



**OFFICE OF THE
TOWN CLERK
TOWN HALL
511 MAIN STREET
DUNSTABLE, MA 01827-1313
(978) 649-4514 x222
FAX (978) 649-4371
CSkerrett@dunstable-ma.gov**

ANNUAL TOWN MEETING

May 14, 2022

After determining that a quorum was present, the Annual Town Meeting was called to order at 11:09 am by Town Moderator, Rafael Glod. The check-in table was staffed by Mary Dow. The Pledge of Allegiance and presentation of colors was led by the Town Moderator, as members of Boy Scout Troop 28 had a scheduling conflict and were unable to attend.

A motion was made and seconded to allow non-voting members to sit at the front tables.

Majority Vote Required
Voted in the Affirmative

The Moderator introduced the officials that included the Board of Selectmen, Advisory Board, Town Counsel, Town Clerk and Assistant Town Administrator, Jake Voelker. He introduced the new Interim Town Administrator, David DeManche with a brief history of his work experience.

There were four people acknowledged who are retiring, including George Basbanes with an outstanding 45 years with the Planning Board. Also, Cheryl Mann, Planning Board/Conservation Administrative Assistant, Bonnie Ricardelli, Treasurer/Tax Collector and Carol Skerrett, Town Clerk. They were all thanked for their many years of service.

The Moderator read the Greeting followed up by a motion and seconded:

“As the first item of business, I request that Town Meeting adopt a rule of this Town Meeting to provide that any motion requiring a two-thirds favorable vote, by statute or otherwise, shall be determined and declared by the Town Moderator and a count shall not be taken unless requested by the Town Moderator or requested by seven or more voters in attendance.”

Majority Vote Required
Voted in the Affirmative

Article 1. Motion made and seconded that the Town I move that the Town accept the 2021 Annual Town Report as printed as well the reports from Town Officers, Boards, Commissioners, and Trustees offered at this Town Meeting.

(Reports included the 350th Anniversary Committee festivities along with a brief history of the Town. Festivities will begin October 15, 2022 for a year, marking 350 years since the town incorporated October 15, 1673.)

The **ADVISORY BOARD** and **BOARD OF SELECTMEN** have no position on this article.

Majority Vote Required
Voted in the Affirmative

Fiscal Year 2021

Article 2. Motion made and seconded that the Town vote to appropriate from Free Cash (Surplus Revenue) a sum of money for the purpose of paying unpaid bills of FY2021, including the following, or take any action in relation thereto.

The **ADVISORY BOARD** and **BOARD OF SELECTMEN** recommend support of this Article.

Kevin Paicos	\$690.00
Staples	\$34.34

4/5th Vote Required
Voted in the Affirmative Declared by the Moderator

Fiscal Year 2022

Article 3. Motion made and seconded that the Town vote to vote to transfer from Water Enterprise Retained Earnings to the Water Enterprise Capital account the sum of \$5,000 for the purpose of funding operating expenses or other purposes as deemed necessary by the Board of Water Commissioners for FY2022.

The **BOARD OF SELECTMEN** recommends support of this Article. The **ADVISORY COMMITTEE** takes no position on this article.

Majority Vote Required
Voted in the Affirmative

Fiscal Year 2023

Article 4. Motion made and seconded that the Town vote to raise and appropriate to fund the sum of \$12,616,292 for the various departments, boards, committees, commissions, and other operating expenses of the Town for the Fiscal Year 2023, beginning July 1, 2022, in the sums listed at lines 1 through 75 in the printed budget handout made available at this Town Meeting,

And further, I move that the Town vote to transfer from Free Cash the sum of \$20,000 for costs related to the celebration of Dunstable's 350th Anniversary Celebration,

And further, I move that the Town vote to appropriate the sum of \$190,199 from Water Enterprise revenues to operate the Water Department for the Fiscal Year 2023, beginning July 1, 2022.

The **ADVISORY BOARD** and **BOARD OF SELECTMEN** recommend support of this Article.

General Government	
Town Administrator - 120	
Salaries	158,582
Operations	23,280
Total	181,862
Selectmen – 122	
Salaries	0
Operations	9,974
Total	

Fincom – 131	150
Reserve Account – 132	30,000
Accountant - 135	
Salaries	11,618
Operations	54,300
Total	65,918
Assessors - 141	
Salaries	50,325
Operations	25,555
Total	75,580
Treasurer - 145	
Salaries	58,754
Operations	27,057
Total	85,811
Town Legal Professional - 151	30,000
Dog Program – 160	800
Town Clerk - 161	
Salaries	60,905
Operations	1,950
Total	62,855
Elections – 162	
Salaries	3,000
Operations	8,000
Total	11,000
Registrar - 163	250
Conservation - 171	
Salaries	15,350
Operations	2,000
Total	17,350
Planning Board - 175	
Salaries	15,350
Operations	1,400
Total	16,750
Zoning Board - 176	
Salaries	0
Operations	1,316
Total	1,316

Town Hall - 192	
Salaries	5,877
Expenses	43,570
Total	49,447
Town Reports – 195	3,025
Town Engineer – 199	10,000
TOTAL GENERAL GOVERNMENT	
Salaries	380,011
Operations	272,077
Total	652,088
Public Safety	
Police Department - 210	
Salaries	1,049,939
Operations	271,950
Total	1,321,889
Fire Department - 220	
Salaries	298,806
Operations	69,200
Total	368,006
Inspectors – 241-243	
Salaries	62,316
Operations	3,500
Total	65,816
Emergency Management - 291	2,900
Forestry Public Works - 294	24,435
TOTAL PUBLIC SAFETY	
Salaries	1,411,061
Operations	371,985
Total	1,783,046
Schools	
GDRSD – 300	
District	7,201,663
Capital	64,202
Debt	135,369
GLRVTS - 300	
GLRVTHS	257,099
Debt	31,514

Essex - 300	
Tuition	0
Transportation	0
TOTAL REGIONAL & VOCATIONAL	7,689,847
Public Works	
Highway Department - 422	
Salaries	326,625
Operations	240,496
Total	567,121
Snow Removal - 423	
Salaries	56,175
Operations	229,710
Total	285,885
Street Lights - 424	10,000
Transfer Station - 433	
Salaries	0
Operations	19,500
Cemetery - 491	
Salaries	12,450
Operations	8,450
Total	20,900
TOTAL PUBLIC WORKS	
Salaries	395,250
Operations	508,156
Total	903,406
Human Services	
Board of Health - 510	
Salaries	13,552
Operations	13,377
Total	26,929
Town Nurse Assessment - 522	4,872
Mental Health Assessment - 523	2,000
Council on Aging - 541	
Salaries	9,363
Operations	11,500
Total	20,863

Veterans Affairs - 543	
Salaries	5,922
Operations	19,472
Total	25,394
TOTAL HUMAN SERVICES	
Salaries	28,837
Operations	51,221
Total	80,058
Library, Parks and Recreation	
Library Operations - 610	
Salaries	120,214
Operations	63,786
Total	184,000
Library Consortium and Other - 611	13,500
Technical Expense and Other - 620	30,250
Recreation Department - 631	11,400
Parks Department – 650	57,000
Memorial Day Committee – 692	700
TOTAL LIBRARY AND RECREATION	
Salaries	120,214
Operations	176,636
Total	296,850
Debt and Interest	
Long Term Debt – 710	235,407
Long Term Interest – 715	30,856
Temporary Loan Interest – 725	3,300
TOTAL DEBT AND INTEREST	269,563
Insurance and Assessments	
County Retirement System – 911	389,434
Unemployment Compensation - 913	0
Group Health Insurance – 914	379,000
Medicare Town Share – 919	36,000
Bldg./Vehicle Liab. Ins. – 945	137,000

TOTAL INSURANCE & ASSESSMENTS	941,434
TOTAL BUDGET FOR THE FISCAL YEAR	12,616,292

Questioned Line Items:

Town Clerk Salary – The Town Clerk asked for clarification of line item 161 - \$60,905.

Salary \$39,905

Certification \$1,000

Consultant \$20,000

Majority Vote Required
Voted in the Affirmative

Article 5. Motion made and seconded that the Town vote to transfer from Free Cash the sum of \$ 459,343 to meet the appropriations of Fiscal Year 2023, beginning July 1, 2022.

The **ADVISORY BOARD** and **BOARD OF SELECTMEN** recommend support of this Article.

Majority Vote Required
Voted in the Affirmative

Article 6. Motion made and seconded that the Town vote to set the annual expenditure limits for Fiscal Year 2023 for all revolving funds established by the General Bylaws as set forth under Article 7 of the warrant for this meeting.

The **ADVISORY BOARD** and **BOARD OF SELECTMEN** recommend support of this Article.

For reference:

<i>Cemetery</i>	<i>\$8,500</i>
<i>Recreation</i>	<i>\$7,000</i>
<i>COA Transport</i>	<i>\$5,000</i>
<i>Permit Application Fees</i>	<i>\$5,000</i>
<i>Approval Not Required Plans</i>	<i>\$15,000</i>
<i>Transfer Station</i>	<i>\$120,000</i>

Majority Vote Required
Voted in the Affirmative

Article 7. Motion made and seconded that the Town vote to take no action (*Borrowing for Route 113 project costs*)

Majority Vote Required
Voted in the Affirmative

Article 8. Motion made and seconded that the Town Town vote to raise and appropriate the sum of \$188,974 for the Town's share of capital expenses in relation to the Groton Dunstable Regional School District as further described in the Schedule of Capital Improvements on file with the Dunstable Town Clerk; provided, however, that this appropriation shall be contingent upon passage of Proposition 2 1/2 capital expenditure exclusion referendum to assess additional real estate and personal property taxes for a single year under Chapter 59, Section 21C (i 1/2), of the Massachusetts General Laws.

The **ADVISORY BOARD** and **BOARD OF SELECTMEN** recommend support of this Article.

Majority Vote Required
Voted in the Affirmative

Article 9. Motion made and seconded that the Town vote to transfer from Free Cash the sum of \$17,000 to repair and replace flooring in the Police Station.

The **ADVISORY BOARD** and **BOARD OF SELECTMEN** recommend support of this Article.

Majority Vote Required
Voted in the Affirmative

Article 10. Motion made and seconded that the Town vote to transfer from Free Cash the sum of \$12,000 for the replacement of a generator to support public safety and public works functions.

The **ADVISORY BOARD** and **BOARD OF SELECTMEN** recommend support of this Article.

Majority Vote Required
Voted in the Affirmative

Article 11. Motion made and seconded that the Town vote to transfer from the Water Stabilization Fund the sum of \$4,604.14 to supplement funding approved at the May 13, 2019, Annual Town Meeting, Article 19, Fund 3018, water systems improvement.

The **ADVISORY BOARD** and **BOARD OF SELECTMEN** recommend support of this Article.

2/3 Vote Required
2/3 Vote Declared by Moderator

Article 12. Motion made and seconded that the Town vote to transfer from the Water Stabilization Fund the sum of \$7,792.88 to supplement funding approved at the May 8, 2017, Annual Town Meeting, Article 13, Fund 3016, water system engineering.

The **ADVISORY BOARD** and **BOARD OF SELECTMEN** recommend support of this Article.

Majority Vote Required
Voted in the Affirmative

Article 13. **Motion made and seconded that the Town** appropriate from the Community Preservation revenue the following sums for the following purposes:

Principle payment of Ferrari Farm Note: \$80,000
Interest on Ferrari Farm Note: \$14,240
Administrative Expense: \$20,000
Historic Reserve: \$40,000
Community Housing Reserve: \$40,000
Open Space Reserve: \$40,000
Balance to Undesignated: \$165,760,

And further, I move that the Town vote to transfer from the CPA Historical reserve the sum of \$2,000 for the binding of town reports as requested by the Dunstable Historical Commission.

The **BOARD OF SELECTMEN** recommends support of this Article. The **ADVISORY COMMITTEE** takes no position on this article.

Majority Vote Required
Voted in the Affirmative

Article 14. Motion made and seconded that the Town vote to take to action (*Union School Historic Preservation*)

Majority Vote Required
Voted in the Affirmative

Article 15. Motion made and seconded that the Town vote to appropriate the sum of \$28,000 from the CPA Undesignated allocation for design services for the construction of a boardwalk at the Drew Property, located on Main Street in Dunstable, and to authorize the Board of Selectmen and the Community Preservation Committee to enter into any grant agreement or other agreements related to such appropriation.

The **ADVISORY BOARD** and **BOARD OF SELECTMEN** recommend support of this Article.

Majority Vote Required
Voted in the Affirmative

Article 16. Motion made and seconded that the Town vote to appropriate any sums of money received by the Town under provisions of Massachusetts General Laws Chapter 90 for the purposes authorized by Chapter 90.

The **ADVISORY BOARD** and **BOARD OF SELECTMEN** recommend support of this Article.

Majority Vote Required
Voted in the Affirmative

Article 17. Motion made and seconded that the Town vote to amend the Town of Dunstable General Wetlands By-Law as set forth under Article 17 of the warrant for this Town Meeting, except that in Section 4, Notice of Intent, of the By-Law, the fourth paragraph should include at the end the following new sentence: "If the applicant is other than the owner, the applicant shall provide certification that notice was given to the owner by certified mail."

The **Board of Selectmen** supports this article. The **Advisory Committee** takes no position on this article.

For reference as written in the warrant:

GENERAL WETLANDS BYLAW

(Adopted 4-8-1985 ATM Article 9; Approved by Attorney General 7-10-1985)

Amendments:

5-13-1991 ATM Article 32 "Enforcement"; Approved by Attorney General 7-17-1991

5-11-1992 ATM Article 10 "Violations and Enforcement"; Approved by Attorney General 6-15-1992;

5-12-1997 ATM Article 24 "Section 1" ratified 10-29-1997 STM Article 4; Approved by Attorney General 2-17-1998;

5-8-2000 ATM Article 30 “Definitions”; Approved by Attorney General 7-26-2000

5-8-2006 ATM Article 18 “Applications”, “Section 10 “Entry Upon Land”; Approved by Attorney General 8-7-2006

5-13-2013 ATM Article 32; Approved by Attorney General 9/13/2013. Amendments to correct typographical errors, coordinate the Bylaw with certain changes in state law and organization but not intending any substantive changes

5-13-19 ATM Article 29; Approved by Attorney General 9/9/19

**AN INTRODUCTION TO THE DUNSTABLE WETLANDS BYLAW
[Amended 5-13-2013 ATM Article 32]**

See “Fees and Procedures” at www.dunstable-ma.gov for additional information on the Wetland Protection Act: M.G.L. c131 §40 and 310 CMR 10.00

PURPOSE: The purpose of the Bylaw is to allow the citizens of the Town through the office of the Dunstable Conservation Commission to have a set of locally enforceable wetlands regulations. They are to complement the wetlands regulations presently in effect under the authority of the Massachusetts Department of Environmental Protection. The DEP regulations are subject to change without regard to the interests and needs of Dunstable, and in some ways do not presently protect local interests. A local bylaw will offer protection against erosion of environmental protection of wetland resources by any changes of the state regulations.

PRECEDENTS: Many communities in Massachusetts have such a local bylaw. The legality of such a bylaw has been challenged, and the constitutionality verified by the Massachusetts Supreme Judicial Court.

SIGNIFICANT POINTS: The bylaw has been drafted so that its application will not significantly increase the burden of paperwork beyond what is presently required of individuals by the DEP Wetlands Protection Regulations presently in effect.

This bylaw is permissive in character. Its function is to assure that activities undertaken in or near wetlands will be carried out in such a way as to preserve the wetland resources which are a public trust.

It is to protect developed or undeveloped wetland resources including public water supply, private water supply, groundwater supply, flood control, erosion control, storm damage prevention, water pollution, fisheries, shellfish, wildlife, recreation and aesthetics.

As presently required under the DEP Regulations, the burden of proof as to the acceptability of a proposed activity or development lies with the proponent. It is not to be the role of the Commission to conduct such studies on behalf of an applicant.

The Commission, acting upon a preponderance of credible evidence will be empowered to deny permission for activities on subject lands if in its judgment such denial is necessary to protect the interests of the Bylaw.

The Commission may make a request to the Board of Selectmen to instruct Town Counsel to take such legal action as may be necessary to restrain violations and enforce the orders of the Commission. THE TEXT OF THE BYLAW APPEARS ON THE FOLLOWING PAGES.

General Wetlands Bylaw

~~Adopted 4-8-1985 ATM Article 9; Approved by Attorney General 7-10-1985~~

~~Amendment 5-13-1991 ATM Article 32 [Enforcement]; Approved by Attorney General 7-17-1991~~

~~Amendment 5-11-1992 ATM Article 10 [Violations and Enforcement]; Approved by Attorney General 6-15-1992~~

~~Amendment 5-12-1997 ATM Article 24 [Section 1] ratified 10-29-1997 STM Article 4; Approved by Attorney General 2-17-1998~~

~~Amendment 5-8-2000 ATM Article 30 [Definitions]; Approved by Attorney General 7-26-2000]~~

~~Amendment 5-8-2006 ATM Article 18 [Application] [Entry Upon Land]; Approved by Attorney General 8/7/2006 (effective date of amendment 8-30-2006)~~

~~Amendment 5-13-2013 ATM Article 32 [typographical errors] [coordinate Bylaw with organization initiatives] [bring Bylaw into line with certain changes on state law]; Approved by Attorney General 9/13/2013~~

§ 1: APPLICATION [Amended 5-20-1997 ATM Article 24, ratified by 10-29- 1997 STM Article 4; Amended 5-8-2006 ATM Article 18]

The purpose of this Bylaw is to protect the wetlands of the Town of Dunstable by controlling activities deemed to have, or have the potential to have, a significant effect upon wetland values, including but not limited to the following: potential or developed public or private water supply, potential or developed groundwater supply, flood control, erosion control,

storm damage prevention, water pollution, fisheries, shellfish, wildlife, recreation and aesthetics (collectively, the "interests protected by this Bylaw").

No person shall remove, fill, dredge, alter or build upon or within one hundred feet of any bank, fresh water wetland, beach, flat marsh, meadow, bog, swamp, vernal pool, creek, river, stream, pond or lake or any land under said waters or any land subject to flooding or inundation, or within one hundred feet of the 100-year storm flow line, other than in the course of maintaining, repairing or replacing but not substantially changing or enlarging an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph and other telecommunication services, without first filing written application for a permit to so remove, fill, dredge, alter or build upon, including such plans as may be necessary to describe such proposed activity and its effect on the environment, and receiving and complying with a permit issued by the Conservation Commission; nor shall any new permanent structure or impervious surface (greater than 100 square feet in the aggregate) be permitted within 60 feet of any freshwater wetland as defined in the Bylaw, except that the repair, replacement or enlargement of any single family dwelling house, or any appurtenant structure thereof, existing as of May 31, 1997, may be permitted within such area to the extent that such repair, replacement or enlargement does not result in a reduction in the minimum distance that existed between the previously existing structure or impervious surface and the fresh water wetland, land under water bodies and waterways, upon completion of such repair, replacement or enlargement, in all events following proceedings in compliance with this Bylaw and the issuance of an appropriate Order of Conditions by the Conservation Commission. Notwithstanding the foregoing, new permanent structure or impervious surface, aggregating no more than one hundred square feet (over one or more projects or occasions), shall be presumed to be permissible and may, in the discretion of the Conservation Commission, upon application, be authorized summarily on an administrative basis without hearing.

[Amended May 13, 2019 Article 29]

§ IA: EMERGENCY PROJECTS

This Bylaw shall not apply to emergency projects as defined in M.G.L. c.131, §40 **[Amended May 13, 2019 Article 29]**, which are necessary for the protection of the health or safety of the citizens of the Commonwealth and to be performed or ordered to be performed by an agency of the Commonwealth or of the Town. An emergency project may be any project certified to be an emergency by the Commission or by its authorized agent. This Bylaw shall not apply to work performed for normal

maintenance or improvement of lands in agricultural use at the time of this application.

§ 2: DETERMINATION OF APPLICABILITY

Any person may request the Conservation Commission to make a determination area-on whether: an area, and/or a proposed activity in an area, is subject to regulation under the Wetlands Protection Act, the boundaries of the resource area have been accurately delineated, the work proposed is subject to the Act, the scope of alternatives is adequate for work in the Riverfront Area, or a local bylaw or ordinance is applicable.

This request shall be sent by certified mail or hand delivered to the Commission or its authorized representative. If the applicant is other than the owner, the applicant shall provide certification that notice was given to the owner by certified mail, as well as providing same certification that the Department of Environmental Protection (MassDEP) has been notified. If the applicant hand delivers the request to the Commission, the bearer should request a dated receipt.

The applicant shall pay for the publication cost for the legal notice in the newspaper. **[Amended May 13, 2019 Article 29]**

The Commission shall determine, within 21 days of receipt of such request, whether this Bylaw does apply to the particular area of land for the activity specified by the applicant. Upon having made its determination, the Commission will send to the applicant a Determination of Applicability form.

The Determination of Applicability will be sent to the applicant by certified mail. If the applicant is other than the owner, the Commission will mail a copy of the Determination to the owner. **[Amended May 13, 2019 Article 29]**

§3: ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION (ANRAD) [Added May 13, 2019]

Filed if an applicant wants to know if the boundary line delineated in the field and shown on the attached plans is accurate. **[Amended May 13, 2019 Article 29]**

This request shall be sent by certified mail or hand delivered to the Commission or its authorized representative. If the applicant is other than the owner, the applicant shall provide certification that notice was given to

the owner by certified mail, as well as providing same certification that abutters, the Planning Board, Board of Appeals and Board of Health have been notified. **[Amended May 13, 2019 Article 29]**

The application shall be accompanied by a check for the amount of the filing fee. No filing fee is required when the applicant is the Town of Dunstable. **[Amended May 13, 2019 Article 29]**

The applicant shall pay for the publication cost for the legal notice in the newspaper.

A Notification to Abutters under the Massachusetts Wetlands Protection Act shall be sent by the applicant, at the same time, by certified mail or certificates of mailing to all abutters within 100' of the subject property boundaries and to the owner if other than the applicant. The list of abutters must be obtained from and certified by the Assessors Department. This list of abutters, so notified, shall be provided to the Commission prior to the Public Hearing.

If the Commission determines an outside consultant is needed, the applicant shall pay reasonable fees for their employment. **[Amended May 13, 2019 Article 29]**

The Conservation Commission shall hold a public hearing within 21 days of receipt of such request. **[Amended May 13, 2019 Article 29]**

Within 21 days of the close of the public hearing, the Conservation Commission shall issue their decision, which will be mailed by certified mail (return receipt requested), or hand delivered to the applicant, his or her agent, or attorney and a copy mailed to owner of property and Natural Heritage, if needed. **[Amended May 13, 2019 Article 29]**

Once the Commission issues an Order of Resource Area Delineation (ORAD), the applicant shall record it at the Registry of Deeds.

§ 4: NOTICE OF INTENT [Amended 5-13-2013 ATM Article 32]

As described in the Wetland Protection Act, a Notice of Intent is an application for a permit (an Order of Conditions or OOC) to perform work in or affecting a protected wetland resource area. [Amended May 13, 2019]. This notice with instructions can be found on the DEP website. Said notice shall include plans and specifications as required of an applicant under M.G.L.c.131, §40, as of January 1, 1985. These plans shall clearly show the location of the wetland boundaries, and the trace of all natural or man-made watercourses of an ephemeral nature or where

they are not otherwise identified as or associated with a wetland. Calculations by which it shall be possible for the Commission to evaluate the impact(s), whether actual or potential, of all relevant aspects of the proposed activity shall be included as an integral part of the filing of a Notice of Intent with the Conservation Commission.

The Notice of Intent may be filed before other permits, variances and approvals required under the Town bylaws, Subdivision Control Law or regulations, have been obtained.

The Notice of Intent shall be accompanied by a check for the amount of the filing fee. No filing fee is required when the Town of Dunstable files a Notice of Intent. In addition, a separate bylaw fee shall accompany the filing. **[Amended May 13, 2019 Article 29]**

Each Notice of Intent shall be sent by certified mail or shall be hand delivered to the Conservation Commission or its authorized representative. If the applicant hand delivers the request to the Commission, the bearer should request a dated receipt. **[Amended May 13, 2019 Article 29]** ~~If the applicant is other than the owner, the applicant shall provide certification that notice was given to the owner by certified mail.~~

Copies of the Notice of Intent shall be sent by the applicant, at the same time, by certified mail or hand delivered, to the Planning Board, the Board of Appeals, and the Board of Health.

A Notification to Abutters under the Massachusetts Wetlands Protection Act shall be sent by the applicant, at the same time, by certified mail or certificates of mailing to all abutters within 100' of the subject property boundaries and to the owner if other than the applicant. The list of abutters must be obtained from and certified by the Assessors Department. This list of abutters, so notified shall be provided to the Commission prior to the Public Hearing. **[Amended May 13, 2019 Article 29]**

PUBLIC HEARING

The Commission shall hold a Public Hearing on the application within 21 days of the filing of the Notice of Intent. Notice of the date, time and place of the hearing shall be given by the Commission at the expense of the applicant, not less than five days prior to the hearing, by publication in a newspaper of general circulation in Dunstable and by mailing a notice to the applicant, the Board of Health, Board of Appeals and Planning Board. Such hearing may be held at the same time and place as any public hearing required to be held under M.G.L. c.131, § 40. If the Commission

determines that additional data or information is necessary, the hearing may be continued to a future date.

BURDEN OF PROOF

The applicant shall have the burden of proving by preponderance of the credible evidence that the work proposed in the application will not harm the interests protected by this Bylaw. Failure to provide adequate evidence to the Commission supporting a determination that the proposed work will not harm the interests protected by this Bylaw shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions, or at the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence upon such terms and conditions the Commission sees as being reasonable. **[Amended May 13, 2019 Article 29]**

ORDER OF CONDITIONS [Amended 5-13-2013 ATM Article 32]

If after said hearing, the Conservation Commission determines that the land on which the proposed work is to be done is significant to the interests protected by this Bylaw, it shall by written order, within 21 days or such future time as the Commission and applicant shall agree upon, impose such conditions reasonably necessary for the protection of the interests described herein and all work shall be done in accordance therewith. The Conservation Commission may impose such conditions on any proposed removing, dredging, filling or altering as it deems necessary to protect and preserve the interests covered by this Bylaw. Such Order of Conditions shall be in writing and may be subject to the same constraints as any such order issued by the Dunstable Conservation Commission under the provisions of M.G.L. c.131, §40, or successor statutes, and shall be issued within 21 days or such further time as the Commission and applicant shall agree upon after the Public Hearing. Such Order of Conditions shall expire in no less than one nor more than three years from the date of issuance. The date of expiration shall be specified in the Order. If the project is not completed within three years, then 30 days prior to the expiration date an extension must be applied for. Such extension may be for no more than three years. No proposed work governed by an Order of Conditions shall be undertaken until all permits, approvals and variances required by the local Bylaw have been obtained and all applicable appeal periods have expired.

If the Commission determines that the area which is the subject of the application is not significant to the interests protected by this Bylaw, or that the proposed activity does not require the imposition of conditions, it shall issue a permit without conditions within 21 days of the public hearing.

RECORDING [Amended 5-13-2013 ATM Article 32]

Any original Order of Conditions shall be recorded with the Registry of Deeds in Lowell for the property defined in the Order. Evidence certifying that recording has been done must be returned to the Commission before work begins or a building permit is signed by the Commission. Upon completion of the work, a Certificate of Compliance (310 CMR 10.05 (9)) must be requested in writing and once issued, shall be recorded in the Registry of Deeds in Lowell to remove the lien from the property.

[Amended May 13, 2019 Article 29]

DENIAL

The Commission is empowered to deny permission for any removal, dredging, filling, or altering, on subject lands within the Town, if, in its judgment such denial is necessary to protect the interest of this Bylaw.

RELATIONSHIP TO M.G.L. CHAPTER 131, SECTION 40

The Commission shall not impose additional or more stringent conditions pursuant to M.G.L. Chapter 131 §40, than it imposes pursuant to this Bylaw, nor shall it require a Notice of Intention pursuant to Section 40 to provide materials or data in addition to those required pursuant to this Bylaw.

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Statutes, independent of the Wetlands Protection Act, MGL c. 131, §40, and regulations 310 CMR 10.00 thereunder. **[Amended May 13, 2019 Article 29]**

ADDITIONAL INFORMATION

At any time up to the closing of a hearing, the Commission may require such additional information from the applicant as the Commission reasonably deems necessary.

§5. ENTRY UPON LAND [Amended 5-8-2006 ATM Article 18]

The Commission, its agents, and employees may enter upon privately owned land for the purpose of performing their duties under this Bylaw, subject to requirements or limitations of applicable law.

§6. PRE-ACQUISITION VIOLATION

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this Bylaw

or in violation of any permit issued pursuant to this Bylaw shall forthwith comply with any such order or restore such land to its condition prior to any violation; provided, however, that no action, civil or criminal, shall be brought against such person unless commenced within three years following the date of acquisition of the real estate by such person.

§7. LEGAL ACTION

The Board of Selectmen shall, upon the request of the Conservation Commission, instruct Town Counsel to take such legal action as may be necessary to restrain a violation of this Bylaw, and enforce the orders of the Commission hereunder and the Town Counsel shall forthwith comply with such instructions.

§8. REGULATIONS

After Due notice and public hearings, the Commission may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court or law shall not act to suspend or invalidate the effect of this Bylaw.

§9. RULES [Amended 5-13-2013 ATM Article 32]

Rules: 1) Permit fees are payable at the time of application and are non-refundable.

2) Town, County, State or Federal projects are exempt from fees.

3) There shall be no fee for activities involving improvements undertaken to improve the agricultural use of land currently in agriculture or of land to be converted to agricultural use.

4) No fee is charged for Requests of Determination under the law or for extensions for Orders of Conditions.

5) Failure to comply with the law after official notification shall result in fees twice those normally assessed.

6) The Commission shall have the right to change the fee schedule. Any change of fee schedule must be advertised and posted at the Town Hall at least thirty days prior to the date upon which the changes are to become effective.

7) Please see "Fees & Procedures" for additional information at

§10. DEFINITIONS [Amended 5-11-2000 ATM Article 30; 5-13-2013 ATM Article 32]

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

- a) PERSON; the term PERSON shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town by-laws, administrative agencies, public or quasipublic, corporations or bodies, the Town of Dunstable, and any other legal entity, its legal representatives, agents or assigns.
- b) APPLICANT; the term APPLICANT as used in this Bylaw shall mean a person given Notice of Intention to build, remove, fill dredge or alter.
- c) ALTER; the term ALTER shall include, without limitation, the following actions when undertaken in areas subject to this Bylaw:
 - 1) Removal, excavation or dredging of soil, sand, gravel or aggregate material of any kind, muck, peat or other organic soil of any description or kind;
 - 2) Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood storage retention characteristics;
 - 3) Drainage or other disturbance of the water level or water table;
 - 4) Dumping, discharging, filling with any material or other activity which may degrade surface or ground water quality in or out of the Town of Dunstable;
 - 5) Driving of piles, erection of buildings or structures of any kind;
 - 6) Placing of obstructions whether or not they interfere with the flow of water;
 - 7) Destruction of plant life, including the cutting of trees;

8) Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the surface or ground water;

d) BANKS; the term BANKS shall mean that part of land adjoining any body of water or watercourse which confines the water.

e) FRESHWATER WETLANDS – shall mean any area, including Swamps, Marshes, Wet Meadows and Bogs, where water is at or near the surface for a prolonged period of time, as demonstrated by the presence of hydric soils or other indicators of hydrology, and/or the area supports or could support a plant community (cover) comprised of 50% or greater of wetland plant species. Freshwater wetlands that do not border a stream or river must be greater than 500 s.f. in size. Freshwater wetlands includes both Bordering & Isolated Vegetated Wetlands. **[Amended May 13, 2019 Article 29]**

f) VERNAL POOL AND HABITAT- shall mean a confined basin depression that holds water for a minimum of 86 continuous weeks during the spring and/or summer and provides breeding habitat for obligate and facultative vernal pool species. It may be without standing water during later summer. Vernal pool habitat is the area within 100' of the boundaries of such depression. **[Amended May 13, 2019 Article 29]**

The Commission may adopt additional definitions not inconsistent with this Section 10 of this Bylaw.

§ 11: SECURITY

The Commission may require, as a permit condition in some particular cases 1.) Where the scope of the work is such that a failure to perform the work according to the conditions in the Order would be likely to cause grave damage to the interests protected by this Bylaw, or 2.) Where particular conditions in the Order must remain effective through the future to assure continuing protection of interests protected by this Bylaw; that the performance and observance of other conditions be secured by one or both of the following methods:

a) By a bond or deposit of money or negotiable securities in an amount determined by the Commission to be sufficient to secure performance of conditions and observance of the safeguards of such Order of Conditions and payable to the Town of Dunstable upon default;

b) By a conservation restriction, easement or by a covenant, executed and duly recorded by the owner of record, running with the land, whereby the conditions and safeguards included in such Order of Conditions shall be performed before any lot may be conveyed other than by mortgage deed.

The Commission shall make specific findings of fact in support of terms and conditions imposed under this section.

§12: VIOLATIONS AND ENFORCEMENT [Amended 5-13-1991 ATM Article 32; 5-11-1992 ATM Article 10 C; 5-13-2013 ATM Article 32]

Any person who violates or any corporate or quasi-corporate entity which violates any provision of this bylaw or any conditions of a permit or order issued pursuant to it shall be punished by a fine as listed herein below. Each day or portion thereof during which a violation continues shall constitute a separate offense.

a) Alteration of an area subject to protection under the bylaw without having filed for and having in effect at the time of the activity a valid Order of Conditions regulating the activity undertaken. The penalty shall be three hundred (\$300.00) dollars.

b) Failure to comply with an order or orders as set forth in any Order of Conditions in effect to regulate the activity thereby permitted within an area subject to ~~projection~~protection under the bylaw within the time period specified within such orders. The penalty shall be two hundred (\$200.00) dollars.

c) Failure to comply with any one or more of the terms of any enforcement Order or Orders duly issued by the Dunstable Conservation Commission within the time limits specified in such Orders. The penalty shall be fifty (\$50.00) dollars.

d) Failure to maintain in proper working order or condition appropriate to their intended function, structures, improvements or facilities which were required or permitted as part of activities regulated under an Order of Conditions issued to protect an area subject to regulation under the Bylaw and significant to the interests to be protected under this bylaw. The penalty shall be fifty (\$50.00) dollars.

In addition to any other means of enforcement provided for by law, the provisions of this General Wetlands Bylaw may also be enforced at the ~~election~~discretion of the Conservation Commission by non-criminal complaint pursuant to any bylaws adopted pursuant

to M.G.L. Chapter ~~c.~~ 40, Section ~~§~~21D, as amended, in force in the Town of Dunstable. The enforcing authority shall be either the Dunstable Police Department, including any Police Officer in said Department, or the Conservation Commission.

§ 13: INVALIDITY

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any Order of Conditions which have previously become final.

§ 14: APPEALS

In the event that any person shall be aggrieved by a decision of the Conservation Commission under this Bylaw, or by its failure to act thereunder, such person may bring an action in the nature of certiorari under M.G.L. Chapter ~~c.~~ 249 §, Section ~~4.~~

Majority Vote Required
Voted in the Affirmative

Motion made and seconded to dispense with the reading of the minutes.

Majority Vote Required
Voted in the Affirmative

Motion made and seconded to dissolve the Annual Town Meeting at 12:03 pm.

Majority Vote Required
Voted in the Affirmative

Quorum Certificate

In accordance with The Town of Dunstable's Town Meetings, Town Elections & Records Bylaw, I hereby certify that the quorum for an Annual or Special Town Meeting is 50 registered voters of the Town of Dunstable.

Total number of voters checked in at the Annual Town Meeting of May 14, 2022: 78

Respectfully submitted,



Carol A. Skerrett
Town Clerk CMMC