

2015
TOWN OF DALTON
ANNUAL TOWN MEETING
WAHCONAH REGIONAL HIGH SCHOOL - MAY 4, 2015 - 7:00 P.M.

The Moderator, Anthony P. Doyle, called the Meeting to order at 7:15 p.m.

Jean M. Gingras, Elizabeth A. Erb, Melissa A. Davis and Maureen M. Mitchell were appointed tellers and sworn by Town Clerk, Barbara L. Suriner. There was a total of 23 Non-Resident Guests and 253 Registered Voters checked at the door as follows:

PRECINCT 1 - 143
PRECINCT 2 - 138
281

It was moved, seconded and voted to waive the complete reading of the Warrant.

CARRIED. UNANIMOUSLY.

THE FOLLOWING ARTICLE, SUBMITTED VIA A CITIZENS PETITION SIGNED BY TWENTY-NINE REGISTERED VOTERS, APPEARS EXACTLY AS WRITTEN.

It was moved, seconded and voted that the Town amend the order of Articles to consider Article 22 first.

It was moved, seconded and voted to vote Article 22 by secret ballot.

CARRIED. UNANIMOUSLY.

ARTICLE 22. “Display of Non-domesticated Animals for Entertainment”

(a) No living non domesticated animal shall be displayed for public entertainment or amusement in circuses, carnivals, traveling events or other similar entities on property owned by the town of Dalton, town owned property under lease, or private property. As used in this paragraph, “displayed” shall include, but is not limited to, animal acts and performances, and competition, and rides.

(b) This article shall not apply to domestic animals including, but not limited to, dogs, cats, horses, donkeys and farm animals.

(c) This shall not apply to exhibits deemed educational by the MSPCA.

DEFEATED. YES – 92 NO - 184

ARTICLE 1. It was moved, seconded and voted that the Town, pursuant to the provisions of Section 53E1/2 of Chapter 44 of the Massachusetts General Laws, authorize the establishment of revolving funds for certain town departments for the fiscal year beginning July 1, 2015 as follows:

<u>Revolving Fund</u>	<u>Authorized to Spend Fund</u>	<u>Revenue Source</u>	<u>Use of Fund</u>	<u>FY15 Spending Limit</u>	<u>Disposition of FY15 Fund Balance</u>
Plumbing Inspector	Town Manager	Plumbing permit fees and applications	Reimburse Inspector for inspection services	\$15,000.00	Balance available for expenditure
Electrical Inspector	Town Manager	Electrical permit fees and applications	Reimburse Inspector for inspection services	\$10,000.00	Balance available for expenditure
Tree Warden/ Planning Board	Tree Warden	Payments from subdivision developers	Planting of trees and shrubs within specific locations	\$5,000.00	Balance available for expenditure
Historical Commission	Town Manager & Commission Treasurer	Gifts, donations and receipts from sales	Expenses relating to the administrative functions of the Commission	\$4,000.00	Balance available for expenditure
Cemetery Department	Cemetery Trustees & Superintendent of Highway/Cemetery	Payments for burials outside of the cemetery work day	Grave digging services and overtime payroll expenses	\$2,500.00	Balance up to \$2,500.00 available for expenditure, remainder reverts to General Fund
Council on Aging	Town Manager & COA Director	Receipt of fees for transportation services	Offset expenses of the BRTA bus operation	\$20,000.00	Balance available for expenditure
Council on Aging	Town Manager & COA Director	Receipt of fees for program services	Offset expenses of the COA programs operation	\$15,000.00	Balance available for expenditure
Cemetery Department	Cemetery Trustees	Reimbursement payments for damage to town cemeteries	Payment of expenses related to the repair of sustained damage	\$5,000.00	Balance available for expenditure
Legal Advertising	Town Manager	Legal advertising fees	Payment of expenses related to legal advertisements	\$3,000.00	Balance up to \$3,000 available for expenditure, remainder reverts to General Fund

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Parks Maintenance	Town Manager & Highway/Cemetery Superintendent	Fees from outside users of Pine grove Pavilion	Any lawful maintenance expense in Town parks	\$2,000.00	Balance available for expenditure
Highway Department (Boom Mower)	Town Manager & Superintendent Highway/Cemetery	Annual Member Fees/ Boom Mower Inter-municipal consortium	Repairs/Maintenance Service WEMCO Boom Mower	\$4,000.00	Balance available for expenditure

CARRIED. UNANIMOUSLY.

ARTICLE 2. It was moved, seconded and voted that the Town adopt the "Schedule of Compensation for Elected Officials" for the fiscal year beginning July 1, 2015 as follows:

<u>ELECTED OFFICIALS</u>	<u>FY 2016</u>
Moderator	\$ 369.00
Town Clerk	48,694.00
Select Board - Chairman	4,311.00
- Members (4)	3,431.00 each

CARRIED. UNANIMOUSLY.

ARTICLE 3. It was moved, seconded and voted that the amounts of money set forth in the printed report of the Finance Committee, for Fiscal Year 2016 and totaling \$6,648,098 be appropriated for the several purposes therein itemized, each numbered item being considered as a separate appropriation, and that the same be expended only for such purposes.

FY2015
TOWN OPERATING BUDGET

General Government

114 Moderator		
Salary		369
Expenses		100
		469
122 Select Board		
Salary-Elected		18,035
Expenses		4,187
		22,222
123 Town Manager		
Salaries		135,210
Expenses		8,309
		143,519
131 Finance Committee		
Expenses		185
		185
132 Reserve Fund		
Expenses	See Article # 8	
135 Accountant		
Salaries		64,906
Expenses		8,821
		73,727
138 Group Purchasing		
Expenses		600
		600
139 Financial Audit		
Expenses		0
		0
141 Assessors		
Salaries		81,729
Expenses		16,950
		98,679
142 Tri Revaluation		
Expenses		16,000
		16,000
145 Town Treasurer		
Salaries		85,216
Expenses		21,500
		106,716
146 Town Collector		
Salaries		83,831
Expenses		13,215
		97,046
151 Town Counsel		
Expenses		45,000
		45,000
152 Telephone		
Expenses		14,440
		14,440
154 Recording Secretary		
Salary		4,486

	4,486
157 Computer Expenses	8,500
	8,500
158 Postage Expenses	14,875
	14,875
159 Tax Title Expenses	2,500
	2,500
161 Town Clerk Salary-Elected	48,694
Salaries	32,920
Expenses	9,560
	91,174
162 Elections Salaries	5,954
Expenses	5,985
	11,939
163 Registrars Salaries	6,395
Expenses	3,500
	9,895
171 Conservation Commission Expenses	1,921
	1,921
175 Planning Board/Board of Appeals Salary	22,553
Expenses	1,100
	23,653
182 Development & Industrial Commission Expenses	1,200
	1,200
191 Old Dalton High Salary	
Expenses	7,100
	7,100
192 Buildings Maintenance Salary	56,902
Expenses	10,625
	67,527
195 Town Report Expenses	6,650
	6,650
196 Town Hall Maintenance Salaries	2,000
Expenses	79,800
	81,800
197 Central Supplies Salaries	14,800
Expenses	14,800
	14,800
CATEGORY TOTAL	966,623
Public Safety	
210 Police Department Salaries	842,293
Expenses	92,019
	934,312
222 Communications Salaries	178,837
Expenses	8,512
	187,349
240 Building Inspections Salaries	43,375
Expenses	7,700
	51,075
244 Sealer of Weights & Measures Salary	1,345
Expenses	100
	1,445
247 Inspection of Animals Salary	1,415
	1,415
292 Animal Control Salaries	21,149
Expenses	3,898
	25,047
294 Forest Warden Salary	2,494
Expenses	1,150
	3,644

295	Emergency Management		
	Salary		2,253
	Expenses		8,952
			11,205
296	Shade Tree/Tree Warden		
	Salary		2,119
	Expenses		16,000
			18,119
CATEGORY TOTAL			1,233,611
 Education			
320	Vocational Education		
	Expenses		477,161
			477,161
CATEGORY TOTAL			477,161
 Public Works			
401	Town Engineer		
	Expenses		4,000
			4,000
420	Highway Department		
	Salaries		327,123
	Expenses		124,898
			452,021
423	Snow & Ice		
	Salaries		27,267
	Expenses		112,330
			139,597
424	Streetlights		
	Expenses		88,224
			88,224
433	Landfill Monitoring		
	Salaries		
	Expenses	See Article # 10	
434	Transfer Station		
	Expenses		19,757
			19,757
440	Sewer Maintenance (Offset Receipts)		
	Salaries		18,000
	Expenses		15,050
			33,050
449	Wastewater Treatment (Offset Receipts)		
	Salaries		769
	Expenses		736,754
			737,523
491	Cemetery Department		
	Salaries		58,514
	Expenses		20,024
			78,538
CATEGORY TOTAL			1,552,710
 Human Services			
510	Board of Health		
	Salary		38,385
	Expenses		1,926
			40,311
522	Public Health Nurse		
	Salary		6,156
	Expenses		500
			6,656
523	Mental Health & Substance Abuse		
	Expenses		2,143
			2,143
541	Council on Aging		
	Salaries		94,574
	Expenses		35,372
			129,946
543	Veterans' Services		
	Salary		6,896
	Expenses		96,000
			102,896
591	Berkshire Regional Planning Commission		
	Expenses		18,877
			18,877
CATEGORY TOTAL			300,829
 Culture and Recreation			

2015

610 Library		
Salaries		121,381
Expenses		65,805
		187,186
630 Parks and Recreation		See Article # 4
650 Parks Maintenance		
Salaries		29,315
Expenses		18,090
		47,405
691 Historical Commission		
Expenses		1,800
		1,800
692 Memorial Day Committee		
Expenses		1,970
		1,970
693 Cultural Activities		
Expenses		2,280
		2,280
CATEGORY TOTAL		240,641
Debt Service		
710B(L) Bond Fees		500
		500
710DE/C Debt and Interest (Lib/Com/PW)		59,552
		59,552
710C Debt and Interest (Capital Imp Program)		79,854
		79,854
710TH Debt and Interest (TH)		89,562
		89,562
710EXCL Senior Center		103,750
		103,750
CATEGORY TOTAL		333,218
Other		
911 Berkshire County Retirement Assessment		
Expenses		393,782
		393,782
913 Unemployment		
Expenses		5,000
		5,000
914 Group Health Insurance		
Expenses		823,946
		823,946
915 Group Life Insurance		
Expenses		6,500
		6,500
916 Medicare		
Expenses		37,155
		37,155
919 Employment Benefits		
Salaries		33,180
Expenses		1,580
		34,760
998 Pension Reserve Fund		
Expenses		See Article #8
941 Court Judgments & Claims		
Expenses		3,000
		3,000
945 Town Insurance		
Expenses		238,933
		238,933
950 Commissioner of Trust Funds		
Expenses		229
		229
994 Other Post Employment Fund		
Expenses		See Also Article #3
CATEGORY TOTAL		1,543,305
ARTICLE TOTAL		6,648,098
CARRIED.	UNANIMOUSLY.	

ARTICLE 4. It was moved, seconded and voted that the Town vote to raise and appropriate the sum of \$58,955 for the fiscal year beginning July 1, 2015, for the purpose of providing recreation and leisure time activities to the people of Dalton.

CARRIED. UNANIMOUSLY.

ARTICLE 5. It was moved, seconded and voted that the Town vote to raise and appropriate \$7,472,267 for the purpose of paying the Town's share of the Operating Budget of the Central Berkshire Regional School District for the fiscal year beginning July 1, 2015.

CARRIED. DECLARED MAJORITY.

ARTICLE 6. It was moved, seconded and voted that the Town vote to raise and appropriate \$592,303 for the purpose of paying the Town's share of the Transportation Budget of the Central Berkshire Regional School District for the fiscal year beginning July 1, 2015.

CARRIED. UNANIMOUSLY.

ARTICLE 7. It was moved, seconded and voted that the Town raise and appropriate \$236,636 for the purpose of paying the Town's share of the Capital Budget of the Central Berkshire Regional School District for the fiscal year beginning July 1, 2015.

CARRIED. UNANIMOUSLY.

ARTICLE 8. It was moved, seconded and voted that the Town transfer \$65,000 from Free Cash in the Treasury to Account 132, the Reserve Fund, for the fiscal year beginning on July 1, 2015.

CARRIED. UNANIMOUSLY.

ARTICLE 9. It was moved, seconded and voted that the Town transfer \$250,000 from Free Cash in the Treasury for the purpose of reducing the expected tax rate increase in the 2016 fiscal year.

CARRIED. UNANIMOUSLY.

ARTICLE 10. It was moved, seconded and voted that the Town transfer \$15,190 from the Landfill Monitoring Account #991 to the Landfill Closure Account #433 for the fiscal year beginning July 1, 2015.

CARRIED. UNANIMOUSLY.

ARTICLE 11. It was moved, seconded and voted that the Town to transfer \$200,000 from Free Cash in the Treasury in the following amounts to the following Stabilization Funds: \$50,000 to the Sewer Stabilization Fund, \$50,000 to the General Stabilization Fund, \$60,000 to the Capital Stabilization Fund, \$40,000 to the Litigation Stabilization Fund.

CARRIED. UNANIMOUSLY.

ARTICLE 12. It was moved, seconded and voted that the Town transfer \$30,000 from Free Cash in the Treasury to Account 132, the Reserve Fund, for the remainder of the 2015 fiscal year.

TWO-THIRDS VOTE REQUIRED

CARRIED. UNANIMOUSLY.

ARTICLE 13. It was moved, seconded and voted that the Town transfer the sum of \$200,000 from Free Cash in the Treasury to the Other Post-Employment Benefits Trust Fund for the purpose of reducing the unfunded actuarial liability of health care and other post-employment benefits.

TWO-THIRDS VOTE REQUIRED

CARRIED. UNANIMOUSLY.

ARTICLE 14. It was moved, seconded and voted that the Town authorize employment agreements between the Town and Highway/Cemetery Superintendent, the Highway/Cemetery Foreman, and the Police Sergeant; all of which include annual salaries that were provided for under Article 3 hereinabove.

CARRIED. UNANIMOUSLY.

ARTICLE 15. It was moved, seconded and voted that the Town amend the Town of Dalton Zoning Bylaws by inserting a new Article to be numbered as Article XIX – Community Design Review, as set forth below and renumbering the remaining Articles and Sections accordingly and amending Sections 350-06, 350-20, and 350-118.

ARTICLE XIX – COMMUNITY DESIGN REVIEW

§350-XXX **Purpose.** The economy and general welfare of the Town of Dalton have been sustained for many years by its scenic assets. A combination of compatibly related man-made structures in a controlled environment provide a visually attractive contrast to the surrounding river valley and mountainous topography. The purpose of this section is to establish a pre-application design review process and to establish design guidelines to ensure that future commercial, industrial and large residential developments along the town's main travel corridors will be aesthetically pleasing and compatible with existing development and character of the community. Such guidelines are needed so that residents can take pride in their town center and gateway corridors, non-residents can enjoy visiting the area, and the business community can continue to prosper.

§350-XXX **Areas in the Design Review Overlay District.** The Design Review Overlay District (DROD) is hereby established as an overlay district. The DROD includes the following areas:

- A. All land within five hundred (500) feet on either side of Main Street (Routes 8 & 9) from the Pittsfield/Dalton municipal boundary along Route 9 to the Dalton/Windsor municipal boundary.
- B. All land within five hundred (500) feet on either side of Main Street (Routes 8 & 9) from the Pittsfield/Dalton municipal boundary along Route 8 to the intersection of East Housatonic Street, Fox Road and Hinsdale Road.

§350-XXX **Permitted Uses.** Uses permitted in the DROD shall be limited to those uses allowed in the underlying zoning district subject to the requirements of this section.

§350-XXX **Exemptions.** Except as otherwise provided in the town's zoning bylaw, this section does not apply to:

- A. One-family and two-family dwellings located in the DROD
- B. Any interior alterations or changes that do not affect, change or add to the exterior of the structure.
- C. A change in use or type of occupancy that does not affect, change or add to the exterior of the structure.

§350-XXX **Design Review Board.** A Design Review Board (DRB) is hereby established in the Town of Dalton to administer the provisions of this section.

- A. The DRB shall consist of no less than three (3), nor more than five (5) members recommended for appointment by the Town Manager subject to the ratification of the Select Board in accordance with Chapter A802 § 4 of the Code of the Town of Dalton. Said members shall be appointed so that no more than two (2) appointments expire in each calendar year. No member shall be appointed for a term to exceed four (4) years. Any vacancy occurring in the membership of the DRB shall be filled by the Select Board for the unexpired portion of the term.
- B. Members of the DRB shall have a knowledge and interest in design, architecture, landscape design, historic development and/or the preservation of the town's aesthetic character.
- C. The DRB shall elect a chairman and a clerk at its organizational meeting and annually. The DRB may adopt such rules and design guidelines as it deems necessary and appropriate for the performance of its functions so long as such rules and guidelines conform to this Section. All meetings of the DRB shall be open to the public. The DRB shall keep a written record of its discussions, resolutions, and transactions, which shall be maintained as a public record of the town.

§350-XXX **Activities in the DROD Requiring Design Review & Site Plan Approval.** Except as hereinafter provided, no person shall do or cause to be done any of the following acts with respect to any building or structure located within the DROD without first participating in the design review process with the DRB as set forth in § 350-XXX and then obtaining site plan approval from the site plan approval board as set forth in § 350-XXX.

- A. Construction of a new building or structure.
- B. Addition or alteration to an existing building which increases the square footage of the building by five hundred (500) square feet or greater, whether enclosed or not.
- C. Construction or reconstruction of a drive-through facility.

§350-XXX Design Review Process.

- A. No building permit or special permit shall be issued for the activities in Section 350-XXX above until the applicant has received site plan approval from the site plan approval board in accordance with this section.
- B. The failure of an applicant to participate in the design review process as set forth herein shall be grounds for the site plan approval board to reject an application for site plan approval as incomplete or to deny the application.
- C. The applicant shall submit three (3) sets of all application materials to the Office of the Town Clerk. Upon the filing of an application for design review, the Town Clerk shall note the date and date of filing thereon and shall then transmit the application forthwith to the DRB.
- D. The application shall include the name and address of the applicant, a statement of the proposed construction, addition or alteration for which design review is sought, a drawing in sufficient detail to illustrate clearly the proposed construction, addition or alteration as stated, a description of the location of the proposed construction or the building proposed to be altered, a drawing showing existing conditions of any building proposed to be altered, including structural features and materials, a site plan as required pursuant to Section 350-49, any other information required by the rules and regulations of the DRB and such other information as is relevant and necessary for proper consideration of the application.
- E. The DRB shall hold a design review meeting within thirty (30) days of the application submittal date to discuss the proposed project with the applicant and for the DRB to make recommendations as to how the proposed project might be altered to better fit with the character of the neighborhood taking into consideration the town's master plan, design guidelines and the design criteria set forth in § 350-XXX.
- F. Within fifteen (15) days of the design review meeting, the DRB shall transmit its non-binding recommendations to the site plan approval board, the Office of the Town Clerk and to the applicant. The time period for the DRB to transmit its non-binding recommendations to the site plan approval board may be extended by the written mutual agreement of the applicant and the DRB.
- G. The failure of the DRB to transmit its non-binding recommendations to the site plan approval board within the required period of time shall be considered a lack of opposition to the design of the project and shall not prevent the applicant from applying for site plan approval.

§350-XXX Site Plan Approval Process.

- A. If a special permit is otherwise required in connection with the activities that triggered the design review process, the site plan approval process shall be integrated into and follow the special permit process and timelines with the designated special permit granting authority acting as the site plan approval board making the determinations required by this section as part of the special permit decision.
- B. If no special permit is otherwise required in connection with the activities that triggered the design review process, the Zoning Board of Appeals shall be the site plan approval board for the purposes of this section.
 - (1) Application for site plan approval shall be filed by the applicant with the Office of the Town Clerk. Upon the filing of an application for site plan review, the Town Clerk shall note the date and time of filing thereon and shall then transmit the application forthwith to the site plan approval board.
 - (2) A complete application for site plan approval under this section shall contain the information required by § 350-XXX (D).
 - (3) The site plan approval board shall review and decide upon the application for site plan approval by majority vote within ninety (90) days from the date the application was filed with the Office of the Town Clerk. The time for the site plan approval board to issue its decision may be extended by written agreement of the site plan approval board and the applicant.
 - (4) The decisions of the site plan approval board shall be in writing and filed with the Office of the Town Clerk, with a copy of the decision mailed to the applicant.

(5) The site plan approval board may impose reasonable conditions on its approval of a site plan to effectuate the purposes of this section and the purposes of the Town of Dalton's zoning bylaw.

(6) Any site plan approval issued under this section shall lapse within one (1) year if a substantial use thereof has not commenced or if construction has not begun.

(7) A decision of the site plan approval board may be appealed in accordance with M.G.L. c. 40A§17 to a court of competent jurisdiction.

§350-XXX Site Plan Approval Criteria. Before granting site plan approval, the site plan approval board, after considering the non-binding recommendations of the DRB, must find that any act specified in § 350-XXX complies with the Town of Dalton's zoning bylaw and conforms substantially to the relevant goals and policies described in the town's master plan, in any adopted design guidelines and the design criteria in § 350-XXX, or condition its approval so that substantial conformance is achieved.

§350-XXX. Design Review Criteria.

A. Building Criteria

(1) Height: the height of buildings shall be considered in relation to the average height of existing adjacent buildings, and the building being constructed or altered.

(2) Proportion: the relationship between the width and height of the front elevations of adjacent buildings shall be considered in the construction or alteration of a building; the relationship of width to height of windows and doors of adjacent buildings shall be considered in the construction or alteration of a building.

(3) Roof shape, pitch, and direction: the similarity or compatibility of the shape, pitch, and direction of roofs in the immediate area shall be considered in the construction or alteration of a building.

(4) Pattern: alternating solids and openings (wall to windows and doors) in the front facade and sides and rear of a building create a rhythm observable to viewers. This pattern of solids and openings shall be considered in the construction or alteration of a building.

(5) Materials and texture: the similarity or compatibility of existing materials and textures on the exterior walls and roofs of buildings in the immediate area shall be considered in the construction or alteration of a building. A building construction or alteration shall be considered compatible if the materials and texture used are appropriate in the context of other buildings in the immediate area.

(6) Color: the similarity or compatibility of existing colors of exterior walls and roofs of buildings in the area shall be considered in the construction or alteration of a building.

(7) Architectural Features: architectural features, including but not limited to, cornices, entablatures, doors, windows, shutters, and fanlights, prevailing in the surrounding area found by the Board to be positive characteristics, shall be considered in the construction or alteration of a building. It is not intended that the details of existing buildings be duplicated precisely, but those features should be regarded as suggestive of the extent, nature, and scale of details that would be appropriate on new buildings or alterations.

A. Site Criteria

(1) Location of buildings: the setback of buildings from the street, spacing between buildings, and alignment of buildings shall be considered in relation to the prevailing development in the area.

(2) Site Organization: the organization of buildings, drives, parking areas, walks, signs, lights, fences, and other structures should achieve a functional, safe, and harmonious site relationship. At the same time, site organization should be compatible with existing characteristics in the surrounding area found by the Board to be positive characteristics.

(3) Landscape and Plantings: the landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Plant species and planting composition should be complementary to the scale and style of building.

(4) Views: important views within the immediate area and more distant scenic vistas shall be protected from development which would obscure those views or vistas from passersby on streets or walkways.

(5) Drives, Parking, and Circulation: with respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to limiting the number of access points and their location, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the design of buildings and structures and neighboring properties. Parking areas shall be screened by berms, plantings, or other screening methods to minimize their visual impact.

(6) Utility Service: the installation of underground electric, telephone, and other utility lines is encouraged whenever feasible. Any utility lines remaining above ground shall be located so as to have a harmonious relation to neighboring properties and the site.

(7) Site Structures: the materials, scale, design, and placement of accessory structures on the site shall be complementary to the building and surrounding area.

(8) Signs and Lighting: the size, location, design, color, texture, lighting, and materials of all exterior signs shall be complementary to buildings and structures on the site and surrounding properties, and shall conform in all respects to the Dalton Sign Bylaw. Lighting within a building which projects excessively bright light visible from the property line, or excessive illumination of signs, buildings, structures, parking areas, or other features shall be prohibited.

(9) Other Requirements: exposed storage areas, machinery installations, service areas, utility and accessory structures and areas, where permitted, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and surrounding properties.

TWO-THIRDS VOTE REQUIRED.

CARRIED.

DECLARED MAJORITY (1 NO VOTE)

ARTICLE 16. It was moved, seconded and voted that the Town authorize the Select Board to convey a certain land-locked property located off Chalet Road and shown on the Town of Dalton Property Maps on Map 212 Lot 1, commonly known as the Dalton Town Forest, to the Commonwealth of Massachusetts Department of Fish and Game, as described in a deed recorded with the Berkshire Middle District Registry of Deeds in Book 433, Page 1169 and on a plan entitled "Plan of Land in Dalton, Mass. Presented by Frederick G. Crane Jr. to the Town of Dalton," in Plan Drawer 70 Sheet 2, on such terms and conditions, and for such consideration, as the Select Board deems in the best interest of the Town; and, further, to authorize the Select Board to seek legislative approval for such transfer and conveyance under Article 97 of the Articles of Amendment to the Massachusetts Constitution, if applicable.

TWO-THIRDS VOTE REQUIRED

CARRIED.

DECLARED MAJORITY (3-4 NO VOTES)

ARTICLE 17. It was moved, seconded and voted that the Town appropriate \$113,596 and \$226,270 from available funds to be reimbursed by a Grant from the Commonwealth of Massachusetts in accordance with Chapter 90 Section 34 of the Massachusetts General Laws.

CARRIED.

UNANIMOUSLY.

ARTICLE 18. It was moved and seconded to petition the General Court of the Commonwealth to adopt legislation allowing the Town to grant one (1) additional license for the sale of all alcoholic beverages not to be drunk on the premises, in accordance with Massachusetts General Laws Ch. 138 section 15, and, if approved by the local licensing authority of the Town of Dalton and by the Commonwealth as required by law, issued to Mazvar Inc. d/b/a/ Greenridge Variety & Convenience, on and at the premises located at 1086 South Street.

CARRIED.

UNANIMOUSLY.

ARTICLE 19. It was moved, seconded and voted that the Town appropriate \$5,695 from Free Cash in the Treasury for payment of unpaid bills of previous fiscal years pursuant to the requirements of Massachusetts General Laws Chapter 44, section 64

CARRIED.

UNANIMOUSLY.

THE FOLLOWING ARTICLE 20, SUBMITTED VIA A CITIZENS PETITION SIGNED BY NINETEEN REGISTERED VOTERS, APPEARS EXACTLY AS WRITTEN

ARTICLE 20. It was moved and seconded to see if the Town of Dalton will enact the following proposed bylaw printed entirely below:

It was moved, seconded and voted to waive reading of Article 20.

CARRIED. UNANIMOUSLY.

It was moved, seconded and voted whether to allow non-resident Attorney Rinaldo DelGallo to address the meeting.

DEFEATED. DECLARED MAJORITY.

It was moved, seconded and voted to eliminate Section 7, Enforcement, from Article 20.

DEFEATED. DECLARED MAJORITY.

TITLE: A green bylaw eliminating the use of single-use plastic bags in retail sales, and requiring the use of reusable bags and/or recyclable paper bags as checkout bags to customers for retail sales, and further requiring that all food and beverage grocery bags shall use only reusable bags, while allowing plastic bags to carry vegetables, fruits, meat, or bulk food product from a vegetable, fruit, bulk food or meat department within a store to the point of sale.

SECTION 1, PURPOSE:

This bylaw is enacted pursuant to the general police power in order to protect the health, safety and welfare of the inhabitants of the Town of Dalton.

SECTION 2, EFFECTIVE DATE:

This bylaw shall take effect on January 1, 2016.

SECTION 3, FINDINGS:

Globally, the production and use of plastic bags has significant environmental impacts each year, including the use of over 12 million barrels of oil. Each year, an estimated 500 billion to 1 trillion plastic bags are used worldwide, which is over one million bags per minute, many of which end up as litter each year. These bags last hundreds of years in landfills and are a potential source of harmful chemicals when they do break down.

Most plastic carry-out bags do not biodegrade, but instead photo-degrade, which means that the bags break down into smaller and smaller toxic bits that enter the food web when animals mistake those materials for food.

Plastic bags are costly, environmentally damaging, and easily preventable sources of litter and pollution. Light and aerodynamic, plastic bags can become airborne even when properly disposed of; bags photodegrade and disintegrate into particles, littering our urban landscape and posing a serious threat to the riparian and marine environments and wildlife. Even when they are no longer obvious to the naked eye, plastic degrades into tiny particles that adsorb toxins and contaminate our food chain as well as water and soil.

Polyethylene plastic bags represent an unnecessary use of a nonrenewable resource. Reusable carryout bags represent the sustainable alternative to single use bags of all types.

Alternatives to plastic bags are readily available and include reusable cloth bags and recyclable paper bags. Retail establishments could do more to better the environment by encourage customers to use reusable bags, making single-use plastic unnecessary.

Plastic shopping bags create significant litter problems in our town's neighborhoods and also its streets, parks, creeks and open space lands.

Non-biodegradable plastic bags often are discarded into the environment and end up polluting our waterways, clogging sewers, endangering marine life and causing unsightly litter.

Reusable carryout bags are considered worldwide to be the best option to reduce waste and litter, protect wildlife, and conserve resources. Reusable bags have lower associated greenhouse gas emissions than single use bags and are readily available and affordable for the consumer.

We recognize a duty to protect the natural environment, the economy, and the health of our citizens.

It is the intent to reduce the negative impacts of polyethylene plastic carryout bags and encourage the use of reusable carryout bags through the implementation of this bylaw.

As far as environmental degradation and preservation of natural resources is concerned, a bag designed for multiple uses is preferable over a recyclable, single use paper bag. We are cutting down trees at an alarming rate, and there is still an environmental impact of recyclable paper bags. We as a town encourage the use of reusable bags in all retail sales as being the most eco-friendly, even over recyclable paper bags.

We find that a recyclable paper bag that contains no old growth fiber and is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content is more environmentally friendly than a plastic grocery bag.

We also recognize that food and beverage grocery bags of food and beverages are highly susceptible to the use of reusable bags without great inconvenience or cost to merchant or customer.

However, for retail sales not involving the sale of food or beverages prepared on the premises, the town will also accept check out bags that are made of recyclable paper, as long as the bags are sold for 25 cents. Since all customers can opt to use reusable bags, their own handbags or knapsacks, hand-carry, or use manufacturer's boxes at retail establishments which is preferable to single use recyclable paper bags, the 25 cent surcharge will incentive the use of these alternatives, while still using single-use recyclable paper bags.

Most of the people that live in the town travel by motor vehicle. It is anticipated, over the course of time, residents will develop the habit of keeping reusable checkout bags in their motor vehicle for purchases. Those using other means of transportation to get to retail establishments over the course of time will develop the habit of bringing recyclable bags. Many tourists might already have recyclable bags in their mother vehicles. Many non-residents who purchase reusable bags may be encouraged to use reusable bags in their home communities.

Single-use plastic bags have been banned in communities throughout the United States.

SECTION 4, DEFINITIONS:

"CHECKOUT BAG" means a carryout bag that is provided to a customer at the point of sale. A bag without handles intended by the manufacturer to carry vegetables, fruits, meat, or bulk food product from a vegetable, fruit, bulk food or meat department within a store to the point of sale shall not be a "checkout bag." The Board of Health shall have final say as to what is or is not a "checkout bag."

"FOOD AND BEVERAGE GROCERY CHECKOUT BAG" means a type of checkout bag that carries (in whole or part) food or beverages, wherein the food or beverage was not substantially prepared on premises, wherein further the food or beverage is to be consumed off premises. A bag without handles intended by the manufacturer to carry vegetables, fruits, meat, or bulk food product from a vegetable, fruit, bulk food or meat department within a store to the point of sale shall not be a "food and beverage grocery bag." A checkout bag is not a "food and beverage grocery bag" if the checkout bag does not contain (in whole or part) food or beverages, wherein the food or beverage was not substantially prepared on premises, wherein further the food or beverage is to be consumed off premises

The Board of Health shall have final say as to what is or is not a "food and beverage grocery bag."

"RETAIL ESTABLISHMENT" means any commercial establishment that sells perishable or nonperishable goods for use off premises including, but not limited to, clothing, food, and personal items which are to be directly used by the customer. The Board of Health shall have final say as to what is or is not a "retail establishment."

"RETAIL SALES" means the transfer to a customer of goods in exchange for payment occurring in a retail establishment. The term "retail sales" does not include sales of goods at yard sales, tag sales, other sales by residents at their home, and sales by not-for-profit organizations. The Board of Health shall have final say as to what is or is not "retail sales."

"RECYCLABLE PAPER BAG" means a paper bag that should have the following characteristics:

- (1) contains no old growth fiber; and
- (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content; and
- (3) displays the words "Reusable" and "Recyclable" on the outside of the bag.

The Board of Health shall have final say as to what is or is not a “recyclable paper bag.”

“REUSABLE BAG” means a bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements:

1. has a minimum lifetime of 125 uses, which for purposes of this bylaw means the capability of carrying a minimum of 22 pounds, 125 times over a distance of at least 175 feet; and
2. has a minimum volume of 15 liters; and
3. is machine washable or is made of a material that can be cleaned or disinfected; and
4. if made of plastic, is a minimum of at least 2.25 mils thickness.

The Board of Health shall have final say as to what is or is not a “reusable bag.”

“MANUFACTURER’S CARDBOARD BOX” means a cardboard box in which goods were shipped, where the box was designed primarily for shipment by the manufacturer of the cardboard box for multiple sales units of the good. The Board of Health shall have final say as to what is or is not a “manufacturer’s cardboard box.”

SECTION 5, PROHIBITION:

- A. **RETAIL SALES, NON-GROCERIES:** Any person engaged in retail sales shall provide only reusable bags and/or recyclable paper bags as checkout bags to customers. Checkout bags that are recyclable paper bags shall be sold for a cost of 25 cents and shall not be distributed free of charge.
- B. **RETAIL SALES, GROCERIES:** Any person engaged in retail sales wherein the checkout bags are food and beverage grocery bags, shall only use checkout bags that are reusable bags. Checkout bags that are food and beverage grocery bags shall not be a recyclable paper bag unless the recyclable paper bag also qualifies as a reusable bag.
- C. **SELLING REUSABLE BAGS NOT PROHIBITED:** Nothing in this section shall preclude persons engaged in retail sales from making reusable bags available for sale to customers.
- D. **USE OF MANUFACTURER’S CARDBOARD BOX TO CARRY ITEMS OUT NOT PROHIBITED:** Nothing in this section shall preclude persons engaged in retail sales from reusing a manufacturer’s cardboard box or otherwise making the manufacturer’s cardboard box available to the customer for use in carrying out goods.

SECTION 6, DEFERMENTS:

- A. Upon written application, the Board of Health, after a public hearing, may defer application of this bylaw for a retail establishment for a one year period, upon a showing by the retail establishment that the conditions of this bylaw would cause undue hardship.

For purposes of this bylaw, an “undue hardship” is a situation unique to the retail establishment where there are no reasonable alternatives to the use of reusable bags and/or recyclable paper bags as checkout bags for retail sales not involving food or beverages not prepared on premise, and compliance with this bylaw would cause significant economic hardship to that retail establishment. For purposes of this bylaw, an “undue hardship” is also a situation unique to the retail establishment where there are no reasonable alternatives to the use of reusable bags as food and beverage grocery checkout bags, and compliance with this bylaw would cause significant economic hardship to that retail establishment.

- B. A retail establishment granted a deferment by the Town must reapply prior to the end of the one year exemption period and demonstrate continued undue hardship, if it wishes to have the deferment extended. Deferments may only be granted for intervals not to exceed one year.
- C. A deferment granted in accordance with this Section may be extended for no more than one additional one year period, upon written application to the Board of Health at least two months prior to the expiration of the first deferment period and upon a showing that the circumstances justifying the deferment continue to exist.
- D. A deferment application shall include all information necessary for the Town to make its decision, including, but not limited to, documentation showing the factual support for the claimed deferment.

The Board of Health may require the applicant to provide additional information to permit it to determine facts regarding the deferment application.

- E. The Board of Health may approve the deferment application, in whole or in part, with or without conditions that it deems necessary to protect the public health and further the interests of this bylaw.
- F. Deferment decisions are effective immediately and final.

SECTION 7, ENFORCEMENT:

- A. The Board of Health or its designee shall inquire on an annual basis regarding any retail establishment's compliance with this bylaw.
- B. The Board of Health, after ten (10) separate violations of this bylaw by the retail establishment on ten (10) different days within any 360 day period, after a public hearing with due process rights of participation afforded to the retail establishment so that they may present evidence, may order that the retail establishment to remain closed for any period deemed necessary up to six months to obtain compliance with this bylaw. Only the Board of Health itself shall have the power to conduct public hearings on whether to close a retail establishment, and this power shall not be delegated to anyone else, including but not limited to designees of the Board of Health or the Police Department and its designees. The rulings of the Board of Health concerning closings retail establishments for violation of this bylaw shall be final.
- C. The Board of Health or its designee and the Police Department or its designee shall have primary responsibility for enforcement of this provision and shall have authority to issue citations for violation(s). The Board of Health or its designee and the Police Department or its designee is authorized to establish regulations or administrative procedures and to take any and all actions reasonable and necessary to further the purposes of this chapter or to obtain compliance with this chapter, including, but not limited to, inspecting any retail establishment's premises to verify compliance in accordance with applicable law.
- D. The Board of Health and the Police Department or its designee may enforce this by-law or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health or the Police Department shall not preclude enforcement through any other lawful means.
- E. Any member of the public who observes a potential violation of this bylaw shall be able to file a complaint with the Board of Health or its designee shall investigate whether there is a violation of this bylaw. When deemed necessary by the Board of Health or its designee, the Police Department shall assist in the investigation and shall assist in identifying violators. A member of the public shall also be able to file a complaint with the Police Department if they believe there has been a violation of this bylaw, and the Police Department or its designee shall investigate.
- F. Penalties and Fines for Violations of this bylaw may be enforced as follows:
- G. This bylaw shall be enforced by the Board of Health or its designee, or the Chief of Police or his/her designee, save that deferment applications or retail establishment closings public hearings shall only be heard by the Board of Health and not the Police Department, and the Board of Health shall not delegate its authority to conduct public hearings regarding deferments or closing retail establishments. Whoever violates any provision of this bylaw may be penalized by a non-criminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition bylaw. If non-criminal disposition is elected, then any person who violates any provision of this bylaw shall be subject to the following penalties:
 - 1. For the first violation, the Board of Health or its designee, upon determination that a violation has occurred, shall issue a written warning notice to the retail establishment which will specify the violation and the appropriate penalties in the event of future violations. The warning should also state that the retail establishment may be closed if it fails to comply. Thereafter, the following penalties shall apply:
 - (a). A fine of one hundred dollars (\$100.00) for the first violation following the issuance of a warning notice.
 - (b). A fine of two hundred and fifty dollars (\$250.00) for the second and any other violation that occurs following the issuance of a warning notice.

2. Fines are cumulative and each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense. In no event shall there be more than one violation per day assessed against a retail establishment.d

3. Whoever violates any provision of this bylaw may also be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars.

DEFEATED. DECLARED MAJORITY.

THE FOLLOWING ARTICLE 21, SUBMITTED VIA A CITIZENS PETITION SIGNED BY TWENTY-ONE REGISTERED VOTERS, APPEARS EXACTLY AS WRITTEN.

ARTICLE 21. It was moved and seconded that the Town of Dalton enact the following proposed bylaw, printed entirely below :

It was moved, seconded and voted to waive the reading of Article 21.

CARRIED. UNANIMOUSLY.

It was moved, seconded and voted whether to allow non-resident Attorney Rinaldo DelGallo to address the meeting.

DEFEATED. DECLARED MAJORITY.

“A BAN OF EXPANDED POLYSTYRENE FOAM IN FOOD ESTABLISHMENTS AND TOWN FACILITIES”

SECTION 1, PURPOSE:

This bylaw is enacted pursuant to the general police power in order to protect the health, safety and welfare of the inhabitants of the town of Dalton.

SECTION 2, EFFECTIVE DATE:

This bylaw shall take effect on January 1, 2016.

SECTION 3, FINDINGS:

Expanded polystyrene food containers form a significant portion of the solid waste stream going into our landfills. Local landfills are running out of room. In neighboring communities that use landfills, future solid waste may have to be transported hundreds of miles to a landfill at considerable cost. While polystyrene is light-weight, it is extremely voluminous in landfills. In a landfill environment, ten pounds (the weight of five reams of 8.5"x11" computer paper) of foam takes the space equivalent to a household refrigerator.

Polystyrene cannot be effectively recycled, and the vast majority of it is not. There are very few polystyrene recycle facilities in the United States. Often, long distance travel is required. The nearest facility to Berkshire County in Massachusetts is in Leominster. There is little market for the recycled product. Food residue is considered a contaminant, so either it is not used or must be washed with solvents.

Expanded polystyrene is not biodegradable. Once buried in our landfills, it will persist for centuries. Polystyrene never breaks down. Polystyrene products are not only an eyesore when left in the environment, they are highly toxic to humans and animals. Polystyrene is harmful to animal and marine life because when polystyrene breaks down into smaller chips, animals such as birds and fish may mistake it for food and ingest it and it is toxic.

Nor is polystyrene safe when incinerated. With the addition of chlorine donors as simple as table salt, it is inevitable that combustion of polystyrene in municipal solid waste incinerators will contribute to the formation of highly chlorinated polycyclic compounds like dioxins, furans, hexachlorobenzene, and chlorophenols. It is this family of compounds that are some of the most biologically active toxins known to humans.

Styrene, the key ingredient in expanded polystyrene, was recently added to the National Toxicology Program's list of carcinogens (U.S. Department of Health and Human Services). Styrene can leach from polystyrene containers into food and beverages.

The National Toxicology Program, a division of the Department of Health and Human Services, in 2011 added styrene to its "reasonably anticipated to be a carcinogen" list. The abstract of the study reads, "Styrene is *reasonably anticipated to be a human carcinogen* based on limited evidence of carcinogenicity from studies in humans, sufficient evidence of carcinogenicity from studies in experimental animals, and supporting data on mechanisms of carcinogenesis."

Styrene migrates from the containers into food and beverages when heated or in contact with fatty or acidic foods. In fact, the studies of the deleterious effect of polystyrene on health and the environment are voluminous.

The environmental disadvantages of polystyrene vastly outweigh whatever imagined environmental benefits there is of polystyrene.

Many communities in the United States have banned expanded polystyrene food containers, including Seattle WA, Freeport ME, New York NY, Amherst MA, Brookline MA, Great Barrington MA and Nantucket MA.

Appropriate alternative products are readily available from the vendors used by local food establishments; cooperative bulk buying arrangements are possible. The environmental cost of polystyrene is not absorbed by the vendor or passed on to the consumer, thereby creating market inefficiencies because the cost of environmental impact is not reflected in the cost of the product. Polystyrene may appear cheaper to vendor or consumer, but that is because they are not paying a fee for environmental impact of their food and beverage container choice.

Thus, elimination of expanded polystyrene food containers is in the best interest of the health and welfare of Town inhabitants.

It is also a finding that a disposable food or beverage container should be either biodegradable or recyclable.

SECTION 4, DEFINITIONS:

“Disposable Food Service Container” means single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers. This definition does not include single use disposable utensils, nor does it include single-use disposable packaging for unprepared foods. The Board of Health shall have final say as to what is or is not a “Disposable Food Service Container.”

“Food Establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, as further defined in 105 CMR 590.002. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered a “Food Establishment” for purposes of this bylaw. The Board of Health shall have final say as to what is or is not a “Food Establishment.”

“Expanded Polystyrene” (EPS) means polystyrene that has been expanded or “blown” using a gaseous blowing agent into a solid foam. The Board of Health shall have final say as to what is or is not a food service container is made of “Expanded Polystyrene.”

“Polystyrene” means expanded polystyrene which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term “polystyrene” also includes clear or solid polystyrene which is known as “oriented polystyrene”. The Board of Health shall have final say as to what is or is not a food service container made of “Polystyrene.”

“Prepared Food” means any food or beverage prepared for consumption on the Food Establishment’s premises, using any cooking or food preparation technique. This does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation. The Board of Health shall have final say as to what is or is not a “prepared food.”

“Town Facility” means any building, structure, land or park owned or operated by the Town, its agents and departments. The Board of Health shall have final say as to what is or is not a “Town Facility.”

“Town Facility Users” means all persons, societies, associations, organizations or special event promoters who require permission to use a Town Facility. Town Facility Users also includes concession contracts with the Town, Town-managed concessions, Town-sponsored events and food services provided at the Town’s expense. The Board of Health shall have final say as to what is or is not a “Town Facility User.”

“Biodegradable Food Service Container” means having the ability to completely break down, or decompose back into the natural environment without causing harm to the environment within three years. The Board of Health shall provide a list of acceptable vendors to assist the public as to what is or is not a “biodegradable” food container and make it available on the Town’s website and at the Board of Health; but any product that completely breaks down, or decomposes back into the natural environment without causing harm to the environment within three years shall be “biodegradable” whether it is or is not on the list provided by the Board of Health. The Board of Health shall establish procedures for a vendor to be added to the acceptable “biodegradable” food container vendor list, and shall establish standards to periodically review and revise the list. In no event shall a product composed in whole or in part of polystyrene be deemed “biodegradable.” The Board of Health shall have final say in whether a given food container is or is not “biodegradable,” and shall establish standards for implementation.

“**Recyclable Food Service Container**” means a food service container completely capable of reuse as a food service container fifty or more times and designed by the manufacturer for multiple reuse, OR completely capable of being used as a high quality of recycle, wherein the materials of the food service container may be completely reclaimed and used in new food service containers at least ten times. The Board of Health shall have final say in whether a given food container is or is not “recyclable,” and shall establish standards for implementation. The Board of Health shall provide a list of acceptable vendors to assist the public as to what is or is not a “recyclable food container” and make it available on the Town of Town’s website and at the Board of Health, but any product wherein the materials of the food service container may be completely reclaimed and used in new food service containers at least ten times shall be considered “recyclable.” The Board of Health shall establish procedures for a vendor to be added to the acceptable “recyclable” food container vendor list, and shall establish standards to periodically review and revise the list. In no event shall a product composed in whole or in part of polystyrene be deemed “recyclable.”

SECTION 5, PROHIBITION:

A. Except as provided herein, Food Establishments are prohibited from dispensing Prepared Food to customers in a Disposable Food Service container made from Expanded Polystyrene. Food Establishments are also prohibited from dispensing Prepared Food to customers in a Disposable Food Service container that is not a Biodegradable Food Service Container or a Recyclable Food Service Container.

B. Town Facility Users are prohibited from dispensing Prepared Food to customers in a Disposable Food Service container made from Expanded Polystyrene. Town Facility Users are also prohibited from dispensing Prepared Food to customers in a container that is not a Biodegradable Food Service Containers or a Recyclable Food Service Containers.

SECTION 6, DEFERMENTS:

A. Upon written application, the Board of Health, after a public hearing, may defer application of this Bylaw for a Food Establishment for a one year period, upon a showing by the Food Establishment that the conditions of this Bylaw would cause undue hardship. For purposes of this Bylaw, an “undue hardship” is a situation unique to the Food Establishment where there are no reasonable alternatives to the use of expanded polystyrene disposable food service containers and compliance with this provision would cause significant economic hardship to that Food Establishment. The Board of Health shall not delegate its duty to hear deferral applications and the Police Department shall not hear deferral applications.

B. A Food Establishment granted a deferment by the Town must reapply prior to the end of the one year exemption period and demonstrate continued undue hardship, if it wishes to have the deferment extended. Deferments may only be granted for intervals not to exceed one year.

C. A deferment granted in accordance with this Section may be extended for no more than one additional one year period, upon written application to the Board of Health at least two months prior to the expiration of the first deferment period and upon a showing that the circumstances justifying the deferment continue to exist.

D. A deferment application shall include all information necessary for the Town to make its decision, including, but not limited to, documentation showing the factual support for the claimed deferment. The Board of Health may require the applicant to provide additional information to permit it to determine facts regarding the deferment application.

E. The Board of Health may approve the deferment application, in whole or in part, with or without conditions that it deems necessary to protect the public health and further the interests of this Bylaw.

F. Deferment decisions are effective immediately and final.

SECTION 7, ENFORCEMENT:

A. The Board of Health or its designee shall inquire on an annual basis regarding any food establishment’s compliance with this bylaw as a condition for renewal of the establishment’s food service permit.

B. The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 105 CMR 590.15, may suspend or revoke the food service permit for any establishment failing to comply with this bylaw. Neither a designee of the Board of Health, nor the Police Department or its designee shall conduct such hearings to suspend or revoke the food service permit: such hearings to suspend or revoke the food service permit shall be conducted only by the Board of Health itself without delegation and their ruling shall be final.

C. The Board of Health or its designee and the Police Department or its designee shall have primary responsibility for enforcement of this provision and shall have authority to issue citations for violation(s). The Board of Health or its designee and the Police Department or its designee is authorized to establish regulations or administrative procedures and to take any and all actions reasonable and necessary to further the purposes of this chapter or to obtain compliance with this chapter, including, but not limited to, inspecting any vendor’s premises to verify compliance in accordance with applicable law.

D. The Board of Health and the Police Department or its designee may enforce this by-law or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health or the Police Department shall not preclude enforcement through any other lawful means.

E. Any member of the public who observes a potential violation of this bylaw shall be able to file a complaint with the Board of Health or its designee shall investigate whether there is a violation of this bylaw. When deemed necessary by the Board of Health or its designee, the Police Department shall assist in the investigation and shall assist in identifying violators. A member of the public shall also be able to file a complaint with the Police Department if they believe there has been a violation of this bylaw, and the Police Department or its designee shall investigate.

F. Penalties and Fines for Violations of this bylaw may be enforced as follows:

This bylaw shall be enforced by the Board of Health or its designee, or the Chief of Police or his/her designee, save that deferment applications or public hearings regarding revocation of a food service permit may only be heard by the Board of Health. Whoever violates any provision of this bylaw may be penalized by a non-criminal disposition process as provided in G.L. c.40, §21D and the Town’s non-criminal disposition bylaw. If non-criminal disposition is elected, then any person who violates any provision of this bylaw shall be subject to the following penalties:

1. For the first violation, the Board of Health or its designee, upon determination that a violation has occurred, shall issue a written warning notice to the food establishment which will specify the violation and the appropriate penalties in the event of future violations. Thereafter, the following penalties shall apply:
 - (a). A fine of one hundred dollars (\$100.00) for the first violation following the issuance of a warning notice.
 - (b). A fine of two hundred and fifty dollars (\$250.00) for the second and any other violation that occurs following the issuance of a warning notice.
2. Fines are cumulative and each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense. In no event shall there be more than one violation per day assessed against a food establishment or a town facility user.
3. Whoever violates any provision of this bylaw may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars.

DEFEATED.

DECLARED MAJORITY.

ARTICLE 23. It was moved, seconded and voted Town vote to recess until MONDAY MAY 11, 2015 at 10:00 O’CLOCK A.M. to 8:00 P.M. to meet in the DALTON COMMUNITY HOUSE, to choose and elect the following Town Officers and the determination of such other matters as are by law required to be determined by ballot.

- | | |
|-------------------------------------|-------------|
| (1) MEMBER(S)-SELECT BOARD | FOR 3 YEARS |
| (1) TOWN CLERK | FOR 3 YEARS |
| (1) MODERATOR | FOR 1 YEAR |
| (1) MEMBER-PLANNING BOARD | FOR 5 YEARS |
| (1) MEMBER-PLANNING BOARD | FOR 1 YEAR |
| (1) MEMBER-DALTON HOUSING AUTHORITY | FOR 5 YEARS |
| (1) CEMETERY TRUSTEE | FOR 3 YEARS |
| (3) LIBRARY TRUSTEES | FOR 3 YEARS |
| (3) MEMBERS-FINANCE COMMITTEE | FOR 3 YEARS |

CARRIED.

UNANIMOUSLY.

Meeting dissolved at 9:18 p.m.

Barbara L. Suriner, TOWN CLERK