

**TOWN OF DUDLEY
FALL SPRING TOWN MEETING
OCTOBER 29, 2018**

As instructed in the preceding warrant, legal voters of the Town of Dudley assembled in the Shepherd Hill High School Auditorium on Monday, October 29, 2018. The meeting was brought to order at 7:09 p.m. After the Pledge of Allegiance to the Flag, the Moderator recognized the Town Clerk to read the service of the warrant. The Moderator made several announcements in then introduced the Board of Selectmen, the Town Administrator and Town Counsel.

ARTICLE 1- Unanimously accepted to receive the reports of the several Town Officers and all Committees.

ARTICLE 2- Unanimously accepted to hear and act on the recommendations of the Board of Selectmen and the Finance & Appropriation Advisory Committee.

The FAA recommended that Article 3 be amended and accepted and that the sum of One Hundred Twenty Thousand One Hundred Dollars and Zero Cents (\$120,100.00) be raised and appropriated. The motion was made and seconded.

ARTICLE 3: – FY 2019 Supplemental Budget – Unanimously accepted to raise and appropriate the sum of One Hundred Twenty Thousand One Hundred Dollars and Zero Cents (\$120,100.00) to defray the supplemental charges and expenses of the Town and including debt and interest for Fiscal Year 2019 voted under Article 4 of the May 21, 2018 Annual Town Meeting.

Raise and appropriate a total of \$120,100.00 (One Hundred Twenty Thousand One Hundred Dollars and Zero Cents to the below FY2019 accounts:

\$40,000.00 (Forty Thousand Dollars and Zero Cents) to Veteran’s Benefits
(Account 0001 543 5770 02)

\$7,000.00 (Seven Thousand Dollars and Zero Cents) to Highway Contracted
Wages (Account 0001 420 5114 01)

\$5,000.00 (Five Thousand Dollars and Zero Cents) to Highway Snow Removal
(Account 0001 423 5700 02)

\$18,500 - (Eighteen Thousand Five Hundred Dollars and Zero Cents) to Legal Services (Account 0001 156 5310 02)

\$10,700.00 (Ten Thousand Seven Hundred Dollars and Zero Cents) to Police Desk Coverage (Account 0001 210 5790 02)

\$4,000.00 (Four Thousand Dollars and Zero Cents) to Police General (Account 0001 210 5700 02)

\$10,000.00 (Ten Thousand Dollars and Zero Cents) to Police Overtime (Account 0001 210 5131 02)

\$5,000.00 (Five Thousand Dollars and Zero Cents) to Police Computer Supplies (Account 0001 210 5760 02)

\$19,900 (Nineteen Thousand Nine Hundred Dollars and Zero Cents) to Board of Selectmen Operational Expenses (Account 0001-122-5705-02)

The FAA recommended that Article 4 be accepted and that the sum of Thirty Six Thousand Dollars and Zero Cents (\$36,000.00) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 4: Unanimously accepted to transfer from Free Cash the sum of Thirty Six Thousand Dollars and Zero Cents (\$36,000.00) to add to the Compensated Absence Trust (Account #0800-000-5790-00) for end of career retirement costs associated with municipal employees.

The FAA recommended that Article 5 be accepted and that the sum of One Hundred Eighty Dollars and Zero Cents (\$180.00) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 5: Unanimously accepted to transfer from Free Cash the sum of One Hundred Eighty Dollars and Zero Cents (\$180.00) to pay an unpaid bill to the Worcester Telegram and Gazette from Fiscal Year 2018.

The FAA recommended that Article 6 be accepted and that the sum of One Thousand Nine Hundred Ninety Eight Dollars and Zero Cents (\$1,998.00) be transferred from Free Cash. The motion was made seconded.

ARTICLE 6: Unanimously accepted to transfer from Free Cash the sum of One Thousand Nine Hundred Ninety Eight Dollars and Zero Cents (\$1,998.00) to pay for an unpaid bill in May 2018 to Select Print Solutions for the Town Annual Report.

The Moderator asked for unanimous consent to dispense with the reading of Article 7. Hearing no objection, it was so moved. The FAA deferred Article to the Board of Selectmen.

Chairman Steven Sullivan made a motion to approve Article 7 as written; the motion was seconded. The Moderator called for a vote count. Article 7 failed: 43 in favor/47 opposed.

ARTICLE 7: Defeated by majority vote. - REMEDY OF PUBLIC NUISANCE BYLAW-
To see if the Town will vote to adopt a Public Nuisance Bylaw pursuant to Article 89 of the Amendments to the Massachusetts Constitution and Massachusetts General Laws.

REMEDY OF PUBLIC NUISANCE

Section 1: Authority and Purpose

Pursuant to the general powers granted to cities and towns by Article 89 of the Amendments to the Massachusetts Constitution and the specific powers granted by the Massachusetts General Laws, this bylaw is adopted for the prevention of future nuisances and the removal of existing nuisances within the Town that constitute a hazard or blight, or adversely affect property values.

Section 2: Definitions:

In this Bylaw, the following words shall have the following meanings:

1. **Blight:** Any condition that seriously impairs the value, condition, strength, durability or appearance of real property, whether occupied or vacant.
2. **Building:** A combination of any materials, whether portable or fixed, with exterior walls or firewalls and a roof, built, erected or framed, to form a structure for the shelter of persons, animals or property. The word “building” shall be construed where the context requires as though followed by the words “or part or parts thereof”.
3. **Dilapidated:** A condition of decay or partial ruin by reason of neglect, misuse, or deterioration. The term includes, but is not limited to: property with deteriorated roofs, foundations or floors, including broken or inadequately secured windows or doors; and personal property that is broken, rusted worn, partially or wholly dismantled or otherwise due to deterioration is unsuitable for the purpose for which designed.
4. **Nuisance:** All substantial interference with the common interest of the general public in the maintaining decent, safe and sanitary structures that are not dilapidated, and neighborhoods, when such interference results from the hazardous or blighted condition of private property, land or buildings. Any substantial interference with any public place,

street or private way to include the placement of snow, ice and any other debris that interferes with safe passage on any public roadway or sidewalk. The fact that particular structure or use may be permitted under the Zoning Bylaw does not create an exemption from the application of this bylaw. The term includes but is not limited to:

- (a) Burned structures not otherwise lawfully habitable or usable (will not limit the lawful right of the Fire Chief to order the demolition of a building or unsafe structure that he may deem an immediate public safety risk).
 - (b) Dilapidated structures of property.
 - (c) Dangerous or unsafe structures or personal property.
 - (d) Dead, decayed, diseased or hazardous trees, debris, junk or trash.
 - (e) Personal property that is exposed to the elements without protection against deterioration, ruse or dilapidation.
 - (f) Vehicles, machinery or mechanical equipment or parts thereof that is located on soil, grass, or other porous surfaces that may result in the destruction of vegetation or contamination of soil.
 - (g) Overgrown vegetation which may harbor rats and vermin, conceal pools of stagnant water or other nuisances, or which is otherwise detrimental to neighboring properties or property values.
5. **Owner:** Every person who alone or jointly or severally with others: (i) has legal title to any building, structure or property subject to this Bylaw; (ii) has care, charge, or control of any such Building Structure or property in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; (iii) is a mortgagee in possession of such property; or (iv) is an agent, trustee or other person appointed by the courts and vested with control of such property; or (v) is an officer or trustee of the association of unit owners of a condominium.
6. **Occupant:** The person occupying or in control of such property.
7. **Structure:** A combination of materials assembled at a fixed location to give support or shelter such as a building, framework, retaining wall, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, or mast for an antenna or the like. The word “structure” shall be construed, where the context allows, as though followed by the words “or part of parts thereof”.

Section 3: Nuisance Prohibited:

All property in the Town of Dudley, whether occupied or vacant, shall be maintained in good repair and in a safe and sanitary condition. No Owner, or in the case of real property, Occupant, of property shall create, permit or maintain a condition or activity on their property that creates Blight or a Nuisance as those terms are defined herein.

Section 4: Administration and Enforcement:

1. **Enforcement Generally**, This Bylaw may be enforced in accordance with applicable law, including, without limitation, Article 13, Section 5 of the General Bylaws, and the election of one remedy shall not preclude enforcement through any other lawful means. If enforced through non-criminal disposition, the following fine schedule shall apply: First violation - \$50.00; Second violation - \$100.00; Third and subsequent violations - \$300.00. This Bylaw shall be enforced by the Building Inspector or Code Enforcement Officer, or their designees, the Police Department, the Fire Department, or the Board of Health or its designees, as appropriate (“Enforcement Authority”). Nothing herein shall preclude the Enforcement Authority from providing a warning or seeking to resolve any violation informally.
2. **Notice to Owner and Occupant:** Except in the case of an emergency posing an immediate threat to the public health and safety or as otherwise provided herein, the Enforcement Authority shall seek to provide immediate notice in writing to the Owner and Occupant of a property being maintained in violation of this Bylaw, outlining such violation in general terms and providing a reasonable deadline for taking corrective action (“Enforcement Order”). The Enforcement Authority may, if the Owner or Occupant fails to comply with such Enforcement Order, seek to enforce as set forth herein.
3. **Removal or Remedy of Nuisance by Town:** If the Owner or Occupant fails to timely remedy the violation in accordance with an Enforcement Order, the Town may cause the nuisance to be removed or made safe in accordance with the provisions of G.L. Chapter 139, §§1-3A, G.L. c. 143, §§ 6-14 or otherwise in accordance with any other applicable provision of law or court order for such purposes.
4. **Complaints by Interested Parties:** Persons who own or occupy property directly or diagonally across the street, or who are abutters to abutters within 300 feet of the property line, of a property being maintained in violation of this Bylaw may submit a complaint to the Enforcement Authority, and, if so submitted, shall be provided with copies of any notices or written orders provided to the Owner or Occupant of such property and of any pleadings filed in court with respect thereto.
5. **Reports by Enforcement Authority:** The Building Inspector or other official specified by the Town Administrator shall file with the Town Administrator every six months, or at such other longer interval as the Town Administrator shall require, a report that shall include all complaints of Nuisance or enforcement actions initiated under this Bylaw during tax period, which report shall include the location of the premises at issue, summary of the nature of the complaint, the name(s) of the Owner and Occupant, and any action taken.

Section 5: Interaction with Other Laws:

This Bylaw is intended to further the objective of an to act in concert with any existing federal, state or local laws concerning the maintenance of property and the abatement of

nuisances, and nothing herein shall be deemed to limit or restrict Town officials whatsoever from actin in accordance with such laws.

The FAA recommended that Article 8 be accepted and that the sum of Five Thousand Dollars and Zero Cents (\$5,000.00) be raised and appropriated. The motion was made and seconded.

ARTICLE 8: Unanimously accepted to raise and appropriate the sum of Five Thousand Dollars and Zero Cents (\$5,000.00) to the Finance, Appropriation and Advisory Committee Reserve Account #0001-131-5780-02 to increase total from \$15,000 to \$20,000 for Fiscal Year 2019.

The FAA recommended that Article 9 be approved as printed in the warrant. The motion was made and seconded.

ARTICLE 9: Unanimously accepted to create a new General Stabilization Fund for the purpose of depositing all solar lease funds from old landfill located on Indian Road.

The FAA recommended that Article 10 be accepted as written and that the sum of Thirteen Thousand Three Hundred Three Dollars and Thirty-Three Cents (\$13,303.33) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 10: Unanimously accepted to transfer from Free Cash the sum of Thirteen Thousand Three Hundred Three Dollars and Thirty-Three Cents (\$13,303.33) going to the Maturing Debt Interest Account (Account # 0001-145-5912-02), for the first payment of the interest on the Dudley Municipal Complex Roof and HVAC loan.

The FAA recommended that Article 11 be amended and that the sum of One Thousand Dollars and Zero Cents (\$1,000.00) be raised and appropriated. The motion was seconded and unanimously accepted.

ARTICLE 11: Unanimously accepted as amended to raise and appropriate the sum of One Thousand Dollars and Zero Cents (\$1,000.00) to the Assistant Treasurer/Collector Salary Account (Account # 0001-145-5121-01).

The FAA recommended that Article 12 be Passed Over. The motion was made and seconded.

ARTICLE 12: Passed Over by unanimous vote to raise and appropriate, borrow or transfer from available funds the sum of Two Thousand Six Hundred Fifty Three Dollars and Seventy-Three Cents (\$2,655.73) to the Treasurer/Collector Salary Account (Account #0001-145-5111-01).

The FAA recommended that Article 13 be accepted and that the sum of Two Thousand Three Hundred Eighty Dollars and Zero Cents (\$2,380.00) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 13: Unanimously accepted to transfer from Free Cash the sum of Two Thousand Three Hundred Eighty Dollars and Zero Cents (\$2,380.00) to the Library Custodial Services Account #0001-610-5114-01.

The FAA recommended that Article 14 be amended and accepted and that the sum of Two Hundred Twenty Five Thousand Dollars and No Cents (\$225,000.00) be borrowed. The motion was made and seconded.

ARTICLE 14: Unanimously accepted to borrow the sum of Two Hundred Twenty Five Thousand Dollars and No Cents (\$225,000.00) in order to supplement the amounts approved under Article 11 at the October 24, 2016 Town Meeting, for the purposes authorized under said Article 11, to be expended under the control of the Fire Station Building Committee, , and to meet said appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow such sum under and consistent with M.G.L. c. 44, §7 or any other enabling authority, and to issue bonds and notes therefor; provided further that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c.44, §20, thereby reducing by a like amount the amount authorized to be borrowed to pay such costs. Said appropriation is contingent upon the determination by the Department of Revenue (DOR) that this additional borrowing is covered under the debt exclusion under M.G.L. c. 59, §21C(k) (so-called “Proposition 2 ½”) previously authorized by the voters at the November 8, 2016 election, or subject to a supplementary Proposition 2 ½ debt exclusion override ballot question, pursuant to M.G.L. c. 59, §21C(k), as may be necessary in the event DOR approval is not received.

The FAA recommended that Article 15 be accepted as written in the warrant. The motion was made and seconded.

ARTICLE 15: Unanimously accepted to approve a deposit of funds in the amount of Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) to the Fire Station Building Project Account (Account #0300 000 5780 71) resulting from a settlement with a sub-contractor on the New Fire Station Headquarters Project, said funds to be used for project costs.

The FAA recommended that Article 16 be accepted as written and that the sum of Ten Thousand Seven Hundred Eighty Eight Dollars and Zero Cents (\$10,788.00) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 16: Unanimously accepted to transfer from Free Cash a sum of Ten Thousand Seven Hundred Eighty Eight Dollars and Zero Cents (\$10,788.00) to supplement an Assistance to Firefighter (AFG) Grant for air packs for firefighters, said amount represents five percent (5%) match required by the Town.

The FAA recommended that Article 17 be accepted as written and that the sum of Nineteen Thousand Nine Hundred Ninety Dollars and Zero Cents (\$19,990.00) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 17: Unanimously accepted to transfer from Free Cash the sum of Nineteen Thousand Nine Hundred Ninety Dollars and Zero Cents (\$19,990.00) for the purchasing of approximately ten (10) sets of fire gear.

The FAA recommended that Article 18 be accepted as written and that the sum of Five Thousand Nine Hundred Fifty Two Dollars and Zero Cents (\$5,952.00) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 18: Approved by Majority Vote to transfer from Free Cash the sum of Five Thousand Nine Hundred Fifty Two Dollars and Zero Cents (\$5,952.00) to supplement salary increases for Assistant Fire Chief and new Lieutenant position.

The FAA recommended that Article 19 be accepted as written and that the sum of Twelve Thousand Dollars and Zero Cents (\$12,000.00) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 19: Unanimously accepted to transfer from Free Cash the sum of Twelve Thousand Dollars and Zero Cents (\$12,000.00) to fund one fifth (1/5) of the cost of quinquennial re-certification of real estate and personal property values for FY2023 as required by the Commonwealth's Department of Revenue.

The FAA recommended that Article 20 be amended and accepted and that the sum of Twenty Six Thousand Dollars and No Cents (\$26,000.00) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 20: Unanimously accepted to transfer from Free Cash the sum of Twenty Six Thousand Dollars and No Cents (\$26,000.00) to upgrade property appraisal software, including the purchase new hardware as recommended by the Board of Assessors.

The FAA recommended to accept Article 21 as written. The motion was made and seconded.

ARTICLE 21 – As declared by the Moderator, it was accepted by Majority Vote to amend the Dudley General By-Laws, ARTICLE 6, SECTION 1 by striking “Two Thousand Dollars (\$2,000.00)” and changing it to “Twenty Thousand Dollars (\$20,000.00)”, as shown below with deleted language stricken through and added language in bold.

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 ~~two thousand dollars (\$2,000.00)~~ **twenty thousand dollars (\$20,000.00), or as otherwise provided by Massachusetts General Laws.**

The FAA deferred Article 22 to the Board of Selectmen. Selectman Jonathan Ruda made a motion to accept Article 22 as written. The motion was made and seconded.

ARTICLE 22: Unanimously accepted to amend the Dudley General Bylaws, ARTICLE 32 – PERSONNEL POLICIES AND PROCEDURES AUTHORIZED PURSUANT TO MGL CHAPTER 41, SECTIONS 108A AND 108C by amending Section 4 – Responsibilities and Section 5- Method, as shown below with deleted language stricken through and added language in bold.

Personnel Policies and Procedures Authorized Pursuant to M.G.L. Chapter 41, Sections 108A and 108C.

PERSONNEL POLICIES AND PROCEDURES

Section 4 – Responsibilities:

- a. ~~The Board shall be responsible for the establishment of personnel policies and procedures, including, but not limited to: Employment, Job Classification, Hours of Work and Overtime, Benefits, Leaves, Promotions, Reductions in Force, Performance Evaluation, Transfers, Corrective Action and or employment related practices and policies.~~
- b. ~~The Board shall classify all jobs and positions, and execute a wage and salary administration system.~~
- c. ~~The Board shall propose wage and salary rates each year for the purposes of administering Section 4b above.~~

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 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. With respect to Section 4a above, the Board shall research and prepare proposed rules and regulations, or amendments on their own initiative, or as requested by Town Departments, Board or employees. The Board shall then notify any affected Boards and commission in writing, post notices in prominent locations, and schedule a public meeting with at least ten days' notice. The Board will consider all relevant information for the meeting then vote on the proposals. A majority vote (when a quorum of the Board is present) shall be considered sufficient for adoption.~~

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 change)

~~e. Any section of the Board under Capital section 4a or 5a may be rescinded by majority vote of the Town Meeting.~~

ARTICLE 23: No action required. Formatting error on the posted warrant. The language in the posted warrant as Article 23 is included and part of Article 22.

The Moderator asked for unanimous consent to dispense with the reading of Article 24. Seeing no objection, it was so moved. The Moderator called for a five minute recess to allow voters time to review the article.

The FAA deferred Article 24 to the Board of Selectmen. Chairman Steven Sullivan recommended to amend Article 24 by combining Section 1(a) and 1(b) and the subparagraphs in Section 1 be re-lettered accordingly and that the new by-law be numbered as Article 50. Chairman Sullivan made a motion to accept Article 24 as amended. The motion was seconded and unanimously accepted.

ARTICLE 24: Unanimously accepted as amended to approve a new General Bylaw or petition the Legislature to enact special legislation substantially as follows:

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.

The FAA deferred Article 25 to the Planning Board. Planning Board Vice Chairman Guy Horne stated that the Board had held a public hearing on this article and that all legal requirements were met. Vice Chairman Horne made a motion to accept Article 25 as written; the motion was made and seconded.

ARTICLE 25: As declared by the Moderator, the motion was Defeated by Majority Vote 47 Yes/40 No (2/3 required) to amend the Zoning Bylaws, and Zoning Bylaws Map relative to large-scale ground-mounted solar photovoltaic installations, by amending SECTION III, SPECIAL USE REGULATIONS, 3.12.00 LARGE SCALE SOLAR PHOTOVOLTAIC, 3.12.02 Applicability, second paragraph, by adding the following phrase immediately following the words with the Town Clerk at the existing end of said paragraph, with such additional language shown in bold below:

Large Ground-Mounted Solar Photovoltaic Installations are prohibited in Residential Districts (RES 10, RES 15, RES 30, RES 43, and RES 87), Commercial Districts (BUS 15), Light Industrial Districts (LI 43 and LI 87), Conservation District, and Floodplain District. Large Ground-Mounted Solar Photovoltaic Installations are allowed as of right in the Industrial Districts of IND 43 and IND 130 and the Town Refuse Disposal District. In the Solar Overlay District, on lots which contain an area of not less than four acres, the construction and use of Large Ground-Mounted Solar Photovoltaic Installations shall require a special permit issued by the Planning board in accordance with the procedures outlines in Section 5.01.04 of the Zoning Bylaws. Said Solar Overlay District is hereby superimposed on the underlying zoning districts, as shown on the map entitled “Zoning Map Amendment PROPOSED SOLAR OVERLAY DISTRICT Parcel 212 13 (Oxford Avenue)”, dated October 06, 2017, which map is hereby made a part of the Zoning Bylaws and Official Zoning Map and is on file in the Office of the Planning Board and the Town Clerk, **and as shown on the map entitled “Zoning Map Amendment Proposed Solar Overlay District Parcels 215-019-000-000 and 215-019-001-000, 99 Ramshorn Road, Dudley, MA”, dated March 2018, which map is hereby made a part of the Zoning Bylaws and Official Zoning Map and is on file in the Office of the Planning Board and the Town Clerk.**

And by adopting the above referenced zoning map amendment as indicated above, which is on file with the Town Clerk and the Planning Board, and by amending the existing Zoning Map to include said Solar Overlay District.

The Moderator asked for unanimous consent to dispense with the reading Article 26. Seeing no objection, it was so moved.

The FAA deferred Article 26 to the Planning Board. Planning Board Vice Chairman Guy Horne stated that the Planning Board had held a public hearing on this article and that all legal requirements were met. Vice Chairman Horne made a motion to accept Article 26 with the following amendment:

- Amend Section **2.03.02 Use by District Chart**, by adding the Activity or Use category entitled Medical and Adult Use Marijuana Establishments as follows:

	<u>DISTRICT</u> ⁹									
ACTIVITY OR USE	RES 10	RES 15	RES 30	RES 43	RES 87	BUS 15	IND 43	IND 130	LI 43	LI 87
<u>MEDICAL AND ADULT USE MARIJUANA ESTABLISHMENTS</u> ¹⁵										
Craft Marijuana										
Cooperative	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana Cultivator	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana Product										
Manufacturer	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana Retailer	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana										
Independent										
Testing Laboratory	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana										
Microbusiness	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana Research										
Facility	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana Transporter	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Adult On-Site										
Marijuana Social Consumption Operator (Public Facility or Private Club)										
	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Any other type of Licensed Marijuana-related Business, except a Medical Marijuana Treatment Center										
	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP

Medical Marijuana Treatment Center:											
Retail Dispensing	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP	
Medical Marijuana Treatment Center:											
Cultivation	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP	

And by adding Footnote # 15 as follows:

15. Medical and Adult Use Marijuana Establishments allowed in the IND 130 District by SPPB, are allowed in the Mill Conversion Overlay District as put forth in Section 3.10 of the Zoning Bylaws on the properties further listed as comprising the Mill Conversion Overlay District in Section 3.10.03 of the Zoning Bylaws.

The motion was made and seconded.

ARTICLE 26: As declared by the Moderator, it was accepted by 2/3 Majority Vote as amended to amend the Dudley Zoning By-Laws by adding a new Medical Marijuana and Adult Use Marijuana Establishments component as follows:

1. Amend Section 2.03.01 Use Regulation Catalog by inserting the words shown below in bold:

2.03.01 Use Regulation Catalog

The following terms employed in the catalog shall be construed to represent the following meanings:

- P - A permitted use as a matter of right.
- SP - A permissible use requiring a Special Use Permit from the Zoning Board of Appeals.
- NP - A prohibited use.
- P-SPR - A permissible use contingent upon Site Plan review and approval by the Planning Board.
- SP-SPR - A permissible use requiring a Special Use Permit from the Zoning Board of Appeals and Contingent upon Site Plan review and approval by the Planning Board.
- SPPB - A permissible use requiring a Special Use Permit from the Planning Board and contingent upon Site Plan review and approval by the Planning Board as a component of the Special Use Permit.**

Any use not listed in the catalog as allowed by right or by special permit is expressly prohibited.

2. Amend Section 2.03.02 Use by District Chart, by adding the Activity or Use category entitled Medical and Adult Use Marijuana Establishments as follows:

DISTRICT⁹

RES RES RES RES RES BUS IND IND LI LI

ACTIVITY OR USE	10	15	30	43	87	15	43	130	43	87
<u>MEDICAL AND ADULT USE MARIJUANA ESTABLISHMENTS</u> ¹⁵										
Craft Marijuana										
Cooperative	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana Cultivator	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana Product										
Manufacturer	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana Retailer	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana										
Independent										
Testing Laboratory	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana										
Microbusiness	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana Research										
Facility	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Marijuana Transporter	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Adult On-Site										
Marijuana Social Consumption Operator (Public Facility or Private Club)	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Any other type of Licensed Marijuana-related Business, except a Medical Marijuana										
Treatment Center	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Medical Marijuana										
Treatment Center:										
Retail Dispensing	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP
Medical Marijuana										
Treatment Center:										
Cultivation	NP	NP	NP	NP	NP	NP	NP	SPPB	NP	NP

And by adding Footnote # 15 as follows:

15. Medical and Adult Use Marijuana Establishments allowed in the IND 130 District by SPPB, are allowed in the Mill Conversion Overlay District as put forth in Section 3.10 of the Zoning Bylaws on the properties further listed as comprising the Mill Conversion Overlay District in Section 3.10.03 of the Zoning Bylaws.

3. Add the following Sections: 3.15 MEDICAL AND ADULT USE MARIJUANA ESTABLISHMENTS

3.15.00 MEDICAL AND ADULT USE MARIJUANA ESTABLISHMENTS

3.15.01 Purposes

The purpose of this section of the Zoning Bylaws is to regulate the time, place and manner of Adult Use Marijuana Establishments and Medical Marijuana Treatment Centers in accordance with the provisions of Massachusetts General Law Chapter 94G and 94I to ensure the health, safety, and general well-being of the public while also supporting the right of legally authorized adults to access marijuana for their own use. The specific and separate regulation of Marijuana Establishments is necessary to advance these purposes.

Subject to the provisions of the Zoning Bylaws, Chapter 40A of the Massachusetts General Laws, Chapters 94G and 94I of the Massachusetts General Laws, 935 CMR 500 and 935 CMR 501.00 Adult Use Marijuana Establishments and Medical Marijuana Treatment Centers will be permitted to provide the opportunity for the legal cultivation, product manufacturing and retail sale of marijuana for marijuana use in a manner that complies with state regulations.

3.15.02 Applicability

Nothing in this Section shall be construed to supersede federal and state laws governing the sale and distribution of marijuana. This section shall not be construed to prevent the conversion of a Medical Marijuana Treatment Center licensed or registered no later than July 1, 2017 engaged in the cultivation, manufacture or sale of medical use marijuana or marijuana products to an adult use Marijuana Establishment, provided, however, any such Medical Marijuana Treatment Center obtains a special permit pursuant to this Section for any such conversion to an Adult Use Marijuana Establishment.

This bylaw does not apply to the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123.

1.15.03 Definitions

The terms used herein shall be interpreted as defined in the regulations governing Adult Use of Marijuana (935 CMR 500.02) and Medical Use Marijuana (935 CMR 501.00) and otherwise by their plain language.

- 1) Adult On-Site Marijuana Social Consumption Operator: A Marijuana Retailer licensed to purchase Marijuana and Marijuana Products from a Marijuana Establishment and to sell Marijuana and Marijuana Products on its premises and to allow customers to consume Marijuana and Marijuana products on its premises only.
- 2) Marijuana: All parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana (a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that cannabis shall not include:

- (a) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
 - (b) Hemp; or
 - (c) the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.
- 3) Marijuana Products: Cannabis or marijuana and its products unless otherwise indicated. These include products have been manufactured and contain cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.
- 4) Canopy: An area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries, canopy may be noncontiguous, but each unique area included in the total canopy calculations shall be separated by an identifiable boundary which include, but are not limited to: interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.
- 5) Ceases to Operate: Marijuana Establishment closes and does not transact business for period greater than 60 days with no substantial action taken to reopen.
- 6) Commission: The Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee.
- 7) Host Community Agreement: An agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Marijuana Establishment and a municipality setting forth additional conditions for the operation of a Marijuana Establishment, including stipulations of responsibility between the parties. and up to 3% host agreement revenue sharing.
- 8) Craft Marijuana Cooperative: A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.
- 9) Enclosed Area Cultivation: The business or operations of a Marijuana Cultivator located, in whole, inside a building, greenhouse or other man-made structure which would be subject to security provisions of 935 CMR 500.110 (5)(a).
- 10) Hemp: The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of

cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinol acid in any part of the plant of the genus Cannabis regardless of moisture content.

- 11) Hemp Cultivator: an agricultural establishment licensed by the Massachusetts Department of Agricultural Resources to cultivate hemp for commercial and industrial purposes. For the purposes of Section 3.15 of the Zoning Bylaws, the cultivation of hemp shall require a Site Plan Approval from the Planning Board and comply with all applicable sections herein, except that the use may be exempt from the licensing requirements of 935 CMR 500.
- 12) Host Community: A municipality in which a Marijuana Establishment is located or in which an Applicant has proposed locating an establishment.
- 13) Licensee: A person or entity licensed by the Commission to operate a Marijuana Establishment under 935 CMR 500.000.
- 14) Manufacture: To compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.
- 15) Marijuana Cultivator: An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.
- 16) Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a Medical Marijuana Treatment Center. A Marijuana Establishment shall not be considered exempt from zoning as an agricultural use.
- 17) Independent Testing Laboratory: A laboratory that is licensed by the Commission to test Marijuana and Marijuana products, including certification for potency and the presence of containments.
- 18) Marijuana Membership Club: An organization, club, lodge or other private grounds (non-profit and private) allowing on-site consumption of marijuana or marijuana products, but not operating as a licensed marijuana social consumption operator or where no sales occur.
- 19) Microbusiness: A collocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.
- 20) Marijuana Process or Processing: To harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.

- 21) Marijuana Product Manufacturer: An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.
- 22) Research Facility: An entity licensed to engage in research projects by the Commission.
- 23) Marijuana Retailer: An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.
- 24) Marijuana Transporter: An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third-Party Transporter.
- 25) Medical Marijuana Treatment Center: an entity registered under 105 CMR 725.100, also known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana for medical use.
- 26) Open Area Cultivation The business or operations of a Marijuana Cultivator conducted wholly in the open air, and not located in any building, greenhouse or other enclosed area which would be subject to security provisions of 935 CMR 500.110 (5)(a).
- 27) Propagation: The reproduction of cannabis or marijuana plants by seeds, cuttings, or grafting.
- 28) Provisional Marijuana Establishment License: A certificate issued by the Commission confirming that a Marijuana Establishment has received approval of a provisional license.

3.15.04 Schedule of Uses

See Section 2.03.02 Use by District Chart MEDICAL AND ADULT USE MARIJUANA ESTABLISHMENTS for the uses regulated by this Section.

3.15.05 Additional Requirements/Conditions

- 1) Special Permit Granting Authority – for the purposes of this section, the Special Permit Granting Authority shall be the Planning Board
- 2) State Law - Marijuana Establishment and Medical Marijuana Treatment Center operations shall conform at all times to General Laws, Chapters 94G or 94I, as applicable, and regulations issued thereunder.
- 3) Place:
 - a. No Marijuana Establishment or Medical Marijuana Treatment Center shall be located on a parcel which is within five hundred (500) feet (to be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana Establishment or Medical Marijuana Treatment Center is or will be located) of a parcel occupied by a pre-existing public or private school (existing at the time the Applicant's license application was received by the Commission) providing education in kindergarten or any of grades 1-12.
 - b. Except as provided by Section 3.15.05.3).f. of this Bylaw, no aspects of any Marijuana Establishment or Medical Marijuana Treatment Center, except for the transportation of product or materials, relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at an enclosed, fixed location and may be permitted to be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable platform or enclosure.
 - c. No Marijuana Establishment or Medical Marijuana Treatment Center shall be located inside a building containing residential units, including transient housing such as motels and dormitories.
 - d. No Marijuana Establishment or Medical Marijuana Treatment Center shall be permitted as a Home Occupation as defined by Section 3.03.00 of the Town of Dudley Zoning Bylaws.
 - e. No Marijuana Establishment or Medical Marijuana Treatment Center is permitted to utilize or provide a drive-through service.
 - f. Open Area Cultivation, as defined by this section, shall be allowed in all districts where Marijuana Cultivation establishments are allowed, provided that:
 - i. The Open Area Cultivation complies with all screening, security and other provisions of 935 CMR 500, as well as this Section of the Zoning Bylaws.
 - ii. The total Canopy does not exceed the allowable Canopy under a Tier 7 license as defined in 935 CMR 500.005, 1(d);
 - iii. No Open Area Cultivation shall take place within a distance less than or equal to one and one-half (1.5) linear miles from an established open area Hemp Cultivator, unless the Applicant is able to demonstrate sufficient provisions for the prevention of cross-pollination and contamination, acceptable to the Planning Board.
 - g. Enclosed Area Marijuana Cultivators, Marijuana Product Manufacturers, Retailers, and Independent Testing Laboratories and Medical Marijuana Treatment Centers are encouraged to utilize existing vacant buildings where possible.

4) Time and Manner:

- a. Any type of Marijuana Establishment or Medical Marijuana Treatment Center may only engage in the uses permitted by its definition and may not include other businesses or services.
- b. No marijuana shall be smoked, eaten or otherwise consumed or ingested on or within the premises of a Marijuana Establishment.
- c. The hours of operation shall be set by the Planning Board, but in no event shall a Marijuana Establishment or Medical Marijuana Treatment Center engaged in retail sales be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
- d. No Marijuana Establishment or Medical Marijuana Treatment Center may commence operation or apply for a building permit prior to its receipt of all required permits and approvals including, but not limited to, its Provisional License from the Commission.
- e. The number of Marijuana Retailers permitted to be located within the Town shall be limited to twenty-percent (20%) of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be consumed on the premises where sold under chapter 138 of the General Laws. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number.
- f. Visual Impact - Marijuana plants, products, and paraphernalia shall not be visible from the outside of the building in which the Marijuana Establishment is located and shall comply with the requirements of 935 CMR 500. No outside storage of marijuana, related supplies, or promotional material is permitted. Any artificial screening device erected to eliminate the view from a public way shall also be subject to a vegetative screen and the Planning Board shall consider the surrounding landscape and views to determine if an artificial screen would be out of character with the neighborhood.
- g. Ventilation and odor – Marijuana Establishments and Medical Marijuana Treatment Centers shall, to the extent applicable, incorporate odor control technology and be ventilated in such a manner that no:
 - i. Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
 - ii. odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment or at any adjoining use or property.
- h. Signage – All signage shall comply with all other applicable signage regulations in the Zoning Bylaw and 935 CMR 500.
- i. Nuisance - Marijuana Establishment and Medical Marijuana Treatment Center operations shall not create nuisance conditions in parking areas, sidewalks, streets, and areas surrounding the premises and adjacent properties. “Nuisance” includes, but is not limited to, disturbances of the peace, open public consumption of marijuana, illegal drug activity under state or local law, harassment of passerby, littering, loitering, illegal parking, loud noises, citation for violations of State or local traffic laws and regulations, queuing of patrons (vehicular or pedestrian) or other obstructions in the public or private way (sidewalks and streets).

5) Reporting Requirements.

- a. Prior to the commencement of the operation or services, any Marijuana Establishment or Medical Marijuana Treatment Center approved under this Section shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Planning Board with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
 - b. The local Building Commissioner, Board of Health, Police Department, Fire Department and Planning Board shall be notified in writing by the Marijuana Establishment or Medical Marijuana Treatment Center facility owner/operator/ manager:
 - i. A minimum of 30 days prior to any change in ownership or management of that establishment.
 - ii. A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.
 - c. The Permitted Marijuana Establishments and Medical Marijuana Treatment Centers shall file an annual written report to, and appear before, the Planning Board no later than January 31st of each calendar year, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.
 - d. The owner or manager of a Marijuana Establishment or Medical Marijuana Treatment Center is required to respond by phone or email within twenty-four hours of contact by a city official concerning their Marijuana Establishment at the phone number or email address provided to the City as the contact for the business.
- 6) Issuance/Transfer/Discontinuance of Use
- a. Special Permits/Site Plan Approvals shall be issued to the Marijuana Establishment or Medical Marijuana Treatment Center owner only.
 - b. Special Permits/Site Plan Approvals shall be issued for a specific type of Marijuana Establishment or Medical Marijuana Treatment Center on a specific site/parcel only.
 - c. Special Permits/Site Plan Approvals shall be non-transferable to either another Marijuana Establishment or Medical Marijuana Treatment Center owner or another site/parcel without approval of the Planning Board.
 - d. Special Permits/Site Plan Approvals shall have a term limited to the duration of the Applicant's ownership/control of the premises as a Marijuana Establishment or Medical Marijuana Treatment Center, and shall lapse/expire if:
 - i. Marijuana Establishment or Medical Marijuana Treatment Center Ceases to Operate, and/or
 - ii. The Marijuana Establishment's registration/license by the Commission expires or is terminated.
 - e. The Marijuana Establishment or Medical Marijuana Treatment Center shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of cessation of operations, or expiration or revocation of its state license.

- f. A Marijuana Establishment or Medical Marijuana Treatment Center shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state registration/license or ceasing its operation.

3.15.06 Application Requirements

A Marijuana Establishment shall only be allowed by special permit from the Special Permit Granting Authority in accordance with M.G.L. Chapter 40A Section 9 and Sections 5.01.02 and 5.01.04 (Special Permits) of the Zoning Bylaws. All applications for a Marijuana Establishment Special Permit shall include the following:

A Marijuana Establishment and Medical Marijuana Treatment Centers shall only be allowed by: (1) special permit from the Planning Board in accordance with M.G.L Chapter.40A Section 9 and Sections 5.01.02 and 5.01.04 (Special Permits) of this Bylaw and (2) Site Plan Approval in accordance with Section 5.04 of this Bylaw. In addition, all applications for a Marijuana Establishment or Medical Marijuana Treatment Center Special Permit shall include the following:

- a. Host Community Agreement - No Special Permit shall be granted without first having an executed Host Community Agreement with the Town.
- b. Community Outreach meeting - No Special Permit application shall be deemed complete by the Planning Board until a Community Outreach Meeting in accordance with 935 CMR 500 has occurred.
- c. Site Plan Approval - No Special Permit for any Marijuana Establishment or Medical Marijuana Treatment Center shall be issued without Site Plan approval by the Planning Board. In addition to the standards set forth in this Section the Site Plan must meet all applicable dimensional, parking, and other requirements set forth in the Bylaw.
- d. License requirements:
 - Marijuana Establishments shall submit proof that the application to the Commission has been deemed complete pursuant to 935 CMR 500.102. Medical Marijuana Treatment Centers shall submit proof that the applicant has complied with all application requirements of 935 CMR 501.100(2). Copies of the complete application, to the extent legally allowed, shall be provided as an integral component of the application to the Planning Board and no Special Permit application shall be deemed complete by the Planning Board until this information is provided.
 - No Special Permit shall be granted by the Planning Board to an applicant without the Marijuana Establishment first having been issued a Provisional License from the Commission pursuant to 935 CMR 500 or the Medical Marijuana Treatment Center first having been issued a Provisional Certificate of Registration from the Commission pursuant to 935 CMR 500.100(3).
 - No person shall operate a Marijuana Establishment or Medical Marijuana Treatment Center without having a Final License or Final Certificate of Registration, as applicable, in good standing from the Commission.

- e. Security Plan – All applications for a Special Permit shall include proposed security measures for the Marijuana Establishment or Medical Marijuana Treatment Center, including lighting, fencing, gates and alarms to ensure the safety of persons and to protect the premises from theft. A letter from the Police Chief, or designee, acknowledging review and approval of the security plan is required. To the extent allowed by law, all such security documents shall be confidential.
- f. Odor Control Plan - All applications for a Special Permit shall include an Odor Control Plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor control including maintenance of such controls.
- g. Management Plan – All applications for Special Permit shall include a management plan with a comprehensive description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to Marijuana Establishment or off-site direct delivery to the extent such delivery is authorized by law.
- h. Energy Use Plan: All applications for a Special Permit shall include an energy use plan which shall demonstrate best practices for energy conservation, water usage, and waste disposal. The plan shall include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand. The Planning Board may waive this requirement upon a finding that submission of such a plan is not required for the use proposed.
- i. Decommissioning Plan - All applications for Special Permit shall include a plan providing for the decommissioning of the Marijuana Establishment or Medical Marijuana Treatment Center. Such decommission plans shall include a cost estimate provided by a qualified, third-party expert and shall detail dismantling, disposal of equipment and all other reasonably anticipated costs associated the decommissioning of the Marijuana Establishment. Planning Board reserves the right to request a comparison estimate provided by an independent, qualified professional estimator of the board's choosing, the cost of which shall be borne by the Applicant.
- j. Other Application Submission Requirements
- The name and address of each owner and operator of the Marijuana Establishment facility/operation.
 - Proof of Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500.
 - Evidence that the Applicant has site control and right to use the site for a Marijuana Establishment or Medical Marijuana Treatment Center in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement.
 - A notarized statement signed by the Marijuana Establishment or Medical Marijuana Treatment Center's Chief Executive Officer and corporate attorney disclosing all of its

designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above is entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.

- A detailed floor plan identifying the areas available and functional uses (including square footage).
- All signage being proposed for the facility.
- A pedestrian/vehicular traffic impact study to establish the Marijuana Establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic along access areas including, but not limited to the public right of ways, will not be unreasonably obstructed.

3.15.07 Findings

In addition to the standard Findings for a Special Permit or Site Plan Approval the Planning Board must also find all the following:

- 1) The Marijuana Establishment or Medical Marijuana Treatment Center is in harmony with and does not derogate from the purposes and intent of this Section and the Zoning Bylaw.
- 2) That the Marijuana Establishment or Medical Marijuana Treatment Center is designed to minimize any adverse visual or economic impacts on abutters and the general public;
- 3) That the Marijuana Establishment facility demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations; and
- 4) That the Applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw;
- 5) That the Marijuana Establishment or Medical Marijuana Treatment Center provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or via delivery.
- 6) That the Marijuana Establishment or Medical Marijuana Treatment Center adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly during peak periods, and its impact on neighboring uses.

3.15.08 Severability

If any provision of this section is found to be invalid by a court of competent jurisdiction, the remainder of this section shall not be affected but shall remain in full force. The invalidity of any provision of this section shall not affect the validity of the remainder of this zoning bylaw.

4. Amend Section 6.01.01 Definitions Listing, by adding the following **bolded** wording in its place in alphabetical order within said Section:

MEDICAL AND ADULT USE MARIJUANA ESTABLISHMENTS – See Section 3.15.0.3 for definitions under this use category.

5. And amend Section 6.01.01 Definitions Listing, by adding the following **bolded** wording onto the existing end of the definition of Agriculture / Farm:

This definition does not include MEDICAL AND ADULT USE MARIJUANA ESTABLISHMENTS subject to Section 3.15 of the Zoning Bylaws.

The FAA recommended that Article 27 be Passed Over. The motion was made and seconded.

ARTICLE 27: Passed Over by Majority Vote to raise or appropriate, borrow or transfer from available funds the amount of Fifty Thousand Six Hundred Eighty One Dollars and Zero Cents (\$50,681.00) for the purchase of a 2019 Ford F150 Pickup Truck, or similar vehicle for the Police Department.

The FAA recommended that Article 28 be accepted and the sum of Thirty Thousand Dollars and No Cents (\$30,000) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 28: Unanimously accepted to transfer from Free cash the sum of Thirty Thousand Dollars and Zero Cents (\$30,000) to be added to the Stabilization Fund.

The FAA recommended that Article 29 be accepted and the sum of Forty Thousand Dollars and Zero Cents (\$40,000) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 29: Unanimously accepted to transfer from Free Cash the sum of Forty Thousand Dollars and Zero Cents (\$40,000.00) to fund merit increases for department heads and non-union employees and increase in hours for the Veteran Office as recommended by the Personnel Board and the Board of Selectmen.

The FAA recommended that Article 30 be accepted as written. The motion was made and seconded.

ARTICLE 30: Unanimously accepted to transfer from the Sewer Retained Earning Account (Account #0060-000-3590-00) the sum of Forty Nine Thousand Five Hundred Sixty Dollars and Zero Cents (\$49,560.00) for Phase I of the DEP mandated Inflow an Infiltration Study.

The Moderator noted a scrivener's error in Article 31. The written sum was corrected to Seventy **Eight** Thousand Three Hundred Ninety Eight Dollars and Zero Cents.

The FAA recommended that Article 31 be accepted as written. The motion was made and seconded.

ARTICLE 31: Unanimously accepted to transfer from the Sewer Retained Earning Account (Account #0060-000-3590-00) the sum of Seventy Eight Thousand Three Hundred Ninety Eight Dollars and Zero Cents (\$78,398.00) to purchase a sewer line video camera for inspection of mains and laterals.

The Moderator asked for unanimous consent to dispense with the reading of Article 32. Hearing no objection, it was so moved.

The FAA deferred Article 32 to the Economic Development Committee. EDC Chairman John Briare made a motion to accept Article 32 as written. The motion was made and seconded. The Moderator recognized BOS Chairman Steven Sullivan who urged the voters to defeat the motion and to pass over Article 32.

ARTICLE 32: As declared by the Moderator, it was accepted by Majority Vote to create a new bylaw, by adding a section “Agricultural Advisory Commission” as recommended by the Economic Development Committee.

ESTABLISHMENT OF A “NEW 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.

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, educators, 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.

The Moderator asked for unanimous consent to dispense with the reading of Article 33. Hearing no objection, it was so moved.

The Board of Selectmen recommended to Pass Over Article 33. A motion was made and seconded. EDC Chairman John Briare urged the voters not to pass over Article 33. The motion to Pass Over was defeated.

A motion to accept Article 33 as written was made and seconded.

ARTICLE 33: As declared by the Moderator, it was accepted by Majority Vote to abolish the existing Recreation Committee, and adopt a general by-law establishing in its place a new “Recreation Commission” which purpose shall be the development of recreational programs and the enhancement of recreational facilities and opportunities within the Town, as set forth below.

“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.

The FAA made a motion to accept Article 34 as written. The motion was seconded and unanimously accepted.

ARTICLE 34: Unanimously accepted to add a new section to Article 26 – Cemetery Bylaws of the General By-laws, to be known as “Section 7– Veteran’s Lots”, the language of the new Section 7 as set forth below.

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.

The FAA recommended that Article 35 be amended by deleting the phrase “a 1998 One Ton Dump Truck” and replacing it with “one Highway vehicle”. FAA Chairman Mike Mayotte made a motion to accept Article 35 as amended and that the sum of Seventy Five Thousand Three Hundred Dollars and Zero Cents (\$75,300.00) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 35: Unanimously accepted as amended to transfer from Free Cash the sum of Seventy Five Thousand Three Hundred Dollars and Zero Cents (\$75,300.00) for the purchase of a Heavy Duty Dump Truck (under 35,000 GVW) with angle plow, or similar vehicle and to sell or trade one Highway vehicle, the proceeds of which to be used for said purchase.

The FAA recommended that Article 36 be Passed Over; the motion was made and seconded.

ARTICLE 36: Passed Over by majority vote to raise and appropriate, borrow or transfer from available funds the sum of Twelve Thousand Dollars and Zero Cents (\$12,000.00) for the purchase of various sized tires for the Highway Department's trucks and heavy equipment.

The FAA recommended that Article 37 be Passed Over; the motion was made and seconded.

ARTICLE 37: Passed Over by unanimous vote to raise and appropriate, borrow or transfer from available funds the sum of Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) for the purchase of a new 12' power angle plow for the Highway Department and sell a 1974 snowplow for scrap and use the proceeds toward the purchase of the new plow.

The FAA recommended that Article 38 be Passed Over; the motion was seconded and unanimously accepted.

ARTICLE 38: Passed Over by unanimous vote to raise and appropriate, borrow or transfer from available funds the sum of Fifty Five Thousand Three Hundred Seventy Five Dollars and Zero Cents (\$55,375.00) for the purchase of a new Light Duty One Ton Dump Truck with plow or similar vehicle.

The FAA recommended that Article 39 be Passed Over; the motion was made and seconded.

ARTICLE 39: Passed Over by unanimous vote to raise and appropriate, borrow or transfer from available funds the sum of Thirty Three Thousand Eight Hundred Seventy Five Dollars (\$33,875.00) for the purchase and equipping of a vehicle for the Animal Control Officer and/or Assistant Animal Control Officer.

The FAA recommended that Article 40 be amended and that the sum of Five Thousand Dollars and Zero Cents (\$5,000) be transferred from Free Cash. The motion was made and seconded.

ARTICLE 40: Unanimously accepted to transfer from Free Cash the sum of Five Thousand Dollars and Zero Cents (\$5,000) for the purpose of archival preservation.

Selectman Jonathan Ruda made a motion to adjourn. The motion was seconded by Selectman John Marsi and was unanimously accepted.

Brought to order at 7:09 p.m.

Adjourned: 10:45 p.m.

Voters Present: 115

Action Taken on Articles: 1-40

A True Copy.

Attest: Ora E. Finn

Ora E. Finn, CMMC, Dudley Town Clerk