

TOWN OF DUDLEY WARRANT
Fall 2024 SPECIAL TOWN MEETING WARRANT
COMMONWEALTH OF MASSACHUSETTS

Commonwealth of Massachusetts

Worcester, ss

To either of the Constables of the Town of Dudley, in said County, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Dudley, qualified to vote in elections and town affairs, to meet in the Connie Vanco-Galli Auditorium at the Shepherd Hill Regional High School, 68 Dudley Oxford Road, in said Dudley on Monday, October 21, 2024 and if needed, Tuesday, October 22, 2024 at 7:00 P.M. then and there to take action on the following articles:

ARTICLE 1: (Board of Selectmen) HEAR COMMITTEE RECOMMENDATIONS To see if the Town will vote to hear and act on the recommendations of the Board of Selectmen and the Finance, Appropriation and Advisory Committee or take any other action relative thereto.

ARTICLE 2: (Board of Selectmen) FY 2025 AMENDED BUDGET To see if the Town will vote to determine the sums of money the Town will raise and appropriate, borrow, or transfer from available funds to defray the charges and expenses of the Town and provide for a reserve fund (s), determining the compensation for elected offices and including debt and interest for the fiscal year beginning on July 1, 2025, or take any other action relative thereto.

TOWN OF DUDLEY
BOTTOM LINE BUDGET - FISCAL 2025

GENERAL FUND	5/20/24 ATM FY25 VOTED BUDGET	SUPPLEMENTAL BUDGET STM 10/21/24	SOURCE OF FUNDING	10/21/2024 ADJUSTED FY25 BUDGET
MODERATOR	0			0
SELECTMEN	12,101			12,101
ADMINISTRATION	562,804	\$ 13,176.80	0001-145-5910-0000/0001-145-5915-0000	575,981
F.A.A.C.	20,000	\$ 5,000.00	0001-145-5910-0000/0001-145-5915-0000	25,000
TOWN ACCOUNTANT	134,890	\$ 1,400.00	0001-145-5910-0000/0001-145-5915-0000	136,290
INFO TECH EXPENSES	93,146	\$ 6,000.00	0001-145-5910-0000/0001-145-5915-0000	99,146
BOARD OF ASSESSORS	196,947	\$ 1,100.00	0001-145-5910-0000/0001-145-5915-0000	198,047
TOWN TREASURER	4,165,852	\$ (74,604.00)	0001-145-5910-0000/0001-145-5915-0000	4,091,248
MUNICIPAL EXPENSES	227,503	\$ 58,498.52	Free Cash/0001-145-5910-0000/0001-145-5915-0000	286,002
TOWN CLERK	192,569			192,569
CONSERVATION COMM.	777			777
PLANNING BOARD	50,570			50,570
ZONING BOARD	0			0
POLICE DEPARTMENT	1,878,987			1,878,987
FIRE DEPARTMENT	1,513,077			1,513,077
BOARD OF HEALTH	88,701			88,701
BUILDING INSPECTOR	42,665			42,665
HIGHWAY DEPARTMENT	787,802			787,802
RECYCLING CENTER	174,000			174,000
COUNCIL ON AGING	0			0
VETERANS SERV.	201,053			201,053
LIBRARY	390,935	\$ 9,500.00	0001-145-5910-0000/0001-145-5915-0000	400,435
TOTAL GENERAL FUND:	10,734,379	20,071.32		10,754,450
SCHOOLS				
D-C REGIONAL	12,240,879			12,240,879
BAY PATH	1,172,948			1,172,948
TOTAL SCHOOLS	13,413,827			13,413,827
TOTAL GF + SCHOOLS:	24,148,206			24,168,277
STATE ASSESSMENTS (from Cherry Sheet)	53,746			53,746
Sub Total:	24,201,952			24,222,023
ENTERPRISE FUNDS				
SEWER FUND (0060)	1,883,553			1,883,553
WATER DEPARTMENT (0061)	2,932,540			2,932,540
TOTALS	4,816,094			4,816,094
TOTAL TOWN BUDGET WITH STATE ASSESSMENTS (includes Enterprise):	29,018,045			29,038,116
TOTAL TOWN BUDGET W/O STATE ASSESSMENTS:	28,964,299			28,984,370
Town Budget with St. Assmnts	29,018,045			29,038,116
Cherry sheet offsets	34,328			34,328
Overlay	120,000			120,000
TOTAL BUDGET	29,172,373			29,192,444
OVERVIEW SHEET: EXPENSES without State Assessments:	28,964,299			28,984,370
STATE ASSESSMENTS	53,746			53,746
OVERLAY	120,000			120,000
Cherry sheet offsets	34,328			34,328
Total on Overview Sheet:	29,172,373			29,192,444

ARTICLE 3: (Treasurer/Collector/Town Administrator/Veterans Agent) UNPAID BILLS OF PRIOR FISCAL YEAR- To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds the sum of Three Thousand Five Hundred Eight Dollars And Eighteen Cents (\$3,508.18) from Free Cash to pay unpaid bills of a prior fiscal year, or take any other action relative thereto.

Webco:	\$270.00
Boston Mutual Life Group Billing:	\$1106.50
KP Law:	\$1,061.00
KP Law:	\$360.00

Staples: \$69.98
Staples: \$133.47
Stonebridge Press: \$432.00
W.B. Mason \$75.23

9/10th vote.

ARTICLE 4: (Town Administrator) – ESTABLISH COMPENSATED ABSENCES RESERVE - To see if the Town will vote to accept the provisions of MGL c 40, §13D establishing a Reserve Fund, hereby known as “Compensated Absences Reserve” for the future payment of accrued liabilities due any employee or full-time officer of the Town of Dudley whose salary is derived from the General Fund Appropriation upon the termination of the employee's or full-time officer's employment or take any other action relative thereto.

ARTICLE 5: (Board of Selectmen) – FUND COMPENSATED ABSENCES RESERVE - To see if the Town will vote contingent upon the passage of Article 4 in the 2024 October 21, 2024 Special Town Meeting Warrant, to transfer the amount of Fifty-Five Thousand Dollars (\$55,000) from Free Cash into the Compensated Absences Reserve, or take any other action relative thereto.

ARTICLE 6: (Board of Assessors) - CYCLICAL INSPECTIONS - To see if the Town will vote to appropriate from Free Cash a sum of Fifteen Thousand Dollars (\$15,000) 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.

ARTICLE 7: (Recreation Commission) – PLAYGROUND GRANT - To see if the Town of Dudley will vote to borrow the sum of Seven Hundred Four Thousand, Four Hundred and Ten Dollars (\$704,410), or other such sum, to make repairs and expand the usable area of the upper fields located at Richard Carmignani Sr. Memorial Playground, including any incidental and related costs, with the exact boundaries thereof to be determined, and to dedicate such land for active recreational purposes under M.G.L. Chapter 45, Section 14, and to meet such appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow such sum under 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 for that purpose, and to authorize the Board of Selectmen to submit on behalf of the Town of Dudley applications for any and all grants deemed available and/or necessary under the Urban Self-Help Act (301 CMR 5.00) or otherwise; and further, to authorize the Board of Selectmen to enter into any and all agreements and execute any and all instruments as may be necessary or appropriate on behalf of the town to affect said project, or take any other action relative thereto.

2/3rd vote.

ARTICLE 8: (Board of Selectmen/FAA) – MITIGATION, ENGINEERING & DESIGN - To see if the Town will vote to borrow the sum of Nine Hundred Twenty-Six Thousand and Zero Cents (\$926,000.00), or other such sum, to provide funding for the scope/design and engineering associated with providing a permanent solution to contaminated private wells within the Eagle Drive/Fairview Avenue and surrounding neighborhood, including mitigation costs and capped landfill testing and monitoring required (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 or take any other action relative thereto.

2/3rd vote.

ARTICLE 9: (Water Department) – TRANSFER FROM RETAINED EARNINGS - To see if the Town will vote to Transfer \$100,000 from Water Department Retained Earnings Acct# 0061 000 3590 0001 to the following accounts, \$40,000 to Water Overtime Acct # 0061-450-5130-0000, \$28,000 to Water Standby Acct# 0061-450-5117-0000, \$12,000 to Water Primary Operator Acct # 0061-450-5111-0000, \$10,000 to Secondary Water Operator Acct # 0061-450-5155-0000 and \$10,000 to Water Operator Acct # 0061-450-5116-0000.

ARTICLE 10: (Board of Selectmen)- ST. ANTHONY ROAD ACCEPTANCE - To see if the Town will vote to accept the layout of St. Anthony Road as a public town way, as laid out by the Board of Selectman and shown on a layout plan entitled "St. Anthony Road, Dudley, Massachusetts," dated June 27, 2024, prepared by B&R Survey, Inc, and marked "Attachment A" and provided as a supplement to this Warrant, as may be amended, 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 and/or over said roadway and/or such other access, utility, drainage, or other easements incidental or related thereto, for all purposes for which public ways are used in the Town of Dudley, or take any other action relative thereto.

2/3rd vote

ARTICLE 11: (Police Department) – ANIMAL BYLAW - To see if the Town will vote to amend Chapter 128 of Town Bylaws, Sections 128-3(H) and 128-11(C)(5) relative to animal control, by deleting language shown as stricken through, below, and adding the bolded language shown below in the text (no changes to section titles), or take any other action relative thereto:

§ 128-3 Dog and kennel licenses; vaccination requirements.

D.

Kennel.

(1)

Any owner or keeper of more than four dogs or four cats must acquire a personal kennel license and is subject to the Dudley Zoning Bylaws.

(2)

All kennels must be fully licensed pursuant to the provisions of MGL c. 140 and subject to Dudley's Zoning Bylaws.

(3)

All kennels shall be available to inspection by the Animal Control Officer, a natural resource officer, fish and game warden, police officer or the Board of Health.

E.

Vaccination. All dogs six months of age or older must be currently vaccinated against rabies as per MGL c. 140, § 145B.

F.

Fees. The annual fee for every animal license or kennel license shall be as follows:

(1)

Establishing fees. The Board of Selectmen, at its discretion, on or before September 30 of the preceding calendar year, may review and establish animal control fees pursuant to this article of the General Bylaws.

(2)

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

(3)

No fee shall be charged for a license for a K-9 law enforcement dog or a service animal as defined in § **128-1** of this bylaw. The individual who is responsible for a K-9 law enforcement dog must provide a written statement from the law enforcement unit stating that the dog is actively working. The owner of a service animal must show written evidence that the animal is a service dog.

(4)

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

(5)

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

G.

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

H.

Failure to license. Should any owner or keeper of an animal fail to license that animal as required under MGL c. 140 before April 1, the owner or keeper shall pay a late fee established by the Board of Selectmen before obtaining said license, except a dog brought into the Town as provided by MGL c. 140, § 138. This late fee shall be applicable from the 61st day after the arrival of such dog. Any person maintaining a kennel in the Town of Dudley who fails to license as prescribed by this section and the laws of the Commonwealth shall pay a late fee established by the Board of Selectmen commencing April 1. Any owner or keeper of a dog failing to license by June 15 in any year shall be subject to a fine of ~~\$25~~ **\$50** per dog. Any person maintaining a kennel who fails to license by June 15 in any year shall be subject to a fine of ~~\$75~~ **\$500-first offense and \$1,000 second as per MGL c. 140, § 137A**, upon the complaint of the Animal Control Officer or Town Clerk. All late fees and fines are in addition to the license fee upon the complaint of the Animal Control Officer or Town Clerk.

I.

Unpaid fees. In addition to all other sums due and owing for any license fee hereunder, a person who applies for a license hereunder shall be obligated to pay all prior amounts of license fees and late fines determined to be due and owing by the Town Clerk pursuant to this bylaw, for past periods in which said person was obligated to obtain a license. It shall be a violation of this bylaw to fail to pay any said sum due hereunder; this remedy shall be cumulative.

§ 128-11 Enforcement; violations and penalties.

A.

The Animal Control Officer(s) duly appointed or, in their absence, police officers shall enforce the provisions of this Animal Control Bylaw, and shall attend to all complaints or other matters pertaining to animals in the Town of Dudley.

B.

Notwithstanding any provisions of the General Laws to the contrary, any person(s) shall be punished by a fine not less than \$100 nor more than \$300 who:

(1)

Refuses to answer or answers falsely questions of an Animal Control Officer or a police officer pertaining to his/her ownership of an animal;

(2)

Is found guilty of cruelty to animals which shall include but not be limited to confining an animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a

prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, the Animal Control Officer or law enforcement officer who has probable cause to believe that this subsection is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or person;

(3)

Refuses to turn over any animal to the Animal Control Officer upon demand as authorized by §§ 128-6 and 128-7 of this bylaw; or

(4)

Violates a Selectmen's order.

C.

Any owner or keeper who violates the provisions of this bylaw; or is the owner/keeper of any animal who shall be found by the Animal Control Officer to have defecated on private property other than that of its owner/keeper, or on public property without proper disposal and removal; or is the owner/keeper of any animal who intentionally allows any such animal to cause a nuisance by barking, howling or otherwise disturbing another person's right to peace; or is the owner/keeper of an animal found to have bitten or injured any person, dog or other animal may be penalized by noncriminal disposition as provided in MGL c. 40, § 21D, and shall be punished by the imposition of fines as follows:

(1)

A fine of \$50 for the first offense.

(2)

A fine of \$75 for the second offense.

(3)

A fine of \$100 for the third offense and each subsequent offense.

(4)

Failure to obtain dog license will be subject to a fine of \$50 per dog.

(5)

Fines not to exceed \$500 in a licensing year.

D.

Heat season. The owner of any unspayed female or unneutered male unleashed dog found by the Animal Control Officer roaming at large in heat season off the premises of the owner or keeper shall be subject to a fine of \$50.

E.

Where applicable, each day shall constitute a separate offense.

ARTICLE 12: (Police Department) – SOLICITORS BYLAW - To see if Town will vote to amend the following general bylaw, adopted under Article 16 of the May 20, 2024 Annual Town Meeting, in accordance with guidance from the Attorney General’s Office, with revisions shown in boldfaced type or as stricken through, below, or take any other action relative thereto:

Chapter XX-Section -101.7.

*Hours of Operation. It shall be unlawful for any person to peddle or solicit before the hour of 8:30 A.M. of any day, or after the hour of ~~7:30~~ **9:00** P.M. of any day except by appointment.*

Chapter XX-Section -101.11.

Penalties for Violations. Every person violating any provision of this Bylaw ~~is guilty of a misdemeanor and shall be punished by a fine. Every violator of any provision of this By-law shall be guilty of a separate offense for every day such violation shall continue and shall be subject to the penalty imposed by this section for each and every separate offense. This by-law may be enforced through non-criminal disposition in accordance with G.L. c.40, §21D and Chapter XX-Section-102.10 of the By-laws.~~

ARTICLE 13: (Board of Selectmen/Highway Commissioners) – STORMWATER COMMITTEE– To see if the Town will vote to amend the Town’s General Bylaws, Chapter 254, with language deleted shown as stricken through and language added shown in bold face type, to bring the bylaw into compliance with federal requirements in accordance with the 2003 Municipal Storm Water Sewer System (MS4) Permit, and to create a new enforcement authority known as the “Stormwater Committee,”

and further, to vote that the Town may impose a lien upon real property for unpaid costs of abatement required hereunder, including administrative costs, in accordance with G.L. c. 40, §58, or take any other action relative thereto.

ARTICLE I - PROHIBITION OF ILLICIT DISCHARGES TO THE STORM DRAIN SYSTEM

SECTION 1. PURPOSE

Increased volumes and contamination of storm water lead to impaired water quality and flow in lakes, streams, rivers, wetlands, and groundwater; contamination of drinking water supplies; alteration or destruction of wildlife habitat; and flooding.

The purpose of this bylaw is to safeguard the environment and the health and general welfare of the citizens of the Town of Dudley through the regulation of illicit connections and illicit discharges to the municipal separate storm sewer system (MS4). The objectives of this bylaw are:

- (1) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this bylaw;
- (2) To comply with state and federal statutes and regulations related to storm water discharges;
- (3) To prevent pollutants from entering the MS4 by storm water discharges;
- (4) To prohibit illicit connections and discharges to the MS4 and;
- (5) To require the removal of such illicit connections.

SECTION 2. DEFINITIONS

For the purposes of this bylaw, the following terms shall mean:

- A. Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- B. Clean Water Act: The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- C. Construction Activity: Activities subject to NPDES Construction Permits that result in a land disturbance of greater than or equal to one acre. This shall also include disturbances less than one acre if that disturbance is part of a larger common plan of development or sale that would disturb one or more acres. This would include any land disturbance resulting from but not limited to, clearing and grubbing, grading, excavating, and demolition.
- D. Hazardous Materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may

cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

E. **Illegal Discharge:** Any direct or indirect non-storm water discharge to the MS4, except as exempted in Section 8 of this bylaw.

F. **Illicit Connections:** A surface or subsurface drain or conveyance which allows an illicit discharge into the MS4, including, but not limited to, sewage, process wastewater or wash water, and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

G. **Industrial Activity:** Activities and facilities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

H. **MS4:** Municipal Separate Storm Sewer Systems, also known as the municipal storm drain system.

I. **National Pollutant Discharge Elimination System (NPDES) Storm water Discharge Permit:** A permit issued by U.S. Environmental Protection Agency or jointly with the State of Massachusetts under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States.

J. **Non-Storm water Discharge:** Any discharge to the MS4 that is not composed entirely of storm water.

K. **Person:** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

L. **Pollutant:** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to:

- a. Paints, varnishes, and solvents;
- b. Oil, gasoline, and other automotive fluids;
- c. Non-hazardous liquid and solid wastes` and yard wastes;
- d. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, bylaws, and accumulations;
- e. Floatables;
- f. Pesticides, herbicides, and fertilizers;
- g. Hazardous substances and wastes;
- h. Sewage, fecal coliform and pathogens;

- i. Dissolved and particulate metals;
- j. Animal wastes;
- k. Wastes and residues that result from constructing a building or structure;
- l. Noxious or offensive matter of any kind.
- M. Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- N. Process Wastewater: Water that comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product in manufacturing or processing.
- O. Storm Drainage System: Publicly-owned facilities by which storm water is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- P. Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- Q. **Stormwater Committee: A Committee of the Town of Dudley consisting of its following employees: Town Planner, Public Health Agent, Highway Superintendent, Water/Sewer Superintendent, Building Commissioner.**
- R. Storm water Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm water, Storm water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
- S. Violator: Any person who has been issued a notice of violation of this bylaw.

- T. **Wastewater:** Any water or other liquid, other than uncontaminated storm water, discharged from a facility.
- U. **Watercourse:** A manmade or natural channel through which water flows, such as a river, brook, or underground stream.
- V. **Waters of the Commonwealth:** All waters within the jurisdiction of the Commonwealth, including without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal rivers, and groundwater.

SECTION 3. APPLICABILITY

This bylaw shall apply to all water entering the municipal storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by the ~~Planning Board~~ **Stormwater Committee**. The provisions in this bylaw shall take precedence over any conflicting provisions from previous bylaws.

SECTION 4. AUTHORITY

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act and pursuant to the regulations set forth in the federal Clean Water Act found at 40 CFR 122.34.

SECTION 5. RESPONSIBILITY FOR ADMINISTRATION AND ENFORCEMENT

The ~~Conservation Commission~~ **Stormwater Committee** shall administer, implement, and enforce the provisions of this bylaw. The ~~Chairman of the Conservation Commission~~ **Stormwater Committee by recorded vote** may delegate, in writing, any powers granted or duties of the ~~Conservation Commission~~ **Stormwater Committee** to its employees or agents.

SECTION 6. PROHIBITED ACTIVITIES

- A. **Prohibition of Illegal Discharges.**

No person shall discharge or cause to be discharged into the MS4 or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants set forth in this bylaw.

B. Prohibition of Illicit Connections.

No person shall construct, maintain, use, or allow the continued existence of illicit connections to the MS4, regardless of whether the illicit connection was permissible under law, regulation, or custom at the time of connection.

C. Obstruction of MS4.

No person shall obstruct or interfere with the normal flow of storm water into or out of the MS4 without prior written approval from the ~~Conservation Commission~~ **Stormwater Committee**.

SECTION 7. EXEMPTIONS

The following discharges are exempt from discharge prohibitions established by this bylaw, unless the discharge is determined by the ~~Conservation Commission~~ **Stormwater Committee**, or the United States Environmental Protection Agency (USEPA) to be a significant contributor of a pollutant to the MS4, in which case the following discharges may be subject to the terms of this bylaw:

- A. Water line and hydrant flushing;
- B. Flow from potable water sources;
- C. Flow from landscape irrigation or lawn watering;
- D. Wastewater from non-commercial washing of vehicles;
- E. Flow resulting from firefighting activities;
- F. Dechlorinated water from swimming pools (if dechlorinated to less than one part per million chlorine);
- G. Uncontaminated water originating from residential pumping including air conditioning condensation and water from exterior fountain or footing drains (not including active groundwater dewatering systems);
- H. Diverted stream flows, rising ground water, ground water infiltration to storm drains, springs, or natural flow from riparian habitats or wetlands;
- I. Dye testing, given a verbal notification to the ~~Conservation Commission~~ **Stormwater Committee** prior to the time of testing;

- J. Discharges specified in writing by the ~~Conservation Commission~~ **Stormwater Committee** as being necessary to protect public health and safety; and
- K. Any non-storm water discharge that is permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

SECTION 8. SUSPENSION OF MUNICIPAL STORM DRAIN SYSTEM ACCESS

- D. Suspension Due to Illicit Discharges in Emergency Situations.

The ~~Conservation Commission~~ **Stormwater Committee** may, without prior notice, suspend MS4 discharge access to a person if it is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the Commonwealth. If the person fails to comply with a suspension order issued in an emergency, the ~~Conservation Commission~~ **Stormwater Committee** may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the Commonwealth or to minimize danger to persons.

- E. Suspension Due to the Detection of Illicit Discharge.

Any person discharging to the MS4 in violation of this bylaw may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The ~~Conservation Commission~~ **Stormwater Committee** will notify a violator of the proposed termination of its MS4 access. The person may petition the ~~Conservation Commission~~ **Stormwater Committee** for a reconsideration and hearing.

SECTION 9. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the ~~Conservation Commission~~ **Stormwater Committee** prior to the allowing of discharges to the MS4.

SECTION 10. MONITORING OF DISCHARGES

A. Applicability.

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

B. Access to Facilities.

- 1) The ~~Conservation Commission~~ **Stormwater Committee, or its Agent** may request to enter and inspect facilities subject to regulation under this bylaw as often as may be necessary to determine compliance with this bylaw. If a discharger has security measures in place which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the ~~Conservation Commission~~ **Stormwater Committee**.

- 2) Facility operators shall allow the ~~Conservation Commission~~ **Stormwater Committee, or its Agent** ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

- 3) The ~~Conservation Commission~~ **Stormwater Committee** shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the ~~Conservation Commission~~ **Stormwater Committee** to conduct monitoring and/or sampling of the facility's storm water discharge.

- 4) The ~~Conservation Commission~~ **Stormwater Committee** has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

- 5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the ~~Conservation Commission~~ **Stormwater Committee** and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6). Unreasonable delays in allowing the ~~Conservation Commission~~ **Stormwater Committee, or its Agent** access to a permitted facility is a violation of a storm water discharge permit and of this bylaw. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the ~~Conservation Commission~~ **Stormwater Committee, or its Agent** reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this bylaw.

7) If the ~~Conservation Commission~~ **Stormwater Committee, or its Agent** has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this bylaw, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this bylaw, or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the ~~Conservation Commission~~ **Stormwater Committee** may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

The ~~Conservation Commission~~ **Stormwater Committee** will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the MS4, or waters of the Commonwealth. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

SECTION 12. WATERCOURSE PROTECTION

Every person owning property through which a watercourse passes, or such person's lessee, shall not place trash, debris, yard waste, vegetation, or other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall

maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

SECTION 13. NOTIFICATION OF SPILLS

Notwithstanding other requirements of local, state, or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the MS4, or waters of the Commonwealth, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release in accordance with this bylaw and any regulations promulgated pursuant to this bylaw. In the event of release of hazardous materials from the sanitary sewer, said person shall immediately notify the Board of Health. In the event of release of any other hazardous material, said person shall immediately notify the Fire Department who shall then notify the ~~Conservation Commission~~ **Stormwater Committee**. In the event of a release of non-hazardous materials, the said person shall notify the ~~Conservation Commission~~ **Stormwater Committee** no later than the next business day. Notification of a release to the ~~Conservation Commission~~ **Stormwater Committee** shall include all pertinent information regarding the release, including proof of notification to the Massachusetts Department of Environmental Protection, if such notification was required.

SECTION 14. ENFORCEMENT

A. Authorized Agent.

The ~~Conservation Commission~~ **Stormwater Committee** and its authorized agent shall enforce the provisions of this bylaw, issue and prosecute violation notices and enforcement orders, and may pursue all criminal and civil remedies for such violations.

B. Orders.

Whenever the ~~Conservation Commission~~ **Stormwater Committee**, or its authorized agent finds that a person has violated a prohibition or failed to meet a requirement of this bylaw, it may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- 1) The performance of monitoring, analyses, and reporting;
- 2) The elimination of illicit connections or discharges;

- 3) That violating discharges, practices, or operations shall cease and desist;
- 4) The abatement or remediation of storm water pollution of contamination hazards and the restoration of any affected property; and
- 5) Payment of a fine to cover administrative and remediation costs; and
- 6) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. If elimination of illicit connections or discharges is required as abatement, such elimination must be completed within sixty (60) days from the identification of the illicit connection or discharge. The ~~Conservation Commission~~ **Stormwater Committee** may, for good cause, extend the time for compliance after written request. If an extension beyond 60 days is necessary, the violator must submit to the ~~Conservation Commission~~ **Stormwater Committee** a written schedule for expeditious elimination of the illicit discharge at least ten (10) days prior to the 60-day deadline. The violator shall provide a monthly progress report to the ~~Conservation Commission~~ **Stormwater Committee** summarizing the status of the elimination schedule. In the interim period, the violator may be required to take reasonable and prudent measures to minimize the discharge of pollutants to and from the MS4.

Should the violator fail to remediate or restore within a timeframe deemed reasonable by the ~~Conservation Commission~~ **Stormwater Committee** the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Within thirty (30) days after abatement of the violation, the violator will be notified of the cost of abatement, including administrative costs. The violator may file a written protest objecting to the amount of the assessment within thirty (30) days of receipt of the notification of costs incurred. If the amount due is not paid within a timely manner, as determined by the decision of the ~~Conservation Commission~~ **Stormwater Committee** or its designated agent, or by the expiration of the time in which to file an appeal, the ~~Conservation Commission~~ **Stormwater Committee** may impose a municipal charges lien on the property pursuant to Massachusetts General Laws Chapter 40, Section 58.

C. Appeals.

The decisions or orders of the ~~Conservation Commission~~ **Stormwater Committee** or its designated agent shall be final. Further relief shall be to a court of competent jurisdiction.

D. Civil Relief.

If a person has violated or continues to violate the provisions of this bylaw, the ~~Conservation Commission~~ **Stormwater Committee** may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

E. Criminal Penalty.

Any person that has violated or continues to violate this bylaw shall be fined \$300 per offense, the maximum allowable penalty under the Massachusetts General Laws, Chapter 40, Section 21. Each day such violation continues shall constitute a separate offense.

F. Non-Criminal Disposition.

In lieu of enforcement proceedings, penalties, and remedies authorized by this bylaw, the ~~Conservation Commission~~ **Stormwater Committee** may elect to use the non-criminal disposition procedure set forth in Massachusetts General Laws, Chapter 40, Section 21D, and the Town's General Bylaws. The penalty shall be \$300 per offense, with each day a violation continues constituting a separate offense.

G. Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this bylaw is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

H. Remedies Not Exclusive.

The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the ~~Conservation Commission~~ **Stormwater Committee** to seek cumulative remedies.

SECTION 15. SEVERABILITY

The provisions of this bylaw are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

SECTION 16. REGULATIONS

The ~~Conservation Commission~~ **Stormwater Committee** or selected designee may promulgate after due notice and public hearing Rules and Regulations to effectuate the purposes of this bylaw. Failure by the

~~Conservation Commission~~ **Stormwater Committee** or selected designee to promulgate such Rules and Regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

SECTION 17. TRANSITIONAL PROVISIONS

Property owners shall have sixty (60) days from the effective date of the bylaw to comply with its provisions or petition the ~~Conservation Commission~~ **Stormwater Committee** for an extension.

ARTICLE II CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT

Section 1. Purpose and Objectives

- A. **The purpose of this Bylaw is to establish minimum stormwater management requirements and procedures in order to minimize damage to public and private property and infrastructure; safeguard the public health, safety, environment and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and foster climate change resiliency.**
- B. **This Bylaw seeks to meet that purpose through the following objectives:**
 1. **Establish the Town of Dudley Stormwater Committee as the legal authority to ensure compliance with the provisions of this Bylaw and its accompanying Stormwater Management Rules and Regulations through a review process, inspections, monitoring, and enforcement.**

2. Establish administrative procedures for: the submission, review, and approval or disapproval of Stormwater Management Permits; the inspection of approved active projects; and post- construction monitoring.
3. Establish decision-making processes surrounding new development and redevelopment that protect watershed integrity and preserve and/or restore the health of local water resources such as lakes, ponds, streams, rivers, wetlands, and groundwater.
4. Ensure compliance with requirements of the United States Environmental Protection Agency (EPA), National Pollutant Discharge Elimination System (NPDES), General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and other applicable state and federal mandates.

Section 2. Definitions

For the purposes of this Bylaw, the following shall mean:

- A. **AGRICULTURAL USE:** The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act, MGL Chapter 131, § 40, and its implementing regulations.
- B. **APPLICANT:** Any person, individual, partnership, association, firm, company, corporation, trust, or authority, agency, department, or political subdivision of the Commonwealth of Massachusetts or the federal government to the extent permitted by law requesting a Stormwater Management Permit for proposed land disturbance activity.
- C. **BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps reduce the quantity or improve the quality of stormwater runoff.
- D. **CERTIFICATE OF COMPLETION:** Document issued by the Stormwater Committee, its employees, or authorized agents upon receipt of a final inspection report and acknowledgement that all conditions of the Stormwater Management Permit have been satisfactorily completed.
- E. **CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC):** A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.
- F. **DISTURBANCE OF LAND:** Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material including but not limited to clearing and grading.
- G. **ENFORCEMENT ORDER:** A written order issued by the Stormwater Committee or its designee to enforce the provisions of this Bylaw.
- H. **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN**

SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.

- I. **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT:** A permit issued by the EPA or jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to waters of the United States.
- J. **NEW DEVELOPMENT:** Any construction, land alteration, or addition of impervious surfaces on previously undeveloped sites resulting in a Disturbance of Land equal to or greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of Redevelopment.
- K. **OWNER:** A person with a legal or equitable interest in property.
- L. **PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
- M. **PROFESSIONAL ENGINEER (P.E.):** A registered Professional Engineer within the Commonwealth of Massachusetts in good standing.
- N. **REDEVELOPMENT:** Development, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the impervious area on previously developed sites. Any construction, land alteration, or improvement of impervious surfaces resulting in a Disturbance of Land equal to or greater than 1 acre (or activities that are part of a larger common plan of redevelopment disturbing greater than 1 acre) that does not meet the definition of New Development.
- O. **STORMWATER:** Stormwater runoff, snow melt runoff, and surface water runoff and drainage.
- P. **STORMWATER COMMITTEE:** A Committee of the Town of Dudley consisting of its following employees: Agent of the Conservation Commission (Ex-Officio), Town Planner, Public Health Agent, Highway Superintendent, Water/Sewer Superintendent, Building Commissioner.
- Q. **STORMWATER MANAGEMENT PERMIT:** The written approval granted by the Stormwater Committee to undertake a construction activity pursuant to a Stormwater Management Permit Application. A valid Stormwater Management Permit must be signed by a majority of the Stormwater Committee participating at a duly noticed public hearing, and such permit must be recorded at the Worcester County Registry of Deeds, prior to the start of any work.

- R. **WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth of Massachusetts including without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools.
- S. **WETLAND RESOURCE AREAS:** Areas specified in the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.00, as amended, or in the Town of Dudley Wetlands Protection Bylaw, as amended.

Section 3. Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the Regulations of the federal Clean Water Act found at 40 CFR 122.34.

Section 4. Administration

- A. The Stormwater Committee shall be the Permit Granting Authority (PGA) for this Bylaw. Any powers granted to, or duties imposed upon the Stormwater Committee may be delegated by the Stormwater Committee to any Town employee, board, commission, committee or agent, hereby known as the "Reviewing Agent."
- B. The Stormwater Committee shall not have jurisdiction over stormwater issues within areas where the Conservation Commission has jurisdiction under the Wetlands Protection Act, the Town's Wetlands Protection Bylaw.
- C. The Stormwater Committee or its Reviewing Agent shall take any of the following actions as a result of an application for a Stormwater Management Permit as specifically defined within the Stormwater Management Rules and Regulations promulgated as a result of this Bylaw: Approval, Approval with Conditions, or Disapproval.
- D. A decision of the Stormwater Committee or its Reviewing Agent shall be final. Further relief of a decision by the Stormwater Committee or its Reviewing Agent made under this Bylaw may be sought in a court of competent jurisdiction in accordance with MGL Chapter 249 §4.

Section 5. Amendments and Regulations

The Stormwater Committee may adopt, and periodically amend, the Stormwater Management Rules and Regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Bylaw by majority vote of the Stormwater Committee, after conducting an advertised public hearing to receive comments on any proposed revisions. The hearings shall be duly advertised in a paper of general circulation in the Town of Dudley no less than fourteen (14) days prior to the date of the public hearing. Failure by the Stormwater Committee to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

Section 6. Applicability and Exemptions

- A. No person may undertake a construction activity, including clearing, grading, or excavation that results in a Disturbance of Land to an area equal to or greater than one (1) acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb an area equal to or greater than one (1) acre of land within the Town without first obtaining a Stormwater Management Permit issued by the Stormwater Committee.**
- B. Exemptions:**
- 1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04, as amended;**
 - 2. Removal of native plants, invasive growth, or other vegetation by methods that do not disturb underlying soils or ground conditions;**
 - 3. Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling;**
 - 4. The construction of fencing that will not substantially alter existing terrain or drainage patterns;**
 - 5. Normal maintenance and improvements of the Town's publicly owned roadways and associated drainage infrastructure;**
 - 6. Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by a Town department or board;**
 - 7. Projects that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Handbook, the Town's Wetlands Protection Bylaw and with the stormwater management performance standards of this bylaw as reflected in an Order of Conditions issued by the Conservation Commission; and**
 - 8. Incidental disturbance of ground cover related to project construction as a result of construction access, placement of erosion controls, vegetation clearing that does not disturb soils, or similar activity, does not count towards the one (1) acre of land disturbance under this bylaw.**

Section 7. Enforcement

- A. The Stormwater Committee, or an authorized agent of the Stormwater Committee, shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.**
- B. The Stormwater Committee may issue a written order to enforce the provisions of this Bylaw, which may include requirements to:**
- 1. Cease and desist from construction or land disturbing activity until there is compliance with this Bylaw and the Stormwater Management Permit;**
 - 2. Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;**
 - 3. Maintain, install, or perform additional erosion and sediment control measures;**
 - 4. Perform monitoring, analyses, and reporting;**
 - 5. Remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system or erosion and sediment control system;**

6. Cease and desist from unlawful discharges, practices, or operations; and/or,
 7. Remediate contamination in connection therewith.
- C. If the Stormwater Committee determines that abatement or remediation of adverse impacts is required, the Enforcement Order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, with the approval of a court of competent jurisdiction, undertake such work, and the property owner shall reimburse the Town's expense.
- D. Within thirty (30) days after completing all measures necessary to abate the violation, the violator and the property owner shall be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Stormwater Committee within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Stormwater Committee affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL Chapter 59, § 57, after the thirty-first day at which the costs first become due.

Section 8. Entry to Perform Duties Under this Bylaw

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Stormwater Committee or its agents may enter upon privately owned property for the purpose of performing their duties under this Bylaw and regulations and may make or cause to be made such examinations, surveys, or sampling as the Stormwater Committee or agent deems reasonably necessary.

Section 9. Waivers and Provisions for Relief

A. The Stormwater Committee may waive strict compliance with any requirement of this Bylaw promulgated hereunder, where:

1. Such action is allowed by federal, state and local statutes and/or regulations,

ARTICLE 14: (CITIZEN PETITION) - To see if the Town will vote to amend the Dudley General Bylaws, Ch. 68, Article II Town Administrator, by amending Sections § 68-18. Appointment; annual review; other activities, § 68-19. Powers and duties., § 68-20. Acting Town Administrator., § 68-21. Removal and suspension, as shown below, with deleted language stricken through with added language in Bold or take any action relative thereto

Article II Town Administrator

[Adopted 10-29-2018 by Art. 24 (Art. 50 of the 1952 General Bylaws)]

§ 68-18 Appointment; Qualification; annual review; other activities.

A. Appointment; term of office. The Board of Selectmen, by a simple majority vote of a full member board, shall appoint a Town Administrator to serve for a term of not more than three years; provided, however, that the first six months of any individual's first appointment to the office shall be considered a probationary period. The Board of Selectmen shall fix the compensation for such person,

annually, within the amount recommended by the Personnel Board, the FAA and appropriated by the town. In addition, any terms and conditions within the proposed contract for the Town Administrator contract or the renewal contract, must be consistent with previous Town Administrator contracts and approved by the Personnel Board as well as a majority of the Board of Selectmen prior to execution.

B. Qualification ~~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.~~

1. The town administrator shall be appointed on the basis of educational, executive, and administrative qualifications and experience.
2. The educational qualifications shall consist of a master's degree, preferably in public or business administration, granted by an accredited degree-granting college or university. The professional experience shall include at least three (3) years of prior full-time compensated executive service in public or business administration. Alternatively, five (5) years or more of such professional experience and a bachelor's degree in an appropriate discipline shall qualify any applicant. Seven (7) years or more of prior full-time compensated service in public or business administration shall also qualify any applicant. The board of selectmen may, by a four-fifths (4/5ths) vote, waive the education or experience requirements listed above.
3. The town administrator need not be a resident of town or of the Commonwealth at the time of appointment, nor at any time during the period of such service.
4. The town administrator shall not have served in an elective office in the town of Dudley government for at least twelve months prior to appointment.
5. The town may from time to time establish, by by-law, such additional qualifications as seem necessary and appropriate.

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 be eligible to be appointed to the position of Constable, upon majority vote of the Board of Selectmen and to a term concurrent with § 68-18A, and shall be permitted to serve as a Notary Public and Commissioner to Qualify Public Officers, but will 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.

[Amended 6-22-2020 by Art. 13]

§ 68-19 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/her 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 to, the following:

A. He/she shall supervise, direct and be responsible for the efficient administration of all functions placed under his/her control by bylaw, by Town Meeting vote, by vote of the Board of Selectmen, or otherwise, including all officers appointed by him/her.

B. He/she shall coordinate the activities of all Town departments 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.

C. 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, of all department heads, all officers, subordinates and employees for whom no other method of selection is provided by bylaws, unless otherwise provided by state law. Appointments made by the Town Administrator shall become effective only after Personnel Board review and approval and a subsequent affirming majority vote of the Board of Selectmen. ~~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.~~

D. Under the Personnel Board's direction, The Town Administrator, and/or his/her designee, shall act as the Human Resources Manager, He/she shall, in conjunction with a Personnel Board established by and bylaw,[1] be entrusted with the faithful execution of the Town of Dudley Ch. 74, Personnel Policies and Procedures. This includes implementing administration of thea Town personnel system, including but not limited to personnel policies and practices, rules and regulations, including provisions for an annual employee performance review, personnel bylaw and all collective bargaining agreements entered into on behalf of the Town. He/she shall, in conjunction with the Personnel Board, prepare, maintain and keep current a plan establishing the personnel staffing requirements of each Town agency, except those under the jurisdiction of the School Committee. [1] Editor's Note: See Ch. 74, Personnel Policies and Procedures.

E. 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.

F. 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.

G. He/she shall assure that all provisions of state laws, the bylaws 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.

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

I. 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 upon their request, but at a minimum, on a monthly basis, as he may deem to be necessary or desirable.

J. 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 or upon their request and at such other periods as it may reasonably require.

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

L. 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, following the Town of Dudley Personnel Policies [1], 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 and the Personnel Board as may be necessary. [1] Ch. 74, Personnel Policies and Procedures.

M. 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.

N. Under the guidance of the Board of Selectmen and the Personnel Board, he/she shall be responsible for the negotiation of all contracts with Town employees over wages, hours, and other conditions of employment. Such final negotiated terms must be approved by the Personnel Board and consistent with the Town of Dudley Personnel Policies [1] and Town Bylaws. The Town Administrator shall serve as designee of the Board of Selectmen for the purposes of regional school district collective bargaining negotiations.

O. 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.

P. 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.

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

R. 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.

S. He/she shall perform such other duties as may be required by bylaw, by Town Meeting vote, by vote of the Board of Selectmen, or otherwise.

§ 68-20 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 10 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, that a renewal, not to exceed an additional three months, may be provided. In the case of an unexpected vacancy in the Town Administrator office, Section § 68-18, (B) (4) "The town administrator shall not have served in an elective office in the town of Dudley government for at least twelve months prior to appointment." is waived only for the period of time the Acting Town Administrator Role is temporarily filled.

C. Powers and duties. ~~The powers of a temporary or acting Town Administrator, under § 68-20A 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.~~ The powers and duties of the temporary or acting town administrator shall be limited to matters not admitting of delay and shall include authority to make temporary, emergency appointments or designations to town office or employment but not to make permanent appointments or designations without a confirming majority vote of the Board of Selectmen.

§ 68-21 Removal and suspension.

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

(1) ~~During probationary period: notice in writing of termination.~~ The six-month probationary or working test period shall be regarded as an integral part of the examination process. It shall be utilized by the Board of Selectmen for closely observing the newly hired Town Administrator's work and conduct, management style and effectiveness. The Board of Selectmen may reject, with a simple notice of termination, the continued employment of a Probationary Town Administrator whose performance does not meet the required work standards. The Board of Selectmen, by a majority vote, shall certify whether the employee's performance has been satisfactory at the completion of the probationary period.

(2) ~~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 30 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.~~

The board must provide a preliminary statement of removal to the town administrator setting forth the reasons for removal, which notice may provide for immediate suspension of the town administrator for a period of not more than 45 days. Within five days after receipt of said notice, the town administrator may request a public hearing by filing with the board of selectmen a written request for the same and may be represented by counsel at said hearing. If no request for a hearing is received upon the expiration of the above-referenced five days, the preliminary resolution of removal shall immediately become a final resolution of removal without further action by the board of selectmen. If a hearing is requested, no later than ten days following the close of the public hearing, the board of selectmen shall adopt, by a vote of three out of five members, a final resolution of removal, which may be made effective immediately. Failure to adopt a final resolution prior to the expiration of the ten days following the close of the public hearing shall nullify the preliminary resolution of removal, and the town administrator shall forthwith resume the duties of the office.

B. 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 § 68-21A (1) and (2) shall not apply.

C. The Town Administrator may be suspended from office by the Board of selectmen, by a majority vote of a full board present and voting, ~~by a procedure following the same steps outlined above (A)~~ for a removal.

D. The Town Administrator shall continue to receive his full salary until 30 days following the date a final vote of removal has become effective

ARTICLE 15 (CITIZEN PETITION) - To see if the Town will vote to amend the Dudley General Bylaws, Ch. 74, Personnel Policies and Procedures, PURSUANT TO M.G.L. CHAPTER 41, SECTION 108A AND 108C PERSONNEL POLICIES AND PROCEDURES: by amending Sections 1-Purpose, 3-Personnel Board Established, 4-Responsibilities of Personnel Board, 5-Method, 6-Human Resources Manager, 7- Severability and 8-Annual hourly sick leave buy-back, as shown below, with deleted language stricken through with added language in **Bold** or take any action relative thereto

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

Chapter 74 PERSONNEL POLICIES AND PROCEDURES

§ 74-1. Purpose.

§ 74-2. Scope.

§ 74-3. Personnel Board established.

§ 74-4. Responsibilities of Personnel Board.

§ 74-5. Personnel Director; rules and regulations.

§ 74-6. Severability.

§ 74-7. Annual hourly sick leave buy-back.

[HISTORY: Adopted by the Town Meeting of the Town of Dudley 11-13-1989 (Art. 32 of the 1952 General Bylaws); amended 1991. Subsequent amendments noted where applicable.]

§ 74-1. Purpose. [Amended 10-28-2019 by Art. 30; 6-22-2020 by Art. 11]

The purpose of this bylaw is to establish a Personnel Board and the scope of its responsibilities. The Board's mission is to ~~establish~~ assist in establishing and maintaining equitable personnel and employee relations practices for the people who work for the Town of Dudley. This bylaw is authorized by MGL c. 41, §§ 108A and 108C, and Article LXXXIX of the Constitution of the Commonwealth.

§ 74-2. Scope. [Amended 5-27-2004 by Art. 9; 5-23-2005 by Art. 30]

The provisions of this bylaw shall apply to all employees, boards and commissions of the Town who are not covered by collective bargaining agreements as provided in those agreements.

§ 74-3. Personnel Board established. [Amended 5-22-2000 by Art. 9]

A. The Board shall consist of five citizens of the Town who are not paid employees of the Town. The terms of office shall be for three years. Any member may, after a hearing, if requested by the member, be removed for cause by the appointing authority.

B. The members of the Board, upon the expiration of the present members' terms, shall be appointed by the Board of Selectmen for two members, the Town Moderator for one member and the Finance, Appropriation and Advisory Committee for two members. No members shall be from either appointing committee or board. Whenever a vacancy occurs on the Board, the original appointing authority shall fill the vacancy for the unexpired term.

C. In the event that the Personnel Board does not have enough permanent volunteer members to maintain a quorum, the Board of Selectman Chairman, The FAA Board Chairman, the Town Moderator, in that order, will serve as temporary members of the Personnel Board until such time as a volunteer can be appointed as a permanent member of the Personnel Board.

§ 74-4. Responsibilities of Personnel Board. [Amended 6-19-2006 by Art. 30; 10-29-2018 by Art. 22]

~~A.~~ The Personnel Board shall serve as the primary advisory board in personnel matters and shall perform the following functions: [Amended 10-28-2019 by Art. 30]

A) The Board shall be responsible for the establishment and ongoing updates to 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. Such policies should be readily accessible and printed in the Employee Handbook.

B) The Board shall establish policies and procedures as part of The Employee Handbook, for the Human Resources Manager to implement and follow, including:

(1) Employee hiring process, candidate screening, recruitment/testing/selection appraisal/evaluation.

(2) Employee onboarding process, training and development.

(3) Employee benefits and service programs, except that the Treasurer/Collector shall remain as Insurance Administrator and be responsible for group health insurance and workers' compensation plans/programs.

(4) Employee safety and health programs.

(5) Develop consistent and uniform procedures for filling non-union vacancies within the Town Departments.

C) The Board shall classify all jobs and positions and execute a wage and salary administration system.

D) The Board shall propose wage and salary rates each year for the purposes of administering Section 4c above.

E) The Board shall administer a final, binding problem-solving system, by which Town employees may present and resolve grievances.

F) The Board shall research and propose a method to evaluate performance of Town elected and appointed officials.

G) The Board shall recommend compensation for all presently compensated town positions elected and appointed not otherwise covered by the Town's wage and salary system.

H) 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 Chapter 105E of the General Laws, the provision of the particular collective bargaining agreement shall prevail.

§ 74-5. 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, Boards or employees. The Board shall then notify any affected Boards and Commissions 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 Personnel Board approval. Upon Personnel Board approval of any new rule or employee handbook policy change, an affirming majority vote of the Board Of Selectmen is required for final town adoption.

b) No personnel rule or regulation promulgated by the Board, and subsequently approved by the Board of Selectmen, shall be adopted until prior written notification is made to all effected Boards, commissions, departments and employees, Commissions, Departments and Employees.

c) Any section of the Board under Section 4a and 5a may be rescinded by a Majority vote of the Town Meeting.

§ 74-65. Personnel Director Human Resources Manager; rules and regulations. [Amended 10-29-2018 by Art. 22; 10-28-2019 by Art. 30]

The Town Administrator or his or her designee shall serve as the Human Resources Manager Personnel Director of the Town. The Human Resources Manager will be responsible for the implementation of Personnel Board directives, policies and compliance with town bylaws. The Human Resources Manager will assist Town officials and Department heads in fairly, consistently, and lawfully administering personnel policies and practices that sustain a professional, productive, efficient, and innovative work environment which supports the Town and its departments in effectively performing their missions.

Annual Report: The Human Resources Manager shall annually prepare and submit to the Town Administrator & Personnel Dept a report that shall contain all matters pertaining to their department as required by the Town Administrator.

In conjunction with the Personnel Board, the Town Administrator is responsible for 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/Collector shall remain as Insurance Administrator and be responsible for group health insurance and workers' compensation plans/programs.~~

~~(4) Employee safety and health programs.~~

~~(5) Employee discipline and grievance procedures.~~

~~B. No personnel-related rule or regulation shall be adopted until prior notification is made to all affected boards, commissions, departments and employees.~~

§ 74-76. Severability.

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

§ 74-87. Annual hourly sick leave buy-back. [Added 5-23-2005 by Art. 10; amended 10-24-2016 by Art. 9] Regular full-time employees may elect to have the Town buy back unused sick leave at the employee's rate of pay at the time of the request. The maximum number of days the Town will buy back in one fiscal year is 15 days at the 20% rate. Regular full-time employees may also buy back sick time at the time of retirement at 50% up to a maximum of 65 days. Regular part-time employees are eligible as above at the prorated basis. Exempt employees may accrue 15 days per year to a maximum of 65 days. Exempt employees are not eligible for annual sick time buy-back, except at the time of retirement at the 50% rate up to a maximum of 65 days. Elected Town officials are not eligible for any sick time buy-back including any heretofore accrued.

We are hereby directed to serve this warrant by posting attested copies thereof, at the Dudley Municipal Center and on the Town of Dudley Website and by posting notice of availability of the Warrant on one (1) Cable Access Channel.

Warrant to be posted at least fourteen (14) days before holding of said meeting. Hereof, fail not, and make do return of this warrant with your doing thereon, to the Town Clerk at the time of holding of said meeting.

Given under our hands this 7th day in October in the year Two Thousand Twenty-Four.

Steven P. Sullivan, Chairman [Signature]

Mark A. Landry, Vice-Chairman [Signature]

Jana Deschenes, Clerk [Signature]

Kerry J. Cyganiewicz: [Signature]

Jason Johnson: _____

Board of Selectmen

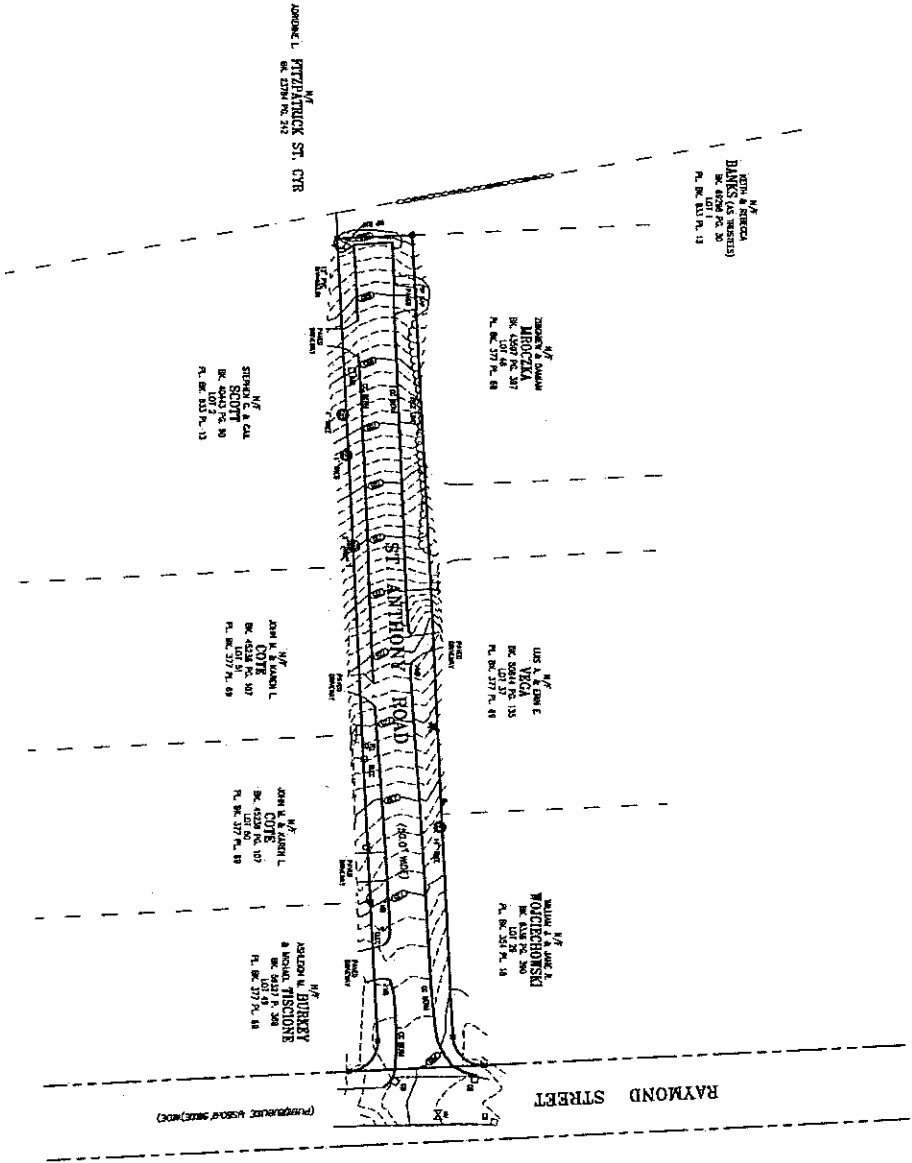
I have notified and warned the inhabitants of the Town of Dudley by posting up attested copies of the same at the Dudley Municipal Center on the 7th of October 2024. I also observed it posted on the Town's Website and notice of availability on the Dudley Cable Access Channel on the 7th of October 2024.

Thereby making my return to the Dudley Town Clerk on the 7th of October 2024.

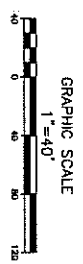
[Signature]
Jonathan J. Ruda, Constable

Attachment A

FOR REGISTRY USE ONLY



NOTES:
THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO ANY FINDINGS SUCH A REPORT MIGHT DEVELOP.



I, JOHN A. BERGLA, THE REGISTERED LAND SURVEYOR, HAVE MADE A CAREFUL CHECK OF THESE PLANS AND FIND THEM TO BE CORRECT AND ACCURATE AND HAVE NOTED THEREON THE DATE OF SUCH CHECK.

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE REGISTERED SURVEYORS ACT.



B&R SURVEY, INC.
100 GROVE STREET
WILMINGTON, MASSACHUSETTS 01897
TEL 508-736-8028
FAX 508-421-4797

ROADWAY PLAN
PREPARATION
THE TOWN OF DUDLEY
ST. ANTHONY ROAD
DUDLEY, MASSACHUSETTS

SCALE: 1"=40'	DATE: JUNE 21, 2024
PLAN: B&S	CALC: B&S
SHEET 1 OF 1	CHECK: B&S
	DWG: B&S-016