

**Redevelopment** means replacement, rehabilitation or expansion of structures currently existing on the site or improvement of currently existing roads or other surfaces passable to motor vehicles.

**Resource Area** means any of the areas specified in DWR 2.0. It is used synonymously with Area Subject to Protection Under The Bylaw, each one of which is described in DWR 17.0 through 22.0.

**Significant** means plays a role. A Resource Area is significant to a wetland value when the Resource Area plays a role in the provision or protection of that wetland value.

**Water-dependent uses** mean those uses and facilities which require direct access to, or location in, marine, tidal or inland waters and which therefore cannot be located away from said waters, such as: marinas, public recreational uses, navigational and commercial fishing and boating facilities, water-based recreational uses, navigation aids, basins, and channels.

**Wildlife habitat** means areas which, due to their plant community composition and structure, hydrologic regime or other characteristics, provide food, shelter, migratory or overwintering areas, or breeding areas for animals. This includes all areas in a naturally vegetated condition.

## **7.0. PROCEDURES**

Any person filing with the Conservation Commission shall provide a copy thereof at the same time, by certified mail or hand delivery, to all appropriate town officials, committees, or boards having joint jurisdiction over the proposed project. The applicant shall inform the Commission, in writing, which have been given notice. The Commission shall not take final action until all officials and boards have had at least 14 days from receipt of notice to file written comments and recommendations with the Commission. The Commission may continue any project for which action by other town boards or town officials is required.

### **7.1. Request for Determination of Applicability (RDA)**

a) Any person who desires a determination as to whether the Bylaw applies to land, or to work that may affect a Resource Area protected under the Bylaw, may submit to the Commission by certified mail or hand delivery a Request for Determination of Applicability using forms provided by the Town of Duxbury and according to instructions provided by the Town of Duxbury. For work within Riverfront Areas, an applicant may submit to the Commission by certified mail or hand delivery a Request for Determination of Applicability to identify the scope of alternatives to be evaluated under DWR 21.1, including sufficient information to enable the Commission to determine the applicable scope of alternatives.

b) Any person who proposes to perform work within the Buffer Zone shall submit to the Commission either a Notice of Intent for such work or a Request for Determination of Applicability. Said request shall include sufficient information, to enable the Commission to find and view the area and to determine whether the proposed work will alter a Resource Area under the Bylaw.

c) A Request for a Determination of Applicability shall include certification that the owner of the area subject to the request, if the person making the request is not the owner, has been notified that a determination is being requested under the Bylaw.

## 7.2. Determination of Applicability

a) Within 21 days after the date of receipt of the Request for a Determination of Applicability, the Commission shall hold a public meeting. Notice of the time and place of the public meeting at which the determination will be made shall be given by the Commission at the expense of the person making the request not less than 5 days prior to such meeting, by publication in a newspaper of general circulation in the Town of Duxbury, and by mailing a notice to the person making the request, the owner, the Board of Health, and the Planning Board. Notice shall also be given in accordance with the open meeting law, M.G.L. c. 39, §23B. Said determination shall be signed by a majority of the Commission, and copies thereof shall be sent by the Commission to the person making the request and to the owner. Delivery of the copy to the person making the request shall be by hand delivery or certified mail, return receipt requested. Said determination shall be valid for 3 years from the date of issuance.

The Commission shall have the authority to continue the public meeting to a date certain announced at the meeting, for reasons stated at the meeting. The applicant may also request to continue a meeting to a date certain announced at the meeting. Reasons for continuing a meeting may include, but are not limited to, failure of the applicant or others to provide information (including comments, recommendations, or action of other town boards and officials) by the submittal deadline, lack of timely receipt of necessary information from the applicant, time needed by the applicant to provide additional or missing information and for the Commission to review such information, inability to view the proposed project, need for additional information to evaluate the potential impacts upon the wetland values. Once the Commission closes the public meeting it shall issue a Determination within 21 calendar days.

b) The Commission shall find that the Duxbury Wetland Bylaw and Duxbury Wetland Regulations apply to the land, or a portion thereof, if it is a Resource Area under the Bylaw. The Commission shall find that the Bylaw and Regulations apply to the work, or a portion thereof, if it is an Activity Subject to Regulation under the Bylaw as defined in DWR 3.0. The Commission shall identify the scope of alternatives to be evaluated, if requested, for work within Riverfront Areas under DWR 21.1.

c) A Notice of Intent which is filed as a result of a positive determination shall be filed with the Conservation Commission and all of the procedures set forth in DWR 7.4. A Determination of Applicability may be conditioned by the Commission to protect the wetland values of the Resource Areas involved.

### 7.3. Abbreviated Notice of Resource Area Delineation (ANRAD)

a) To establish the extent of Bordering Vegetated Wetland and other Resource Areas on land subject to protection under the Bylaw, applicants may use the Abbreviated Notice of Resource Area Delineation for the confirmation of a delineated boundary of bordering vegetated wetlands and other Resource Areas on the site, prior to filing a Notice of Intent for proposed work. Alternatively, the boundary of Bordering Vegetated Wetland (or other Resource Area) may be determined through the filing of a Notice of Intent.

b) The ANRAD shall be submitted on the form and according to instructions provided by the Town of Duxbury Conservation Commission. A public hearing shall be held as described under DWR 7.6. Procedures for an ANRAD filing, hearing, and issuance of a decision follow those outlined for the Notice of Intent as described in DWR 7.4. If the Commission determines that the Resource Areas are correctly delineated, an approval Order of Resource Area Delineation (ORAD) will be issued.

c) The Department of Environmental Protection (DEP) File Number for the ANRAD submitted under 310CMR 10.00 may serve as the File Number for the ANRAD submitted under the Bylaw. The designation of a file number shall not imply that the plans and supporting documents have been judged adequate for the issuance of an ORAD, but only that copies of the minimum submittal requirements contained in the General Instructions have been filed.

d) If the Commission determines that the Resource Areas are incorrectly or incompletely delineated, they shall request that the applicant provide the correct delineation or missing information. If the correct delineation or missing information is not provided, the Commission shall close the ANRAD hearing and issue a denial Order of Resource Area Delineation within 21 calendar days, specifying each Resource Area that is incorrectly or incompletely delineated. The Commission shall have the authority to deny any proposed Resource Area delineation when 1) the application is incomplete; 2) the delineation is incorrect, or 3) the Commission requires additional information that is not provided by the applicant.

e) The Commission shall have the authority to continue the ANRAD hearing to a date certain announced at the hearing, for reasons stated at the hearing. The applicant may request to continue a hearing to a date certain announced at the hearing. Reasons for continuing a hearing may include, but are not limited to, lack of timely receipt of necessary information from the applicant or others (including comments, recommendations, or action of other town boards and officials), time needed by the applicant to correct the delineation and for the Commission to review the corrected delineation, inability to view the proposed delineation, need for additional information to evaluate the potential impacts upon the wetland values, or incorrect or incomplete abutter notification as required under DWR 7.5. Once the Commission closes the public hearing it shall issue an ORAD within 21 calendar days, specifying whether the proposed Resource Area boundaries are correct or not (i.e., approval or denial of the boundaries).

#### 7.4. Notice of Intent (NOI)

a) Any person who proposes to do work that will alter or affect any Resource Area under the Bylaw shall file a NOI on Forms provided by the town of Duxbury and other application materials in accordance with the submittal requirements by the Town of Duxbury Conservation Commission. Eight copies of the completed Forms with supporting plans and documents shall be sent by certified mail or hand delivery to the Commission.

b) To establish the extent of Bordering Vegetated Wetland and other Resource Areas on land subject to protection under the Bylaw, applicants may use the Abbreviated Notice of Resource Area Delineation for the confirmation of a delineated boundary of bordering vegetated wetlands and other Resource Areas on the site, prior to filing a Notice of Intent for proposed work. Alternatively, the boundary of Bordering Vegetated Wetland (or other Resource Area) may be determined through the filing of a Notice of Intent.

c) The Department of Environmental Protection File Number for the Notice of Intent submitted under 310 CMR 10.00 may serve as the File Number for the Notice of Intent submitted under the Bylaw. The designation of a file number shall not imply that the plans and supporting documents have been judged adequate for the issuance of an Order, but only that copies of the minimum submittal requirements contained in the General Instructions have been filed.

d) In the event that only a portion of a proposed project or activity lies within a Resource Area under the Bylaw, and the remainder of the project or activity lies outside those areas, only that portion within those areas must be described in the detail called for by the General Instructions and by the Town of Duxbury; provided, however, that in such circumstances the Notice of Intent shall also contain a description and calculation of peak flow and estimated water quality characteristics of discharge from a point source (both closed and open channel) when the point of discharge falls within a Resource Area under the Bylaw.

Notwithstanding the foregoing, when the Commission has determined that an activity outside the Resource Areas has in fact altered a Resource Area, it may require such plans, supporting calculations and other documentation as are necessary to describe the entire activity.

e) The requirement under these Regulations to obtain or apply for all obtainable permits, variances and approvals required by local bylaw with respect to the proposed activity shall mean only those which are feasible to obtain at the time the Notice of Intent is filed.

f) If the Commission rejects a Notice of Intent because of a failure to obtain or apply for all permits, variances and approvals required by local bylaw, it shall specify in writing the permit, variance or approval that has not been applied for. A ruling by the municipal agency which has jurisdiction for the issuance of the permit, variance or approval, or by the Town Counsel or Board of Selectmen, concerning the applicability or obtainability of such permit, variance or approval shall be accepted by the Commission. In the absence of such a ruling, other evidence may be accepted.

g) A Notice of Intent shall expire when the applicant has failed to diligently pursue the issuance of a Final Order in proceedings under the Duxbury Wetland Regulations. A Notice of Intent shall be presumed to have expired two (2) years after the date of filing unless the applicant submits information showing that (a) good cause exists for the delay of proceedings under the Bylaw; and (b) the applicant has continued to pursue the project diligently in other forums in the intervening period; provided, however, that unfavorable financial circumstances shall not constitute good cause for delay. No NOI shall be deemed expired under the Bylaw when an appeal under the Bylaw is pending and when the applicant has provided all information necessary to continue with the prosecution of the case.

h) The Commission may require that supporting plans and calculations be prepared and stamped by a registered professional engineer (P.E.) when, in its judgment, the proposed work warrants this professional certification. The Commission may also require preparation and submission of supporting materials by other professionals including, but not limited to, registered landscape architect, registered land surveyor, environmental scientist, geologist or hydrologist when in its judgment the complexity of the proposed work and/or the wetland values of the Resource Areas warrants the relevant specialized expertise. Submitted materials may be used by the Commission to evaluate the effects of the proposed project on wetland values. Submission of requested materials does not imply approval of the project.

i) The Commission shall have the authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearing. The applicant may also request to continue a hearing to a date certain announced at the hearing. Reasons for continuing a hearing may include, but are not limited to, failure of the applicant or others to provide information (including comments, recommendations, or action of other town boards and officials) by the submittal deadline, lack of timely receipt of necessary information from the applicant, time needed by the applicant to provide additional or missing information and for the Commission to review such information, inability to view the proposed project, need for additional information to evaluate the potential impacts upon the wetland values, and incorrect or incomplete abutter notification as required under these regulations. Should the applicant refuse to continue the hearing or to provide the requested information, the Commission shall close the public hearing and issue an Order of Conditions within 21 calendar days.

j) The Commission shall have the authority to deny any NOI application for which 1) the application is incomplete and the applicant fails to provide the Commission with additional information that the Commission deems necessary in order to evaluate the potential impacts of the proposed project on the wetland values; and/or 2) the proposed work or activity does not meet the performance standards specified herein and cannot be conditioned to meet the performance standards specified herein.

7.5. Abutter Notification. Any applicant filing a Notice of Intent or Abbreviated Notice of Resource Area Delineation, for work within jurisdiction of the Bylaw, must notify abutters within 100 feet of the lot, or lots upon which work is proposed, by certified mailing or hand delivery on the form and according to instructions provided by the Town

of Duxbury Conservation Commission. Mailing at least seven days prior to the public hearing shall constitute timely notice. Notification shall be at the applicant's expense. Proof of abutter notification (e.g., certified mail receipts) must be provided to the Commission at the public hearing, if requested.

7.6. Public Hearings/Public Meetings. A public hearing or public meeting shall be held by the Commission within 21 days of receipt of the minimum submittal requirements set forth in the General Instructions for Completing Notice of Intent (Form 3), Abbreviated Notice of Intent (Form 4), Request for Determination of Applicability (Form 1) or Abbreviated Notice of Resource Area Delineation. The public hearing/public meeting shall be held under both M.G.L. c.131, § 40 and the Duxbury Wetlands Bylaw, unless the project is located in only one of the two jurisdictions. The Commission shall send notice of the public hearing or public meeting to a newspaper of local circulation. The applicant is responsible for the cost of the legal notice.

#### 7.7. Orders of Conditions Regulating Work

a) Within 21 days of the close of the public hearing, the Commission shall either:

1. make a determination that the area on which the work is proposed to be done, or which the proposed work will remove, fill dredge or alter, is not significant to any of the wetland values identified in the Bylaw and shall so notify the applicant; or

2. make a determination that the area on which the work is proposed to be done, or which the proposed work will remove, fill, dredge or alter, is significant to one or more of the wetland values identified in the Bylaw and shall issue an Order of Conditions for the protection of said values.

b) The standards and presumptions to be used by the Commission in determining whether an area is significant to the wetland values in the Bylaw are found in DWR 17.0 through 23.0.

c) The Order of Conditions shall impose such conditions as are necessary to meet the performance standards set forth in DWR 17.0 through 23.0 for the protection of those areas found to be significant to one or more of the wetland values identified in the Bylaw. The Order shall prohibit any work or any portion thereof that cannot be conditioned to meet said standards.

#### 7.8. Denials

a) Procedural Denials. If the Commission finds that the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the wetland values of the Resource Area, it may issue a denial prohibiting the work. The denial shall specify the information which is lacking and why it is necessary. In writing the procedural denial, the Commission shall:

1. State that the denial is specifically based on lack of information describing the site, the work and/or the effect of the work on the wetland values; and

2. List specific information needed in each of the three possible problem areas mentioned above, citing appropriate sections of the Regulations.

b) Substantive Denials. The Commission may deny permission for any activity within areas under its jurisdiction if, in its judgment, such denial is necessary to protect the wetland values. Due consideration shall be given to all possible effects of the proposal on all wetland values. Substantive denials are based on a reasoned analysis of the proposed activity and the likely effects of this activity on the wetland values. In most cases, neither the assumption of protection nor the assumption of damage will be able to be proven with certainty. The Commission will base its judgment on the best information available to it at the time and in all cases will act to protect the wetland values

The written decision will include the reasons for the denial, citing wetland values protected, and relevant regulations. The written decision will be signed by a majority of the Commission.

c) Revocation. For good cause, the Commission may revoke or modify any permit, order, determination or other decision issued under the Bylaw after notice to the holder of the permit, the public, abutters, and town boards, pursuant to DWR 7.6 (Public Hearings) and DWR 16.2 (Coordination of Permitting), and holding a public hearing.

7.9. Recording in Registry of Deeds or Land Court. In no case shall any work or construction commence unless and until the Order of Conditions or Order of Resource Delineation has been recorded at the Registry of Deeds or Land Court and the proof of recording is delivered to the Commission.

7.10. Validity. A Determination of Applicability, Order of Resource Delineation and Orders of Conditions shall be effective for three (3) years from the date of issuance.

7.11. Extensions of Orders of Conditions and Orders of Resource Area Delineations

a) The Commission may extend an Order for one or more periods of up to three years each, which shall be made on Form 7. The request for an extension shall be made to the Commission at least 30 days prior to expiration of the Order.

b) The Commission may deny the request for an extension and require the filing of a new Notice of Intent for the remaining work or a new Abbreviated Notice of Resource Area Delineation in the following circumstances:

1. where no work has begun on the project, except where such failure is due to an unavoidable delay, such as appeals, in the obtaining of other necessary permits;
2. where new information, not available at the time the Order was issued, has become available and indicates that the Order is not adequate to protect the wetland values identified in the Bylaw; or
3. where incomplete work is causing damage to the Resource Area and wetland values in the Bylaw;

4. where work has been done in violation of the Order or Bylaw and Regulations; or
  5. where a resource area delineation or certification in an Order of Resource Delineation is no longer accurate.
- c) The Extension Permit shall be recorded in the Land Court or the Registry of Deeds, which ever is appropriate and evidence of the recording delivered to the Commission.

#### 7.12. Certificates of Compliance

- a) Upon completion of the work described in the Final Order of Conditions the applicant shall request in writing the issuance of a Certificate of Compliance stating that the work has been satisfactorily completed. Upon written request by the applicant, a Certificate of Compliance shall be issued by the Commission within 21 days of receipt thereof, and shall certify on Form 8 that the activity or portions thereof described in the Notice of Intent and plans has been completed in compliance with the Order.
- b) Prior to issuance of a Certificate of Compliance a site inspection shall be made by the Commission or its administrative agent.
- c) If the Commission determines, after review and inspection, that the work has not been done in compliance with the Order, it may refuse to issue a Certificate of Compliance. Such refusal shall be issued within 21 days of receipt of a request for a Certificate of Compliance, shall be in writing and shall specify the reasons for denial.
- d) If a project has been completed in accordance with plans stamped by a registered professional engineer, architect, landscape architect or land surveyor, a written statement by such a professional person certifying substantial compliance with the plans and setting forth what deviation, if any, exists from the plans approved in the Order shall accompany the request for a Certificate of Compliance
- e) If the final Order contains conditions which continue past the completion of the work, such as maintenance or monitoring, the Certificate of Compliance shall specify which, if any, of such conditions shall continue. The Certificate shall also specify to what portions of the work it applies, if it does not apply to all the work regulated by the Order.
- f) The Certificate of Compliance shall be recorded in the Land Court or Registry of Deeds, which ever is appropriate and evidence of the recording delivered to the Conservation Commission.

### **8.0. EMERGENCY CERTIFICATION**

The notice required by this Bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the citizens of Duxbury and to be performed or ordered to be performed by an administrative agency of the Commonwealth or by the Town. Emergency projects shall mean any projects certified to be an emergency by the

Commission or its agent. In no case shall any removal, filling, dredging or alteration authorized by such certification extend beyond the minimum amount of work and time necessary to abate the emergency. The Commission or its agent may impose conditions to protect wetland values of this Bylaw. Failure to agree to or follow these conditions shall be due cause for stopping all work. Upon failure to meet these requirements, the Commission may order all such work stopped and require the filing of a Notice of Intent or other application. The Commission may adopt emergency regulations in conformance with the Bylaw for limited durations after severe storms, notice of which shall be provided as soon as possible after their adoption.

## **9.0. RIGHT OF ENTRY**

The Commission, its agent, employees, consultants, and officers, may enter upon the land upon which proposed work is to be done in response to a request for a prior determination or for the purpose of carrying out its duties under the Bylaw and Regulations and may make or cause to be made such examination or survey as deemed necessary.

## **10.0. ENFORCEMENT**

a) Authority. The Conservation Commission shall have the authority to enforce these implementing regulations and permits issued thereunder by undertaking and issuing violation notices, administrative orders, and civil and criminal court actions. Upon request of the Commission to the Board of Selectmen, the Town Counsel may take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police may take legal action for enforcement under criminal law.

b) Fines. Any person who violates any provision of the Bylaw and these implementing regulations or permits issued thereunder, shall be punished by a fine set by the Conservation Commission. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the Bylaw, regulations or permit violated shall constitute a separate offense.

c) Non-criminal Disposition. In addition to the procedure of enforcement as described above, the provision of the Bylaw and these implementing regulations or permits issued thereunder may also be enforced by the Commission or its agent, by non-criminal complaint pursuant to the provisions of M.G.L. Ch. 40, § 21D. Each provision of the chapter, regulations or permit violation that is violated shall constitute a separate offense.

## **11.0. SECURITY**

As part of a permit issued under the Bylaw, in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including requiring

mitigation work) be secured wholly or in part by one or more of the methods described below.

a) By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit. Such bond or deposit shall be released only upon issuance of a Certificate of Compliance.

b) By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

## **12.0. BURDEN OF PROOF**

The applicant shall have the burden of proof by a preponderance of credible evidence that the work proposed will not have a significant or cumulative detrimental effect upon Resource Areas or their wetland values protected herein. No project determined to have a significant or cumulative detrimental effect upon Resource Areas or wetland values protected herein shall be allowed. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny the proposed project. In all instances herein, the Commission, after due deliberation, shall have the discretion to determine the weight of the information presented or omitted. The Commission maintains the right to condition any project as it deems necessary to protect one or more of the wetland values set forth herein.

## **13.0. FEES**

13.1. Application Fees. At the time of a filing a Notice of Intent (NOI), Abbreviated Notice of Resource Area Delineation (ANRAD), Request for Determination of Applicability (RDA), or application for Certificate of Compliance, the applicant shall pay a filing fee specified in Appendix A of these Regulations. The fee is in addition to that required by the Wetlands Protection Act (M.G.L. Ch. 131 § 40) and Regulations (310 CMR 10.00). The Commission is authorized to require an applicant (for an ANRAD, RDA or NOI or other filing) to pay a fee to cover the reasonable costs and expenses borne by the Commission in processing and evaluating the permit application. The fee schedule will be set by the Commission following public notice and a public hearing. The Commission may, at its discretion, waive the application fee, costs and expenses for a permit application.

***Refer to Appendix A for the Bylaw Application Filing Fee Schedule.***

13.2. Consultant Fees

a) Consultant Fee Under M.G.L. Ch. 44 §53G. As provided by M.G.L. Ch. 44, § 53G, the Conservation Commission may impose reasonable fees for the employment of outside consultants, engaged by the Commission, for specific expert services deemed necessary by the Commission to come to a final decision on an application submitted to the Commission pursuant to the requirements of the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, § 40), the Duxbury non-zoning wetlands bylaw (Town of Duxbury Wetlands Protection Bylaw Chapter 9), Conservation Commission Act (M.G.L. Ch. 40, § 8C), or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time.

Funds received by the Conservation Commission pursuant to these rules shall be deposited with the Town Treasurer who shall establish a special segregated account (Account) for this purpose. Expenditures from this Account may be made at the direction of the Conservation Commission without further appropriations as provided in M.G.L. Ch. 44, § 53G. Expenditures from this Account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant. Any unused portion of the consultant fee, including interest, shall be returned to the applicant.

Specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, hydrogeologic and drainage analysis, impacts on municipal conservation lands, inspections during construction, any reports necessary for a Certificate of Compliance, and environmental or land use law. The consultant shall be chosen by, and report only to, the Conservation Commission and/or its Administrator.

The Conservation Commission shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn in writing within five days of the date such notice is given. The fee must be received in its entirety prior to the initiation of consulting services. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment shall be cause for the Commission to determine that the application is administratively incomplete (except in the case of an appeal).

The applicant may appeal the selection of the outside consultant to the Board of Selectmen (administrative appeal), who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or a related

field. Such an appeal must be in writing and received by the Board of Selectmen and a copy received by the Conservation Commission, so as to be received within ten (10) days of the date consultant fees were requested by the Conservation Commission. The required time limits for action upon the application shall be extended by the duration of this administrative appeal.

13.3. Fee Waiver. The Conservation Commission may, at its discretion waive fees.

## **14.0. APPEALS**

Any applicant, owner or abutter, any person aggrieved or any ten (10) residents of the Town of Duxbury may appeal an order of the Conservation Commission under the Bylaw to the Superior Court of Plymouth County within sixty (60) days following the date of issuance of the order, in accordance with M.G.L. Ch. 249 § 4. If an appeal under the Wetlands Protection Act is made to DEP within ten (10) days of the issuance of the Order, the 60-day appeal period under the Bylaw will be suspended during this period of appeal to DEP. Said appeal period under the Bylaw shall commence upon the date of issuance of a superseding order from DEP and shall continue for no more than sixty (60) days from that date, even if a further appeal has been made for a final order of conditions before a DEP adjudicatory hearing.

## **15.0. SEVERABILITY**

Should any term, condition, definition, language, section or provision of these Regulations be found invalid by competent legal authority, the validity of any other term, condition, definition, language, section or provision thereof shall not be affected, nor shall it invalidate any permit, approval, enforcement order or determination which previously has been issued.

## **16.0. RELATION TO OTHER FEDERAL, STATE AND LOCAL STATUTES**

16.1. Relation to the Wetlands Protection Act and Other Federal, State and Local Statutes. These implementing regulations under the Town of Duxbury Wetlands Protection Bylaw are adopted under the Home Rule Amendments of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act M.G.L. Ch. 131 § 40 and implementing regulations, and other federal, state and local environmental statutes. Activities that may not require review or permitting under the Massachusetts Wetlands Protection Act, the Rivers Protection Act, the federal or state Clean Water Act, or other federal, state or local statutes are not assumed to be exempt from these implementing regulations.

16.2. Coordination of Permitting. In order to ensure that various permit granting authorities review the impacts upon resources protected by these implementing regulations in a coordinated manner, and where the provisions of these implementing regulations are applicable, applicants for permits under federal, state or local statute or regulation shall comply with the requirements for filing under these regulations within forty-five (45) days of said application made under federal, state or local statute or regulation.