

TOWN OF DUDLEY  
2023 ANNUAL TOWN MEETING  
COMMONWEALTH OF MASSACHUSETTS

Commonwealth of Massachusetts

Worcester, ss

As instructed in the preceding warrant, legal voters of the Town of Dudley assembled in the Connie Vanco-Galli Auditorium at Shepherd Hill Regional High School in said Dudley on Monday, May 22, 2023. The meeting was brought to order at 7:15 pm as our required quorum has been exceeded at 7:08 p.m. with approximately 250 registered voters for the Town of Dudley. Non-registered voters were asked to sit in the front two rows. The Moderator briefly reviewed the procedures and etiquette of the Town meeting followed by the Pledge of Allegiance to the Flag. A moment of silence was held to reflect on all those who faithfully served our town to make Dudley a wonderful community to live in and to reflect this coming Memorial Day where we honor and recognize those who paid the ultimate sacrifice so that we can enjoy the freedoms we enjoy including the opportunity to participate in Town meetings.

The Moderator announced that on Tuesday, June 6<sup>th</sup> at 6:30 pm there will be a Meet the Candidates Night held in Conference Room 321A for the upcoming June 12<sup>th</sup>, 2023, Annual Town Election.

The Moderator asked for unanimous consent for clarification of a department budget item or other article be required that employees or agents who are not residents but are acting on behalf of the Town of Dudley or petitioner of the article be permitted to speak. Unanimous consent was given to allow the Moderator to recognize those individuals to speak on the articles. The Moderator noted that there may be consultants in the audience tonight who are sitting in the first two rows, including Jeffrey Blake of KP Law.

The Moderator asked for unanimous consent to adopt the 2-minute rule per speaker, not counting answers to questions asked, and not speaking more than two times per article and limiting discussion to 15 minutes per article. Unanimous consent was given. A brief tutorial on how to work the voting clickers was given. The Moderator then recognized the Town Clerk to read the service of the warrant.

**ARTICLE 1: Board of Selectmen Town Reports - Approved by Majority vote** to receive the reports of the several Town Officers and all Committees.

**ARTICLE 2: Board of Selectmen Hear Committee Recommendations - Approved by Majority vote** to accept to hear and act on the recommendations of the Board of Selectmen and the Finance, Appropriation and Advisory Committee.

FAA recommends that the Town appropriate the total sum of \$25,182,809, to fund the Town's budget for the Fiscal Year beginning July 1, 2023, including a portion of its assessment for the Dudley-Charlton Regional School District, for the purposes and amounts listed, and with the funding sources, as printed in Article 3 under the column titled "Non contingent appropriations"; and further, to raise and appropriate the supplemental sum of \$2,668,797, for purposes of operational expenses of the Town and the Dudley-Charlton Regional School District, in the amounts listed and printed in Article 3 under the column titled "Contingent appropriations", said supplemental amount to be subject to the passage of a so-called Proposition 2 ½ override ballot question pursuant to G.L. c. 59, §21C(g). Motion was made and seconded.

Robin Watson, 228 Dresser Hill Road asked if the override question on the June 12, 2023 ballot is approved does the money allocated to the school in year one stay with the school in future years. Jonathan Ruda responded that for year one it will and more than likely will remain in the school budget for future years but that is decided at Town Meetings how that money will be spent.

She then followed up with several questions regarding line items on the Town Budget. Ms. Watson then made a motion to amend Article 3 by reducing the total general fund amount of \$1,674,515.00 by \$179,306 for a total ask of \$1,495,209.00 which is a 10.7% decrease and by reducing the Dudley-Charlton Regional School District override of \$994,282.00 by \$263,964 to \$730,318.00. Motion was made and seconded. Ms. Watson said that all her questions were used to calculate the numbers that she arrived at in her amendment. Jon Ruda asked Ms. Watson if she had a list of sources of funding that she could provide. He said that the amendment should state the source of funding. Mr. Ruda also wants to hear from Town Counsel how this may impact the ballot question on June 12<sup>th</sup> 2023. Jeffrey Blake of KP Law stated that when then there is a dollar amount attached to a motion it needs to include a source of funding, when you are reducing certain line items it would assume that the funding sources are the same and that you are simply reducing it. With respect to lowering the amount of a contingent figure as you have done as you probably know there is a ballot question that will go before the town at the June 12<sup>th</sup> election. In order for a prop 2 ½ override to move forward you need to have two things; you need an appropriation at town meeting, and you need to have a prop 2 ½ ballot question approval at the ballot. The ballots have already been printed and there is a certain dollar amount listed. In the event that you reduce the dollar amount here at the town meeting, that would not have been appropriated, so the likely effect would be that the override would be reduced.

Motion to amend Article 3 failed to achieve a 2/3<sup>rd</sup> Majority vote.

Ms. Carmignani, Chairperson of the Dudley-Charlton School Committee spoke in favor of passing the budget in Article 3 as written in the warrant.

Kathy Hurst , 15 Camelot Circle, provided her comments on the school budget stating that the amount requested was lowered because the roof repair was taken off until FY25 and that there were no other cuts. She questioned what the school had spent their 2020 ESSER money on. She found a government listing of what each town received and in what year. Ms. Hurst said that the money received included spending

on nurses, HVAC for facilities, occupational therapist. She wants to know if any of these positions were funded using this money and if they are still being funded using tax dollars. In addition, she wanted to know how much of this money is left.

Steven LaMarche, School Superintendent stated that the ESSER money has been spread over three years and will end in FY24. This money was received during COVID which is the reason the money was given and spent on the items she mentioned. He stated since COVID the students' needs have increased greatly as we are coming out of the COVID pandemic.

Mr. LaMarche stated there is an upcoming School Committee meeting where they will be discussing reducing the budget to level funding.

Chief Marek Karlowicz stated that 20 years ago Dudley had 16 full-time officers when he was first hired. Within his first five years Dudley lost 5 full-time positions, bringing them down to 11 full-time officers. Since then, it has taken them 15 years to get staffed to 2003 levels. In January 2023 he was promoted to Chief, and his first task was to cut 10% from the budget. Dudley Police Department is dedicated to the Town and without appropriate funding the town will be going backwards. In the last few months, Southbridge responded to 4 gun calls; Webster 2 gun calls; Dudley 2 gun calls, and Oxford a gun call last week.

Chief Dean Kochanowski stated that the Fire Department is facing staffing issues due to lack of funding. He stated that he had to cut his overtime funding by \$25,000.00. He said he cannot run an ambulance, Fire Truck etc. with only 2 employees and needs to back schedule it.

Selectmen Sullivan stated that since COVID the town has cut 14 positions out of approximately 80 employees.

Several residents spoke in favor of passing this budget as written.

Scott Zajkowski, 8 Catherine St., made a motion to move the question. Motion was seconded. Motion to move the question was passed with a 2/3 majority.

**ARTICLE 3: Board of Selectmen FY 2024 Budget Approved by a 2/3<sup>rd</sup> Majority vote** to appropriate the total sum of \$25,182,809, to fund the Town's budget for the Fiscal Year beginning July 1, 2023, including a portion of its assessment for the Dudley-Charlton Regional School District, for the purposes and amounts listed, and with the funding sources, as printed in Article 3 under the column titled "Non contingent appropriations"; and further, to raise and appropriate the supplemental sum of \$2,668,797, for purposes of operational expenses of the Town and the Dudley-Charlton Regional School District, in the amounts listed and printed in Article 3 under the column titled "Contingent appropriations", said supplemental amount to be subject to the passage of a so-called Proposition 2 ½ override ballot question pursuant to G.L. c. 59, §21C(g).

	NON-CONTINGENT	Funding	CONTINGENT	Funding
PURPOSE	APPROPRIATIONS	Sources	APPROPRIATIONS	Sources

SELECTMEN	5,302	STATE AID	26,072	
ADMINISTRATION	542,838	STATE AID	79,899	
F.A.A.C.	0	STATE AID	20,000	
TOWN ACCOUNTANT	82,384	STATE AID	40,410	
INFO TECH EXPENSES	63,696	STATE AID	38,907	
BOARD OF ASSESSORS	110,420	STATE AID	45,224	
TOWN TREASURER (includes Treas/Collector salary of \$96,928.51)	3,805,626	TAXATION	36,284	
MUNICIPAL EXPENSES	125,732	STATE AID	83,961	
MUNICIPAL EXPENSES	17,050	FREE CASH		
TOWN CLERK (includes Town Clerk Salary of \$71,115.20)	166,862	STATE AID	1,144	
PLANNING BOARD	47,453	STATE AID	7,691	
POLICE DEPARTMENT	1,665,029	LOCAL RECEIPTS	167,470	
POLICE DEPARTMENT	57,169	STATE AID		
FIRE DEPARTMENT	1,269,820	LOCAL RECEIPTS	288,175	
BOARD OF HEALTH	46,450	STATE AID	39,097	
BUILDING INSPECTOR	32,800	STATE AID	16,750	
HIGHWAY DEPARTMENT	365,195	STATE AID	713,570	
HIGHWAY DEPARTMENT	534,305	STABILIZATION		
RECYCLING CENTER	99,046	STATE AID	0	
RECYCLING CENTER	65,654	TAXATION		
COUNCIL ON AGING	0		10,000	
VETERANS SERV.	178,251	STATE AID	10,861	
LIBRARY	<u>360,223</u>	STATE AID	<u>49,000</u>	
<b>TOTAL GENERAL FUND:</b>	<b>9,641,304</b>		<b>1,674,515</b>	Override
D-C REGIONAL	10,036,308	TAXATION	994,283	Override
BAY PATH TOTAL:	1,128,269	TAXATION	0	
STATE ASSESSMENTS (from Cherry Sheet)	35,820	LOCAL RECEIPTS	0	
Cherry sheet offsets	34,708	LOCAL RECEIPTS	0	
Overlay	127,280	LOCAL RECEIPTS	0	
WATER DEPARTMENT	2,661,798	USER CHARGES	0	
SEWER DEPARTMENT	<u>1,517,322</u>	USER CHARGES	<u>0</u>	
WATER/SEWER TOTAL:	4,179,120		0	
<b>TOTAL BUDGET:</b>	<b>25,182,809</b>		<b>2,668,797</b>	
<b>Note:</b>				
Total Contingent Appropriations			2,668,797	
Override Requested:			<u>2,668,797</u>	
If override passes, the Town will NOT use the \$534,305 from Stabilization			0	

FAA recommends that Article 4 be approved as printed in the warrant. Motion was made and seconded.

**ARTICLE 4:** Town Accountant – Authorizing Revolving Funds - **Approved by Majority vote** to establish Fiscal Year 2024 spending limits for the revolving funds set forth in Chapter 34§34-5, Authorized Revolving Funds of the Town’s General Bylaws, as follows:

<u>Revolving Fund</u>	<u>Annual Spending Limit</u>
Animal Care	\$15,000
Arrest Warrant Services	\$10,000
Board of Health Education Programs	\$1,000
Cemetery Fees -BOS (began 11/6/2012)	\$5,000
COA Meals (began 11/19/2012)	\$5,000
Cruiser Use @ Police Details	\$50,000
Electric Charging Stations	\$10,000
Fire Outside Details	\$25,000
Fire Penalties/Violations	\$7,500
Firearms Permit Services	\$20,000
Genealogy Service – Town Clerk	\$3,000
Gift Shop	\$2,000
Highway Cleanup	\$50,000
Gifts to Town	\$50,000
Hazardous Material Collection	\$9,000
Inspectors – Fuel, Gas, Plumbing, Wire	\$80,000
Library Lost Books	\$5,000
Municipal Hearings – BOS	\$2,000
Planning Documents	\$1,000
Regulatory Compliance	\$75,000
Tax Title Fees	\$75,000
Monitor Testing – Former Dump	\$75,000

Veteran's Bricks/Memorial	\$6,000
Website Expenses	\$3,000

FAA made a motion to pass over Article 5 until the Fall Special Town Meeting. Motion was made and seconded.

**ARTICLE 5:** (Board of Assessors) - Fund Recertification or Real Estate and Personal Property – **Passed over by Majority vote until the Fall Special Town Meeting** to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a sum of Fifteen Thousand Dollars and Zero Cents (\$15,000.00) to fund the cost of the re-certification of real estate and personal property values for FY2028 as required by the Commonwealth's Department of Revenue.

FAA made a motion to pass over Article 6 until the Fall Special Town Meeting. Motion was made and seconded.

**ARTICLE 6:** (Board of Assessors) - Fund Cyclical Inspections – **Passed over by Majority vote until the Fall Special Town Meeting** to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a sum of Twenty-One Thousand Dollars and Zero Cents (\$ 21,000.00) to fund the cost of the cyclical inspections of all properties in town that have not been inspected in the past ten (10) years for FY2024 as required by the Commonwealth's Department of Revenue.

FAA recommends that Article 7 be approved as printed in the warrant and to borrow the sum of \$297,690.00 for the purposes of this article. Motion was made and seconded.

Gerry Frank, Causeway Shores Dr. asked if this would be paid out of the general fund or the enterprise fund. Jon stated that this funding is for mitigation of higher levels of PFAS in private wells on Eagle Dr. Both the Town of Dudley for the capped landfill and Gentex conducted water testing as directed by DEP. Jon Ruda stated that it would be paid out of the general fund if approved. He stated that the town has several options for funding such as leasing land for cell tower agreement; solar array on capped landfill, etc.

**Article 7:** (Board of Selectmen) – Regulatory and Compliance Mitigation and Response – **Approved by 2/3<sup>rd</sup> Majority vote** to borrow the sum of Two Hundred Ninety-Seven Thousand Six Hundred and Ninety Dollars and Zero Cents (\$297,690.00) to provide funding to design, test, install and maintain water filtration systems for affected residents, as required under the Immediate

Response Action issued to the Town of Dudley by the Department of Environmental Protection (pursuant to 310 CMR 40.0424 - 40.0427) and to meet such appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow such sum under and consistent with M.G.L c 44, §§ 7 or 8, or any other source of authority, and to issue any bonds or notes that may be necessary to that purpose.

FAA recommends that Article 8 be passed over until the Fall Special Town Meeting. Motion was made and seconded.

Scott Zajkowski, 8 Catherine St. stated that he feels that the town should approve this article as it was for services/goods that the town has already received and the vendors should not have to wait until Fall to receive payment.

**ARTICLE 8:** (Town Accountant) – Unpaid Bills of a Prior Year – **Passed over by Majority vote until the Fall Special Town Meeting** To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds the sum of Six Thousand Nine Hundred Eighty One Dollars and Ninety Cents (\$6,981.90) to pay unpaid bills of a prior fiscal year, or take any other action relative thereto.

CompreCare	\$1,574.30
Staples -	\$5,407.60

FAA entertained a motion that the Town raise and appropriate the sum of \$463,000 for the costs associated with the Town's allocable share of the cost of a Feasibility Study as required under the Massachusetts School Building Authority Grant Program and as recommended by the Dudley-Charlton Regional School Committee, such amount to be raised in the tax levy, subject to a favorable vote by the Town of a Proposition 2 ½ Capital Outlay Exclusion ballot question in accordance with M.G.L. c. 59, §21C(i ½). Motion was seconded.

Gerry Frank, 13 Causeway Shores Rd, asked what was the total cost of the study and what Dudley's cost will be? Superintendent LaMarche said the total feasibility cost is \$1,000,000.00. There is a reimbursement value of approx.. 50 – 59% percent of the \$463,000.00 that would be coming back to Dudley. He reminded people that this would be a ballot question on the June 12<sup>th</sup> Annual Town Election.

Robin Watson, 228 Dresser Hill Rd, Stated that she feels the wording of Article 9 /Ballot Question #2 is very misleading and violates MGL 59 Section 21 because it says, "as required under the Massachusetts School Building Authority School Building Grant Program" was intended to confuse the voters. She said it is not required but rather a desire of the school committee to do a feasibility study. Also, she said that she believes the wording violates the Massachusetts Division of Local Services Prop. 2 ½ ballot override question requirements and procedures because it should not provide voters on the impact of unsuccessful vote or underlying events or circumstances that may cause alleged difficulties, nor may promote or advocate for the override.

Robin Waston made a motion to amend Article 9 by striking the following text, "as required under

the Massachusetts School Building Authority School Building Grant Program and as recommended by the Dudley- Charlton Regional School Committee” on Article 9 and on the ballot question 2. New wording she proposes would be, “To see if the town will vote to assess and additional \$463,000.00 in real estate and personal property taxes for the purposes of funding the towns share of the cost of a high school feasibility study by the Dudley-Charlton Regional School District as a capital expenditure fiscal year beginning July 1, 2023. Motion was made and seconded.

Jeffrey Blake, Town Counsel, stated that not only did KP Law but also Bond Council have both reviewed and approved the wording of the ballot. With respect to the amendment, it is clear that Ms. Watson wanted to strike some of the language but he questioned whether she intended to not include contingency language. Ms. Watson did not answer the question but rather restated what she had previously said and added that she feels it should reference that this is a one-year expense.

Treasurer, Richard Carmignani, 49 Airport Road, reiterated what Town Counsel stated in regards to the ballot question being reviewed and approved by both Town Counsel and Bond Council. He also stated that the statute reference specifically states that this is a one-year debt.

Collin Humphries, Lakeview Ave., made a motion to move the amendment question. Motion was seconded. The amended motion failed.

There was no further discussion on article 9.

**ARTICLE 9:** (Board of Selectmen) - High School Feasibility Study – **Approved by a 2/3<sup>rd</sup> Majority vote** to raise and appropriate the sum of Four Hundred Sixty-Three Thousand Dollars and Zero Cents (\$463,000.00) for the costs associated with the Town’s allocable share of the costs of a Feasibility Study as required under the Massachusetts School Building Authority School Building Grant Program and as recommended by the Dudley- Charlton Regional School Committee and to meet said appropriation, such amount shall be raised in the tax levy, subject to the favorable vote by the Town of a Proposition 2 ½ Capital Outlay Exclusion ballot question in accordance with M.G.L. Chapter 59§ 21C(i1/2).

FAA recommends that Article 10 be passed over until the Fall Special Town Meeting. Motion was made and seconded.

**ARTICLE 10:** (Agricultural Commission) – **Passed over by Majority vote until the Fall Special Town Meeting** to see if the Town will vote to raise and appropriate, borrow or transfer from available funds the sum of One Thousand Five Hundred Dollars and Zero Cents (\$1,500.00) to be added to their account for fundraising activities and events, or take any other action relative thereto.

Point of order was made by Gerry Frank, 13 Causeway Shores Dr. Mr. Frank asked if there was a way to revisit article 3 in case we lose a quorum to make sure that it is finalized in case the meeting goes to a second night. Moderator stated that it could be done through a motion to reconsider the article. Mr. Frank said that he would wait to see if we will be able



to complete the meeting tonight before making that motion.

Selectman Johnson made a motion to approve Article 11 as recommended by the Town Planner and Highway Superintendent and as printed in the warrant. Motion was seconded.

**ARTICLE 11:** (Board of Selectmen) – Accept a Portion of Partridge Hill Road – **Accepted by a 2/3<sup>rd</sup> Majority vote** to accept the layout of a portion of Partridge Hill Road as a public town way, as heretofore laid out by the Board of Selectman and shown on a layout plan entitled “Partridge Hill Road Dudley, Massachusetts,” dated January 15, 2023, prepared by B&R Survey, Inc. as marked “Attachment A” and provided as a supplement to this to this Warrant, and placed on file with the Town Clerk as required by law; and, further, to authorize the Board of Selectmen to acquire, by gift, purchase or eminent domain, the fee to and/or easements in said roadway land for all purposes for which public ways are used in the Town of Dudley, and such access, utility, and/or other easements incidental or related thereto.

Selectman Johnson made a motion to approve Article 12 as printed in the warrant. Motion was seconded.

Steve Scott, St. Anthony Road stated that the cost of this would be paid by the residents of St. Anthony Road via a betterment on their properties.

**ARTICLE 12:** (Board of Selectmen/Highway Commissioners, Highway Superintendent) – St. Anthony Road Betterment – **Approved by 2/3<sup>rd</sup> Majority vote** to authorize the Treasurer, with approval from the Board of Selectmen, to borrow Seventy-Three Thousand Two Hundred Twenty-Four Dollars and Zero Cents (\$73,224.00) to be expended under the control of the Highway Department, for improvements to the private way access to St. Anthony Rd including incidental and related costs for said improvements and to meet said appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow such sum under and consistent with M.G.L c 44§ 7 or any other source of authority, and to issue bonds and notes of the Town therefor. And further, the Board of Selectmen, acting pursuant to the authority granted under G.L. Chapter 80 and the Town’s Road Betterment Bylaw, shall assess betterments on all property benefiting for the purpose of recovering the costs thereof.

Selectman Johnson made a motion to approve Article 13 as printed in the warrant. Motion was seconded.

Jon Ruda, Town Administrator stated that if this article is approved tonight a certified vote in forwarded to the Commonwealth of Massachusetts DPU, for review and approval, which will take approximately 11 months. Once approved the next step would be to provide notification to the town and have 1 or 2 public meetings to inform the residents about the program and options available to them. After the public meetings Jon will work with Energy

Aggregator to determine which types of energy and in what proportion to make available to residents of Dudley. Residents would need to opt-in and residents will be able to opt-out at any time without penalty.

**ARTICLE 13:** (Town Administrator) – Grant Board of Selectmen Authority to Provide Residents with Option of Reduced Costs for Energy – **Approved by Majority vote** to grant the Board of Selectmen pursuant to G.L. c. 164 § 134 the authority to research, develop and participate in a contract, or contracts, to aggregate the electricity load of the residents and businesses in Town and for other related services, independently, or in joint action with other municipalities, retaining the right of individual residents and businesses to opt-out of the aggregation.

Moderator asked for and received unanimous consent to read article 14 and dispense with the reading of the text following.

Selectman Johnson stated that the Board of Selectmen defer Article 14 to the Planning Board for recommendation to the Town Meeting. Guy Horne, Planning Board Member, 3 Linda Vista Lane stated that at the April 26, 2023 Planning Board public hearing they voted 4-0 recommending approval of Article 14 at town meeting and he so moves. Motion was seconded.

Mr. Horne stated that FEMA provided a new flood plan requirements of this is intended to prevent loss of life, property and reduce taxpayers cost for disaster relief as well as to reduce the economic and social hardships that result from flooding. If this is not approved Dudley homeowners would not be able to obtain subsidized flood insurance and would not be eligible for most forms of disaster assistance.

**ARTICLE 14:** (Planning Board) – Update Flood Plain Bylaw and Maps – **Approved by a 2/3<sup>rd</sup> Majority vote** to Amend the Dudley Zoning Bylaw by deleting section 3.02, Flood Plain District, in its entirety and inserting a new section 3.02, Flood Plain District.

### **3.02.00 FLOOD PLAIN DISTRICT**

This Flood Plain District is established to protect people and structures from physical and economic damage from the natural disaster of flooding. This bylaw is intended to avoid the long-and short-term adverse impacts associated with the occupancy and modification of flood plains and to avoid direct and indirect support of flood plain development whenever there is a practical alternative. The purposes of this Bylaw include:

- 1) Ensure public safety through reducing the threats to life and personal injury
- 2) Eliminate new hazards to emergency response officials
- 3) Prevent the occurrence of public emergencies resulting from water quality

- contamination and pollution due to flooding
- 4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
- 5) Eliminate costs associated with the response and cleanup of flooding conditions
- 6) Reduce damage to public and private property resulting from flooding waters

### **3.02.01 Flood Plain District Delineation**

The Flood Plain District is herein established as an overlay district to all other districts.

The District includes all special flood hazard areas within the Town of Dudley designated as Zones A and AE, on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The District includes all special flood hazard areas within Dudley designated as Zone A, AE, AH, AO, or A99 on the Worcester County Flood Insurance Rate Map (FIRM) dated June 21, 2023 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated June 21, 2023. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Building Commissioner.

### **3.02.02 Local Authority**

A. Designation of Community Flood Plain Administrator: The Town of Dudley hereby designates the position of Building Commissioner to be the official Flood Plain administrator for the Town.

B. Permits are Required for all Proposed Development in the Flood Plain Overlay District: The Town of Dudley requires a permit for all proposed construction or other development in the Flood Plain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

C. Assure that All Necessary Permits are Obtained: The Town's permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the Flood Plain overlay district. The proponent must acquire all necessary permits, and must demonstrate that all necessary permits have been acquired.

### **3.02.03 Flood Plain Use Regulations**

Any use permitted by the underlying zoning district is allowed, provided the use complies with the following additional requirements as well as those of the Massachusetts State Building Code dealing with Flood Plain Districts:

A. Unnumbered A Zones: In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways. The Wetlands Protection Act regulations may require base flood elevation information to be developed by engineering calculations.

B. Floodway Encroachment:

1. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM, encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

3. Subdivision Standards for the Flood Plain District:

All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a subdivision proposal or other new development is located within the Flood Plain District established under the Zoning Bylaw it shall be reviewed to assure that:

- A. The proposal is designed consistent with the need to minimize flood damage; and
- B. All public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damage; and
- C. Adequate drainage systems shall be provided to reduce exposure to flood hazards; and
- D. Base flood elevation data for subdivision proposals: When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

4. Recreational Vehicles: In A1-30, AH, AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

#### **3.02.04 Health Regulations Pertaining to the Flood Plain District**

The Board of Health, in reviewing all proposed water and sewer facilities to be located in the Flood Plain District established under the Zoning Bylaw, shall require that:

- A. New and replacement water supply systems be designed to minimize or eliminate infiltration of flood waters into the systems; and
- B. New and replacement sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

#### **3.02.05 Conservation Commission Flood Plain District Duties**

A. Notify in riverine situations the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- Bordering States
- NFIP State Coordinator

Massachusetts Department of Conservation and Recreation

- NFIP Program Specialist

Federal Emergency Management Agency, Region I

B. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

#### **3.02.06 Variances**

A. Variances to Building Code Flood Plain Standards:

1. The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.
2. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased

premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

3. Such notification shall be maintained with the record of all variance actions for the referenced development in the Flood Plain overlay district.

**B. Variances to Local Zoning Bylaws Related to Community Compliance with the National Flood Insurance Program (NFIP)**

A variance from this Flood Plain bylaw must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

**3.02.07 Reference to Existing Flood Plain Regulations**

All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws, and/or its updates, and with the following:

- Section of the Massachusetts State Building Code which addresses Flood Plain and coastal high hazard areas;
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00, and amendments);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00)
- Minimum requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5, and amendments).

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

**3.02.08 Requirement to Submit New Technical Data**

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

- NFIP State Coordinator

Massachusetts Department of Conservation and Recreation

- NFIP Program Specialist

Federal Emergency Management Agency, Region I

### **3.02.09 Relation to Federal, State and Local Law**

- A. Abrogation and Greater Restriction: The Flood Plain management regulations found in this Flood Plain District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.
- B. Disclaimer of Liability: The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.
- C. Severability: If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the bylaw shall be in effect.

### **3.02.10 Definitions**

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE means any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - 1. By an approved state program as determined by the Secretary of the Interior or
  - 2. Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first Flood Plain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement.

[Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE means a vehicle which is:

- a) Built on a single chassis;
- b) 400 square feet or less when measured at the largest horizontal projection;
- c) Designed to be self-propelled or permanently towable by a light duty truck; and
- d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30 . [Base Code, Chapter 2,



## Section 202]

**START OF CONSTRUCTION.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

**STRUCTURE** means, for Flood Plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

**SUBSTANTIAL REPAIR OF A FOUNDATION.** When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

**VARIANCE** means a grant of relief by a community from the terms of a Flood Plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

**VIOLATION** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A

structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

Selectman Johnson stated that the Board of Selectmen defer Article 15 to the Planning Board for recommendation to Town Meeting. Guy Horne, Planning Board Member, 3 Linda Vista Lane state that at the April 26, 2023 Planning Board public hearing they voted 4-0 recommending approval of Article 15 at town meeting and he so moves. Motion was seconded.

John Briare, 16 Flaxfield Rd., stated that by striking “additional parking” it changes the entire intent of this article. It would now require a site plan review for any parking that for 5 or more vehicles.

Guy Horne stated that this was done so that projects would need to come to the Planning Board so that they can review to see if there are better ways to do it, etc. islands, etc.

Gerry Frank, 13 Causeway Shores Dr. made a motion to amend by not striking out the word “additional” and add the words or maintained parking spaces . . . . in section 3 and the next section. Motion was made and seconded.

Steven Sullivan, 36 Cardinal Drive recommended that voters defeat this amendment due to traffic flow and safety concerns.

Amended motion failed to achieve a 2/3<sup>rd</sup> vote.

**ARTICLE 15:** (Planning Board) - Site Plan Review Zoning Amendment – **Motion Failed to achieve a 2/3<sup>rd</sup> Majority vote** to amend the Dudley Zoning Bylaw, Section 5.04.02,

A. Projects Requiring Minor Site Plan Review, subsection 3 by deleting the word “additional”, and adding a new phrase after the word “maintenance”, as follows:

3. The construction or renovation of parking facilities involving five (5) but fewer than ten (10) ~~additional~~ parking spaces, with the exception of normal maintenance, such as patching pavement, striping lines, repairing/cleaning drainage systems, pruning/replacing vegetation, traffic control measures, and other general upkeep of the lot.

And to see if the Town will vote to amend the Dudley Zoning Bylaw, Section 5.04.02, B. Projects Requiring Major Site Plan Review, subsection 3 by deleting the word “additional”, and adding a new phrase after the word “maintenance”, as follows:

3. The construction or renovation of parking facilities involving ten (10) or more ~~additional~~ parking spaces, with the exception of normal maintenance, such as patching pavement, striping lines, repairing/cleaning drainage systems, pruning/replacing vegetation, traffic control measures, and other general upkeep of the lot.

Moderator asked for and received unanimous consent to read article 16 and dispense with the reading of the text following.

Selectman Johnson stated that the Board of Selectmen defer Article 16 to the Planning Board for recommendation to Town Meeting. Guy Horne, Planning Board Member, 3 Linda Vista Lane stated that at the April 26, 2023 Planning Board public hearing they voted 4-0 recommending approval of Article 16 at town meeting and he so moves. Motion was seconded.

Guy Horne explained what a shared driveway is and stated that this article would put on some specifications such as length, width, and thickness of pavement, etc.

John Briare, 16 Flaxfield Road, stated that this is for private driveways and the proposed amendment is something you would find for a public road. The only thing that he would possibly see would be the skirting to the road.

Donald Wilson, Mill St. wanted to know how this article if approved would impact existing driveways. Guy Horne said that existing driveways would be grandfathered.

**ARTICLE 16:** (Planning Board) – Shared Driveway Standards – **Failed to achieve a 2/3<sup>rd</sup> Majority vote** to Establish Design Standards for Shared Driveways: To see if the Town will vote to amend the Dudley Zoning Bylaw, Section 7.01.00, Driveway / Curb Cut Permit, Subsection IV.F by inserting the following underlined language as design standards for construction of shared driveways.

F. One driveway can be used for two (2) houses. Only by a special permit from the Board of Appeals can more than two houses use the same driveway.

Shared driveways shall meet the following design standards:

1. The distance of the shared driveway measured from the street line to the point where the shared driveway splits into individual driveways shall not exceed a distance of five hundred (500) feet, unless the Highway Superintendent or Board of Appeals, as the case may be, after referral to the Fire Department for comment, makes a determination that said driveway will provide safe access for fire, police and emergency vehicles.
2. The shared driveway shall lie entirely within the boundaries of the lots to which it provides access and shall be separated from any other lots to which access is not being provided by an appropriately landscaped buffer

area at least twenty (20) feet in width.

3. The shared driveway shall have a minimum cleared width of twenty (20) feet, and a minimum travel way of sixteen (16) feet.
4. The roadway surface shall have a minimum of four (4) inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown. The driveway shall be paved for the first fifty (50) feet in order to prevent erosion onto the street.
5. The grade of each shared driveway where it intersects with the public way shall not exceed six percent (6%) for a distance of fifty (50) feet whether upgradient or downgradient from the street.
6. The shared driveway shall not disrupt existing drainage patterns or cause material to enter the traveled way of a public street. The applicant shall submit a grading plan showing existing and proposed conditions to demonstrate compliance with this requirement.
7. The applicant shall submit proposed documents to the Highway Superintendent or Board of Appeals as the case may be, demonstrating that, through easements, restrictive covenants, or other appropriate legal devices, the maintenance (including snow removal), repair and liability for the shared driveway and all public utilities shall remain perpetually the responsibility of the private parties and their successors in interest.
8. The shared driveway shall never be used to satisfy frontage requirements.
9. An application for a shared driveway shall include a plan showing the driveway serving the premises, stopping sight distances in each direction with the adjoining roadway, and existing and proposed topography at two-foot contour intervals. This information may be shown on a site plan, an Approval Not Required Plan, or any other plan of the lots to which access is to be provided by the shared driveway.

Moderator asked for and received unanimous consent to read article 17 and dispense with the reading of the text following.

Selectman Johnson stated that the Board of Selectmen defer Article 17 to the Planning Board for recommendation to Town Meeting. Guy Horne, Planning Board Member, 3 Linda Vista Lane stated that at the April 26, 2023 Planning Board public hearing they voted 4-0 recommending approval of Article 17 at town meeting and he so moves. Motion was seconded.

Guy Horne stated that this article would allow battery energy storage systems greater than 250kw with site plan approval by the Planning Board in all industrial and light industrial districts and the town refuse disposal district. It also provides safeguards such as large set-backs from adjoining properties, screening noise limits and conforms to industry standards and building and fire codes. Mr. Horne stated that this article does include residential areas

or electric vehicles.

John Briare, 16 Flaxfield Rd., recommends that this article be defeated as 250 kw is very low, as that would be approximately 2.5 electric cars. He suggests that it be revised to at least 1MW for now.

Scott Zajkowski, 8 Catherine St. agrees that it is a good idea to have a by-law to get in front of this as these energy storage containers can be large.

Gerry Frank, 13 Causeway Shores Dr. agrees that the 250 kw is set too low. He feels that it may discourage people from electrifying their homes. He feels this amendment needs to be amended or revisited at another time.

Bill Scanlon, Town Planner stated that the containers that have batteries and store energy during periods of low demand and release energy during peak demands. They are often associated with solar fields where the energy generated from the solar arrays is stored in these energy containers and then will be released into the grid when needed. They would only be allowed in industrial zones as they are only intended for industrial use.

Mr. Briare states that the wording in this article does not support this.  
Town Administrator made a motion to move the question. Motion was seconded.

**ARTICLE 17:** (Planning Board) – Battery Energy Storage System (BESS)- **Motion fails to achieve a 2/3<sup>rd</sup> Majority vote** to amend the Dudley Zoning Bylaw by adding a new section 3.16, Battery Energy Storage System, to amend section 2.03.02, Use by District Chart, by adding a new line for Battery Energy Storage System, and to amend section 3.07, Town Refuse Disposal District, to specify where such uses will be allowed.

### **3.16.00 Battery Energy Storage System**

#### **3.16.01 Purpose**

The purpose of this bylaw is to reasonably regulate battery energy storage system installations by providing standards for the placement, design, construction, operation, monitoring, modification, and removal of such installations that address public safety, minimize impacts on scenic, natural, and historic resources, and to provide adequate financial assurance for the eventual decommissioning of such installations.

#### **3.16.02 Applicability**

This bylaw applies to battery energy storage system installations, as defined herein, proposed to be constructed after the effective date of this bylaw. This bylaw also pertains to physical modifications that materially alter the type,

configuration, or size of these installations or related equipment as determined by the Building Inspector or his/her designee. BESS that are proposed in conjunction with a solar system shall also comply with this Section.

Battery Energy Storage System Installations are allowed by right with major site plan review in Industrial Districts, Light Industrial Districts, and the Town Refuse Disposal District.

This bylaw is intended to regulate battery energy storage systems greater than 250 kW. It is not intended to regulate systems of less than 250 kW or systems coupled with residential solar arrays. **Definitions**

**Battery Energy Storage System (BESS):** An energy storage system consisting of an array of batteries to provide electrical power during outages and supplemental available resources during times of high demand. For the purposes of this definition, a BESS shall not be considered a Public Utility and Facility.

**Energy Storage System:** One or more devices, assembled, capable of storing energy to supply electrical energy at a future time to the local power loads, to the utility grid, or for grid support.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the energy storage system in alternating current (AC).

### **3.16.03 Requirements for All Battery Energy Storage Systems**

The following requirements are common to all BESS.

#### **A. Compliance With Laws, Ordinances, and Regulations**

The construction and operation of all BESS's shall be consistent with all applicable local, state, and federal requirements, including, but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a BESS installation shall be constructed in accordance with the State Building Code.

#### **B. Building Permit**

A building permit and an electrical permit shall be required for installation or modification of all battery energy storage systems.

### C. Major Site Plan Review

No BESS shall be constructed, installed, or modified except in conformity with a major site plan approved by the Planning Board. In addition to the site plan contents specified in Section 5.04.04 of this Bylaw, the following additional information shall be submitted:

1. An electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
2. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
3. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the BESS. Such information of the final system installer shall be submitted prior to the issuance of building permit.
4. Landscape Plan: Such plan shall detail all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing, planting, screening vegetation, and/or fences/walls, and lighting.
5. Fire Safety Compliance Plan: Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with all applicable codes.
6. Operations and Maintenance Plan: The Plan shall include measures for maintaining safe access to the installation, storm water controls, and general procedures for operational maintenance of the installation.
7. Emergency Operations Plan. A copy of the Emergency Operations Plan shall be given to the Dudley Fire Department, and a permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire officials, and emergency responders.

### D. Site Control

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed BESS.

## E. Utility Notification

No BESS shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the BESS installation owner's or operator's intent to install an interconnected customer-owned BESS. Off-grid systems shall be exempt from this requirement.

## F. Design Standards

### 1. Setbacks and Screening

Front, side, and rear yards for BESS shall be as follows in all districts:

- a. Front yard: The front yard depth shall be at least 50 feet.
- b. Side yard: Each side yard shall have a depth of at least 50 feet.
- c. Rear yard: The rear yard depth shall be at least 50 feet.
- d. Every abutting property shall be visually screened from the BESS through any one or a combination of the following: location, distance, plantings, existing vegetation, and/or fencing.

### 2. Land Clearing and Grading, Soil Erosion, and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the BESS. Land clearing and grading plans shall avoid practices that cause erosion and shall minimize habitat disruption.

### 3. Vegetation and Tree-Cutting

Areas within ten (10) feet on each side of a system shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees or shrubbery and cultivated ground covers such as green grass, ivy, succulents, or similar plants shall be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized.

### 4. Lighting

Lighting of the BESS, including appurtenant structures, shall be consistent with local, state, and federal law, and otherwise shall be limited to that required for safety and operational purposes. It shall be designed to minimize



glare on abutting properties and be directed downward with full cut-off fixtures to reduce light pollution.

#### 5. Signage

Signage conforming to the Zoning Bylaw shall include the type of technology associated with the systems, any special hazards associated, the type of suppression system installed, and 24-hour emergency contact information. Disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

#### 6. Utility Connections

All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment.

#### 7. Noise

The 1-hour average noise generated from the systems, components, and associated ancillary equipment shall not exceed a noise level of 60 dBA as measured at the property line. Applicants may submit equipment and component manufacturer's noise ratings to demonstrate compliance. The applicant may be required to provide operating sound pressure level measurements at the perimeter of the BESS to demonstrate compliance with this standard.

#### G. Safety Standards

All BESS installations and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and equipment) with subcomponents meeting each of the following standards as applicable:

1. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications)
2. UL 1642 (Standard for Lithium Batteries)
3. UL 1741 or UL 62109 (Inverters and Power Converters)

4. Applicable electrical, building and fire prevention codes as required.

### **3.16.04 Monitoring and Maintenance**

#### A. BESS Installation Conditions

The owner or operator of the BESS shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and local emergency medical services. The owner or operator shall be responsible for the cost of maintaining the BESS installation and any access routes.

#### B. Emergency Services

Prior to issuance of a building permit, the BESS owner or operator shall provide a project summary, electrical schematic, and approved site plan to the Town's local safety officials, including the Police Chief, Fire Chief, and Building Inspector. The owner or operator shall cooperate with local safety officials in reviewing the emergency response plan, which may include ensuring that emergency personnel have immediate, 24-hour access to the facility. All means of shutting down the BESS installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation and shall provide a mailing address and telephone number for such person(s).

#### C. Modifications

All material modifications to a BESS made after issuance of the required building permit shall require approval by the Planning Board through Site Plan Review as noted earlier in this section. Modifications may be considered minor or major.

### **3.16.05 Discontinuance and Removal**

#### A. Decommissioning

Any BESS, or any substantial part thereof, not used for a period of one continuous year or more as determined by the Building Inspector without written permission from the Planning Board, or that has reached the end of its

useful life, shall be considered discontinued, and shall be removed. Upon written request from the Building Inspector addressed to the contact address provided and maintained by the owner or operator as required above, the owner or operator shall provide evidence to the Building Inspector demonstrating continued use of the BESS. Failure to provide such evidence within thirty days of such written request shall be conclusive evidence that the installation has been discontinued. Anyone intending to decommission and/or remove such an installation shall notify the Planning Board and Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal.

#### B. Decommissioning Plan

As part of the site plan submission, the applicant shall submit a decommissioning plan to be implemented upon abandonment or removal from the property. The plan shall include:

1. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all BESS components, structures, equipment, security barriers, and transmission lines from the property.
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal regulations.
3. The anticipated life of the battery energy storage systems.
4. The estimated decommissioning costs and how the estimate was determined.
5. The method of ensuring that funds will be available for decommissioning and restoration.
6. The method by which the decommissioning cost will be kept current.
7. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning, and confirmed as being acceptable after the system is removed.
8. A listing of any contingencies for removing an intact operational BESS from service, and for removing a system from service that has been damaged by a fire or other event.

#### C. Removal

The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. Removal shall consist of:

1. Physical removal of all parts of and appurtenances to the BESS, including structures, equipment, security barriers, and transmission lines from the site;
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation and/or habitat; and

#### D. Financial Surety

Proponents seeking to construct and operate a BESS shall provide, prior to construction, a form of surety, either through an escrow account, bond, or otherwise, to cover the cost of removal in the event the Town must remove the BESS and remediate the landscape. The amount and form of such surety shall be determined by the Planning Board. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer licensed in Massachusetts. The proponent shall pay for review of this estimate by the Planning Board's peer review designee. The amount of the estimate provided by the proponent shall include a mechanism for calculating increased removal costs due to inflation.

Amend Section 2.03.02, Use by District Chart, by adding a new line for "Battery Energy Storage System", in the "Renewable Energy Resources" category with notation of P-SPR to indicate that such uses are permitted by right upon Site Plan Review and Approval by the Planning Board in all industrial and light industrial districts, as follows:

#### DISTRICT

RES RES RES RES RES BUS IND IND LI LI

ACTIVITY OR USE 10 15 30 43 87 15 43 130 43 87

## RENEWABLE ENERGY RESOURCES

### **Battery Energy**

**Storage Systems NP NP NP NP NP NP P-SPR P-SPR P-SPR P-SPR**

Amend section 3.07.00, Town Refuse Disposal District, by adding the words “battery energy storage systems” after the words “refuse disposal” on line 2, as follows:

### **3.07.00 TOWN REFUSE DISPOSAL DISTRICT**

Within this district residential use is not allowed. The uses permitted as a matter of right are town refuse disposal, Battery Energy Storage Systems and Large Ground-Mounted Solar Photovoltaic Installations. Uses permitted by special permit are dog shelters, municipal or governmental buildings or related supporting facilities, municipal parks or playgrounds. No special permit will be issued where refuse is buried.

Selectman Johnson stated that the Board of Selectmen defer Article 18 to the Petitioner, Jon Androlewicz. Guy Horne stated that at the April 26, 2023 public hearing the board voted 2 for and 2 against the article, therefore the Planning Board has no recommendation for this proposed amendment. Jon Androlewicz made a motion to accept Article 18 as written in the warrant. Motion was seconded.

Jon Androlewicz stated that the subdividing of the lots was approved by the town previously. The change of zoning will make the zoning contiguous on certain parcels on Oxford Ave. that are already owned by Three R’s Realty Corp. The purpose of this request is to change the zoning to be able to continue work at our existing property at 123 Oxford Ave within the zoning regulations and bylaws. For reference this is a lateral transfer of properties between two property companies owned by Three R’s Realty Corp.

Kristin Morengo, 18 Sunnyside Rd., asked if this proposal would just change that area of Oxford Ave and if there was a plan to have another access to the pit. Jon responded that it would not have another access. Kristin also asked about the impact on traffic in that area. Jon stated that exhibit A shows that they are just trying to make the lot line a little cleaner. Kristin asked if the abutters were all notified as this would change their environment. Jon stated that the abutters were not notified but that it was discussed at a public

hearing.

**ARTICLE 18:** (Citizens Petition) – Jon Androlewicz – Zoning Change on Oxford Ave. – **Motion Failed to achieve a 2/3<sup>rd</sup> Majority vote** to amend the Official Dudley Zoning Map, by changing the zoning district from Residential 30 (RES 30) to Light Industrial 87 (LI 87) for the property shown as lot 153B on the Plan entitled “ANR Plan of Land for 153 Oxford Avenue” prepared by DC Engineering and Survey, Inc., dated November 11, 2022 consisting of 11.4522 acres and is on Assessors Map 212-06-001, said Plan is attached as Addendum 1.

Selectman Johnson stated that the Board of Selectmen defer Article 19 to the Water/Sewer Commissioner to make a recommendation to the Town Meeting.

Scott Zajkowski, Water/Sewer Commissioner made a motion that Article 19 be approved as printed in the warrant to borrow the sum of \$185,000.00 for the purposes stated in this article. Motion was seconded.

Scott said this will allow them to assess their assets and aggregate it into one project which includes GIS mapping, etc. with the State contributions through this program it will be a net cost of \$37,000.00 out of the enterprise system.

Gerry Frank, 13 Causeway Shores Rd wanted to know what the in-kind services were. Scott said that the full-time Sewer workers will do some of the leg work etc. GIS mapping.

**ARTICLE 19:** (Water/Sewer Commissioners) - Authorize the Dudley Sewer Asset Management Plan Project – **Approved by a 2/3<sup>rd</sup> Majority vote** to borrow from available funds the sum of \$185,000 for the Dudley Sewer Asset Management Plan Project which is on the Massachusetts 2023 Clean Water State Revolving Fund Asset Management Planning Project List; and to meet this appropriation, the Treasurer with the approval of the Board of Selectmen is authorized to borrow in accordance with General Laws Chapter 44, Sections 7 or 8 or any other enabling authority, and issue bonds or notes therefore under General Laws, Chapter 29C or any other enabling authority, and in connection therewith to enter into a financing agreement and/or security agreement with the Massachusetts Clean Water Trust with respect to such loan, and for any federal or state aid available for the projects or for the financing thereof. Furthermore, to authorize the Board of Selectmen to enter into any project regulatory agreement(s) with the Massachusetts Department of Environmental Protection (MassDEP), as necessary. The total project cost of \$185,000 is comprised of a \$111,000 grant (60% of the total project cost) which the Town will be reimbursed for in two payments of approximately \$55,500 each at approximately the 50% and 100% project completion stage by MassDEP and the

Massachusetts Clean Water Trust. The balance of the project will be comprised of in-kind services provided by Town valued at \$37,000 and a cash contribution from the Sewer Enterprise fund valued at \$37,000; or take any action thereon.

Selectmen Johnson made a motion to accept Article 20 as recommended by the Town Clerk and printed in the town warrant. Motion was seconded.

**ARTICLE 20:** (Town Clerk)- Amend Chapter 255 Section 6 Erosion and Sediment Control Waivers of the bylaws (scrivener error) **Approved by majority vote** to amend Chapter 255 Section 6 due to a scrivener error by deleting the strikethrough and adding the bolded, “If, in the Commission's opinion, additional time or information is required for review of a waiver request, the Commission may continue consideration of the waiver request to a ~~date certain~~ **certain date** announced at the meeting. In the event the applicant refuses a continuance, or fails to provide the requested information, the waiver request shall be denied.”

Selectmen Johnson made a motion to accept Article 21 as recommended by the Town Clerk and as printed in the town warrant. Motion was seconded.

**ARTICLE 21:** (Town Clerk) – Amend Chapter 128 Animals §128-4 -**Approved by majority vote** to amend Chapter 128 Animals §128-4 by deleting the strikethrough and adding the bolded, “All dogs and cats owned by a resident of the Town of Dudley shall be properly vaccinated in accordance with MGL c. 140, § 145B. Unvaccinated dogs and cats acquired or moved into the Town of Dudley shall be vaccinated within 30 days or upon reaching the age of six months, whichever occurs ~~first.~~ **last.**”

Moderator asked for and received unanimous consent to read article 22 and dispense with the reading of the text following.

Selectmen Johnson made a motion to accept Article 22 as recommended by the Town Clerk and as printed in the town warrant. Motion was seconded.

**ARTICLE 22:** – (Town Clerk) – Amend Chapter 203 - Lakes and Ponds – **Approved by majority vote** to amend Chapter 203 - Lakes and Ponds by deleting the strikethrough and adding the underlined,

§203-2. Age limits for operation of motorboat.

**A.** ~~No one under 10 years of age may operate a powerboat.~~ No one under 12 years of age shall operate a motorboat, as defined at General Laws Chapter 90, §1, unless accompanied on-board and directly supervised by a competent person 18 years of age or older. “Motorboat” shall not include a “personal watercraft,” which are subject to all state regulations at 323 CMR 4.00.

**B.** ~~Ages 10 to 13 years may operate a powerboat with an accompanying adult.~~

No person from ages 12 to 16 shall operate a motorboat, unless either (1) accompanied on-board and directly supervised by a competent person 18 years of age or older, or (2) they have satisfactorily completed a training course in boating safety sponsored by the Massachusetts Division of Law Enforcement, the U.S. Coast Guard Auxiliary, or any other safety course approved by the Director of the Division of Law Enforcement. The safety certificate issued by such training course shall be in the possession of such person while operating a motorboat.

~~C. Ages 14 to 15 years may operate a powerboat with a Coast Guard certificate or an accompanying adult.~~

C. Age 16 and up may operate a motorboat in compliance with state regulations at 323 CMR 2.00 and other applicable laws and regulations.

~~D. Age 16 and up may operate a powerboat with no other requirement.~~

D. Personal watercraft shall not be operated, (1) by any person under the age of 16, (2) by persons 16 or 17 years of age unless such person has completed a state approved boating safety education course and has such safety certification in possession at the time of operation, (3) unless the operator is 18 years of age or older.

E. Personal Watercraft shall be operated in compliance with 323 CMR 2.00, 323 CMR 4.00 and all other applicable laws and regulations.

### **§ 203-3. Speed limits.**

~~A. When operating a powerboat within 50 feet of shore minimum throttle setting (idle speed) is to be used.~~

Motorboats and personal watercraft are prohibited from operating from any shoreline being used as a swimming area out to a distance of 150 feet.

~~B. When operating a powerboat~~ motorboat or personal watercraft ~~from~~ within 50 feet ~~(to shore)~~ of shore ~~not used as a swimming area; to 100 feet (to shore)~~ speed shall be limited to 15 miles per hour within 150 feet of a swimmer; 150 feet offshore to within 300 feet of a shoreline being used as a swimming area; or within 150 feet of a marina or boat launch, minimum throttle setting (idle speed or headway speed, not to exceed six miles per hour) must be used.

~~C. When operating a powerboat in excess of 100 feet (to shore) speed shall be limited to 40 miles per hour.~~ No vessel shall be operated at a speed greater than 45 miles per hour.

Selectman Johnson stated that the Board of Selectmen defer Article 23 to the



Petitioner, Paul Filo.

Paul Filo stated that he would like to pass over this article for further information.  
Motion was made and seconded.

The Moderator stated that this article contradicts the tax law, in chapter 59.

**ARTICLE 23** – (Citizens Petition) – Paul Filo – **Passed over by Majority vote** -  
Elderly in Town need a reward for making this town what it is. Must receive a 50%  
reduction in real estate taxes, person must live in town 50 years and be 70 years  
old.

Jason Johnson, Board of Selectmen, made a motion to adjourn at 10:40 pm. Motion was seconded.  
Motion to adjourn was approved by unanimous vote.

Brought to order at 7:15 p.m.  
Adjourned at 10:40 p.m.  
Voters Present: 267  
Action Taken on Articles 1-23

A True Copy,



Attest:  
Lori A. Smith, Dudley Town Clerk