55, sets forth the requirements and limitations of investments for municipal treasurers. These include in part: Term deposits or certificates of deposits; deposits in trust companies, national or state chartered banks in the form of money markets, super now accounts, or other forms of liquid investments; united states government securities such as treasury bills, and government agencies etc.; all having a maturity from date of purchase of one year or less.

Repurchase agreements not to exceed 90 days.

Investments in a pooled fund operated under the authority of the state treasurer, such as the Massachusetts Municipal Depository Trust.

Money market funds operated under rule 2a-7 and that have a AAA rating

MGL, Chapter 44, Section 54 sets forth the requirements and limitations of investment of trust funds, to the extent not otherwise provided or directed by the donor thereof

### INVESTMENT GOALS

The town's investment activities will be managed by the treasurer pursuant to the following goals:

To maintain all collected balances fully invested, to the maximum extent possible.

To maintain an annual average of 98% of treasurer's ledger cash invested at current money market rates. This is based on an estimate that the daily average of uncollected funds represents 2% of ledger cash. For purposes of this section, current money market rates shall be considered the average of all taxable money market funds as found at [www.imoney.net](http://www.imoney.net), or if unavailable, a similar source.

To maintain a reasonable rate of return on all invested funds, making security of principal the main priority, with due consideration to liquidity and yield.

At such time as equity investments are allowed under the guidelines established in the provisions of MGL Chapter 44, Section 54, the treasurer, or other investment authority, as the case may be, shall commit some funds to equity investments in order to provide a component of growth investments in the allocation of town assets.

A written statement of the asset allocation policy shall be a part of the annual report of the treasurer. It shall include a percentage breakdown of the allocation of resources to short term fixed dollar, intermediate term fixed dollar, long term bond, real estate and equity investments with a statement of the reasoning behind the choice of asset allocation. If no resources are allocated to any of the aforementioned investments, the reasoning for having no assets so allocated shall be stated in writing.

IN ORDER TO ACHIEVE THESE GOALS, THE TREASURER SHALL:

- 1) Organize and maintain banking relationships designed to insure investment of all funds available.
- 2) Maintain a primary relationship with banks with no less than a color code of green/\*\*\*\* based on the Veribanc, Inc., bank rating service.
- 3) Utilize bank certificates of deposit and United States treasuries and United States agencies for maturity periods which provide a favorable rate and in conjunction with cash flow needs.
- 4) Utilize the state treasurer's pooled investment fund.

- 5) Utilize repurchase agreements only on a limited basis when no other more favorable option is possible and then only for a period of no more than seven days and only with banks rated as described in item 2 above.
- 6) Utilize bank money market accounts for all remaining liquid funds.
- 7) Avoid the necessity to redeem a term deposit prior to maturity.
- 8) Utilize wire transfers of funds whenever the interest benefit exceeds the transaction cost associated with the wire.

### RISK LIMITS

The following limits shall be utilized:

State Treasurer's Pooled Fund	No Limit
U.S. Treasury Securities	No Limit
U.S. Government Agencies	No Limit

### GREEN/\*\*\* BANKS

Not in excess of 15% of capital and surplus as of most recent annual report. Total includes all money in C.D.'s, Money Markets etc.

In addition to these limits, no single banking institution shall hold in excess of 25% of the treasurer's cash balance (cash and investments) at any time. This limit does not apply to a state treasurer's pool.

### STATUTORY REFERENCES

The treasurer shall at all times be cognizant of and comply with provisions of the following sections of the Massachusetts General Laws:

CHAPTER 44, SECTION 55 PUBLIC FUNDS ON DEPOSIT; LIMITATIONS; INVESTMENTS  
 CHAPTER 44, SECTION 53F COMPENSATING BALANCES  
 CHAPTER 44, SECTION 55B INVESTMENT OF PUBLIC FUNDS  
 CHAPTER 44. SECTION 54 INVESTMENT OF TRUST FUNDS

Adopted: 06/19/2006

## **ARTICLE 42 CONSERVATION CONSULTANT FEES**

The Conservation Commission upon receipt of an application, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, interdepartmental site inspections and evaluations of submittals to those departments, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law. The Commission is authorized to set fees on a site by site basis or by estimate for those projects which come before its review it deems necessary for consultant oversight.

## **ARTICLE 43 CONSERVATION COMMISSION BY-LAW**

### **SECTION 1: PURPOSE**

The purpose of this Bylaw is to protect the floodplains, wetlands and related water resources, riverfront areas and adjoining land areas in the Town of Dudley by prior review and control of activities deemed to have a significant effect upon wetland or resource area values, including, but not limited to, the following: public or private water supply, ground water, water quality, flood control, sedimentation and erosion control, storm damage prevention and flowage, water pollution control, wildlife and wildlife habitats, fisheries, fish and shellfish habitats, rare plant and animal species, agriculture, aquaculture and recreation values deemed important to the community (collectively, the "wetland values protected by the bylaw"). This bylaw is adopted under authority of Section 6, Article 89 of the Amendments to the Massachusetts Constitution, known as the Home Rule Amendment, and General Laws Chapter 40, Section 21.

All of the procedures and requirements set forth in the Wetlands Protection Regulations of 310 CMR 10.00 et. seq. are hereby incorporated and made a part of these regulations except where they differ from or depart from these regulations. Where these regulations differ from or depart from the state regulations, they shall take precedence over the state regulations. The applicant should first address the regulations at 310 CMR 10.00 et. seq. and then supplement them with the Dudley Wetlands Regulations.

Unless otherwise indicated in the bylaw or these regulations, definitions, timeframes, forms and procedures shall be the same as stated in the Massachusetts Wetlands Protection Act.

The Commission, its agents, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

## **SECTION 2: JURISDICTION**

### **RESOURCE AREAS**

Except as permitted by the Dudley Conservation Commission or as otherwise provided in this bylaw, no person shall commence to remove fill, dredge, degrade, discharge into, alter or build upon the following resource areas: freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, banks, reservoirs, lakes, ponds of any size, beaches, lands under water bodies, lands subject to flooding or inundation by ground water or surface water, any land bordering thereon. Bordering in this context shall mean either the greater of the following:

- 100 feet horizontally lateral from the bank of any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, banks, reservoirs, lakes, ponds, and beaches
- 100 feet horizontally lateral from the water elevation of the 100-year storm
- 200 feet horizontally lateral from the mean annual high water elevation of any perennial stream or river
- Vernal pools whether or not certified by the state shall be considered a resource area. It is the policy of the Commission to protect vernal pools because they provide valuable and increasingly rare wildlife habitat. Because they do not contain water all seasons of the year, a vernal pool must be identified in order to be protected. This can be done as part of the Determination of Applicability or part of the Notice of Intent review, or prior to these processes by the landowner, the Conservation Commission or other qualified person. The Commission must be satisfied that the person identifying a vernal pool is qualified to do so.

In addition, it is the policy of the Commission to advise applicants on these non-regulated wetland resource areas:

- A. intermittent streams up gradient of wetland Resource Areas
- B. isolated land subject to flooding below 310 CMR 10.57 size thresholds
- C. isolated wetlands less than 5,000 sq. ft.

The Commission will make every effort to identify these areas at the site, will recommend locating them on the plans, will encourage applicants to avoid impacts to these areas, and will suggest possible measures to mitigate unavoidable impacts with respect to drainage and flood control.

### **Buffer Zone**

Development proposed in the Buffer Zone can negatively impact the abutting Resource areas(s). Negative impacts, both from the "construction" and "use" phase of the project can include erosion, siltation, loss of pollution attenuation, loss of groundwater recharge, reduced water quality and loss of wildlife habitat. A 25 foot strip of continuous, undisturbed, indigenous vegetative cover along the Resource Area boundary within the 100 foot Buffer Zone shall be maintained, where practicable, in order to protect water quality, improve water recharge, reduce erosion and pollution to the adjacent wetland resource areas, and provide wildlife habitat.

Nothing herein shall preclude the maintenance of an existing structure located within the buffer zone. The Conservation Commission may allow activities upon an express determination that the applicant has made a clear and convincing showing that the proposed work in the buffer zone and its natural and consequential impacts and effects will not adversely affect the wetland values.

### **SECTION 3: CONDITIONAL EXCEPTIONS**

The Order of Conditions and application required by this bylaw shall not be required for maintaining, repairing or replacing, but not substantially changing or enlarging an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, and other telecommunication services provided that written notice has been give to the Commission prior to the commencement of any work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

#### **AGRICULTURAL WORK**

Any agricultural activity as defined by the Farm Assessment Act, MGL Chapter 61A, exempt from the provisions of the Wetlands Protection Act, MGL c. 131, s. 40, MGL c. 128 s.1A and from the Wetlands Protection Regulations 310 CMR 10.00 (normal maintenance or improvement of land in agricultural use) will also be exempt under the Dudley Bylaws.

Additionally, any agricultural activity as defined by the Farm Assessment Act, MGL Chapter 61A and on land not under the jurisdiction of the Mass Wetlands Protection Act and implementing regulations (310 CMR 10.00) will be exempt from all local jurisdiction.

The application and Order of Conditions required by this bylaw shall not be required for work performed for normal maintenance or improvement of land.

#### **EMERGENCY WORK**

The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project, a permit application shall be filed with the Commission for review. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a Public Hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

#### **WAIVERS FROM RULES AND REGULATIONS**

Strict compliance with this bylaw may be waived when, in the judgment of the Commission, such action is in the public interest, and is consistent with the intent and purpose of the Bylaw. Any request for a waiver must be submitted to the Commission in writing stating why a waiver is desired or needed, is in the public benefit, and is consistent with the intent and purpose of the Wetlands Protection Act and this Bylaw. The Waiver(s) shall be presented at the time of filing.

### **SECTION 4**

#### **ADVICE FROM TOWN STAFF**

Any advice, opinion, or information given to an Applicant by a Commission member, or by any agency, officer, or employee of the Town, shall be considered advisory only, and not binding on the Commission.

Any person who is proposing to undertake an activity and desires to know what is required of them may arrange a preliminary discussion by contacting the Conservation Office and arranging a time for consultation.

## **SECTION 5 - FEES**

### **FEE SCHEDULE**

In addition to the Wetlands Protection Act (General Laws Chapter 141, Section 40 and Regulations 310 CMR 10.00 et. seq.) filing fees, the applicant shall submit a Site Evaluation Fee of \$150.00 with submission of a Request for Determination of Applicability or a Notice of Intent. Fees are payable at the time of application and are non-refundable.

The Conservation Commission shall use such fees to implement this bylaw, the regulations promulgated hereunder, and any policies developed by the Conservation Commission, including but not limited to the employment of a Conservation Consultant. The responsibilities of the Conservation Consultant may include, but are not limited to: review of resource areas, performing site visits, briefing the Conservation Commission, serving as liaison between the Conservation Commission, applicants, abutters, consultants and other interested parties, drafting Determinations of Applicability and Orders of Conditions, verifying implementation of erosion control measures, facilitating Public Hearings, reviewing requests for certificates of compliance and enforcing the provisions of this Article, the regulations promulgated hereunder, and the policies developed by the Conservation Commission.

The Conservation Commission may waive the filing fee for a Notice of Intent application or a Request for Determination of Applicability filed by a government agency.

### **Wetland Consultant Fees**

In order to enforce the regulations promulgated hereunder, and the policies developed by the Conservation Commission to the extent consistent with Ch. 44, Section 53G of the M.G.L. and any other law pertaining thereto, or at any point during the review of an application until a Certificate of Compliance is issued, the Conservation Commission may find that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project or because the project may have a significant effect upon the values the Conservation Commission is authorized to protect. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.

In such instances where Consulting fees are required, the Commission shall notify the Applicant of this need and shall provide the opportunity for the application to be amended or withdrawn. Should an Applicant choose to proceed, the Commission shall require the Applicant to pay the fees for these consulting services. The consultant services may include, but shall not be limited to, ascertaining the extent of the Conservation Commission's jurisdiction, analyzing resource area functions and values, evaluating wildlife habitat, analyzing hydro geologic and drainage conditions, providing assistance during appeal or litigation, researching environmental or land use law, and inspecting work to insure compliance. The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary.

For business, commercial and industrial filings, prepayment of the estimated wetland consultant's fee for the entire project including building construction, shall be required before the Public Hearing. For subdivisions, estimated wetland consultant's fee shall include the cost of reviewing land preparation, grading, placement of utilities, and construction of roads and drainage systems.

Outside consultants shall be chosen by the Commission. Any applicant aggrieved by the imposition of, or size of the consultant fee, or any act related thereto, may appeal to the Board of Selectmen, in accordance with the provisions of the MGL c.44 s.53G. 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 standard of qualification shall consist of Massachusetts certification or license in the field at issue or references mutually acceptable to the Commission and the applicant, showing expertise and experience in the field at issue. The required time limit for action upon an application by the Commission shall be extended by the duration of the administrative appeal.

## **SECTION 6 - FILING REQUIREMENTS AND PROCEDURES**

### **Timeframes for Submission of Documentation**

In order to insure adequate and proper review by the Commission, staff and the public, all permit application documentation -- including forms, narrative descriptions, plans, maps, tables, charts, reports, etc. -- must be submitted to the Conservation

Commission no later than fourteen calendar days prior to the scheduled Public Hearing, or its continuation. Documentation submitted by the Applicant thirteen calendar days or less before the public hearing may be excluded from said hearing or held for discussion at a subsequently scheduled hearing. Submission of material by the Applicant thirteen calendar days or less before the Public Hearing will constitute a constructive request by the Applicant for a continuation of the hearing if, in the opinion of the Commission, the Commission, staff or public has not had adequate or sufficient time to properly consider said material.

### **Request for Determination of Applicability Wetlands Protection Act Form 1**

The Request for Determination of Applicability shall include sufficient information to enable the Commission or its consultant to find and view the area and to determine whether the proposed project will alter an Area Subject To Protection. The information shall include, at a minimum:

Form 1 (Wetland Protection Act, M.G.L. Chapter 131, s. 40);

Such Plans, prepared and stamped by a Registered Professional Engineer and Registered Professional Land Surveyor, as are needed to locate and inspect the area and to determine whether the proposed work may significantly alter an Area Subject To Protection. The requirement that Plans be stamped by a registered professional engineer and registered professional land surveyor may be waived by the Commission or its agent if it is deemed unnecessary. These Plans shall show:

- All Wetlands that are within 100 feet of the edge of Activity;
- Riverfront Areas including inner and outer riparian zones
- Wetland Protection Setbacks
- The 100 foot Buffer Zone;
- Erosion and sedimentation control/prevention devices and method of maintenance;
- The edge of disturbance, if different from the erosion control/prevention devices;
- Location of stockpiled materials, if any.

The Request for Determination of Applicability shall be sent by certified mail or hand-delivered to the Dudley Conservation Commission. If necessary, the Commission and/or its agent may require that additional information be submitted to aid in the evaluation. If all data required by the Commission and/or its agent is not received, the filing shall not be considered complete, a Public Meeting shall not be scheduled and the Applicant shall be notified.

It is the responsibility of the Applicant to advertise the Public Meeting Notice in a newspaper of general circulation in the municipality no less than 7 calendar days prior to the Public Meeting.

At the Public Meeting, the Commission will determine:

- Positively: that the area or Activity is subject to the jurisdiction of the WPA and Commission and requires the filing of a Notice of Intent; or
- Negatively: that the area or Activity is not subject to the jurisdiction of the Commission, or that the interests protected by the WPA and Bylaw are fully protected by the project as proposed.

### **Notice of Intent Wetlands Protection Act Form 3**

Written or typed Wetlands Protection Act Notice of Intent applications shall be filed with the Commission to perform Activities regulated by the Wetlands Protection Act or the Bylaw affecting Resource Areas. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed Activities and their effects on Areas Subject to Protection. No Activities shall commence prior to issuance of a file number by the Massachusetts Department of Environmental Protection, receipt and recording of the Order of Conditions issued. When a person filing is other than the owner, the Applicant shall provide all forms, plans, and meeting notices to the owner by hand delivery or Certified Mail.

The filing shall at a minimum include:

- Two copies of the Wetlands Protection Act Form 3 (Notice of Intent);
- Such plans and specifications as are required of an Applicant under the Wetlands Protection Act as specified in the regulations including:

- all Wetlands within one hundred (100) feet of the edge of Activity shall be marked with flagging tape, which will correspond to the edge of Wetlands indicated on the plans
- placement of siltation control devices
- locations of fill storage and spoils area (if requested), subject to the approval of the Commission
- The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny or grant an Order of Conditions.
- The Commission requires applicants to demonstrate that no significant change in off-site runoff will result from proposed work. Because increased runoff impacts land downstream and reduces natural groundwater recharge, the Commission may require measures (such as stormwater detention basins) to prevent increased runoff. Direct discharge of runoff into a Resource Area will not be allowed.
- List of Abutters certified by the Dudley Board of Assessors
- Signed green cards and Certified Mail Receipts for unclaimed/unreturned green cards. If proof of said notification is not presented to the Commission, the Public Hearing shall not be opened.
- Detailed sequence of construction
- Detailed plan of Wetland Replication or restoration if the project proposes a Wetland Alteration
- Payment of State and Local fees. Estimated wetland consultant's fees, if applicable, shall be paid prior to the scheduled Public Hearing
- Proof of legal advertisement. It is the responsibility of the Applicant to place the Public Hearing Notice in a newspaper of general circulation in the municipality not less than 7 calendar days prior to the scheduled Public Hearing.
- The Applicant filing a Notice of Intent shall also notify by certified mail, all Abutters of the Notice of Intent filing using the Notification to Abutters Form. Such Notice shall clearly identify the land on which the project is to be done and describe the general nature of the project. Notice shall include the date, place, and time of said public hearing, and where Plans may be reviewed. The Notification of Abutters should be sent not less than eight (8) business days prior to the scheduled Public Hearing.
- **Rare Species** - Where the project site warrants, the Applicant may be required to submit quantitative habitat analysis. In areas under the jurisdiction of the Natural Heritage and Endangered Species Program, the Applicant must obtain a written decision from the Natural Heritage and Endangered Species Program indicating the presence, or lack thereof, any protected or endangered species.

## **SECTION 7 – NOTIFICATION TO OTHER TOWN OFFICIALS, BOARDS AND COMMISSIONS**

The Applicant shall provide written notice thereof at the same time, by certified mail or hand delivery, to the Board of Selectmen, Planning Board, Zoning Board of Appeals, Board of Health and Building Inspector. The Commission shall not take final action until such boards and officials have had seven (7) days from receipt of notice to file written comments and recommendations with the Commission. The Commission shall take into account any comments or recommendation, but they shall not be binding on the Commission. The applicant shall have the right to receive any such comments and recommendations, and to respond to them at the Public Hearing, prior to final action.

## **SECTION 8 – PUBLIC HEARINGS, PERMITS AND CONDITIONS**

### **Public Hearing**

The Commission shall have the authority to continue the Public Hearing to a date announced at the Hearing; for reasons stated at the Hearing, which may include receipt of additional information from the applicant or others, deemed necessary by the Commission in its discretion, or comments and recommendations of Town Board and Officials. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

### **Orders of Conditions Wetlands Protection Act Form 5**

If the Commission, after a Public Hearing, determines that the activities which are subject to the permit application or the land and

water uses which will result are likely to have a significant individual or cumulative effect upon the resource area values, the Commission, within 21 days of the close of the hearing, shall issue or deny an Order of Conditions for the activities requested. If it issues an Order of Conditions, the Commission shall impose conditions which are deemed necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities permitted and exempt, and foreseeable future activities.

The Commission is empowered to deny an Order of Conditions for failure to: meet the requirements of the Order of Conditions; submit necessary information and plans requested by the Commission; meet the design specifications, performance standards and other requirements in regulations of the Commission; avoid or prevent unacceptable significant adverse effects upon the resource area functions and characteristics; and where no conditions are adequate to protect those functions and characteristics. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the Public Hearing.

To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible, shall minimize wetlands alteration and where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

It is the responsibility of the Applicant to record the Order of Conditions at the Registry of Deeds within fifteen (15) calendar days of receipt or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies. Failure to record the Order of Conditions within fifteen (15) days will declare it null and void. The Applicant will then be required to start the filing process from the beginning including all forms, fees, plans, Public Hearing, legal notices and notification to abutters.

Posting of DEP file number, hay bales, silt fence and filings pit, as required by the Conservation Commission shall be in place prior to commencement of any work.

For good cause, the Commission may revoke or modify an Order of Conditions issued after Public Notice and Public Hearing, and written notice to the holder of the Order of Conditions.

An Order of Conditions shall expire three years from the date of issuance. Any Order of Conditions may be renewed twice for an additional one to three year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. An Order of Conditions may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

#### **EXTENSIONS Form 7 – Extension Permit for Order of Conditions**

The Commission may extend an Order of Conditions twice for a period of one to three years for each extension. Written requests for an Extension shall be made not less than thirty days prior to the expiration of said Order of Conditions.

The Commission may deny a request for Extension under the following circumstances:

- where no work has begun on the project, except where such failure is due to unavoidable delay, such as appeals in obtaining other necessary permits;
- where new information, not available at the time of original permanent filing, has become available and indicates the Order of Conditions is insufficient to protect the Areas Subject to Protection;
- where incomplete work is causing damage to the Areas Subject to Protection;

The Extension shall be recorded in the Registry of Deeds by the Applicant within 15 days of receipt or the Extension will be declared null and void.

#### **CERTIFICATES OF COMPLIANCE**

- A request for a Certificate of Compliance shall be made in writing on the appropriate form to the Commission (Form 8A).

- Prior to issuance of the Certificate of Compliance, a site inspection shall be made by the Commission and/or its agent.
- If the Commission determines after review and inspection that the work has not been done in compliance with the Order, it shall refuse to issue the Certificate of Compliance and specify the reasons for denial in writing to the Applicant.
- If the Certificate of Compliance does not apply to all work regulated by the Order of Conditions, it shall state to what portions of the Work it applies.
- The Certificate of Compliance, if issued, shall be recorded by the Applicant at the Registry of Deeds.

## **SECTION 9 – VIOLATIONS AND ENFORCEMENT**

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter protected resource areas, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued.

### **Identification of Violations**

Violations are identified by three primary means: observations by the Conservation Commissioners, Conservation Consultant and citizens. Reports of violations are always confidential; Commissioners and staff may not reveal the source of any report of possible violations.

When possible violations are reported, a Commissioner or the Wetland Consultant will determine whether a violation exists and if an Enforcement Order is necessary. The Wetland Consultant may consult with the Commission Chairman and other members as necessary, but if time or other constraints exist, may proceed employing best judgment. Any Enforcement Order issued by any individual must be ratified by the Commission at a public meeting.

### **Violations**

If a Commissioner or the Wetland Consultant confirms or strongly suspects a violation, an Enforcement Order will be issued. Enforcement Orders will direct the property owners and contractors to (1) stop work, (2) identify resource areas on the site, (3) install erosion controls, and (4) meet with the commission to discuss the violation.

If a wetland line has been previously approved by the Commission, its location will be the basis for evaluation of the Violation. If a wetland line has not been established or approved by the Commission, then the Commission or Enforcement Order may require the owner, developer, and contractor to employ a wetland scientist to identify wetland resource areas with flagging within a time frame not longer than two weeks from the date of the Enforcement Order. All Enforcement Orders will be maintained in the Conservation database and placed on file.

At the subsequent meeting, the Commission will consider the following aspects of the violation:

- Value of the area to the statutory interests
- Harm of the damage
- Immediacy of the harm
- Value of restoration
- Feasibility of restoration
- Potential legal outcomes
- Potential financial burden to the Town of Dudley

The Commission shall have authority to enforce its regulations and permits by the issuance of Enforcement Orders, administrative orders and the initiation of civil and criminal court actions. Any person who violates the provisions may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, fined, or both. The enforcing officers in the non-criminal disposition procedure shall be members of the Conservation Commission or its agents.

Upon request of the Commission, the Town Administrator and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedures set forth in G.L. 40, s. 21D.

In addition to any other remedies available under any law or this bylaw, any person who violates any provision of this bylaw, regulation, permit or administrative order issued may be fined according to the fine schedule below.

- The fine for filling in a wetland or resource area shall be \$75.00 per square foot per day. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense with each provision of the bylaw, regulations, permits or administrative order(s) violated shall constitute a separate offense.
- For all other violations, each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations, permits or administrative order(s) violated shall constitute a separate offense.

In a specific case, the Commission may issue the following penalties for wetland violations (not including filling of wetlands) after initial notification by the Dudley Conservation Commission or its agents:

First day of offense: \$100.00

Second day of offense: \$200.00

Third day and all subsequent days of offense: \$300.00

## **SECTION 10 - CONSTRUCTION STANDARDS AND RESTRICTIONS**

### **Sequence of Construction**

The Applicant shall provide a detailed sequence of construction to the Commission as part of the standard filing requirements, detailing in what order the project's construction will follow. Said sequence shall be followed by the Applicant, unless amended and approved by the Commission.

### **Wetland Setbacks for New Activities**

In order to protect and preserve the public interests and values of the wetlands and waterways of the Town of Dudley, activities in Wetland and Buffer Zone Resource Areas should be avoided to the full extent practicable. The following are the minimum distances (setbacks) of activity from the edge of Wetlands or Vernal Pools. These setbacks are the minimum and may be extended further if deemed necessary for the protection of the interests of the Bylaw by the Commission.

The setbacks shall be as follows:

- 0-foot setback for wetland-dependent structures (drain outfalls, weirs, etc.), fences, and structures necessary for upland access where reasonable alternative access is unavailable.
- 50-foot setback of undisturbed natural vegetation.
- 75-foot no-build setback to the edge of driveways, roadways, and structures.
- 50-foot chemical free area, within which no fertilizers, herbicides, pesticides or other chemical maintenance substances shall be used.
- 100-foot setback for underground storage of gasoline, oil, or other fuels and hazardous materials.
- 100-foot setback of undisturbed natural vegetation to the mean high water line for vernal pools.

### **Wetland Setbacks for Existing Structures**

No new activity shall be commenced and no new structure shall be located closer to the edge of a Wetland Resource Area than existing non-conforming like Activities or structures, but the Commission may permit new like Activity or structures as close to the Wetland Resource Area as the existing like Activity or structure if it finds such Activity or structure will not affect more adversely the interests provided for under the Wetlands Protection Act or in the Bylaw than the existing Activity or structure.

### **Erosion Prevention**

The purpose of installing a silt prevention barrier (hay bales and silt fence) between the proposed limit of disturbance and the edge of Wetlands is to intercept sediment-laden runoff by reducing runoff velocity and allowing suspended sediments to "settle out"

before entering the Wetlands Resource Area. Such sediments shall be removed and sediment barriers monitored and replaced when necessary by the Applicant, or when required by the Commission or its agent.

Proposed location of the silt prevention devices, silt fence and hay bales, shall be shown on the Plan submitted in the Wetland filing furnished by the Applicant for Commission review and approval. Erosion prevention devices shall be installed prior to the commencement of Activities on the site.

### **Storage of Fill**

If any Fill is to be stored on site, it shall be stored outside of the Buffer Zone and/or it shall be surrounded by hay bales and silt fencing to prevent erosion. The location of said Fill shall appear on any Plans submitted to the Commission with the Notice of Intent. If the Commission determines that the proposed location of Fill threatens the Areas Subject to Protection, it may require the Applicant to store said Fill in a different location or to remove it completely from the site.

### **Construction Debris or Spoils Area**

There shall be no disposal or burial of construction debris (i.e. scrap lumber, metals, concrete, asphalt, piping, logs, stumps, etc.) within 100' of a Wetland. Illegal disposal of said debris shall result in a stop work order, fine, required removal of said debris, or all of the above. The Commission may allow the creation of a spoils area, which would be required to be designated on the project PLANS, if it is proven that it will not harm Areas Subject to Protection.

### **Wetlands Replication**

It is the policy of the Dudley Conservation Commission to follow the "No Net Loss" guidelines set forth by the Massachusetts Department of Environmental Protection. Therefore, applicants who propose to alter resource areas under the Commission's jurisdiction must:

- demonstrate that there is no practicable alternative,
- minimize impacts where they are unavoidable,
- mitigate losses of wetland resource area, where applicable or appropriate, on at least a 1:1.5 basis. "Limited projects" are included in this requirement.

### **Wetlands Replication Requirements**

Projects involving Wetlands Filling and/or permanent Alterations shall meet the requirements of 310 CMR 10.60(3) and 10.55(4) and the following Requirements of the Commission:

- The proposed Replication area design must be submitted to the Commission for approval as part of the submittal of the project Notice of Intent. Applicants are advised to appear before the Commission for preliminary discussion, comments and review prior to submittal of the Replication Plan with the Notice of Intent.
- The Replication area must be shown to sufficiently duplicate the functions of the Wetland proposed to be Altered;
- The Replication area shall be constructed, to the extent possible, immediately after Alteration of the existing Wetland and during the same growing season;
- The proposed Replication area must be clearly flagged for Commission site inspection before the Notice of Intent filing shall be considered complete, and said flagging shall correspond to flagging shown on the Plans.
- The Notice of Intent submittal for a Replication area shall include a detailed of Replication showing:
  - cross-section with indication of Groundwater level, soil profile and thickness of organic soil in the existing and proposed Wetlands;
  - plant species detail, including species found in the area to be Altered, and number, types and locations of species to be introduced into the Replication area;
  - detail of stabilization Plans for Replication area Banks;

- Wildlife Habitat diversity plan.
- Construction of the Replication area shall follow all requirements as set forth by the Commission.

If, after three growing seasons, the Commission determines that the Replication area has not satisfactorily developed into a Wetland, the Applicant or owner may be required to submit new Plans to successfully replace the Wetland. No Certificate of Compliance shall be issued until the Commission has determined that a satisfactory Replication area has been completed at the end of the three year period.

### **SECTION 11 – APPEALS**

A decision of the Commission shall be reviewable in the Superior Court in accordance with GL Ch. 249, Sec. 4.

### **SECTION 12 – SEVERABILITY**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any Order of Conditions or determination, which previously has been issued.

### **SECTION 13 – EFFECTIVE DATE**

This section was disapproved and deleted in its entirety by the Attorney General as inconsistent with the effective date of by-laws as set forth in G.L. c. 40, § 32. (09/02/08)

### **SECTION 14 – REGULATIONS**

After Public Notice and Public Hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of the invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

The Dudley Conservation Commission may, from time to time, adopt such other and further definitions. Regulations, fees and performance standards as it may deem necessary to protect the interest and/or intent of this Bylaw. Said definitions, regulations, fees and performance standards shall become effective upon publication following a Public Hearing advertised in a local newspaper.

At a minimum these regulations shall define key terms in this bylaw and establish basic performance standards not inconsistent with the bylaw and procedures governing the amount and filing of fees.

### **SECTION 15 – DEFINITIONS**

The following definitions shall apply in the interpretation and implementation of this bylaw:

**Alter** shall include, without limitation, the following activities when under-taken to, upon, within or affecting resource areas protected by this bylaw:

- Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- Change of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- Drainage or other disturbance of water level or water table
- Dumping, discharging or filling with any material which may degrade water quality
- Placing of fill or removal of material, which would alter elevation
- Driving of piles, erection or repair of buildings, or structures of any kind
- Placing of obstructions or objects in water
- Destruction of plant life including cutting of trees
- Changing temperature, biochemical oxygen demand or other physical, biology, or chemical characteristics of any waters
- Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- Incremental activities, which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw

**Abutter** is any landowner, as determined by the most recent assessor's records, whose land immediately abuts the property which is the subject of notification, or whose land lies across a public or private traveled way or across any river, stream, pond or lake or downstream to a distance of 100 feet. In particular cases, the Dudley Conservation Commission can add persons to the list of abutters to be notified.

**Person** shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth, or political subdivision thereof, to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents or assigns.

**Rare Species** shall include, without limitation, all vertebrate and invertebrate animals and plant species listed as endangered, threatened, or of special concern by the Mass. Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

**Vernal pool** shall include a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Mass. Division of Fisheries and Wildlife.

**Stream** includes any body of running water moving in a channel in the ground, including intermittent streams and headwaters of streams above the point where there are wetlands adjoining them.

**Wetlands** under this bylaw, includes wet meadows, marshes, bogs and swamps of all kinds, regardless of whether they border on surface waters.

Except as otherwise provided in this bylaw or in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act (GL Ch. 131, Sec. 40) and Regulations (310 CMR 10.00).

Adopted: 05/19/2008

## ARTICLE 44                    AGRICULTURAL ADVISORY COMMISSION

### a). Purpose:

To establish the Agricultural Advisory Commission in the Town of Dudley to serve as a forum for matters of interest to farmers in Dudley, and to advise the Board on how the Town can best support farming in Dudley. The Commission's five (5) members shall include three (3) Dudley residents who are engaged in farming and two (2) citizens at-large interested in promoting farming. Up to five (5) alternate members may also be appointed, at the discretion of the Board of Selectmen. Regular members shall have three year, staggered terms, and alternative members shall have one year terms.

### b). Duties and Responsibilities:

The Commission's duties shall include, but are not limited to: serving as facilitators for encouraging the pursuits of agriculture in Dudley; promoting agricultural-based economic opportunities in Town; acting as mediators, advocates, educations, and/or negotiators on farming issues; working for preservation of prime agricultural lands; advising the Board of Selectmen, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Historical Commission, Board of Assessors, and the Open Space committee, or any other appropriate Town Boards, on issues involving agriculture; and pursuing all initiatives appropriate to creating a sustainable agricultural community. When designated by the Board of Selectmen this Advisory Commission will be the lead representative for the Town of Dudley and its interactions and communications with the Massachusetts Department of Agricultural Resources. However, the Advisory Commission shall not have the authority to bind the Town in any regard, unless otherwise authorized by the Board of Selectmen, by by-law, or by town meeting vote.

### c). Appointment & Composition of the Commission:

The Commission shall be appointed by the Board of Selectmen.

Adopted: 01/28/2019

## ARTICLE 45 DEPARTMENTAL REVOLVING FUNDS

1. Purpose. This by-law establishes and authorizes revolving funds for use by town, departments, boards, committees, agencies and officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, § 53E½.
2. Expenditure Limitations. A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this by-law without appropriation subject to the following limitations:
  - A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
  - B. No liability shall be incurred in excess of the available balance of the fund.
  - C. The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Selectmen and Finance Committee (FAA).
3. Interest. Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the general fund.
4. Procedures and Reports. Except as provided in General Laws Chapter 44, § 53E½ and this by-law, the laws, charter provisions, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of town monies and the expenditure and payment of town funds shall apply to the use of a revolving fund established and authorized by this by-law. The Town Accountant shall include a statement on the collections credited to the fund, the encumbrances and expenditures charged to each fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.
5. Authorized Revolving Funds. The Revolving Fund Listing establishes:
  - A. Each revolving fund authorized for use by a town department, board, committee, agency or officer,
  - B. The department or agency head, board, committee or officer authorized to spend from each fund,
  - C. The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant,
  - D. The expenses of the program or activity for which each fund may be used,
  - E. Any restrictions or conditions on expenditures from each fund;
  - F. Any reporting or other requirements that apply to each fund, and
  - G. The fiscal years each fund shall operate under this by-law.

## ARTICLE 46 LICENSES

### Section 1. Definitions

Licensing Authority – each department, board, commission or division that issues licenses or permits including renewals and transfers.

Party – any person, corporation or business enterprise that has neglected or refused to pay any local taxes, fees, assessments, betterment or other municipal charges for not less than twelve months.

## Section 2. Delinquent List

1. Any and all municipal officials responsible for records of all municipal taxes, assessments, betterment and other municipal charges shall furnish annually to the Town Treasurer a listing of any persons, corporations, or business enterprises (hereinafter referred to as "Party") that have neglected or refused to pay any local taxes, fees, assessments, betterment or other municipal charges for a twelve (12) month period.
2. The Town Treasurer shall compile a master list containing the name and address of any party, that has neglected or refused to pay any local taxes, fees, assessments, betterment or other municipal charges for not less than a twelve month period and that has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board. The master list shall also contain both the amount owed and a description of the local taxes, fees, assessments, betterment or other municipal charges which the party has failed or refused to pay.

If the board determines that any activity, event or other matter which is the object of such license or permit, is to be carried out or exercised on or about real estate owned by any party who appears on said list furnished by the Town Treasurer then the licensing authority may deny, revoke or suspend any license or permit or refuse to transfer the same.

3. The Town Treasurer shall annually furnish to each Licensing Authority of the Town of Dudley a copy of the master list. Upon receipt of the master list, the Licensing Authority may, in accordance with the terms of this ordinance, deny, revoke or suspend any license or permit, including renewals and transfers of the same, of any party whose name appears on the master list.

## Section 3. Notice and Hearing

1. The Licensing Authority shall not deny, revoke or suspend any License or permit, unless it first gives written notice to the party and the Town Treasurer and unless the Licensing Authority holds a hearing concerning the denial, revocation or suspension. The hearing shall be held no sooner than fourteen (14) days from the date of the notice.
2. The notice shall be mailed to the party and shall contain the time, place and date of the hearing. The notice shall also inform the party of the purpose of the hearing and shall list any and all taxes, fees, assessments, betterment or other municipal charges applicable to the party which are contained on the master list.
3. If the Board determines that (a) any taxes, fees, assessments, betterment or other municipal charges contained on the master list have not been paid; and (b) that the party has not filed in good faith an application for an abatement of the amount owed, or (c) that the party does not have a pending petition before the Appellate Tax Board, the Licensing Authority may deny, revoke or suspend any license or permit or refuse to transfer the same. If the Board determines that any activity, event or other matter which is the subject of such license or permit, is to be carried out or exercised on or about real estate owned by any party who appears on said list furnished by the Town Treasurer then the licensing authority may deny, revoke or suspend any license or permit or refuse to transfer the same.
4. At the hearing, the Licensing Authority shall give the party an opportunity to enter a payment agreement, as provided in Section 4 below.
5. The master list provided by the Town Treasurer shall be prima facie evidence to support a denial, revocation or suspension of a license or permit to any party whose name appears on the master list.
6. The Town Treasurer, or his designee, shall have the right to intervene in any hearing conducted concerning the denial, revocation and suspension of any license of permit.
7. Any findings made by the Licensing Authority with respect to the denial, revocation or suspension shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for an appeal from such permit or license denial, revocation or suspension.

## Section 4. Payment Agreement

1. The licensing Authority shall give the party an opportunity to enter into a payment agreement under such terms and conditions as are satisfactory to the Licensing Authority and the Town Treasurer. No payment agreement shall accept less than a ten percent (10%) up-front payment of taxes or fees or both.
2. Upon entering into a payment agreement the Licensing Authority shall issue a certificate indicating any agreed upon limitations to the license or permit. The validity of any such license or permit shall be conditioned upon satisfactory compliance with the agreement.
3. Failure to comply with the payment agreement shall be grounds for suspension or revocation of the party's license or permit, provided that the holder be given notice and a hearing by the licensing authority. Notwithstanding Section 3 (4), in no event shall any hearing concerning a failure to comply with a payment agreement entitle the party to an additional opportunity to enter into a new payment agreement.

**Section 5. Effect of Denial or Suspension**

Any license or permit denied, suspended or revoked pursuant to this Article shall not be renewed until the License Authority receives a certificate issued by the Town Treasurer indicating that all local taxes, fees, assessments, betterment or other municipal charges payable to the Town of Dudley have been paid as of the date of the issuance of the Certificate.

**Section 6. Waiver of Denial, Suspension or Revocation**

The Licensing Authority may waive any denial, suspension or revocation of a permit or license if it finds that there is no direct or indirect business interest by the party or members of the party's immediate family, as defined in Section One of Chapter 268A, in the business or activity conducted in or on said property.

**Section 7. Regulations**

The Board of Selectmen shall have the authority to adopt any rules and regulation it deems necessary to implement this Article, including a listing of those licenses and permits not subject in this by-Law.

**Adopted: "Licenses" Sec. 1 - 7 (06/27/95) – in accordance with M.G.L. c. 40, S57 "Local Licenses and Permits: denial, revocation or suspension for failure to pay municipal taxes or charges."**

**Amendments: Sec. 3, paragraph 3 (11/01/1995)**

**ARTICLE 47 Economic Development Committee**

**Section 1: Authority**

There shall be a Economic Development Committee for the Town who shall perform the duties set forth in the following sections of this article and be governed by the provisions thereof.

**Section 2: Purpose**

Economic Development Committee ("Committee") is established to assist the development of economic growth in our community by strengthening existing businesses and attracting new business to the community.

The Committee works to create, diversify and enhance job growth and to promote business development and stability. The committee can assist businesses and other organizations to further economic development in the community.

**Section 3: Membership**

The Economic Development Committee shall be composed of seven (7) members whom are residents of the Town. The Board of Selectmen shall appoint five (5) members and the Planning Board shall appoint two (2) members.

The Economic Development Committee shall have the ability to appoint two (2) alternate members who will serve for a term of three (3) years. The Appointed Alternate members will be non-voting members when a full board is present for a meeting.

If a voting member of the Committee is not present for an Economic Development Committee meeting, the alternate member is authorized to step in and replace the voting members for the duration of the meeting and have the full legal status as a voting member in regards to quorums and any issues which need a legally cast vote.

Should the Economic Development Committee receive a resignation from any voting member of the Committee prior to their term expiration, the remaining appointed Economic Development Committee voting members and the Board of Selectmen shall appoint the alternate member with the longest tenure as a voting member of the Committee to fulfill the unexpired term of the member who resigned.

Members shall serve staggered three (3) years terms, as established by the Board of Selectmen. Terms shall expire at the end of the respective fiscal year.

Whenever a vacancy shall occur in said committee, the appropriate appointing authority shall fill the vacancy for the remainder of the unexpired term.

All members shall be sworn to the faithful performance of their duties of said committee.

The committee shall select their own officers.

#### **Section 4. Quorum**

The quorum for said committee shall be the majority of the members currently appointed and sworn.

#### **Section 5: Duties**

A. Economic Development Plan. The Committee shall prepare and present to the Town Meeting annually, a proposed five-year economic development plan for the town. The plan shall include actions to be carried out by the town and proposed joint venture activities in cooperation with other public and private agencies and organizations, for the purpose of enhancing the prosperity and well being of the Dudley and its residents.

The Plan shall be made in consultation with the Board of Selectmen, Planning Board and the Finance Appropriations Advisory Committee. The Committee may seek assistance from the Town Administrator, Town Treasurer, planning office and other municipal departments.

The economic development plan shall be reviewed and revised annually in accordance with the foregoing procedures.

B. Community Economic Resource Guide. The Economic Development Committee shall develop and maintain a Community Economic Resource Guide ("Guide") The "Guide" should contain key information regarding the community with the primary purpose of providing information / attracting business development in the community.

C. Other Duties. The Board of Selectmen or Planning Board may request other projects or tasks to be undertaken by the Committee related to economic development. The Committee shall file a report to the requesting party once the task is completed or an project / task update when requested by the requesting party.

#### **Section 6: Minutes, Public Hearings & Reports**

The Committee shall cause to be kept a true record of its proceedings.

The Committee shall hold a public hearing(s), with proper notice, as part of the committee's process in developing an economic development plan, community resource guide or any other plan, policies or programs undertaken by the committee.

The Committee shall provide an annual report to the Board of Selectmen of the committee activities over the past fiscal year. Said report to be included to the Town's Annual Report to its citizens.

The committee shall comply with the open meeting laws of the Commonwealth.

**Added: Article 47 (05/23/2011)**

**Amendments: Section 3 (05/22/2017)**

## **ARTICLE 48                      CRIMINAL HISTORY CHECK AUTHORIZATION**

### **Section 1: Authorization.**

The Dudley Police Department shall, as authorized by Massachusetts General Laws Chapter 6, Section 172 B 1/2, conduct State and Federal Fingerprint Based Criminal History checks for individuals applying for the following licenses:

- Hawking and Peddling or other Door-to- Door Salespeople, (Board of Selectmen)
- Manager of Alcoholic Beverage License (Board of Selectmen)
- Owner or Operator of Public Conveyance (Board of Selectmen)
- Dealer of Second-hand Articles (Board of Selectmen)
- Pawn Dealers, (Board of Selectmen)
- Hackney Drivers, (Board of Selectmen) and,
- Ice Cream Truck Vendors (Board of Health)

### **Section 2: Criminal History Checks.**

At the time of fingerprinting, the Dudley Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's criminal history records. The Police Chief shall periodically check with the Executive Office of Public Safety and Security ("EOPSS") which has issued an Informational Bulletin which explains the requirements for town by-laws and the procedures for obtaining criminal history information, to see if there have been any updates to be sure the Town remains in compliance.

Upon receipt of the fingerprints and the appropriate fee, the Dudley Police Department shall transmit the fingerprints it has obtained pursuant to this by-law to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in this by-law. The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this by-law. The Town authorizes the Dudley Police Department to receive and utilize State and FBI records in connection with such background checks, consistent with this by-law. The State and FBI criminal history will not be disseminated to unauthorized entities.

Upon receipt of a report from the FBI or other appropriate criminal justice agency, a record subject may request and receive a copy of his/her criminal history record from the Dudley Police Department. Should the record subject seek to amend or correct his/her record, he/she must take appropriate action to correct said record, which action currently includes contacting the Massachusetts Department of Criminal Justice Information Services (DCJIS) for a state record or the FBI for records from other jurisdictions maintained in its file. An applicant that wants to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct, or update the record are set forth in Title 28 CFR16.34. The Dudley Police Department shall not utilize and/or transmit the results of the fingerprint-based criminal record background check to any licensing authority pursuant to this by-law until it has taken the steps detailed in this paragraph.

Municipal officials should not deny an applicant the license based on information in the record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so.

The Dudley Police Department shall communicate the results of fingerprint-based criminal record background checks to the appropriate governmental licensing authority within the Town as listed. The Dudley Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon his or her suitability or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

The Dudley Board of Selectmen, is authorized to promulgate regulations for the implementation of the by-law, but in doing so it is recommended that they consult with the Chief of Police, Town Counsel and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the statute, the FBI's requirements for access to the national database, and other applicable state laws.

### **Section 3. Use of Criminal Record by Licensing Authorities**

Licensing authorities of the Town of Dudley shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in this by-law. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination.

The Town of Dudley or any of its officers, departments, boards, committees or other licensing authorities is hereby authorized to deny any application for, including renewals and transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this by-law.

### **Section 4. Fees**

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be one hundred dollars (\$100). The Town Treasurer shall periodically consult with Town Counsel and the Department of Revenue, Division of Local Services, regarding the proper municipal accounting of those fees.

A portion of the fee, as specified in Mass. Gen. Laws Chapter 6, Section 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

### **Section 5. Effective Date**

This by-law shall take effect May 4, 2012, so long as the requirements of M.G.L. c. 40 sec. 32 is satisfied.

{Note: The purpose of this article is to authorize the police department to conduct out of state record checks for individuals applying for licenses here in the community. Currently, the FBI prohibited these checks to take place unless a state had a law which authorized these checks. With the Commonwealth of Massachusetts adopting this legislation as part of the CORI reform measures in 2010, the above listed law was adopted. Communities around the state are required to formally adopt it in order for it to be in effect.

As for the fee structure, the law specifies that currently thirty (\$30) dollars is to go to the Firearms Fingerprint Identity Verification Trust Fund. This is set by the state to offset the costs associated with the processing of the records checks. The law also specifies "the remainder of the fee may be retained by the licensing authority for costs associated with the administration of the system." These fees can be applied to the maintenance agreement or other costs associated with the processing of these record checks. Since we do not anticipate a large volume of business in the account at this time, there does not appear to be a significant amount of revenue which will be generated by this action.

This type of law will allow us to obtain background information on potential license holders from anywhere in the country. At this time, if a CORI check is conducted on an individual, only Massachusetts records are verified. By having this law in place, we can check a person's criminal history from anywhere in the United States or if it is contained in the FBI record base. This will provide us with an additional layer of protection.}

**ARTICLE 49****ROAD BETTERMENT BYLAW****1. Authority of Scope.**

The following shall govern any repairs made pursuant to this article:

A. The Board of Selectmen is hereby authorized to make provision for permanent repairs on private ways and roads, including improvements to grading, drainage, paving, resurfacing and curbing.

B. The Board of Selectmen shall vote that such repairs are required by public convenience and necessity before the repairs may be undertaken.

C. Such repairs shall be made only if the Board of Selectmen receives a petition signed by abutters who own cumulatively at least 50% of the linear footage of such way/road. The petition shall be accompanied by certification evidencing ownership of the linear footage of each abutter.

D. The Town shall have no liability as a result of undertaking any such repairs to private ways or roads, and shall be held harmless on account of any damages whatever caused by such repairs by agreement executed by the abutters who petitioned therefor.

E. The private way/road shall have been opened to the public to use for a minimum two (2) years or more prior to the undertaking of such repairs.

F. The Board of Selectmen shall determine the scope of repairs, including whether and to what extent any of the following shall be undertaken: grading, paving, resurfacing, scraping and filling of holes and impressions with sand, gravel, or other suitable materials. Drainage repairs shall be included to the extent required by public convenience and necessity, as determined by the Board of Selectmen, upon advice and cost estimates from the Highway Superintendent.

**2. Betterments:**

A. The costs of the repairs and of borrowings undertaken by the Town pursuant to MGL Chapter 44 shall be apportioned to and among the benefited property owners along the road so repaired/improved as a betterment pursuant to MGL Chapter 80. Benefited property owners shall be those who utilize the repaired/improved road(s) to access their property. Unless otherwise required by any applicable law, the formula to be used for such assessments shall be to equally apportion such costs to each owner as listed in the records of the Board of Assessors directly abutting along and /or adjacent to the road to be repaired/improved, whether or not such owners property directly faces or is located along the road where the specific location of the repairs undertaken pursuant to this Article, on the basis of the total costs of such repairs and borrowings.

B. The Board of Assessors of the Town is authorized to set the number of years that a betterment may be assessed for any period up to twenty-five (25) years. The Town shall accept settlement of the full amount within 30 days or shall bill the property owner for the total cost to be divided over a period of years, with interest to be computed at a rate established by the Board of Selectmen on recommendation of the Town Administrator, such rate to be at a minimum rate of 2% above the rate of interest charged said Town on any funds borrowed by the Town for this purpose. The Town Administrator shall take appropriate steps to ensure that the Town shall record appropriate orders to secure payment in the same manner as the Town acquires a lien for a betterment assessment pursuant to MGL Chapter 80,

Added: Article 49 (05/23/2016)

**ARTICLE 50** **TOWN ADMINISTRATOR**  
Section 1 – Appointment, Review, Other Activities

- (a) Appointment, Term of Office – The Board of Selectmen shall appoint a Town Administrator to serve for a term of not more than three (3) years, provided, however, that the first six months of any individual's first appointment to the office shall be considered a probationary period. The Town Administrator shall be appointed on the basis of his/her executive and administrative qualifications. He/she shall be a person especially fitted by education, training and previous experience in business or public administration to perform the duties of the office of Town Administrator.
- (b) Review of Performance – The Board of Selectmen shall annually provide for a review of the job performance of the Town Administrator which shall, at least be in summary form, be a public record.
- (c) Restriction on Other Activities – The Town Administrator shall devote his/her full time to the duties of his/her office and shall not hold any other public office, elective or appointive, nor shall he/she engage in any other business, occupation or profession during his/her term unless such action is approved, in advance, in writing, by the Board of Selectmen.

Section 2 – Powers and Duties

The Town Administrator shall be the Chief Administrative Officer of the Town and shall be responsible to the Board of Selectmen for the proper administration of all town affairs placed under his charge by the Board of Selectmen or under town bylaws. Acting by and for the Selectmen, the powers and duties of the Town Administrator shall include, but are not intended to be limited, the following:

- 1). He/she shall supervise, direct and be responsible for the efficient administration of all functions placed under his control by by-law, by town meeting vote, by vote of the Board of Selectmen, or otherwise, including all officers appointed by him/her.
- 2). He/she shall coordinate the activities of all town department under his/her control, with those under the control of officers and multiple member bodies who are elected directly by the voters of Dudley or appointed by the Board of Selectmen.
- 3). He/she shall recommend the appointment, and may recommend the removal, subject to the civil service law and any collective bargaining agreements as may be applicable, all department heads, all officers, subordinates and employees for whom no other method of selection is provided by by-laws, unless otherwise provided by State law. Appointments made by the Town Administrator shall become effective at his/her discretion, unless the Board of Selectmen shall within such period by majority vote of the Board vote to reject such appointment or has sooner voted to affirm it.
- 4). He/she shall, in conjunction with a Personnel Board established by by-law, be entrusted with the administration of a town personnel system, including but not limited to personnel policies and practices, rules and regulations, including provisions for an

annual employee performance review, personnel by-law and all collective bargaining agreements entered into on behalf of the Town. He/she shall, in conjunction with the personnel board prepared, maintain and keep current a plan establishing the personnel staffing requirements of each town agency, except those under the jurisdiction of the school committee.

5) He/she shall attend all regular and special meetings of the board of selectmen, unless excused at his own request, and shall have a voice, but no vote, in all of its proceedings.

6) He/she shall attend all sessions of the town meeting and shall answer all questions addressed to him related to warrant articles and which are related to matters under his general supervision.

7) He/she shall assure that all provisions of state laws, the by-laws and other votes of the town meeting, votes of the board of selectmen and of other town agencies which require enforcement by him or by officers or employees subject to his general supervision and direction, are faithfully carried out, performed and enforced.

8) He/she shall prepare, propose and submit, the fiscal documents pertaining to the annual operating budget and proposed capital outlay program for the town.

9) He/she shall keep the board of selectmen fully informed as to the fiscal condition and needs of the town, and shall make such recommendations to the board of selectmen and to other elected and appointive officers as he may deem to be necessary or desirable.

10) He/she shall assure that full and complete records of the financial and administrative activities of the town are kept and shall render full reports to the board of selectmen at the end of each fiscal year and at such other periods as it may reasonably require.

11) He/she shall have full jurisdiction over the rental and use of all town facilities. He shall be responsible for the maintenance and repair of all town facilities.

12) He/she may at any time inquire into the conduct of office or performance of duty of any town officer, town employee or town agency under his general supervision. The Town Administrator may impose progressive discipline for any infractions subject to disciplinary actions, including verbal warning, written warning, performance improvement plans, suspension or administrative leave and may recommend termination or any other action to the board of selectmen as may be necessary.

13) He/she shall assure that a full and complete inventory of all town-owned property, both real and personal, is kept consistent with Generally Accepted Accounting Principles.

14) Under the guidance of the Board of Selectmen, he/she shall be responsible for the negotiation of all contracts with town employees over wages, hours, and other conditions of employment. The Town Administrator shall serve as designee of the Board of Selectmen for the purposes of regional school district collective bargaining negotiations.

15) He/she shall be responsible for the purchase of all supplies, materials and equipment, and shall award all contracts for supplies, materials and equipment for all departments and activities of the town, except for the school department. He shall examine and inspect, or cause to be examined and inspected, the quality and the condition of all supplies, materials and equipment delivered to or received by any town department, except the Dudley Charlton Regional School District. He shall, in addition, be responsible for the disposal of all surplus supplies, materials and equipment for all departments and activities of the town, except for the Dudley Charlton Regional School District.

16) He/she shall be in charge of all machines and software other than machines and software used for educational or classroom purposes, and shall allocate the use thereof among the several town agencies.

17) He/she may authorize any subordinate officer or employee to exercise any power of duty which he is authorized to perform, however, that all acts which are performed under any such delegation shall be deemed to be his acts.

18) He/she shall be responsible to implement and maintain general security and public safety procedures in the Dudley Municipal Center (Town Hall) and extend and review policies and procedures to all buildings and properties controlled or

owned by the town, with the exception of those properties under the control of the regional school committee. This includes, but is not limited to IT and Network security.

19) He/she shall perform such other duties as may be required by by-law, by town meeting vote, by vote of the board of selectmen, or otherwise.

#### Section 4-3 Acting Town Administrator

(a) Temporary Absence - The town administrator shall, by letter filed with the board of selectmen and a copy filed with the town clerk, designate a qualified town officer or employee to exercise the powers and perform the duties of his office during his temporary absence. During the temporary absence of the town administrator, the board of selectmen may not revoke such designation until at least ten working days have elapsed, whereupon it may designate another qualified town officer or employee to serve as acting town administrator until the town administrator shall return and assume his duties.

(b) Vacancy - Any vacancy in the office of town administrator shall be filled as soon as possible by the board of selectmen but pending such appointment the board of selectmen shall designate a qualified town officer or employee or other qualified individual to perform the duties of the town administrator on an acting basis. The appointment of an acting town administrator shall be for a term not to exceed three months, provided, however, a renewal, not to exceed an additional three months may be provided.

(c) Powers and Duties - The powers of a temporary or acting town administrator, under (a) or (b) above, shall be limited to matters not admitting of delay and shall include authority to make appointments or designations to town office or employment to the same extent and the same conditions as the Town Administrator, except that, for positions reporting directly to the town administrator, only an acting appointment or designation may be made.

#### Section 4-4 Removal and Suspension

The Board of Selectmen, by a two-thirds vote taken with the full board present, may terminate the Town Administrator from his office in accordance with the following procedure:

(a) During probationary period: notice in writing of termination.

(b) After probationary period: The town administrator shall not be dismissed except for inefficiency, incapacity, conduct unbecoming the office, insubordination or other good cause, nor unless at least thirty days prior to the meeting at which the vote is to be taken, he shall have been notified of such intended vote; nor unless, if he so requests in writing, he shall have been furnished by the Board of Selectmen with a written statement of the charge or charges or the cause or causes for which his dismissal is proposed; nor unless, if he so requests in writing, he has been given a hearing before the board of selectmen which may be either public or private at the option of the town administrator, and at which he may be represented by counsel, present evidence, and call witnesses to testify in his behalf and examine them.

(c) Anything contained in this provision to the contrary notwithstanding, the non-renewal of the term of appointment of the town administrator shall not be considered to be a dismissal and the provisions of this Section, 4-4 (a) and (b), shall not apply.

(d) The Town Administrator may be suspended from office by a procedure following the same steps outlined above for a removal.

(e) The Town Administrator shall continue to receive his full salary until thirty days following the date a final vote of removal has become effective.

Added: Article 50 (10/29/2018)

## ARTICLE 51

## DUDLEY RIGHT TO FARM BYLAW

**Section 1. Legislative Purpose and Intent** - The purpose and intent of this Bylaw is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97 of the Constitution, and all statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A§3, Paragraph 1; Chapter 90§ 9,

Chapter 111§125A and Chapter 128§1A. We the citizens of the Town of Dudley restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of the Amendment of the Massachusetts Constitution ("Home Rule Amendment").

This General Bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities and protects farmlands within the Town of Dudley by allowing agricultural uses and related activities to function with minimal conflict with abutters and local agencies. This Bylaw shall apply to all jurisdictional areas within the Town.

## **Section 2. Definitions:**

Farm: The word "farm" or "agricultural" or their derivatives shall include, but not be limited to the following:

- Farming in all its branches and the cultivation and tillage of the soil;
- Dairying;
- Production, cultivation, growing and harvesting of any agricultural, aqua cultural, floricultural, viticultural or horticultural commodities;
- Growing or harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- Raising of livestock, including horses;
- Keeping of horses; and
- Keeping and raising of poultry, pigeons, swine, cattle, sheep goats, ratites (such as emus, ostriches, rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

"Farming" shall encompass activities including, but not limited to, the following:

- Operation and transportation of slow-moving farm equipment over roads within the Town;
- Control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals;
- Application of manure, fertilizers and pesticides. Organic farming is encouraged;
- Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to the agricultural output or services of the farm;
- Processing, slaughtering and packaging of the agricultural output of the farm and the operation of a farmers' market or farm stand including signage thereto;
- Maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager and used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- On-farm relocation of earth and the clearing of ground for farming operations.

## **Section 3. Right to Farm Declaration:**

The Right to Farm is hereby recognized to exist with the Town of Dudley. The above described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be

caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community and society in general. The benefits and protections of this Bylaw are intended to apply exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm Bylaw shall be deemed as acquiring any interest in land or as imposing any land use regulation, which is properly the subject to state statute, regulation, or local zoning law.

#### **Section 4. Precedence**

In the event of conflict between this Bylaw and all other town regulations, this Bylaw shall take precedence. In the event of conflict between this Bylaw and federal or state law, federal or state law shall take precedence respectfully.

#### **Section 5. Resolution of Disputes**

Any person who seeks to complain about the operation of a farm, or its effects may, notwithstanding any other available remedy, file a grievance with the Board of Selectmen, The Building Inspector, Zoning Board of Appeals, Conservation Commission or Board of Health, depending on the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have.

#### **Section 6. Severability Clause**

If any part of this Bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Bylaw. The Town of Dudley hereby declares the provisions of this Bylaw to be severable.

Added: Article 51 (05/23/2016)

### **ARTICLE 52 RECREATION COMMISSION**

#### 1). Purpose:

There hereby established in the Town of Dudley a Recreation Commission, whose purpose is to seek the development of recreational programs and the enhancement of recreational facilities and opportunities within the Town.

#### 2).Composition:

The Commission shall be comprised of five (5) members, all whom are residents of the Town. Commission members shall be appointed by the Board of Selectmen and shall serve at the pleasure of the Selectmen.

#### 3). Duties and Responsibilities:

The Commission shall be vested with the full power, duties and obligations necessary to accomplish this purpose, and they shall be charged with full responsibility for the recreation programs designed by the Commission and approved by the Board of Selectmen.

They shall have the ability to set up sub committees for specific recreational purposes such as “Rail Trail Committee”, Town Beach Committee” or any other committee which will help it achieve its purpose. They shall have their own financial budget which shall be separate from the general funds of the Town. These funds will be allowed to roll over from year to year so that an accumulation of funds is possible. The Commission will have the authority to make expenditures, not to exceed their budget, for the purpose of meeting their recreational goals.

They shall have the ability to propose “fees” which must be approved at Town Meeting. They will have the ability to raise private funds and go to town meeting for budgetary requests.

They shall take ownership of all recreational programs and events within the Town of Dudley. Such programs will include:

Management of the beaches;

Management of all Town owned Open Space and Conservation Land;

Rail Trails;

Boating;

Fishing;

Hunting;

Hiking Trails;

Walking Trails;

Town owned land;

Water Recreational Opportunities

Partnering with public and private agencies for all sports and community activities within the Town of Dudley.

Partnering with other Dudley town departments and organizations to promote recreational, cultural and social opportunities within Dudley.

Special Events, Town Celebrations

In addition, the Commission will work closely with regional organizations such as The Last Green Valley, Dudley Conservation Land Trust and others, to have the Town of Dudley play a visible and active role in promoting the town as a recreational destination.

Adopted: (10/29/2018)

### **APPENDIX A: TABLE OF BY-LAW AMENDMENTS**

<b>Town Meeting Date</b>	<b>Article #</b>	<b>Description of Change</b>	<b>Town Meeting Action</b>	<b>Action by Attorney General</b>
05/22/2000	4	Add new Article "Capital Improvement Planning Committee"	Approved	Approved 09/27/2000
05/22/2000	9	Amend Article 32 Personnel Policies and Procedures	Approved	Approved 09/27/2000
05/22/2000	17	Amend Article 27 "Regulation of Delete previous by-law and replace with new	Approved	Approved 09/27/2000
05/21/2001	4C	Amend Article 6, Sec. 9 "Duties of Town Officers"	Approved	Approved 10/17/2001
05/21/2001	4F	Amend Article 5, Sec. 1 "Finance, Appropriation and Advisory Committee"	Approved	Approved 10/17/2001
05/21/2001	4G	Amend Article 10 "Parking Rules" Substitute \$50.00 with \$100.00	Approved	Approved 10/17/2001
05/21/2001	8	Amend Article 18, Sec. 1 "Water and Sewer Lines"	Approved	Approved 10/17/2001
05/22/2002	6	Add Article 18 Water Use Restriction Bylaw	Approved as amended	Approved with exception 08/19/2002
05/22/2002	7	Add Article 19 Demolition Delay for Structures of Historical or	Approved	Approved 08/19/2002

		Architectural Significance		
10/28/2002	16	Add Article 39 Home Rule Amendment for Fire Chief	Approved as amended	Approved with exception 02/05/2003
05/19/2003	27	Amend Article 27 Dog Control By-law	Approved as amended	Approved 09/19/2003
11/03/2003	16	Amend Article 18 Water and Sewer Lines by adding Section 4	Approved	Approved 01/29/2004
05/27/2004	8	Amend Article 37 Street Numbering -Section C	Approved	Approved 08/23/2004
05/27/2004	9	Amend Article 32 Personnel Policies and Procedures Section 2	Approved	Approved 08/23/2004
05/27/2004	10	Amend Article 27 Dog Control Delete Existing Sec. 4 and Replace	Approved	Approved 08/23/2004
05/27/2004	11	Amend Article 27 Dog Control Section 11	Approved as amended	Approved 08/23/2004
10/25/2004	9	Amend Article 6, Section 1 Delete \$500.00 - Replace with \$2,000.00	Approved	Approved 03/14/2005
10/25/2004	17	New By-law Conservation Commission Consultant Fees	Approved	Approved 03/14/2005
10/25/2004	40	Amend Article 11, Section 4(1) Licenses and Permits Accept no less than 10% Up-front payment	Approved	Approved 03/14/2005
05/23/2005	5	Amend Article 6 by adding New Section 17 Town Administrator Amend Article 5, Section 4	Approved	Approved 09/26/2005
05/23/2005	7	Amend Article 6 by adding New Section 17/Filing of Minutes	Approved	Approved 09/26/2005
05/23/2005	9	Amend Article 13, Sec. 5(a) Delete Article 13 Replace with Article 35	Approved 05/23/05	Approved 09/26/2005
<b>Town Meeting Date</b>	<b>Article #</b>	<b>Description of Change</b>	<b>Town Meeting Action</b>	<b>Action by Attorney General</b>
05/23/2005	10	Amend Article 32 Personnel Policies Add new Section 7	Approved as amended RE: MGL Chap. 41 §§ 108 A And 108C	Approval not required
05/23/2005	30	Amend Article 32, Sec. 2	Approved RE: MGL Chap. 41 §§ 108 A And 108C	Approval not required
11/07/2005	5	Amend Article 19, Demolition Delay - Renumber to be Article 39 and amend Sec. 12.04.00(g)	Approved	Approved 01/20/2006
11/07/2005	27	Amend Article 2 Warrants for Town Meetings	Approved	Approved 01/20/2006
06/19/2006	6	Amend Article 39, Home Rule By-law (For Fire Chief) - Renumber to be Article 40	Approved	Approved 08/30/2006
06/19/2006	9	Amend Article 13, Sec. 5(a) Renumber Article 13 to read Article 35	Approved *Duplicate vote from ATM/05/23/05	Approved 08/30/2006
06/19/2006	11	Amend Article 39 Demolition Delay Add new Section 12.10.00 Transferability of Permit	Approved	Approved 08/30/2006
06/19/2006	12	Amend Article 39 Demolition Delay, Section 12.03.00 Add to Demolition definition Add phrase "whether interior or exterior" after	Approved as amended	Approved 08/30/2006

		"thereof".		
06/19/2006	19	Amend Conservation Commission by-law - issue number Article 42	Approved	Approved 08/30/2006
6/19/2006	30	Amend Article 32 Personnel Policies Delete existing section 4(e) and replace with new section 4(e)	Approved	Approved 08/30/2006
06/19/2006	38	Add new Article 41 Investment Policy	Approved as amended	Approved 08/30/2006
06/19/2006	46	Rename: Article 18 "Water and Sewer", "Water and Sewer Lines" provision A, "Water Use Restriction Bylaw" provision B	Approved	Approved 08/30/2006
10/30/2006	3	Article 16-Acceptance of New Streets - Added new Section 2	Approved	Approved 01/16/2007
10/30/2006	8	Article 5-Finance Appropriation and Advisory Committee Section 1 - delete "fifteen citizens" and replace with "nine citizens"	Approved	Approved 01/16/2007
05/21/2007	3	Article 6-Duties of Town Officers Section 16-delete the words "until 8:00 p.m./add words "and time" after the words "appropriate day".	Approved	Approved 06/06/2007
05/21/2007	4	Article 39-Demolition Delay Delete the word "significant" in 12.08.00, paragraph c.	Approved	Approved 06/06/2007
11/05/2007	2	Article 6 Duties of Town Officers, Section 15 – add 2 new paragraphs A & B / existing paragraph becomes C	Approved	Approved 01/30/2008
05/19/2008	18	Article 6 Duties of Town Officers, add new Section 18	Approved	Approved 09/02/2008
05/19/2008	23	Add new Article 43 Conservation By-law	Approved	Approved 09/02/2008
10/27/2008	18	Article 11 Licenses and Permits Amend Section 4, Clause "a"	Approved	Approved 02/20/2009
<b>Town Meeting Date</b>	<b>Article #</b>	<b>Description of Change</b>	<b>Town Meeting Action</b>	<b>Action by Attorney General</b>
10/27/2008	21	Article 12 Miscellaneous Provisions Amend Section 2	Approved	Approved 02/20/2009
10/27/2008	23	Add new Article 44 Sex Offender Residency	Approved	Approved 02/20/2009
10/27/2008	24	Article 16 Acceptance of New Streets - Add new language for acceptance and requirements	Approved	Approved 02/20/2009
05/18/2009	19	Article 29 Fees Add new Section 2	Approved	Approval 09/28/2009
05/18/2009	21	Article 27 Dog Control Amend Sec 1 (D & E) Amend Sec 3 (B, G & J)	Approved	Approval 09/28/2009
05/18/2009	22	Article 9 Highway Commissioners Amend Sec 4	Approved	Approval 09/28/2009
05/18/2009	23	Article 11 Licenses & Permits Amend Sec 4(b)	Approved	Approval 09/28/2009
05/18/2009	24	Article 22 Intoxicating Beverages Add new Section 2	Approved	Approval 09/28/2009
05/18/2009	25	Article 8 Use of Street and Sidewalks Add new Section 8	Approved	Approval 09/28/2009

11/02/2009	14	Article 6 Duties of Town Officers Amend Section 16	Approved	Approval 02/16/2010
11/02/2009	16	Article 11 Licenses & Permits Amend Section 4b (100) One Hundred	Approved	Approval 02/16/2010
11/02/2009	18	Article 27 Dog Control Amend Sec 1, paragraph D, E, G Amend Sec 3, paragraph C / add new paragraph M. (amend to include cats)	Approved	Approval 02/16/2010
11/02/2009	22	Article 17 Soil or Loam Removal Replace entire article with new by-law	Approved except Section H(2) Fines and penalties deleted Exceeds amounts authorized by MGL c.40, sec. 21 (17)	Approval 02/16/2010
02/16/2010	Scrivener's Error Corrected	"Licenses" – issued new Article number as follows: Article 46	Article was incorrectly included with Article XI Licenses and Permits. It is now a separate article as voted and accepted on 06/27/95	02/16/2010
05/24/2010	16	Article 11 Licenses & Permits Delete Sec. 2 in its entirety and renumber sections	Approved	Approval 08/19/2010
05/24/2010	17	Article 11 Licenses & Permits Delete Sec. 3 in its entirety and renumber sections	Approved	Approval 08/19/2010
07/29/2010	Special Act Chapter 196	Amend Chapter 511 of the Acts of 1975, Section 2 Members of the Police Rules and Regulations Committee	Amends Article 14/Part 1, Section 2	Signed by Governor 07/29/2010
10/25/2010	18	Article 39 Demolition Delay Amend Sec. 12.04.00 Paragraphs d & e strike (thirty (30) days) and replace with (forty-five (45) days)	Approved	Approval 01/19/2011
10/25/2010	19	Article 5 Finance Appropriation & Advisory Committee Amend Sec. 4 strike Accountant replace with Town Administrator	Approved	Approval 01/19/2011
05/23/2011	14	Article 3 Rules of Procedure at Town Meetings Add second sentence to Sec. 13	Approved	Approval 09/02/2011
05/23/2011	16	Article 47 Economic Development Committee Add new article	Approved	Approval 09/02/2011
<b>Town Meeting Date</b>	<b>Article #</b>	<b>Description of Change</b>	<b>Town Meeting Action</b>	<b>Action by Attorney General</b>
05/23/2011	22	Article 16 Acceptance of New Streets Amend Sec. 1 by adding paragraph c.	Approved	Approval 09/02/2011
11/07/2011	15	Article 27 – Dog (Animal Control) By-law Amend Sec. 1(A, B & G); Sec. 10 (A, B, C, D & E); Sec. 12 (A / add new paragraph B); Change all references of Dog Officer to Animal Control Officer	Approved	Approval 11/16/2011
11/07/2011	16	Article 38 – Capital Improvement Committee Amend Sec. 1 by deleting Planning Board member and amending three to read four members at large. Sec. 2 amend the amount of \$25,000 to \$20,000 or more.	Approved	Approval 11/16/2011
05/21/2012	18	Article 1-Town Meetings Change election date to the month of June	Approved	Approval 08/26/2012
05/21/2012	19	Article 27 Animal Control Change fees of Residential Kennel Licenses	Approved	Approval 08/26/2012
05/21/2012	20	Article 3 Rules of Procedure at Town Meetings 50' rule amended	Approved	Approval 08/26/2012
05/21/2012	21	Article 48 Criminal History Check Authorization New Article added	Approved	Approval 08/26/2012

05/20/2013	13	Article 27 Animal Control Section 3	Approved	Approval 09/13/2013
11/04/2013	14	Change by-law article numbering system – eliminate use of Roman numerals and replace with numerical system	Approved	Approval 01/27/2014
11/04/2013	15	Article 5, Section 2 FAA – amended appointing authority and terms of members	Approved	Approval 01/27/2014
11/04/2013	18	Article 27, Section A (should be Section 1, by adding paragraphs H & I	Approved	Approval 01/27/2014
11/04/2013	19	Article 27 , Section 3, paragraphs C & G (should be Sec. 3, paragraph D,1) and (Sec. 3 paragraph F,6)	Approved	Approval – with exceptions 01/27/2014
05/19/2014	15	Article 27, Section 3, paragraph G amended	Approved	Approval 07/31/2014
05/19/2014	16	Article 27, Section A, paragraphs J & I, Section 3, paragraph C & G renumbered	Approved	Approval 07/31/2014
05/19/2014	18	Article 13, Section 5 amended MGL 90G to MGL 90C	Approved	Approval 07/31/2014
11/02/2015	21	Article 44 Sex Offender Residency repealed and deleted in its entirety	Approved	Approval 02/02/2016
05/23/2016	11	Article 27, Section 3, paragraph G amended to include no charge for 2 dog licenses for persons 70 years of age by Jan. 1 <sup>st</sup> of each licensing year	Approved	Approval 08/24/2016
05/23/2016	14	Added Article 49 - Road Betterment Bylaw	Approved	Approval 08/24/2016
05/23/2016	15	Amended Article 1 § 1 – Board of Selectmen to set date of Fall Annual Town Meeting	Approved	Approval 08/24/2016
05/23/2016	29	Added Article 50 – Solicitors Bylaw	Disapproved	Disapproval 10/31/2016
05/23/2016	30	Added Article 51 – Right to Farm Bylaw	Approved	Approval 08/24/2016
<b>Town Meeting Date</b>	<b>Article #</b>	<b>Description of Change</b>	<b>Town Meeting Action</b>	<b>Action by Attorney General</b>
10/24/2016	23	Acceptance of MGL Chapter 40, Section 21E Late Charges for Municipal Collections (Amend Article 29 by adding Section 3	Approved	Approval 02/16/2017
10/24/2016	30	Amend Article 27, Section 3-Dog Control Over 70/Free Dog Licenses non applicable to Kennel License	Approved	Approval 02/16/2017
05/22/2017	9	Amend Article 47, Section 3-Economic Development Committee (Scrivener’s error; warrant read bylaw Article 27)	Approved	Approval 08/28/2017
05/22/2017	14	Amend Article 2, Section 1-Warrants for Town Meetings	Approved	Approval 08/28/2017
05/22/2017	18	Amend Article 29, Section 3 – Late Charges for Municipal Collections	Approved	Approval 08/28/2017
05/22/2017	24	Amend Article 10, Section 3 – Parking Rules – Overnight Snow Emergency Parking: provide restricted hours for on street parking November 1 <sup>st</sup> – March 30th	Approved	Approval 08/28/2017
10/30/2017	27	Amend Article 24 “Articles for Town Meetings” Add approval to renumber sections, sub-sections, etc.	Approved	Approval 01/29/2017
10/30/2017	28	Deleted Article 38 in its entirety and replace “Capital Improvement Planning Committee”	Approved	Approval 01/29/2018 04/23/2019

10/30/2017	29	Add Article 45 "Departmental Revolving Funds"	Approved	Approval 01/29/2018
10/29/2018	21	Amend Article 6, Section 1 Strike \$2,000 and replace with \$20,000	Approved	Approval 01/28/2019
10/29/2018	24	Add Article 50 "Town Administrator"	Approved	Approval 01/28/2019
10/29/2018	32	Add Article 44 "Agricultural Advisory Commission"	Approved	Approval 01/28/2018
10/29/2018	33	Add Article 45: Establish Recreation Commission	Approved	Approval 01/28/2019
10/29/2018	34	Amended Article 26 "Cemetery Commission" Add Section 7: Veteran's Lots	Approved	Approval 01/28/2019
5/20/2019	5	Amended Article 44 "Agricultural Advisory Commission" Add at end of first paragraph, up to 5 alt. members and staggered terms	Approved	Approval 08/14/2019
5/20/2019	28	Amended Article 27 "Animal Control By-Laws" <b>Sec. 1. (D,E,F,G, H), Sec. 2 (A,D), Sec. 3 (D,H), Sec. 4 (paragraph 2), Sec. 11 (C – Subsections 4&amp;5), Sec. 12, Delete Sec. 15. – 05/20/19</b>	Approved	Approval 08/14/2019