

**GENERAL BYLAWS OF THE TOWN OF DUXBURY**

**COMPLETED THROUGH ANNUAL TOWN MEETING AND THE SPECIAL  
TOWN MEETING 3/13/10**

## TABLE OF CONTENTS

<u>CHAPTER</u>	<u>NAME</u>	<u>PAGE</u>
<b>Chapter 1</b>	<b>General Provisions</b>	<b>4</b>
Chapter 1.1	Adoption of and Amendments to the By-laws	4
Chapter 1.2	Acts of the Legislature Accepted by the Town	5
Chapter 1.3	Issuance, Denial or Revocation of Licenses & Permits for Non-Payment of Taxes	5
<b>Chapter 2</b>	<b>Town Meeting</b>	<b>7</b>
Chapter 2.1	Annual Town Meeting and Elections	7
Chapter 2.2	Special Town Meeting	7
Chapter 2.3	Warrants for Town Meetings	7
Chapter 2.4	Conduct of Town Meetings	7
<b>Chapter 3</b>	<b>Elected Town Officers, Boards, and Committees</b>	<b>8</b>
Chapter 3.1	Selectmen	8
Chapter 3.2	Assessors	9
Chapter 3.3	Moderator	9
Chapter 3.4	Town Clerk	9
Chapter 3.5	School Committee	10
Chapter 3.6	Library Trustees	10
Chapter 3.7	Planning Board	10
Chapter 3.8	Housing Authority	10
Chapter 3.9	Vacancies	10
Chapter 3.10	Term of Office	11
Chapter 3.11	Residents as Elected Officers	11
<b>Chapter 4</b>	<b>Town Manager</b>	<b>11</b>
<b>Chapter 5</b>	<b>Appointed Officers and Committees</b>	<b>13</b>
Chapter 5.1	Appointments Made by the Moderator	13
Chapter 5.2	Appointments Made by the Board of Selectmen	13
Chapter 5.3	Appointments Made by the Town Manager	14
Chapter 5.4	Other Appointed Town Officers	14

<b>Chapter 6</b>	<b>Committees</b>	<b>15</b>
Chapter 6.1	Committees	15
Chapter 6.2	Board of Appeals - Zoning	16
Chapter 6.3	Board of Health	16
Chapter 6.4	Cemetery Trustees	16
Chapter 6.5	Conservation Commission	17
Chapter 6.6	Duxbury Beach Committee	17
Chapter 6.7	Finance Committee	18
Chapter 6.8	Fiscal Advisory Committee	18
Chapter 6.9	Historical Commission	20
Chapter 6.10	Personnel Board	20
Chapter 6.11	Water and Sewer Advisory Board	20
Chapter 6.12	Community Preservation Act Committee	22
Chapter 6.13	Economic Advisory Committee	24
Chapter 6.14	Local Housing Partnership	24
Chapter 6.15	Duxbury Bay Management Commission	24
Chapter 6.16	Duxbury Agricultural Commission	26
<b>Chapter 7</b>	<b>Public Safety</b>	<b>27</b>
Chapter 7.1	Dog Control	27
Chapter 7.2	Town Landings	28
Chapter 7.3	Traffic Rules and Orders	28
Chapter 7.4	Consumption of Alcoholic Beverages	29
Chapter 7.5	Public Use of Marijuana or Tetrahydrocannabinol	30
Chapter 7.6	Scenic Roads	30
Chapter 7.7	Public Ways	30
Chapter 7.8	Advertising Materials	31
Chapter 7.9	Fees	31
Chapter 7.10	Fire Hydrants	31
Chapter 7.11	Smoking Ban	31
Chapter 7.12	Removal of Vehicles for Snow Removal	32
Chapter 7.13	Regulation of Automatic Dialers – Fire Department	32
Chapter 7.14	Regulation of Lock Boxes – Fire Department	33
Chapter 7.15	Vehicular Transportation of Liquefied Petroleum Gases	33
Chapter 7.16	Regulation of Mechanical Protection Devices (Alarms) ---Fire Department	34
Chapter 7.17	Carbon Monoxide Detectors	36
Chapter 7.18	Door-to-Door Solicitation	36
Chapter 7.19	Handicap Parking	39

<b>Chapter 8</b>	<b>Earth Removal</b>	<b>40</b>
Chapter 8.1	Earth Removal	40
<b>Chapter 9</b>	<b>Wetlands Protection</b>	<b>41</b>
Chapter 9.1	Wetlands Protection	41
<b>Chapter 10</b>	<b>Water</b>	<b>47</b>
Chapter 10.1	Water Restriction	47
Chapter 10.2	Water Supply	50
<b>Chapter 11</b>	<b>Right-to-Farm Bylaw</b>	<b>51</b>
<b>APPENDIX A</b>	<b>ACTS OF THE LEGISLATURE ACCEPTED BY THE TOWN</b>	<b>55</b>
<b>APPENDIX B</b>	<b>AN ACT PROVIDING FOR A TOWN MANAGER IN THE TOWN OF DUXBURY</b>	<b>65</b>

The purpose of these by-laws is to establish rules conducive to the welfare of the Town of Duxbury and the convenience of its residents, and to provide for the orderly direction and management of its affairs. These by-laws do not represent the only laws or regulations governing the conduct of town affairs; other sources of authority include state statutes, which are generally compiled in the General Laws of the Commonwealth; Special Acts of the Legislature adopted specifically for the Town of Duxbury; the Protective (Zoning) By-Law, a copy of which is maintained with these by-laws; the By-Laws Governing the Classification of Personnel and the Administration of Standard Rates and Salaries and Wages (the Personnel By-Law) and rules and regulations issued by various town departments and approved by the Selectmen where required. An attempt has been made to cross-reference these by-laws to state statutory where applicable, but such cross-references are not complete in all cases and are subject to future amendments by the state legislature.

## **CHAPTER 1 GENERAL PROVISIONS**

### **1.1. ADOPTION OF AND AMENDMENTS TO THE BY-LAWS**

- 1.1.1. The following provisions shall constitute the by-laws of the Town of Duxbury. The acceptance and approval of these by-laws shall specifically repeal any and all general by-laws previously in force. Whenever reference is herein made to these by-laws, it shall include these by-laws as they may from time to time be amended. The invalidity of any chapter, section or provision of these by-laws shall not invalidate any other chapter, section or provision.
- 1.1.2. The repeal of a by-law shall not thereby have the effect of reviving a by-law previously repealed. The repeal of a by-law shall not affect any act done, or any right accrued or established, nor any action in a civil case, nor affect any punishment, penalty or forfeiture incurred under such by-law.
- 1.1.3. Any or all of these by-laws may be repealed or amended or other by-laws may be adopted by a majority vote, except as may otherwise be required by statute, at any town meeting, provided that an article or articles for that purpose have been inserted in the warrant for such town meeting.
- 1.1.4. In accordance with M.G.L. c. 40, Sec. 21D, whoever violates any of the provisions of these by-laws shall, unless other provision is expressly made, forfeit and pay a fine not exceeding \$300.00. Each day the violation continues shall be considered a separate offense. Schedules of fines assessed for such violations shall be set by the Board of Selectmen unless

another officer, board, committee or commission is specifically authorized to do so elsewhere in these by-laws. In all instances, non-criminal penalties pursuant to M.G.L. c.40. Section 21D, shall be established following the procedures that govern the setting of fees in Section 7.8.

- 1.1.5 Enforcement of these by-laws through criminal or non-criminal proceedings shall be prescribed in Section 4.7.
- 1.1.6 Harbormaster Non-Criminal R & R-The Town May enforce any provision of any rule and regulation adopted by the Selectmen and published in the Board of Selectmen's Manual through the Non-Criminal process set forth in M.G.L. Ch. 40:21D.

**Constructive Approval-M.G. L. Ch. 40:32-Published-Dec. 15, 2004 and Dec. 22, 2004**

**1.2. ACTS OF THE LEGISLATURE ACCEPTED BY THE TOWN**

- 1.2.1. The Town Clerk shall attach as Appendix A a current list of all Acts of the Legislature accepted by the Town.

**1.3. ISSUANCE, DENIAL OR REVOCATION OF LICENSES AND PERMITS FOR NONPAYMENT OF TAXES**

- 1.3.1 License and Permit issuing authorities of the Town of Duxbury may deny or revoke any local license or permit, (except those listed in section 1.3.2(e) below) including renewals and transfers thereof, to any person, corporation or business enterprise having neglected or refused to pay any local tax, fee, assessment or betterment or any other municipal charge.
- 1.3.2. Any such denial or revocation of a license or permit shall be subject to the following procedures and conditions:

(a) The tax collector shall annually furnish to each department, board, commission or division hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

(b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers to any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing not earlier than fourteen (14) days after said notice.

Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments, or other municipal charges, payable to the town as of the date of issuance of said certificate.

(c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory

compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

(d) The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his or her immediate family, as defined in M.G.L. c.268, sec. 1, in the business or activity conducted in or on said property.

(e) This section shall not apply to the following licenses and permits: open burning; M.G.L. c. 48, sec. 13; bicycle permits; M.G.L. c. 85, sec. 11A; sales of articles for charitable purposes, M.G.L. c. 101, sec. 33; children's work permits, M.G.L. c. 149, sec. 69; clubs and associations dispensing food or beverage licenses; M.G.L. c. 140, sec. 21E dog licenses, M.G.L. c. 140, sec. 137; fishing; hunting and trapping licenses, M.G.L. c. 131, sec. 12; marriage licenses, M.G.L. c. 207, sec. 28; and theatrical events, public exhibition permits, M.G.L. c. 140, sec. 181.

## **CHAPTER 2 TOWN MEETING**

### **2.1. ANNUAL TOWN MEETING AND TOWN ELECTIONS**

- 2.1.1. The Annual Town Meeting shall be held on the second Saturday in March of each year at the hour and location designated by the Selectmen.
- 2.1.2. The Town Clerk shall be responsible for preparing any official ballots for town elections. The election of officers designated on the official ballot, and the voting on such questions or matters as may properly be submitted to vote in the official ballots, shall take place on the fourth Saturday in March of each year. The hour of opening the polls, and the setting aside of any additional voting dates and times, as may be necessary, is to be determined by the Selectmen.

### **2.2. SPECIAL TOWN MEETING**

- 2.2.1. A Special Town Meeting may be called by the Selectmen, the date, hour and location of the meeting to be designated by them, or otherwise pursuant to applicable state statute.

### **2.3. WARRANTS FOR TOWN MEETING**

- 2.3.1. The Board of Selectmen shall be responsible for preparing all town meeting warrants. Warrants for all town meetings shall be served by posting an attested copy thereof in each precinct, at least seven (7) days before the Annual Town Meeting and fourteen (14) days before a Special Town Meeting. In addition to posting copies of the warrant for any Special Town Meeting, a copy of the warrant shall be published in one Plymouth County newspaper with a regular circulation in the Town of Duxbury at least fourteen (14) days before the time of holding said Special Town Meeting. The warrant for the Annual Town Meeting shall be closed no later than 75 days preceding the date of such meeting. No Annual or Special Town Meeting shall be dissolved until all of the articles contained in the warrant for such meeting shall have been acted upon there at.

### **2.4. CONDUCT OF TOWN MEETINGS**

- 2.4.1. The general conduct of the town meetings and the duties of the Moderator, not otherwise prescribed by statute or by these by-laws, shall be determined in accordance with "TOWN MEETING TIME" ((copyright Little Brown). Sections 2.4.3 through 2.4.6 of these by-laws constitute approved exceptions to the conduct of town meetings as prescribed by "Town Meeting Time."

The Clerk shall maintain with these By-Laws a copy of "Town Meeting Time" available for inspection by any registered voter of the Town.

- 2.4.2. No minimum number of registered voters shall be necessary to constitute a quorum for the transaction of business at any duly called Annual or Special Town Meeting or any adjournments thereof.
- 2.4.3. All articles shall be acted on in the order of their arrangement in the warrant unless the meeting, by vote, determines to defer action until after a specific subsequent article.
- 2.4.4. A non-voter may be permitted to address the meeting by a majority vote of that meeting.
- 2.4.5. During the meeting, a motion "to lay on the table" will not be considered.
- 2.4.6. All votes for reconsideration shall require the same quantitative vote as the motion to which it applies and shall be made at the same session as the original motion or the next succeeding session, and may be made only once on any motion.
- 2.4.7. Whenever a two-thirds vote is required on any matter, the Moderator may declare a motion passed by a voice vote of at least two-thirds in favor or failed to obtain a two-thirds vote in favor and a count need not be taken unless the vote so declared is immediately questioned by seven or more voters as provided in MGL, Chapter 39, section 15 or otherwise required by law or these By-laws. The Town Clerk shall record the Moderator's declaration that the motion passed by a two-thirds vote in favor or failed to obtain a two-thirds vote in favor.

### **CHAPTER 3 ELECTED TOWN OFFICERS, BOARDS AND COMMITTEES**

#### **3.1. SELECTMEN**

The Board of Selectmen shall consist of three members, one elected each year for a term of three years. In addition to those powers and duties given in Chapter 353 of the Acts of 1987 (Act Providing for a Town Manager, a copy of which appears as Appendix B in these by-laws as Appendix B), the Board of Selectmen shall have the following powers and duties.

- 3.1.1. The Board of Selectmen shall exercise general supervision over all matters affecting the interests or welfare of the Town and shall enforce these by-laws and may take such action in regard thereto, including the use of all

remedies and penalties permitted by law or these by-laws, as they believe are in the best interests of the Town.

- 3.1.2. No person shall hold, at one time, the offices of Board of Selectmen and Assessor.
- 3.1.3. The Board of Selectmen shall serve as a committee established pursuant to M.G.L. c. 83, sec. 1 with all the powers and authority usually conferred upon a Board of Sewer Commissioners.
- 3.1.4. The Board of Selectmen shall cause a biennial audit of the Town's financial records to be accomplished by and carry the report thereon of an independent accountant or accounting firm.
- 3.1.5. The Board of Selectmen shall appoint a member of the bar in good standing to serve as Town Counsel at their pleasure. The Board of Selectmen may also employ special counsel from time to time whenever, in their judgment, the necessity arises. No town department or official shall request the services of Town Counsel, as such, without first obtaining the consent and approval of the Board of Selectmen.
- 3.1.6. The Board of Selectmen shall conduct an annual written Performance review of the Town Manager.

**3.2. ASSESSORS**

- 3.2.1. The Board of Assessors shall consist of three members, one elected each year for a term of three years. The duties of the Assessors shall be such as are stated in M.G.L. c. 41, sec. 29, as from time to time amended, and M.G.L. c. 59, sec. 38, as from time to time amended.

**3.3. MODERATOR**

- 3.3.1. The Moderator shall hold no other Town Office. The Moderator's term of office shall be one year. In addition to presiding at all Annual and Special Town Meetings, the Moderator shall make those appointments referred to in Chapter 5.1. of these by-laws and appointments as required by State statute and/or by Town Meeting actions.

**3.4. TOWN CLERK**

- 3.4.1. The Town Clerk's term of office shall be three years. The duties of the Clerk shall be such as are stated in M.G.L. c. 41, sec. 15, as from time to time amended.

- 3.4.2. The Town Clerk shall furnish all boards and committees and officers with a copy of all votes affecting them.
- 3.4.3. All deeds and instruments which convey any interest in real property to the Town (title documents) shall, when returned to the Town, be filed with the Town Clerk's office. The Town Clerk shall be custodian of all title documents and shall maintain an index, by grantor and location, for all title documents on file with the Town Clerk's office.

**3.5. SCHOOL COMMITTEE**

- 3.5.1. The School Committee shall consist of five members all for three-year staggered terms, two elected the following year, and one elected the third year. The duties of the School Committee shall be such as are stated in M.G.L. c. 71, secs. 35-67, as from time to time amended.

**3.6. LIBRARY TRUSTEES**

- 3.6.1. The Board of Library Trustees shall consist of six trustees, two to be elected each year, all for a three-year terms. The duties of the Library Trustees shall be such as are stated in M.G.L. c. 78, sec. 10 as from time to time amended.

**3.7. PLANNING BOARD**

- 3.7.1. The Planning Board shall consist of seven members, all for five-year staggered terms.
- 3.7.2. The duties of the Board shall be such as are stated in M.G.L. c. 41, secs. 81-A through 81-GG, as from time to time amended.

**3.8. HOUSING AUTHORITY**

- 3.8.1. The Duxbury Housing Authority shall consist of five members, four to be elected, and one to be appointed by the Governor, all for five-year staggered terms. The duties of the Housing Authority shall be such as are stated in M.G.L. c. 121B, sec. 26 as from time to time amended.

**3.9. VACANCIES**

- 3.9.1. Vacancies in any and all offices enumerated in Chapter 3, including

those vacancies resulting from failure to elect, are provided for under M.G.L. c. 121B and M.G.L. c. 41, secs. 10, 11 and 81-A.

**3.10. TERM OF OFFICE**

- 3.10.1. The term of office of any elected officer shall commence immediately following his or her election and swearing-in, except that the office of Town Clerk shall commence on the seventh day succeeding his or her election.

**3.11. RESIDENTS AS ELECTED OFFICERS**

- 3.11.1. All elected officers shall be registered voters of the Town of Duxbury.

**CHAPTER 4 TOWN MANAGER**

A Town Manager, who shall be the chief administrative and financial officer of the Town, shall be appointed by the Board of Selectmen in accordance with Chapter 353 of the Acts of 1987 (Act Providing for a Town Manager). Attention is directed to such Act, as amended from time to time, for extensive statutory provisions regarding the duties of the Town. Manager. A copy thereof appears as Appendix B. In addition to those powers and duties given in said Act, the Town Manager shall have the following powers and duties.

- 4.1 The Town Manager shall keep the Board of Selectmen and the Finance Committee simultaneously informed as to the financial condition of the town and provide periodic reports enumerating account balances in summary form with detailed back-up, and provide a detailed operating statement of revenues and expenses. His periodic reports will include comparisons of revenues and expenses against budget expectations, and projections of same through year end. He shall simultaneously alert the Board of Selectmen and Finance Committee of any significant, unanticipated changes in towns' financial condition or operations.
- 4.1.1 There shall be established a Department of Finance which shall be under the jurisdiction of the Town Manager. The Department of Finance shall have the powers and duties now vested in or exercised by the following departments: Town Accountant and Town Treasurer/Collector. These departments shall become divisions of the Department of Finance. It is the intent of this bylaw that all financial activities of the Town shall be consolidated and coordinated by the Department of Finance.

- 4.1.2 The Town Manager shall appoint a Director of Finance to oversee and direct the duties and responsibilities of the Department of Finance. The Director shall have full authority for operations and staffing of the Department of Finance, subject to the approval of the Town Manager.
- 4.1.3 The Deputy Assessor appointed by the Board of Assessors, shall coordinate the activities of the office of Assessors with the Department of Finance.

***Sections 4.1.1, 4.1.2, and 4.1.3 accepted by the Attorney General on 4/14/06 and Printed in the Duxbury Clipper on 4/26/06 and 5/3/06***

- 4.2 He shall, at such time as the Selectmen may direct but, in any event not later than ninety (90) days before an Annual Town Meeting, submit to the Board of Selectmen, the Finance Committee, and the Fiscal Advisory Committee a proposed budget for the ensuing Fiscal Year.
- 4.3. He shall, at such time as the Board of Selectmen may direct but, in any event not later than seventy-five (75) days before an Annual Town Meeting, submit to the Finance Committee and the Fiscal Advisory Committee the proposed Town budget as reviewed by the Board of Selectmen.
- 4.4. He shall, at such time as directed by the Board of Selectmen, but in any event not later than seventy-five (75) days before an Annual Town Meeting submit to the Board of Selectmen, the Finance Committee and the Fiscal Advisory Committee a five year Capital Improvements Program.
- 4.5. He shall have the authority and duty, consistent with other laws, to issue and revoke permits to specific persons to engage in the breaking or digging up of any part of any street or aiding in the same.
- 4.6. He shall establish procedures so that any town agency may sell or otherwise dispose of any property or material within its possession or control, which has become obsolete or is not required for further use by it, not exceeding \$500.00 in value.
- 4.7. The Town Manager or his agent, as agents of the Selectmen, may institute prosecute, defend, compromise and settle claims, actions, suits or other proceedings brought by, in behalf of, or against the Town. He may employ counsel and special counsel when authorized by the Selectmen. As an alternative to enforcement through criminal proceedings, to recover a fine as provided herein, the following non-criminal disposition may be made of any violation or any ordinance, by-law, rule or regulation of any municipal officer, board or department, the violation of which is subject to the specific penalty stated in Section 1.1.4. or any other specific penalty provided by law.

Any person noting a violation of any such ordinance, by-law, rule or regulation which he is empowered to enforce, may serve the offender with a written notice to appear before the Clerk of Plymouth District Court not later than twenty-one (21) days after the date of the notice. Any person notified to appear before the Clerk of the Plymouth District Court may appear and confess the offense charged, either personally or through an agent or by mailing with the notice such specific sum of money as the Town shall fix as a penalty for violation of the by-law, rule or regulation. The payment to the Town Clerk of such sum shall operate as a final disposition of the case. If any person so notified to appear desires to contest the alleged violation, he may, within twenty-one (21) days after the date of the notice, request a hearing in writing.

- 4.8. He shall maintain records of all lawsuits and documents relating to the legal affairs of the Town and coordinate the process of storing said records with the Town Clerk.
- 4.9. He shall appoint the Director of Public Works in accordance with Chapter 353 of the Acts of 1987. The Department of Public Works was established in accordance with Chapter 266 of the Acts of 1985 of the Massachusetts Legislature, a copy of which is appended as Appendix C to these By-Laws.

## **CHAPTER 5 APPOINTED OFFICERS AND COMMITTEES**

### **5.1. APPOINTMENTS MADE BY THE MODERATOR**

- Cemetery Trustees
- Duxbury Beach Committee
- Finance Committee
- Fiscal Advisory Committee
- Personnel Board
- Water and Sewer Advisory Board

### **5.2. APPOINTMENTS MADE BY THE BOARD OF SELECTMEN**

- Agricultural Commission
- Board of Appeals
- Board of Health
- Conservation Commission
- \*Constables (M.G.L. c. 41, sec. 91A)
- \*Council on Aging
- \*Election Officers
- Historical Commission
- \*Registrars of Voters

- \*Town Counsel
- \*Town Manager

All other Committees, boards and commissions, except those which are by action of Town Meeting to be appointed by the Moderator and except those which are elected by the voters.

### **5.3. APPOINTMENTS MADE BY THE TOWN MANAGER**

- \*Animal Control Officer
- \*Building Inspector
- \*Conservation Administrator
- \*Council on Aging Administrator
- \*Director of Inspectional Services
- \*Director of Public Works
- \*Director of Veterans Services and Agent
- \*Fire Chief
- \*Director of Finance
- \*Harbormaster
- \*Inspectors (except as designated by General Law)
- \*Police Chief
- \*Recreation Director
- \*Sealer of Weights and Measures
- \*Shellfish Warden
- \*Town Accountant
- \*Town Collector-Treasurer
- \*Tree Warden
- \*Zoning Enforcement Officer

Any other positions as designated by Town Meeting.

### **5.4. OTHER APPOINTED TOWN OFFICERS**

- Superintendent of Schools (by the School Committee)
- Library Director (by the Library Trustees)
- Assistant Assessor (by the Assessors)
- Town Planner (by the Planning Board)

\*Asterisks indicate those appointments which are made pursuant to specific statutory authority and which may not be altered by amendment of these by-laws without amendment of state statute.

## CHAPTER 6 COMMITTEES

### 6.1. COMMITTEES

- 6.1.1. Except as otherwise provided by law or these by-laws, the provisions of this chapter shall apply to appointed town committees. For the purpose of this chapter, the terms "Committee" or "Committees" shall include boards and commissions.
- 6.1.2. Any person chosen to serve as a member of a committee shall be a registered voter of the Town and shall receive notice of appointment from the appointing authority. The Town Clerk shall keep a record of the members of a committee.
- 6.1.3. The first appointed member of a newly created committee shall call the first meeting and preside over the election of a chairman and clerk.
- 6.1.4. A committee vacancy occurs when a committee member:
- a. resigns or is removed by the appointing authority or is removed for cause as defined in MGL, chapter 41, sec. 109.
  - b. ceases to be a registered voter of the Town;
  - c. is barred by law from service in the position;
  - d. no longer qualifies to hold office;
  - e. completes his term of office.
- 6.1.5. A vacancy in a committee shall be filled by the appointing authority in accordance with its powers and applicable authority.
- 6.1.6. Committees created by state statute or these Town by-laws shall be permanent. Committees created by vote of Town Meeting shall have a term as set forth in the Town Meeting vote; if no such term is set forth, the committee shall continue until discharged by the Selectmen upon completion of its duties. Committees created by the Selectmen shall serve at the discretion of the Selectmen. Appointments to standing committees shall be made not earlier than 30 days prior to, and shall become effective as of, the first day of the next fiscal year, except as otherwise provided by statute, these by-laws, or vote of Town Meeting. Unless otherwise provided by law or these by-laws, the term of a committee shall commence on the first day of the next fiscal year or, in the case of a newly-created committee, then within 30 days of the committee's creation, and shall be for a term ending at the last day of the current fiscal year, unless another term is established or the original term is extended by vote of Town Meeting or the appointing authority. All standing committees with terms in excess of three years shall have appointments made in such manner that the expiration of terms shall be on a staggered basis, and accordingly the original appointments may be for lesser terms.

- 6.1.7. A committee shall be discharged from its duties upon occurrence of any of the following:
- a. when required by law;
  - b. by vote of a Town Meeting or other appointing authority;
  - c. at the expiration of a committee's term of office, or any extension thereof;
  - d. when the work of the committee is completed.

The Town Clerk shall be notified upon the discharge of a committee.

6.1.8. All committees of the Town shall meet at least annually.

6.1.9. All committees of the Town shall cause records of their activities and accounts to be kept in suitable form.

6.1.10. All officers and committees of the Town shall file annual reports with the Selectmen on or before October 15th of the following year. The Town shall print all Reports of Town officials and boards, committees and commissions on a Fiscal Year basis in its Annual report.

## **6.2. BOARD OF APPEALS - ZONING**

6.2.1. The Board of Appeals-Zoning shall consist of five members appointed by the Selectmen. The Selectmen shall also appoint at least two associate members annually.

6.2.2. The Board of Appeals -Zoning appointed and acting under the (Zoning) Protective By-Law, Section 906, shall constitute the Board of Appeals under the Subdivision Control Law with the powers and duties granted by the law.

## **6.3. BOARD OF HEALTH**

6.3.1. The Board of Health shall consist of five members appointed by the Selectmen for three-year staggered terms. The Board of Health shall perform the duties as set forth in the General Laws.

## **6.4. CEMETERY TRUSTEES**

6.4.1. The Board of Cemetery Trustees shall consist of five (5) members appointed by the Moderator for five-year staggered terms.

6.4.2. The Cemetery Trustees shall act the Town's advisory board for cemetery issues. They shall serve as advisors to Town Meeting,

the Board of Selectmen, the Town Manager, the Director of Public Works, the Cemetery Superintendent, and to any other board, committee or official requesting its assistance. In addition to the duties contained in M.G.L. c. 114, sec. 25 and Chapter 266 of the Acts of 1985, the specific duties of the Cemetery Trustees shall include:

- a. The annual establishment of rates for cemetery and crematory services including the sale of lots, with approval from the Board of Selectmen.
- b. Assisting the Director of Public Works and the Cemetery Superintendent on the development and implementation of long-range cemetery expansion and improvement.
- c. Advising town authorities on all matters affecting cemeteries.
- d. Maintaining of special trust funds pertaining to cemeteries which are in the hands of the Treasurer and advising the Town Manager, Board of Selectmen, the Department of Public Works Director and the Town Meeting as to the annual disposition of these funds.

## **6.5. CONSERVATION COMMISSION**

- 6.5.1. The Conservation Commission shall consist of seven members appointed by the Selectmen for three-year staggered terms. The Conservation Commission shall perform the duties as set forth in the General Laws.

## **6.6. DUXBURY BEACH COMMITTEE**

- 6.6.1. The Duxbury Beach Committee shall consist of twelve Members appointed by the Moderator, which shall include the Police Chief, the Harbormaster/Shellfish Warden and the Conservation Administrator or their designees; three designees of the Duxbury Beach Reservation, Inc., and six members at-large, one of whom shall be a Duxbury Beach year-round resident, to three-year staggered terms.

- 6.6.2. The Duxbury Beach Committee shall have the following powers and duties:
- a. The Committee shall advise the Board of Selectmen, the Town Manager, the Finance Committee and any other relevant agency of the Town on the use and management of the town leased portion of the beach, and make recommendations to the Town Manager for the coordinated management of the beach so that its use will be a safe, sanitary and enjoyable recreation experience, and for the proper maintenance of the Powder Point Bridge.
  - b. The Committee shall also prepare a Beach Use Management Plan for action by the 1995 Town Meeting and every five years thereafter.
  - c. The Committee shall consult and cooperate with the Duxbury Beach Reservation, Inc., the Gurnet Saquish Association and the Duxbury Beach Improvement Association, for the protection and preservation of the beach.

**6.7. FINANCE COMMITTEE**

- 6.7.1. The Finance Committee shall consist of nine members appointed by the Moderator for three-year staggered terms. Members of the Committee shall hold no other Town office except as herein provided. The Finance Committee shall consider all municipal questions for the purpose of making reports and recommendations to the Town in accordance with M.G.L. c. 39, sec. 16.
- 6.7.2. Before a warrant for a Town Meeting is published, the Town Manager shall transmit a copy thereof to the Chairman of the Finance Committee, and such Committee shall hear all citizens known to it to be interested in any article of the warrant, and shall confer or consult with such departments, officers, committees or employees as may have information concerning the subject matter of the articles in the warrant, following which the Committee shall return the warrant to the Selectmen, together with their recommendations thereto which shall be included with a copy of the warrant when published for distribution.

**6.8. FISCAL ADVISORY COMMITTEE**

- 6.8.1. The Fiscal Advisory Committee shall consist of nine members appointed by the Moderator for three year staggered terms. When practical, at least

three members shall be former members of the Finance Committee. The primary focus of the Fiscal Advisory Committee shall be advising the Selectmen, Town Manager, Finance Committee and Town meeting on strategic planning and long-range financial management.

- 6.8.2. Before a warrant for Town Meeting is published, the Town Manager shall transmit a copy thereof to the Chairman of the Fiscal Advisory Committee. The Committee shall review annual financial projections and prepare recommendations with regard to overall financial management including capital expenditures and use borrowed funds. The committee shall also consult with any town departments, officers, committees or employees having information pertaining to warrant articles on the following matters:
- a. The acquisition or improvement of land;
  - b. New construction or major reconstruction of town facilities such as streets, bridges or buildings;
  - c. Renovation or preventive maintenance projects not normally undertaken within a department;
  - d. Capital expenditure or project with a cost of \$100,000 or more;
  - e. Any article pertaining to or involving the use of group insurance, town retirement, borrowing or the Stabilization Fund.

Following its financial analysis, the Fiscal Advisory Committee shall return to the Selectmen, the Town Manager and the Finance Committee its recommendation, which shall be included with a copy of the warrant when published for distribution.

- 6.8.3. The Fiscal Advisory Committee shall make a report to the Annual Town Meeting, which shall include an analysis of:
- a. Free Cash
  - b. the Retirement Fund
  - c. the Stabilization Fund
  - d. the Interest and Maturing Debt
  - e. the status of the Water Enterprise Account.
- 6.8.4. In addition to other matters that may be referred to them by the Selectmen, the Town Manager, the Finance Committee or Town Meeting, the Committee shall regularly review and report to the Selectmen, Town Manager, Finance Committee and Town Meeting on the Town's financial policies and condition, including but not limited to:
- a. the adequacy of current and future revenues to meet present and future appropriations;
  - b. the adequacy of local receipts to meet the cost of services that are or might be covered by fees;
  - c. the maximization of earnings on idle cash and other funds,

- d. the allocation of adequate resources to meet the Town's retirement liability costs;
- e. the status of the Town's long term capital plan including but not limited to an orderly schedule for vehicle, and major equipment, and building renovation and replacement.

***Revised Section 6.8 accepted by the Attorney General on 4/3/06 and printed in the Duxbury Clipper on 5/14 and 5/21/06***

**6.9. HISTORICAL COMMISSION**

- 6.9.1. The Historical Commission shall consist of seven members appointed by the Selectmen for three-year staggered terms. The Historical Commission shall perform the duties set forth in M.G.L. c. 40, sec. 8D, as from time to time amended.

**6.10. PERSONNEL BOARD**

- 6.10.1. The Personnel Board shall consist of five members appointed by the Moderator for three-year staggered terms.
- 6.10.2. The duties of the board shall be to advise and review the administration of the Personnel Plan of the Town, amended annually, governing the personnel practices of the Town.

**6.11. WATER AND SEWER ADVISORY BOARD**

- 6.11.1. The Advisory Board shall consist of three members appointed by the Moderator for three-year staggered terms.
- 6.11.2. The Water and Sewer Advisory Board shall act the Town's official research, monitoring and advocacy board for water quality and supply and sewer issues. It shall serve as advisor to Town Meeting, the Board of Selectmen, the Town Manager, the Director of Public Works, the Superintendent of Water, the Finance Committee, Fiscal Advisory Committee and any other board, committee or official requesting its assistance.
- 6.11.3. The specific duties of the Water and Sewer Advisory Board shall include:
  - a. making recommendations to the Board of Selectmen with regard to the annual setting of water rates in accordance with M.G.L. c. 41, sec. 69B, and such other structures as may apply

to the services of the DPW Water Division, and which are subject to the approval of the Board of Selectmen;

- b. assisting the Department of Public Works Director and Superintendent of Water in the development and implementation of long-range system improvement plans;
- c. collecting information as appropriate to inform and advise the Board of Selectmen and Town Meeting of water and sewer issues;
- d. holding review authority over water resource matters that arise as the result of subdivision and Special Permit applications made to the Planning Board and/or the Zoning Board of Appeals; as specified in the Protective By-Law, which shall include but may not be limited to available water supply, ground water quality, and the general impacts of development on the Town's water system and capacity of water production facilities, and any other proposals submitted to the Town to extend public water to new developments or areas previously not serviced by the public system;
- e. monitoring and advising Town authorities on legislation, regulatory changes, technology and DPW Water Division management needs;
- f. coordinating with the Director of Public Works, the Superintendent of Water and the Town Engineer, to schedule and implement system improvements or additions, institute new or revised rules and regulations, conduct studies and projects as may be required to maintain and improve the distribution system or enhance public appreciation for water quality and conservation activities, and advise and oversee the implementation of new or revised water division programs.

6.11.4. To meet its responsibilities, the Water and Sewer Advisory Board shall be afforded reasonable access to consulting engineers to the Division of Water, DPW, Town Engineer and Director of Public Works and shall meet regularly with the DPW Director and Superintendent of Water.

***Revised Section 6.11 accepted by the Attorney General on 4/14/06 and printed in the Duxbury Clipper on 4/26/06 and 5/3/06***

## **6.12 COMMUNITY PRESERVATION ACT COMMITTEE**

### **6.12.1 Establishment**

There is hereby established a Community Preservation Committee, consisting of seven (7) voting members pursuant to MGL Chapter 44B. The composition of the committee, the appointment authority and the term of office for the committee members shall be as follows:

One member of the Conservation Commission as designated by the Conservation Commission for a term of three years.

One member of the Historical Commission as designated by the Historical Commission for a term of three years.

One member of the Planning Board as designated by the Planning Board for a term of three years.

One member of the Housing Authority as designated by the Housing Authority for an initial term of two years and thereafter for a term of three years.

One member of the Open Space and Recreation Planning Committee as designated by the Open Space and Recreation Planning Committee for an initial term of one year and thereafter for a term of three years.

Two members to be appointed by the Board of Selectmen, one member to be appointed for a term of one year and thereafter for a term of three years and one member to be appointed for a term of two years and thereafter for a term of three years.

Should any of the Commissions, Boards, or Committees who have appointment authority under this Chapter be no longer in existence for whatever reason, the appointment authority for that Commission, Board, Council, or Committee shall become the responsibility of the Board of Selectmen.

### **6.12.2 Duties**

- (1) The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The Committee shall consult with the existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Open Space and Recreation Planning Committee and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for

each of two weeks preceding a hearing in a newspaper of general circulation in the town.

- (2) The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.
- (3) The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

#### 6.12.3 Requirement for a quorum and cost estimates

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The community preservation committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs.

#### 6.12.4 Amendments

This Chapter may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL. Chapter 44B.

#### 6.12.5 Severability

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

#### 6.12.6 Effective Date

Each appointing authority shall have ten days after approval by the Attorney General to make their initial appointments. Should any appointing authority fail to make their appointment within that allotted time, the Board of Selectmen shall make the appointment.

### **6.13 ECONOMIC ADVISORY COMMITTEE**

The Economic Advisory Committee shall consist of nine members appointed by the Board of Selectmen for three-year staggered terms. The committee membership shall include a recommended representative and/or designee from each of the following boards: The Board of Selectmen, the Planning Board and the Board of Appeals, and three representatives from the business Community and three residents at large who may submit letters of interest to the Board of Selectmen. The Economic Advisory Committee shall support and promote efforts to foster economic strategies working with the local business community within the Town of Duxbury.

### **6.14 LOCAL HOUSING PARTNERSHIP COMMITTEE**

The Local Housing Partnership Committee shall consists of eleven (11) members appointed by the Board of Selectmen for three-year terms staggered. The committee membership shall consist of a recommended representative and/or designee from each of the following boards: The Board of Selectmen, Planning Board, Duxbury Housing Authority, Board of Health, Conservation Commission, Community Preservation Committee, Council on Aging, along with four (4) residents at large who may submit letters of interest to the Board of Selectmen. The Local Housing Partnership Committee shall support and promote efforts to meet the affordable housing needs of Duxbury through the implementation of recommendations from various planning studies, seek funding resources for housing and promote public and private efforts to increase the affordable housing stock in the Town of Duxbury.

### **6.15 DUXBURY BAY MANAGEMENT COMMISSION**

6:15.1 The Duxbury Bay Management Commission shall consist of nine members appointed by the Board of Selectmen, to three year staggered terms. In appointing members, the Selectmen shall consider individuals representing varied interests of the Bay including but not limited to aquaculture, boating, commercial and not for profit waterfront users, ecology, shellfish and finfish and other residents at large whose experience will enhance the diversity of the Commission.

6.15.2 The mission of the Duxbury Bay Management Commission is: To develop, implement and maintain a management plan that will enhance and preserve the ecological health, pristine waters and the natural beauty of Duxbury Bay for future generations while sustaining harmony among its users.

6.15.3 The Duxbury Bay Management Commission shall have the following powers and duties:

- 1) Evaluate and review any proposed change in Bay use and access, inclusive of structures and all Bay related issues requiring the action of the Board of Selectmen (BOS), Duxbury Conservation Commission (DCC), Zoning Board of

Appeals (ZBA), Planning Board (PB), Harbormasters Office (HM) and the Board of Health (BOH), involving Coastal Resource Areas as defined in M.G.L. C 131 sec. 40 and the Town of Duxbury Wetlands Bylaw (Chap. 9 General Bylaws of the Town of Duxbury).

- i) Bay related issues and proposed changes will be evaluated at a minimum in terms of impacts on the following:
    - (a) public safety, health and welfare
    - (b) ecology and sensitive receptors including wildlife
    - (c) uses and appropriateness of uses and access
    - (d) scenic views and aesthetic issues
    - (e) levels of public and private services
    - (f) supporting landslide infrastructure
  - ii) Based on the above evaluation, the commission shall make recommendations and comments to the responsible regulatory or policy setting authorities.
- 2) Recommended changes to regulations and policies. Submit recommendations and comments to the Board of Selectmen, Town Meeting and other regulatory authorities to change Town Bylaws, regulations and policies as needed to achieve the mission of the DBMC.
  - 3) Provide a voluntary forum for dispute resolution for projects and use impacts and conflicts on the Bay.
  - 4) Develop and implement a restoration, enhancement and management program to maintain and restore the Bay ecology and harmony among its uses by:
    - (a) Maintaining a central repository of environmental health indicators and uses.
    - (b) Providing ongoing monitoring of environmental health indicators.
    - (c) Convening integrated work groups to identify prioritize and address Bay ecology and use issues.
    - (d) Developing program to install best management practices for Town storm drain system and other non-point sources of pollution.
    - (e) Providing project management to supplement existing Town staff for ecological and other Bay related projects.
    - (f) Seeking funds and grants for implementation of projects.
    - (g) Supporting existing and developing new education and outreach programs to:
      1. Educate the next generation of Bay stewards.
      2. Inform users of their impact and responsibilities.
      3. Support Bay Projects.
  - 5) Maintain the management plan as a living document to guide the work of DBMC by:

- (a) Using the Plan as a guide in all the commission's recommendations, plan updates and activities.
  - (b) Reviewing the updating the Plan at a minimum every five years.
  - (c) Incorporating proposed Plan changes on an ongoing basis as needed.
  - (d) Appointing subcommittees or work groups to further study issues identified by DBMC.
- 6) Recognize the Bay's interdependence and explore cooperative Bay management with the Towns of Kingston and Plymouth.

6.15.4 With approval of Town meeting, the DBMC shall have authority to hire staff and/or consultants using private and public grants and other appropriations. And further to amend Chapter 9 in the last sentence of 9.1.6-see this section.

***Section 6.15 accepted by the Attorney General 4/1/05 and printed in the Duxbury Clipper 4/13/05 and 4/20/05***

## **6.16 DUXBURY AGRICULTURAL COMMISSION**

The Duxbury Agricultural Commission shall consist of seven (7) members appointed by the Board of Selectmen; five (5) shall be actively engaged in farming and two (2) with an interest in farming. The terms shall stagger on three year intervals with the initial terms being: three members for three years; two members for two years and two (2) members for one year and for three years thereafter. The Duxbury Agricultural Commission will represent the Town of Duxbury's agricultural community and interests. The Selectmen and said Commission, once appointed, shall develop a work plan to guide its activities. Such activities shall include, but are not limited to the following:

- Serve as facilitators for encouraging the pursuit of agriculture in Duxbury,
- Promote agricultural-based economic opportunities for the Town,
- Act as mediators, advocates, educators and /or negotiators, in an advisory capacity on farming issues for residents and established Town committees and departments,
- Work for the preservation of both Town-owned and privately owned agricultural lands and,
- Pursue all initiatives appropriate to creating a sustainable agricultural community.

For all purposes of this Bylaw, agriculture is defined as farming in all its branches without limitation including aqua-culture, livestock and farming.

***Section 6.16 accepted by the Attorney General on 4/03/06 and printed in the Duxbury Clipper on 4/26 and 5/03/06.***

[N.B.-Rule for Attendance at Hearings-ATM-3/10/07-The Town voted to accept the provisions of MGL Ch.39, Section 23D, and apply this statute hereafter to all Adjudicatory Hearings conducted by the Town's Boards, Committees, Councils and Commissions as set forth in the General Bylaws of the Town of Duxbury under Section 3 and Section 6.]

## CHAPTER 7 PUBLIC SAFETY

### 7.1. DOG CONTROL

- 7.1.1. No person shall own or keep a dog in the Town of Duxbury, six months of age or older, unless a license for such dog is obtained annually from the Town Clerk. Licenses are issued for the period April 1 through March 31st. Prior to the issuance of a license, including kennel licenses, the owner or keeper of said dog shall pay all outstanding unpaid license fees and penalty charges. The fees for all licenses, including kennel licenses, late charges and fines shall be set by the Board of Selectmen as provided in Section 7.8 of these by-laws.
- 7.1.2. Any person owning, keeping or responsible for a dog shall not allow nor permit it to run at large in any of the streets or public places in the Town of Duxbury or upon premises, other than the premises of such owner, keeper or responsible person, unless the owner or lawful occupant of such other premises grants written permission therefor. No dog shall be allowed or permitted in any public place or street within the Town unless it is effectively restrained and controlled by a chain or leash, unless it is under the immediate and effective control of a handler, or unless it is within and confined to a motor vehicle.
- 7.1.3. This Bylaw shall not be construed to limit or prohibit the use of hunting dogs during the hunting season, the training of hunting dogs by a qualified person or the conducting of field trials for hunting dogs.
- 7.1.4. It shall be the duty of the Dog Officer, and any Assistant Dog Officer appointed by the Town Manager, to apprehend any dog found running at large and to impound such dog in the Town Pound or another boarding facility. The Dog Officer, or impounding officer, shall make a complete record of each impounding in a registry, kept for such purpose, which shall contain the following information: breed, color, sex of each dog; together with whether or not the dog is licensed, the license number, if any; and the name and address of the owner, if known.

Not later than three days after such impounding, the owner of an impounded dog, when known, shall be notified by telephone or mail of such impoundment or, if the owner is unknown, written notice of each impoundment shall be posted for three days in one or more conspicuous places in the Town. Notice shall contain a description of the dog and the place of apprehension.

The owner, keeper or responsible person may reclaim the dog so impounded upon payment of the license fee, if unpaid and the payment of the charges

of impoundment which shall be determined by the Board of Selectmen as provided in Section 7.8 of these bylaws.

- 7.1.5. Whoever violates the provisions of Section 7.1.2. shall be subject to the fines established by the Board of Selectmen.
- 7.1.6. Any person owning, keeping or responsible for a dog shall not allow said dog to disturb the peace. Owners or keepers of dogs found to be violating this section shall be subject to fines set by the Board of Selectmen.
- 7.1.7. Owners or keepers of dogs and cats shall be responsible for obtaining rabies vaccinations for each such dog and cat. Said owners who fail to obtain said vaccinations may be subject to a fine, the amount of which shall be set by the Board of Selectmen.
- 7.1.8. Licenses for dogs are to be secured to said dog. Failure may subject owner to a fine, the amount of which shall be set by the Board of Selectmen.
- 7.1.9. **Non Criminal Disposition Penalties**  
The penalty for violation of the aforementioned Dog Control Rules and Regulations shall be \$25 for the first offense, \$40 for the second offense, \$100 for the third offense, and \$200 for the fourth and subsequent offenses.
- 7.1.10 "Each person who owns, possesses or controls a dog shall be required to remove and dispose of any feces left by his/her dog on any street, walkway, public place or private property of another. This section shall not apply to a guide dog accompanying any handicapped person. Violators will be subject to fines in accordance with the following schedule: 1<sup>st</sup> Verified offense - Warning; 2<sup>nd</sup> Verified offense; \$25.00, 3<sup>rd</sup> Verified offense \$50, 4<sup>th</sup> offense and subsequent offenses \$50 for each offense and to provide that any such violation be processed as Non-Criminal disposition as stated in MGL Chapter 40, Section 21D."

## **7.2. TOWN LANDINGS**

- 7.2.1. No portion of any Town landing shall be leased to any private party and no building shall be erected or maintained on any Town landing except by the Town for public use.

## **7.3. TRAFFIC RULES AND ORDERS**

- 7.3.1. Under the authority of M.G.L., c. 40, sec. 22, the Board of Selectmen shall adopt and, from time to time, amend, with the approval of the Massachusetts Department of Public Works, traffic regulations for the Town.

**7.4. CONSUMPTION OF ALCOHOLIC BEVERAGES**

7.4.1. Definitions: The following words as used in this By-Law, unless the context otherwise requires, shall have the following meanings:

Beach: Any beach under the care and control of the Town and beaches within the limits of the Town to which the public has the right of access.

Conservation Land: Any conservation land under the care and control of the Town.

Park: Any public park under the care and control of the Town, and to include Town-owned cemeteries and tombs.

Playground: Any playground under the care and control of the Town.

Private Parking Areas: Any private parking area throughout the Town to which the public has the general right of access.

Public Parking Areas: Any public parking area under the care and control of the Town.

Public Ways: All ways to which the public has the right of access.

Town Forest: Any Town forest under the care and control of the Town.

7.4.2. Consumption in Public Prohibited

No person shall drink or consume alcoholic beverages as defined in M.G.L. c. 138, sec. 1 while on, in, or upon the public ways and places set forth above, whether in or upon a vehicle, motor vehicle, or on foot or in a place to which members of the public have access as invitees or licensees, or in a park, town forest, public parking area or playground, or on any beach within the limits of the private land or place without the consent of the owner or person in control.

7.4.3. Special Permit

The Board of Selectmen may grant special permits to allow the consumption and possession of alcoholic beverages in the places set forth above.

7.4.4. Evidence of Violations

Possession of an open can, bottle or other container which, upon analysis by the Department of Public Health, is determined to contain an

alcoholic beverage, as defined in M.G.L. c. 138, sec. 1, shall be prima facie evidence of drinking or consuming said alcoholic beverage. All alcoholic beverages being used in violation of this section shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court.

7.4.5. Arrest, Penalty

A police officer may arrest without a warrant anyone who violates this By-Law. Whoever violates any provision of this By-Law shall be liable to a fine, the amount of which shall be set by the Board of Selectmen as provided in Section 7.8 of these by-laws.

**7.5. PUBLIC USE OF MARIJUANA OR TETRAHYDROCANNIBINOL**

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in M.G. L. Chapter 94C, Section 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

This bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by noncriminal disposition pursuant to M.G.L. Chapter 40, Section 21D by any police officer. The fine for violation of this bylaw shall be three-hundred dollars (\$300) for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under M.G.L. Chapter 94C, Section 32L.

**7.6 SCENIC ROADS**

7.6.1. All public ways shall be designated as "scenic" by virtue of the authority granted by M.G.L. c. 40, sec. 15, as amended.

**7.7. PUBLIC WAYS**

7.7.1. No person shall deposit or leave waste materials, refuse, advertising circulars or materials within a public way. The United States Postal Service is exempt from this section. Political circulars and materials are also exempt during the campaign to which they apply.

**7.8. ADVERTISING MATERIALS**

- 7.8.1. No person shall deposit or leave advertising circulars or materials on private property if requested not to do so by the owner or occupant of the property.

**7.9. FEES**

- 7.9.1. Any officer, board, committee or commission authorized by law, these By-Laws or vote of Town Meeting to establish fees and fines, shall hold public hearings prior to exercising that authority.
- 7.9.2. Notice of public hearing shall be posted and published in a local newspaper at least two weeks prior to the meeting. All residents and interested parties will be permitted to make comments or present recommendations for consideration.
- 7.9.3. Prior to a posting of a notice for a public hearing on any proposal for change in an existing fee or fine or for establishing a new fee, there shall be filed with the Town Clerk together with such notice a full explanation of the reason for such fees, total revenue anticipated and the purpose for which the revenue shall be used. A copy shall be placed on file at the Duxbury Free Library.
- 7.9.4. A copy of all fee and fine schedules adopted by any officer, board, committee or commission so authorized shall be filed with the Town Clerk prior to the effective date.

**7.10. FIRE HYDRANTS**

- 7.10.1. No person shall plant any tree, plant or bush or erect any fence or other structure so that it obstructs the view of a fire hydrant from the nearest street or highway.
- 7.10.2. No person shall remove or otherwise interfere with snow stakes at or near any hydrant.
- 7.10.3. Violation of this by-law shall be punished by a fine, the amount of which shall be set by the Board of Selectmen. Each day a violation continues shall be a separate offense.

**7.11. SMOKING BAN**

- 7.11.1. No person shall smoke or chew tobacco in any of its forms, or smoke

any other substance in a town owned or leased structure.

**7.12. REMOVAL OF VEHICLES FOR SNOW REMOVAL**

- 7.12.1. No person shall park or leave a vehicle on any public way, or private way open to the public, so that it interferes with the removal or plowing of snow or ice on such ways.
- 7.12.2. The Board of Selectmen or their designee may, for the removal or plowing of snow or removal of ice from any public way or private way open to the public, remove or cause to be removed to some convenient place, including any public garage, any vehicle which interferes with the removal or the plowing of such snow or such ice.
- 7.12.3. In the event such vehicle is so removed, the owner of said vehicle shall be liable for the cost of such removal, and of the storage, if any, resulting therefrom. Charges to be set and published by the Selectmen.
- 7.12.4. Failure to pay the aforesaid costs within 60 days after billing shall subject the owner of any vehicle so involved to a fine set by the Board of Selectmen for each offense, enforceable in the Third District Court of Plymouth, any such fines to inure to the Town.

**7.13. REGULATION OF AUTOMATIC DIALERS - FIRE DEPARTMENT**

- 7.13.1. All automatic dialer type medical and fire alarm systems that utilize a pre-recorded message, or that utilize an open line type of system that would render the telephone system ineffective until manually reset, shall be programmed to dial a dedicated telephone number designated exclusively for fire and medical alarms. This dedicated telephone number, to be known as the fire alarm number, shall be used solely for the purpose of receiving emergency medical and fire alarm calls through the use of pre-recorded messages. This dedicated phone line will be provided with a "hunting feature" that would assure additional lines would be available if the fire alarm number is tied up with another message.
- 7.13.2. All automatic dialer type alarms that give a pre-recorded message on an open line, but are received on any telephone line other than the fire alarm number, will be answered with a normal response of apparatus, but the resident owner, manager or other appropriate party deemed responsible for the programming of the system will be subject to a fine set by the Board of Selectmen for the first and each additional offense.
- 7.13.3. Any resident, owner, manager, or other appropriate party who is responsible for the use and operation of an automatic dialer type system shall notify the

Fire Department in writing of all pertinent information relative to the system and its intended use, including brand name and type system, exact location of property where system is in use, who to notify in case of emergency, service or repair facility, if any, and how to silence or disable the system. Failure to comply with this section shall result in a fine set by the Board of Selectmen for the first and each additional offense.

- 7.13.4. This By-Law shall apply to all existing and proposed medical and fire alarm systems that meet the criteria outlined in Section 7.14.1.

**7.14. REGULATION OF LOCK BOXES - FIRE DEPARTMENT**

- 7.14.1. Any building or other facility for which the owner, occupant, manager, or other responsible party deems it necessary for the Fire Department to maintain keys shall install a lock box on the exterior of the building. This lock box shall be for the holding of any keys to the building or facility and for holding of any materials the owner, occupant, manager, or other responsible party feels necessary to provide the Fire Department for the efficient performance of its duties. This lock box would allow entry by the Fire Department in a non-destructive manner for providing emergency services and allow the Fire Department to properly secure the premises upon its exit from the facility.

- 7.14.2. The lock box would be of a type and design as designated by the Fire Chief. The lock box would be securely fastened to the exterior of the building or other location as designated by the Fire Chief. The location of the lock box shall be lighted at all times, shall be clear and free of any encumbrances such as trees, shrubs, vines, signs, or lighting fixtures, shall be easily visible to approaching emergency vehicles, and shall be readily accessible during inclement weather.

- 7.14.3. It shall be the obligation of the owner, occupant, manager or other responsible party to update the keys in the lock box whenever there is a change of locks. This shall be done immediately upon the changing of the locks.

- 7.14.4. This By-Law is effective for all properties, either existing or proposed for which the Fire Department presently does not maintain keys. Effective July 1, 1997, all new non-residential properties that have fire alarm panels or sprinkler systems shall be required to install lock boxes.

**7.15. VEHICULAR TRANSPORTATION OF LIQUEFIED PETROLEUM GASES**

- 7.15.1. This By-Law is adopted by the Town of Duxbury under its home rule

powers, its police powers to protect the public health, safety and welfare, and under powers authorized by M.G.L. c. 40 sec. 21.

- 7.15.2. The purpose of this By-Law is to control the improper transport of Liquefied Petroleum Gas containers on Duxbury Beach, to and from the Gurnet/Saquish areas, or any other ways, public or private, within or through the Town of Duxbury.
- 7.15.3. Nothing in this By-Law shall be construed to limit, in any way, the enforcement rights and responsibilities of the Town Fire Department under M.G.L. c. 148, which statute provides other and separate remedies upon application to the Plymouth County Superior Court.
- 7.15.4. The Town hereby adopts, for the purposes of this By-Law, the "National Fire Protection Association Standard 58", 1983 Edition, Chapter 6, which is incorporated by references herein and is on file with the Office of the Town Clerk.
- 7.15.5. The Town may amend this By-Law from time to time, as it determines necessary, for the purpose of adopting additional restrictions or measures as recommended by NFPA Standards that may be revised from the 1983 Edition, which forms the basis for this By-Law.
- 7.15.6. Enforcement:  
  
A police officer may arrest without a warrant any person who violates any provision of this By-Law.
- 7.15.7. Penalty:  
  
Any person who violates this By-Law shall be liable for a penalty set by the Board of Selectmen.
- 7.15.8. Severability:  
  
If for any reason any provision of this By -Law shall be found invalid, the remainder shall be presumed valid and shall remain in full force and effect.

**7.16. REGULATION OF MECHANICAL PROTECTION DEVICES  
(ALARMS) - FIRE DEPARTMENT**

7.16.1. Definitions

As used in this section, the following terms shall have the meanings indicated:

**ALARM DEVICE** - An electronically operated instrument composed of sensory apparatus designed to detect a fire and which:

- A. Transmits a signal to a person or company who relays information to the Fire Department; or
- B. Produces an audible or visible signal to which the Fire Department is expected to respond.

**ALARM USER** - Any person who is the owner or person in charge of premises where an alarm system is maintained within the Town of Duxbury.

**FALSE FIRE ALARM** - An activation of an alarm through negligence of an alarm user or employee, improper installation, mechanical failure, malfunction or any other cause which results in Fire Department response, where it is determined, after investigation by the Fire Department, that no fire, smoke or heat has occurred nor did any health emergency exist.

7.16.2. Devices prohibited

No person shall install, consent, or cause to be installed, maintained in any building or structure an alarm device that is automatically keyed to or that activates the telephone lines or numbers controlled by or listed to the Town of Duxbury Fire Department except those telephone lines dedicated for such purpose. (See Section 7.12)

7.16.3. Alarm user responsibility

A. Every alarm user shall submit to the Fire Chief or his designee his name, address, telephone number and at least one (1) other person who is authorized, to respond to an emergency signal transmitted by an alarm system and who can open the premises in which the alarm system is located.

B. All alarm users must notify the Fire Department, in advance, of any testing of equipment. Failure to notify the Fire Department in advance of a testing of equipment shall constitute a false alarm and therefore be subject to the assessment schedule contained herein.

7.16.4. Penalties

Failure to comply with the provisions of Section 7.16.3 (A) shall be punishable by a fine set by the Board of Selectmen. After the Fire Department has recorded three separate false alarms from an alarm user within a calendar year, the Fire Chief or his designee shall notify the alarm user, in writing, of such facts, including the dates and times of each alleged false alarm. The Selectmen shall set sequentially higher fines for the fourth and each subsequent false alarm within a calendar year.

7.16.5. Exceptions

The provisions of this action shall not apply to alarm devices owned or controlled by the Town of Duxbury or to any alarm devices installed in a motor vehicle.

7.16.6. Limitation of liability

Neither the Town of Duxbury nor any of its employees shall be under any obligation or duty to any alarms user or to any other person hereunder by reason of this chapter. The Town of Duxbury specifically disclaims liability for any damages which may be cause by failure to respond to an alarm.

7.16.7. Applicability

This Bylaw shall apply to all existing and proposed medical and fire alarm systems.

**7.17 CARBON MONOXIDE DETECTORS**

7.17.1 All buildings or structures occupied in whole or in part for residential purposes shall, upon sale or transfer, be equipped by the seller with at least one working carbon monoxide detector. This shall apply to new and existing building and structures. The carbon monoxide detector shall be present and working upon inspection by the fire department at the time of final occupancy inspection or certification of smoke detectors consistent with M.G.L. c. 148, sec. 26F. There shall be no additional fee for this inspection if it is done at the time of the final occupancy inspection or smoke detector certification. If done as a separate inspection, the fee shall be the same as certification of smoke detectors.

**7.18 DOOR TO DOOR SOLICITATION**

7.18.1 License Required

It shall be unlawful for any solicitor or canvasser as defined in the Chapter to engage in such business within the Town without first obtaining a license therefor in compliance with the provisions of this Chapter. The provisions of this Chapter shall not apply to any person exempted under Chapter 100 or 101 of the General Laws.

7.18.2 Definition

"Solicitor or Canvasser": Any person who, for himself, or for any other person, firm or corporation travels by foot, automobile or any other type of conveyance from place to place, from house to house or from street to street

taking or attempting to lease or take orders, for sales of goods, wares, merchandise, or services, including without limitation, the selling, distributing, exposing for sale or soliciting orders, for magazines, books, periodicals or other articles of a commercial nature, the contracting of all home improvements or services to be performed in the future whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payment on such sale. For the purposed of this section solicitor and canvasser shall mean the same person.

7.18.3 Application

Applicants for a license shall file with the Chief of Police, on a form issued by the Police Department, a written application signed under penalties of perjury, containing, but not limited to, the following information:

- a.) Name of applicant
- b.) Address of applicant (Local and permanent home address);
- c.) Applicant's date of birth, height, weight, eye and hair color;
- d.) Applicant's social security number;
- e.) The length of time for which a license to solicit and/or canvas is desired and the dates, times and locations where solicitation or canvassing activities are intended;
- f.) A brief description of the nature and purposes of the intended solicitation and/or canvassing, including but not limited to the type of business and goods to be sold;
- g.) The name and address of the applicant's employer; if self-employed it shall state;
- h.) A disclosure whether the solicitor receives any wage, salary, percentage of donation or any other remuneration for solicitation activities;
- i.) A recent photograph of the applicant. The picture shall be supplied by the applicant and be a 2"x2" showing the head and shoulders of the applicant in a clear distinguishing manner;
- j.) If using a motor vehicle, the year, make, model, color, v.i.n., registration number, state of registration and vehicle owner's name and address; At the time of filing the application, each applicant shall pay a fee of twenty five dollars (\$25).

The Police Chief may waive said fee at his discretion.

7.18.4 Investigation: Public Hearing and Issuance of License

Upon receipt of the application, the Chief of Police, or his designee, shall investigate the applicant's reputation as to a criminal record or any other record which might demonstrate the applicant as a danger to the public.

After an investigation, but within seven (7) business days of the filing of the application, the Chief of Police shall endorse on such application his approval or disapproval. Failure of the Police Chief to act on said application within seven (7) business days of the applicant's filing shall constitute an approval.

If disapproved, the applicant shall have the right of appeal of the Board of Selectmen which shall be requested in writing within seven (7) days of the denial be the Chief of Police. The Board of Selectmen must act upon the appeal at one of their next two regularly scheduled meetings.

Failure to act shall constitute an approval. If the applicant is aggrieved by the decision of the Board of Selectmen, the applicant may appeal to the Superior Court pursuant to MGL Chapter 294 section 4.

Such license when issued shall contain the signature of the Police Chief or the Board of Selectmen and shall show the name, address, a recent photograph of the licensee, the date of issuance, an expiration date, and the license number.

#### 7.18.5 Licenses and Exemptions

Each solicitor is required to possess an individual license. Solicitors, when engaged in business of soliciting or canvassing, are to display the identifying badge issued by the Police department. The badge shall be worn on an outer garment or otherwise prominently displayed so as to be easily readable by any person facing said solicitor.

Any solicitor representing any charitable, civic, or political cause or purpose who receives any wage, salary, percentage of donation, or other remuneration, shall inform each person being solicited that the solicitation is a "paid solicitation." Further, that such solicitor's license shall display prominently the words: "Paid Solicitor"

No license shall be transferred.

No license shall be required for officers or employees of the Town, County, State or Federal Government when on official business.

No license shall be required for minors under the age of eighteen unless in connection with commercial activity.

No license shall be required by any candidate for public office, or any person representing a candidate for public office.

Each solicitor is required to personally report to the Duxbury Police Station prior to engaging in any solicitation each day that the solicitor intends to solicit. The solicitor shall present his or her license to the Duxbury Police and shall advise the Police of (a) the locations(s) of the intended solicitation activity; (b) the times that solicitation will be conducted; (c) the identity and registration number of any vehicle(s) that will be used in connection with the solicitation.

#### 7.18.6 Revocation of License

The Chief of Police and the Board of Selectmen are hereby vested with jurisdiction over the revocation of licenses. Any person aggrieved by

revocation may request a hearing before the Board of Selectmen, in writing, within seven (7) business days, and a hearing shall be scheduled for one of its next two regularly scheduled meetings. Any person aggrieved by a decision of the Board of Selectmen may appeal to the Superior Court pursuant to MGL Ch 249, section 4.

- 7.18.7      **Expiration of a License**  
Each license issued under the provisions of this section shall continue in force for a period determined by the Chief of Police, not to exceed one year-unless sooner revoked.
- 7.18.8      **Renewal of License**  
A license issued under the provision of this section may be renewed by the Chief of Police upon request by the applicant. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such information as required by Section 3 to obtain the initial license and must pay a fee of twenty-five dollars (\$25).
- 7.18.9      **Misrepresentation**  
No solicitor licensed or exempted from license, may misrepresent, in any manner the buyer's right to cancel as stipulated by Chapters 93, 93A and 255 of the General Laws. No solicitor, licensed or exempted from license, may use any play, scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office or other establishment for the purpose of making a sale of goods or services.
- 7.18.10     **Trespassing**  
It shall be unlawful for any solicitor to enter the premises of a person who has displayed a "no trespassing" or "no soliciting" sign or poster. It shall be unlawful for solicitors to ignore a person's no solicitation directive or remain on private property after its owner or occupant has indicated that the solicitor is not welcome.
- 7.18.11     **Penalty**  
Any person violating any provision of this section shall be subject to loss of the solicitation license and may be arrested without a warrant and upon conviction, be punished by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) for each and every offense.

*Accepted by the Attorney General May 31, 2000*

**7.19            HANDICAP PARKING**

- a) Designated parking spaces for vehicles either owned and operated by disabled veterans or by handicapped persons and bearing the distinctive

number plates authorized by section 2 of Chapter 90, or for vehicles transporting handicapped persons and displaying the special parking identification plate authorized by said section 2 of said Chapter 90, or for vehicles bearing the official identification of a handicapped person issued by any state office, or any Canadian Province, shall be provided in public and private off-street parking areas pursuant to this Bylaw, as follows: Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, shall reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by said section 2 of said Chapter 90 or any vehicle bearing the official identification of a handicapped person issued by any other state, or any Canadian Province in accordance with section 603.11 of the Protective Bylaw:

- b) Parking spaces designated as reserved under the provisions of paragraph (a) shall be identified by the use of above grade signs with white lettering against blue background and shall bear the words “Handicapped Parking Special Plate Required Unauthorized Vehicles May be Removed at Owner’s Expenses”, shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be twelve feet wide or two eight-foot wide areas with four feet of cross hatch between them.
- c) It shall be prohibited to leave any vehicle unattended within a parking space designated as reserved for vehicles owned and operated by disabled veterans or handicapped persons or other areas designated by the Bylaw or in such a manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way.
- d) Non Criminal disposition penalties shall be as follows: The penalty for violation of this Bylaw shall be twenty-five (\$25) dollars for the first offense, and fifty (\$50) for the second and any subsequent offense.
- e) Any vehicle in violation of this Bylaw may be removed in accordance with the provisions of section 22D of Chapter 40 and section 120D of Chapter 226.
- f) No fee shall be exacted and no penalty shall be imposed for the parking of any vehicle owned and operated by a disabled veteran or a handicapped person in any metered parking area.

## **CHAPTER 8 EARTH REMOVAL**

### **8.1. EARTH REMOVAL**

- 8.1.1. The removal of soil, loam, sand or gravel from any premises in the Town of Duxbury shall be regulated by the Board of Selectmen of the

Town of Duxbury. All applications for permits shall be submitted in accordance with rules and regulations established by the Board of Selectmen and filed with the Building Department. Applications and permits shall be reviewed and approved by the Building Inspector and Town Engineer.

- 8.1.2. Removal of soil, loam, sand or gravel to the extent normally required for the excavation of a permitted construction project, including driveways, walks, streets and municipal operations shall be exempt from the provisions of this section.
- 8.1.3. Penalties shall be in accordance with Chapter 1, Section 1.1.4. of these By-Laws. Permits may be revoked or suspended at any time for violations of the rules and regulations.
- 8.1.4. The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof.
- 8.1.5. Non-criminal Disposition – In addition to the procedure of enforcement as described above, the provisions of this By-law may also be enforced by the Department of Public Works Director, by non-criminal complaint pursuant to the provisions of MGL Chapter 40, Section 21D. Each day on which a violation exists shall be deemed a separate offense. The penalty for violation of any provision of this By-law shall be \$25.00 for the first offense; \$50.00 for the second offense; \$100.00 for the third offense; and \$200.00 for the fourth and each subsequent offense.

## **CHAPTER 9 WETLANDS PROTECTION**

### **9.1 WETLANDS PROTECTION**

- 9.1.1. Purpose and Scope**
- 9.1.2. Jurisdiction**
- 9.1.3. Exceptions**
- 9.1.4. Promulgation of Regulations**
- 9.1.5. Definitions**
- 9.1.6. Permit Applications, Notice and Hearings**
- 9.1.7. Approval, Conditions and Denials**
- 9.1.8. Emergency Certification**
- 9.1.9. Right of Entry**
- 9.1.10. Enforcement**
- 9.1.11. Security**
- 9.1.12. Burden of Proof**
- 9.1.13. Consultant Fee**
- 9.1.14. Fee Waiver**

**9.1.15. Appeals**

**9.1.16. Severability**

**9.1.17. Relation to the Wetlands Protection Act and Other Federal, State and Local Statutes**

**9.1.18. Coordination of Permitting**

**9.1.1. Purpose and Scope.** The purpose of this Bylaw is to protect the wetlands, related water resources and adjoining land areas of the Town of Duxbury by controlling activities deemed by the Duxbury Conservation Commission (“Conservation Commission”) likely to have a significant or cumulative adverse effect upon protection of the following resource area values, including but not limited to the following: protection of public or private water supply; groundwater; flood control, erosion and sedimentation control; storm damage prevention, including coastal storm flowage; prevention of water pollution; fisheries, shellfish, wildlife habitat, rare species habitat, including rare plant and animal species; recreation, agriculture, aquaculture and aesthetics (collectively, “the wetland values (interests) protected by this Chapter”). This Chapter is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act, M.G.L. Ch. 131, § 40 and Regulations thereunder, 310 CMR 10.00. Activities for the normal maintenance or improvement of land in agricultural or aqua cultural use, as defined in the Wetland Protection Act and its implementing regulations at 310 CMR 10.04, shall not be subject to this Bylaw.

**9.1.2. Jurisdiction.** Except as permitted by the Conservation Commission or as provided in this Bylaw, no person shall remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any bank, fresh water or coastal wetland, isolated wetland, beach, dune, flat, marsh, wet meadow, bog, swamp, vernal pool, the ocean, estuary, creek, river, stream, pond or lake, land under water body, land subject to tidal action, coastal storm flowage, or flooding, land subject to flooding or inundation by ground water or surface water, land within a minimum distance of 100 feet from any of the aforesaid resource areas (buffer zone), and land within 200 feet of a river (collectively the “resource areas protected by this bylaw”). Said resource areas shall be protected whether or not they border surface waters.

**9.1.3. Exceptions.** Exceptions may be made for maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph and other telecommunication services.

**9.1.4. Promulgation of Regulations.** The Conservation Commission may adopt such additional definitions, regulations, fees, and performance standards as they may deem necessary to protect the interests of this Bylaw. Said definitions,

regulations, fees and performance standards shall become effective upon publication following a public hearing for which public notice has been provided.

**9.1.5. Definitions.**

**Adverse effect:** A greater than negligible change in the resource area or one of its characteristics or factors that diminishes the value of the resource area to one or more of the specific interests of this Bylaw, as determined by the issuing authority. “Negligible” means small enough to be disregarded as determined by the Conservation Commission.

**Aesthetics:** The natural scenery and appearance of any resource area.

**Alter:** **Includes, without limitation, the following activities when undertaken to, upon, within or affecting resource areas or interests protected by this Bylaw:**

- a) **Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;**
- b) **Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;**
- c) **Drainage, or other disturbance of water level or water table;**
- d) **Dumping, discharging, or filling with any material which may degrade water quality;**
- e) **Placing of fill, or removal of material;**
- f) **Driving of piles, construction or expansion or repair of buildings or structures or construction of any kind whether it be for commercial, residential, recreational or other purposes, regardless of its size;**
- g) **Placing of obstructions or objects in water or the surface water or groundwater hydrology of any resource area;**
- h) **Destruction or removal of plant life, including, but not limited to, cutting or trimming of trees and shrubs;**
- i) **Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;**
- j) **Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater; and**
- k) **Incremental activities which cause, or may cause, a cumulative adverse effect on the resource areas and interests protected by this bylaw.**

**Cumulative adverse effect:** The adverse effects of activities regulated under this Bylaw which may be individually insignificant to the interests and values under this Bylaw, but when considered in relation to other past or present activities in a given area may be significant to said interests and values in the aggregate.

**Person:** The term “person,” as used in this Bylaw, shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof, administrative

agency, public or quasi-public corporation or body, or any other legal entity or its legal representative, agents or assigns.

Except as otherwise provided in this Bylaw or in regulations of the Conservation Commission, the definitions of terms and procedures in this Bylaw shall be as set forth in the Wetlands Protection Act (M.G.L. Ch. 131 §40) and Regulations (310 CMR 10.00).

**9.1.6 Permit Applications, Notice and Hearings.** No one intending to conduct any of the above named activities may commence such activity within the jurisdiction of this Bylaw without filing written notice of their intention so to remove, fill, dredge or alter and without receiving and complying with an order of conditions and provided all appeal periods have elapsed. Such notice shall be sent by certified mail or hand delivered to the Conservation Commission, including such plans as may be necessary to describe such proposed activity and its effect on the environment. The Conservation Commission may require additional materials or information in addition to the plans and specifications required to be filed by an applicant under MGL c. 131, § 40, in order to fulfill the requirements of this Bylaw. The said Conservation Commission, in its discretion, may hear any oral presentation under this Bylaw at the same public hearing required to be held under the provisions of said c.131, § 40. The Conservation Commission shall make a determination as to whether or not this Bylaw applies to a specific situation prior to the filing of a written notice of intent under the provisions hereof, within twenty-one (21) days of the receipt of a written request sent by certified mail or hand delivered from any person desiring such determination. The Duxbury Conservation Commission shall within five (5) business days of receiving a request for a determination or a notice of intent for the proposed activities within a coastal resource area, as defined in Chapter 131, section 40 of M.G.L. or as determined by the Duxbury Conservation Commission, request that the Duxbury Bay Management Commission provide written comments and recommendations before DCC takes final action on said request for determination or notice of intent. *(Last sentence added 3/12/05 ATM-approved by the Attorney General 4/1/05 and printed in the Duxbury Clipper 4/13/05 and 4/20/05).*

**9.1.7. Approval, Conditions and Denials.** The Conservation Commission is authorized to approve a permit when it determines that the proposed work meets all applicable performance standards and procedures under this Bylaw or when work can be conditioned to meet all such performance standards, and where it determines that the work will not result in significant or cumulative adverse effects upon wetland interests protected by this Bylaw. The Conservation Commission is empowered to deny a permit for failure to meet the requirements of this Bylaw; for failure to submit necessary information and plans requested by the Conservation Commission; for failure to meet the design specifications, performance standards and other requirements in regulations of the Conservation Commission; for failure to avoid or prevent significant or cumulative effects upon the wetland interests protected by this Chapter; or where no conditions are adequate to protect those values, in its sole discretion as the issuing authority. Notwithstanding anything to the contrary herein, each permit, application, notice

and hearing will be considered on its own merits. The Conservation Commission is empowered to deny permission for any removal, dredging, filling, or altering of subject lands within the town if, in its judgment, such denial is necessary to preserve environmental quality of either or both the subject lands and contiguous lands. Due consideration shall be given to possible effects of the proposal on all values to be protected under this Bylaw and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the public hearing. Any order of conditions issued under this Bylaw may differ from any such order issued by the Conservation Commission under the provisions of MGL, c. 131, § 40.

**9.1.8. 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 Conservation 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 Conservation Commission or its agent may impose conditions to protect wetland interests and 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 Conservation Commission may order all such work stopped and require the filing of a Notice of Intent or other application, as described under Permitting.

**9.1.9. Right of Entry.** The Conservation Commission, its agent, and officers, may enter upon the land which the 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 this Bylaw and may make or cause to be made such examination or survey as deemed necessary.

**9.1.10. Enforcement.** The Conservation Commission shall have the authority to enforce this Bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Upon request of the Conservation Commission to the Board of Selectmen, the Town Counsel may take legal action for enforcement under civil law. Upon request of the Conservation Commission, the Chief of Police may take legal action for enforcement under criminal law.

Any person, who violates any provision of this Bylaw, regulations thereunder, or permits issued thereunder, shall be punished by a fine set by the Conservation Commission in a manner consistent with Section 7.8. 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.

Non-criminal Disposition – In addition to the procedure of enforcement as described above, the provision of this Bylaw may also be enforced by the

Conservation Commission or its agent, by non-criminal complaint pursuant to the provisions of MGL, c. 40, § 21D. The penalty for violation of any provision of this Bylaw shall be \$300.00 for the first offense and each subsequent offense. Each provision of the chapter, regulations or permit violation that is violated shall constitute a separate offense.

*(Revised Chapter 9.1.10 approved by the Attorney General on 4/27/10 and printed in the Duxbury Clipper on 6/23/10 and 6/30/10.)*

**9.1.11. Security.** As part of a permit issued under this Bylaw, in addition to any security required by any other municipal or state board, agency or official, the Conservation 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 Conservation 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 or 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.

**9.1.12. Burden of Proof.** The applicant for a permit shall have the burden of proving by a preponderance of credible evidence that the work proposed in the application will not have significant or cumulative adverse effects upon the wetland values protected by this Chapter, as determined by the Conservation Commission. Failure to provide evidence to the Conservation Commission to support this burden shall be sufficient cause for the Conservation Commission to deny a permit or grant a permit with conditions.

**9.1.13. Consultant Fee.** Upon receipt of a permit application or request for determination of applicability or other filing, the Conservation Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Conservation Commission for specific expert engineering and other consultant services deemed necessary by the Conservation Commission to make a final decision on the application and for enforcement services. This fee is called the consultant fee. The specific consultant services may include, but are not limited to, resource area survey and delineation, analysis of resource area values, such as wildlife habitat evaluations, hydrological and drainage analysis, hydric soil analysis, and other analyses; and review of applicable environmental

or land use law. Fees are to be established by the Conservation Commission acting under MGL Chapter 40 section 8C and M.G.L. Chapter 44 section 53G. *(Last sentence approved by the Attorney General and printed in the Duxbury Clipper on 4/13/05 and 4/20/05).*

- 9.1.14. Fee Waiver.** The Conservation Commission may waive fees when an application fee for a permit filing or request for determination of applicability or other application is made by a government agency or not-for-profit organization.
- 9.1.15. Appeals.** Any applicant, owner or abutter, any person aggrieved or any ten (10) residents of Duxbury may appeal an order of the Conservation Commission under this 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. 24 § 4.
- 9.1.16. Severability.** Should any section or provision of this Chapter be found invalid, the validity of any other section or provision thereof shall not be affected, nor shall it invalidate any permit, approval or determination which previously has been issued.
- 9.1.17. Relation to the Wetlands Protection Act and Other Federal, State and Local Statutes.** This Bylaw is 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 Wetlands Protection Act, the Rivers Protection Act, or other federal, state or local statutes are not assumed to be exempt from this Bylaw.
- 9.1.18. Coordination of Permitting.** In order to ensure that various permit granting authorities review the impacts upon resources protected by this Bylaw in a coordinated manner, and where the provisions of this Bylaw are applicable, applicants for permits under federal, state or local statute or regulation shall comply with the requirements for filing under this Bylaw within forty-five (45) days of said application made under federal, state or local statute or regulation.

*Section 9.1 accepted by the Attorney General and posted in all precincts on May 1, 2003.*

## CHAPTER 10 WATER

### 10.1. WATER RESTRICTION

#### Section 1      Authority

This Bylaw is adopted by the Town under its powers to protect public

health and welfare and its powers under M.G.L. c. 40 Sec. 21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. c. 41 Sec. 69B. This Bylaw also implements the Town's authority under M.G.L. c. 40 Sec. 41A, conditioned upon a declaration of water supply emergency issued by the Commonwealth of Massachusetts Department of Environmental Protection.

Section 2      Purpose

The purpose of this Bylaw is to protect, preserve, and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

Section 3      Definitions

Person shall mean any individual, corporation, trust, partnership or association, or other entity.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c. 21G Secs. 15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to section 4 of this Bylaw.

Water Users or Water Consumers shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility

Section 4      Declaration of a State of Water Supply Conservation

The Town, through its Board of Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under section 6 of this Bylaw before it may be enforced.

Section 5      Restricted Water Uses

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under section 6.

a) Odd/Even Day Outdoor Watering Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.

b) Outdoor Watering Ban Outdoor watering is prohibited.

c) Outdoor Watering Hours Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.

d) Filling Swimming Pools Filling of swimming pools is not allowed during periods of restricted water use. This applies to new or empty swimming pools which require quantities of water in excess of 500 gallons.

e) Automatic Sprinkler Use The use of automatic sprinkler systems is subject to outdoor water restrictions or ban as described above.

Section 6      Public Notification of a State of Water Supply Conservation; Notification of DEP

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply conservation. Any restriction imposed under section 5 shall not be effective until such notification is provided. Notification of the State of Water Supply conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

Section 7      Termination of a State of Water Supply Conservation; Notice

A State of Water Supply conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply conservation shall be given in the same manner required by section 6.

Section 8      State of Water Supply Emergency; Compliance with DEP Orders

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.

Section 9      Penalties

Any person violating this bylaw shall be liable to the Town in the amounts of \$50 for the first violation and \$100 for each subsequent violation which shall inure to the Town. Fines shall be recovered on complaint before the District Court. Each day of violation shall constitute a separate offense. Penalties as defined herein may be collected as an excess water charge and placed on water bills for collection.

Section 10      Severability

The invalidity of any portion or provision of this Bylaw shall not invalidate any other portion or provision thereof.

**CHAPTER 10.2    WATER SUPPLY**

10.2.1      Authority:

This By-Law is adopted by the Town under its home rule powers, its police powers to protect health and welfare and its specific authorization under Massachusetts General Law, Chapter 40, Section 21 and 21D.

10.2.2      Purpose:

The purpose of this By-Law is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a state of water supply emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection (DEP) and included in the Town's plan approved by the Department of Environmental Protection to abate the emergency.

10.2.3      Definitions:

For the purpose of this By-Law:  
Enforcement authority shall mean the Department of Public Works Water Division authorized representatives.

State of water supply emergency shall means a state of water supply emergency declared by the Department of Environmental Protection pursuant to Massachusetts General Law, Chapter 21G, Section 15 and Chapter 111, Section 160 or by the Governor.

10.2.4      Compliance with Water Supply Emergency:

The following shall apply to all users of water supplies supplied by the

Town.

Following notification by the Town, of the existence of a state of water supply emergency, no person shall violate any provision, condition, requirement or restriction included in a plan approved by the Department of Environmental Protection which has as its purpose the abatement of a water supply emergency.

Notification of any provision, restriction, requirement or condition with which users of water supplied by the Town are required to comply to abate a situation of water supply emergency shall be sufficient for purpose of this By-Law if it is published in a newspaper of general circulation within the Town, or by such other notice as is reasonably calculated to reach and inform all users of the Town water supply

10.2.5 Penalty:

Any person or entity who violates this By-Law, shall be liable to the Town in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation which shall inure to the Town for such uses as the Board of Selectmen may direct. Fines shall be recovered by indictment or on complaint before the District Court or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the General Laws. Each separate instance of noncompliance following the issuance of any warning or citation pursuant to this section shall constitute a separate violation.

10.2.6 Right of Entry:

Agents of the enforcement authority may enter any property but not structures on such property for the purpose of inspecting or investigating any violation of this By-Law or enforcing against the same.

10.2.7 Severability

The invalidity of any portion of this By-Law shall not invalidate any other portion, provision or section hereof.

## **CHAPTER 11: RIGHT TO FARM BYLAW**

### **Section 1: Purpose and Intent**

The Town of Duxbury finds that farming is an essential and valued activity, which provides fresh food, clean air, economic diversity, local employment, and open spaces to all the citizens of the town. This by-law is intended to encourage the pursuit of agriculture, promote agricultural-based economic and employment opportunities, and protect farmland within the Town of Duxbury.

The purpose and intent of this by-law is to allow agricultural uses and related activities to function in harmony with the community, Town agencies, and others. This By-law shall apply to all jurisdictional areas within the Town.

This by-law re-states with emphasis the Right to Farm accorded to all citizens of the Commonwealth of Massachusetts as stated under the Constitution and General Laws and Regulations, including but not limited to Article 97, of the Constitution, Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; (The Zoning Act) Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A.

## **Section 2: Definitions**

**Farm:** Any parcel or parcels of land, or water bodies, used for the purpose of commercial or private agriculture, or accessory thereto.

**“Farming” or “Agriculture” or their derivatives** shall include, but not be limited to commercial and private pursuit of the following:

- Farming in all its branches and the cultivation and tillage of the soil;
- Production, cultivation, growing, and harvesting of any agricultural, aquaculture, floriculture, viticulture, or horticultural commodities including orchards;
- Growing and harvesting of forest products, including the production of maple syrup and other related forestry or lumbering operations;
- Breeding, raising, keeping, dairying, and/or selling of livestock, e.g. cattle, sheep, swine, goats, llamas, and alpacas;
- Breeding, raising, keeping, and/or selling horses; e.g. boarding, training, or as an adjunct to farming;
- Breeding, raising, keeping, and/or selling poultry, owls, rabbits, bees, fur-bearing animals and other domesticated animals for food, fiber, fur or other agricultural purposes.

**“Farming”** shall encompass activities including, but not limited to, the following:

- Operation and transportation of slow-moving farm equipment over roads with the Town;
- Control of pests, including but not limited to, insects, weeds, predators, and disease organism of plants and animals under generally accepted management practices;
- Application and storage of manure, pesticides, and fertilizers under generally accepted management practices;
- Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing and agricultural output or services of the farm;
- Processing and packaging of the agricultural output of the farm and the operation of a farmer’s market or farm stand including signage thereto.

- Maintenance, repair, or storage of farm equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products;
- On-farm relocation of earth or sale of material and the clearing of ground for farming operations;
- Constructing and maintaining farm buildings used for shelter, feed, and storage;
- Maintaining drainage or irrigation ditches; picking stone; constructing, repairing, or maintaining fences; and clearing, renovating and maintaining pastures.

### **Section 3: Right to Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Duxbury. The above-described agricultural activities may occur on holidays, weekdays, and weekends; by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practices of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply to those commercial and private agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, consideration shall be given to both traditional customs and procedures as well as to new practices and innovations. Moreover, nothing in this Right to Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, local zoning law, and local Board of Health rules and regulations.

### **Section 4: Disclosure Notification**

In order to ensure that prospective owners and prospective tenants are aware of the policy of the Town of Duxbury expressed in this By-law regarding agricultural uses, the following notification shall be prominently posted in the Duxbury Town Hall, Duxbury Free Library, and on the Town of Duxbury website within 30 days of this bylaw becoming effective. In addition, the notification language required by this section shall appear each year in the Town's Annual Report.

*It is the policy of this community to conserve, protect, and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a community where farming activities occur and are encouraged. Such farming activities may include, but are not limited to, activities that cause noise, dust, and odors. Buyers and occupants are informed that any property within the Town of Duxbury may be impacted by commercial agricultural and farming activities.*

Property owners should make efforts to inform prospective tenants or buyers that Duxbury is a Right to Farm community.

### **Section 5: Resolution of Disputes**

Any person having a complaint about a farm activity or practice is encouraged to seek an amicable resolution to the complaint, including talking directly with the involved farmer.

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Board of Selectmen, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Board of Selectmen may forward a copy of the grievance of the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within sixty days.

The Board of Health shall forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report on its recommendations to the Board of Health within an agreed upon time frame.

### **Section 6: Severability Clause**

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of Duxbury hereby declares the provisions of this By-law to be severable.

*Chapter 11 accepted by the Attorney General on April 29, 2008 and printed in the Duxbury Clipper on May 7, 2008 and May 14, 2008.*

# APPENDIX A

## *Acts of Legislature Accepted by the Town*

### ACTS OF THE LEGISLATURE ACCEPTED BY THE TOWN

**Chapter 30B** -STM 4/28/90 -Art. 8--The Town voted to rescind its previously voted acceptance of Chapter 217 of the Acts of 1980 and vote to accept all provisions of Chapter 687 of the Acts of 1989, commonly referred to as the Uniform Procurement Act (CH. 30B of MGL).

**Chapter 30B-Sec 12B** ATM 4/27/91-To solicit and award any and all contracts for any term not to exceed five (5) years.

**Chapter 31-Sec. 48-** ATM 3/6/43-voted to place regular permanent police officers under classified Civil Service.

**Chapter 31 Sec. 49-**Accepted Ch. 31,sec. 49 providing for placing the office of Chief of Police under Civil Service. (Oct. 21,1978-removed future police chiefs from this status).

**Chapter 32, Sec. 11B- 1964 Town Election-**Regarding Employee Insurance-50% premium cost payment of Group Health Ins. To retired elderly and their dependents and a portion of the administrative expense to be paid by the Town.

**Chapter 32B-1956 Town Election-**Accepted 32B authorizing any city, town, county or district to provide a plan of group life insurance, group accidental death and dismemberment insurance, and group general blanket hospital, surgical and medical insurance for certain persons in the service of such city, town, county or district and their dependents.

**Chapter 32B-Section 18-STM 11/13/06-**Medicare Extension Plans- voted that the Town accept the provisions of Ch 32B, Sec. 18-providing for mandatory transfer of all of the Town's Retirees, their Spouses, and Dependents insured or eligible to be insured to a Medicare Extension Plan offered by the Town.

**Chapter 39, Sec. 15- STM 3/11/2000-**Provides rules for Moderator, pertaining to 2/3 vote at Town Meetings.

**Chapter 39, Sec. 23D-ATM 3-10-07** –Mullen Rule for attendance at Hearings-Accepted M.G.L. Chapt.39, Sec. 23D, and to apply this Statue hereafter to all Adjudicatory Hearings conducted by the Town's Boards, Committees, Councils And Commissions as set forth in the General Bylaws of the Town of Duxbury under Section 3 and Section 6.

**Chapter 40,Sec. 6B-Accepted 11/9/1945-**Permits cities and towns to purchase uniforms for their Police Department.

**Chapter 40,Section 6C-ATM 3/20/1971-**Accepted Ch. 40, Sec. 6C Selectmen authorized to order plowing of certain private ways under Ch. 40, sec 6C.

**Chapter 40,Sec. 8C-3/9/1963-Accepted Ch. 40,sec. 8C, establishing a "Conservation Commission".**

**Chapter 40, Sec. 8D-8/16/75-**Accepted provisions of Ch. 40 Sec. 8D establishing a "Historical Commission" (enlarged to 7 members in 1976).

**Chapter 40, Section 8E and Section 5(63) -3/15/1972:**

Ch 40 sec. 8E-establishing a Youth Commission.

Ch. 40 sec. 5(63)-appropriates money for same.

**Ch. 40 section 8E ATM March 8, 2003**

**Ch. 40, Section 8G – Accepted STM 3/9/02-Art. 4—**Entitles the Town of Duxbury to enter into an agreement with other cities and towns for providing mutual aid programs for police departments.

**Chapter 40, Section 8J ATM 4/24/1993-Art 35-**Accept the provisions of Ch. 40, sec 8J of MGL which provides for establishment of a municipal Commission on Disability.

**Chapter 40, Section 15C-ATM 1975Art. 83-**Accepted Ch. 40, Sec. 15C Scenic roads.

**Chapter 40 Sec 21 (Paragraph 10) 3/11/61-** to amend Town By-laws-House numbering.

**Chapter 40, Section 21D ATM-3/8/1997-Non-criminal procedure for the following:**

1. in Gen. By-law sec. 8.1.5 Public Works & Dir. of Inspectional Ser.-Earth Removal
2. 2. In General By-law-sec. 9.1.8 Wetland Protection
3. in the Protective By-law sec. 911.3 for the Dir. Of Inspectional Ser.
4. In the Harbormaster's R&R for non-criminal fines.
5. In Shellfish R&R

**Chapter 40, Section 21D-Non-Criminal ATM 3/14/98-**in General By-law-Non-Criminal violations of Handicapped Parking.

**Chapter 40, Section 21D-ATM- 3/14/98-** Non-Criminal violations of the Dog Officer procedures in the General By-law in Dog Control.

**Chapter 40, Section 21D- ATM Art. 50 3/13/99-**Non-Criminal fines for the Board of Health.

**Chapter 40, Section 21D- ATM 3/14/2009 Art. 31-** Non-criminal fines for violations of the Duxbury Conservation Commission Rules and Regulations for Use of Town of Duxbury Conservation Lands.

**Chapter 40, Section 22D-STM 5/5/86 Art. 7-**Accepted Ch. 40, sec. 22D an act authorizing the Bd. of selectmen to establish traffic regulations and provide for towing vehicles found in violation of the law or Town By-laws.

**Chapter 40, Section 22F-ATM 4/24/93-Art. 25-**Accept Ch. 40, sec. 22F-permits the Bd. of Selectmen to establish fees for inspectional services equal to the cost of performing said services.

**Chapter 40, Section 39K (Acts of 1986)-3/12/1988-**Accepted provisions of Ch. 40, sec. 39K permitting the establishment of a separate account classified as an "Enterprise Fund" for the Water Division of the Dept. of Public Works and its operation.

**Chapter 40, Section 42 A,B, C,D and F-1929-**Members of the Duxbury Fire and Water District voted unanimously to accept Ch. 40, Sec. 42, A,B,C,D and F.

**Chapter 40, Ch.232 Acts of 1955 ATM-3/10/1956-** which adds sections Ch. 40, 42G, 42H and 42I, making it possible to levy betterment assessment of water mains, etc.

**Chapter 40, Section 44A-ATM4/27/-**Create a regional refuse disposal planning committee consisting of three persons to be appointed by the Town Moderator.

**Chapter 40A-ATM 3/12/66-**Designated the site of the first John Alden House shown on the Assessors' map as BL R lot 77C1 as a Historic District under Ch. 40A.

**Chapter 40A, Section 20-3/3/63-**Accepted provisions of Ch. 40A , Sec.20, regarding reconsideration of Appeal or Petition for Variance after unfavorable Action.

**Chapter 40 G-9/3/80-Accepted Ch 217 Acts of 1980-** which adds a new sec. "G" to Ch. 40 which states that contracts over \$4,000 must be advertised.

**Chapter 41, Section 19K – STM 3-8-08- Town Clerk Certification-** Authorizing the payment of a stipend if the Town Clerk satisfies requirements for certification set forth in that statute.

**Chapter 41, Section 38A-3/10/56-**Accepted Ch. 41,sec. 38A stating the Collector of Taxes shall as the Town Collector.

**Chapter 41, Section 69B-Accepted 1972-Accepted Ch. 41, sec. 69B-duties of the Water Commissioners.**

**Chapter 41, Section 69G-4/2/77-** Accepted provisions of CH. 41, sec. 69G establishing a Dept.

Of Lands and Natural Resources.

**Chapter 41-Section 70 and 71-ATM 3/7/25-**Created a Planning Board

**Chapter 41, Section 81A .(as amended by Ch. 340 of the Acts of 1947)ATM 3/4/50-Art. 27-**to establish a Planning Board.

**Chapter 41, section 81U (Amendment)-3/12/88-**Accepted the 1987 amendment to Chapter 41, Sec. 81U of the MGL which deals with the Subdivision of Land R&R of the Planning Board regarding the proceeds of any bond or deposit which shall be made available to the Town for expenditure in completing work as specified in the approved plan, etc.

**Chapter 41, section 81Z-3/10/62-**Amend Zoning By-law shall be the "Board of Appeals under Subdivision Control Law"

**Chapter 41, section 97-3/1/1941-**Accepted Ch 41,sec. 97, to establish a Police Department under the direction of the Board of Selectmen.

**Chapter 41,Section 100A-1958-**Repealed Ch.512, sec. 10 Acts of 1978- indeminty of a Duxbury Fireman (previously accepted 3/4/44)

**Chapter 41, Section 108L-Quinn Police Bill- voted 1971- Rescinded Sept. 20, 1982 STM Art. 9.**

**Chapter 43C-Section 11-ATE-5-11-1991-**Authority to adopt an ordinance or by-law providing for a consolidated department of municipal finance.

**Chapter 44B Sections 3-7 inclusive of MGL-**Known as the **Community Preservation Act** Petitioned by the voters to be put on the ballot of ATE 3/24/01. Carried 1930 Yes and 886 No (57 Blanks).

**Chapter 44, Section 53C-3/28/73-**Accepted Ch. 44,sec. 53C, as amended by Ch. 344 Acts of 1970, overtime for police officers to be held in a separate fund by the treasurer -needs no separate vote to appropriate same.

**Chapter 44, Section 53D 4/28/90 ATM Art. 31-** Accepted Ch. 44, Sec. 53D, as amended, which chapter permits establishment of a revolving fund for Recreation programs.

**Chapter 44, Section 65 --ATM 3/10/51-**Accepted Ch. 44, Sec. 65 which states that vacation pay may be paid in advance (Ch 365, sec. 3 Acts of 1945).

**Chapter 48, Article 85 of MGL (revised laws)-3/13/15-**Allowing the selectmen to reserve spaces in the public ways for trees, grass or planting.

**Chapter 48, section 42A--ATM 3/9/85-**Voted that the Town **revoke** the acceptance of Ch. 48, Sec. 42, which established a Fire Dept. under the control of an officer to be known as Chief of the Fire Dept. and in place thereof, accept Ch. 48, Sec. 42A which directs that the Selectmen appoint the Chief of the Fire Dept. and such other officers and firemen as they deem necessary, subject always to an appropriation by town meeting.

**Chapter 48, Sections 42, 43 and 44 -ATM 3/1/61 Art. 19-**Accepted Ch.48, Sec. 42,43 and 44 establishing a Fire Dept. under the control of an officer known as the Chief of the Fire Dept. The Chief to act as Forest Warden.

**IMPORTANT-**Just section 42 was revoked 3/9/85 -In place thereof Chapter 42A was accepted.

**Chapter 54, Section 103A, as amended by Ch. 77 of the Acts of 1977**

**ATM3/5/38-**Accepted Ch. 54, Sec. 103A, as amended by Ch. 77 of the Acts of 1937 allowing absentee voting at Town Elections.

**Chapter 59-Section 2A(a)-3<sup>rd</sup> sentence-**Assessing property early assessments of Real property-**STM -May 5,2003**

**Chapter 59-Section 5, Clause 5B-American Legion Tax Status – STM 11/13/06-** The Town voted to accept the provisions of Chapter 59, Section 5, Clause 5B, American Legion Tax Status, beginning on July 1, 2006.

**Chapter 59, Section 5 (17E)-ATM 3/9/02 Art. 23-**by authorizing an annual increase in the asset limit for any exemption granted under MGL, Chapter 59, Sec. 5, Clause 17D.

**Chapter 59, Section 5, Clause 41A- Senior Interest Rate- STM 11/13/06-**The Town voted to reduce the rate of interest that accrues on Property Taxes deferred by eligible Seniors under MGL Chapter 56, Sec. 5, Clause 41A from eight (8) to four(4) percent, with such reduced rate to apply to taxes assessed for fiscal years beginning on or after July 1, 2007.

**Chapter 59, Section 5 (41D)-ATM 3/9/02 Art. 24-**by authorizing an annual increase in the income and asset limit for any exemption granted under the MGL, Chapter 59, Sec. 5, Clause 41C.**This section was amended at the ATM 3/13/04-Art-11-Vote to accept the Provisions of Chapter 184 of the Acts of 2002 Amending MGL Chapter 59, Section 5 (41D)-**by increasing the gross receipts limit to \$20,000 for single persons and to \$30,000 for married couples; by increasing the whole estate limit to \$40,000 for single persons and \$55,000 for married couples: and by increasing the exemption amount to \$1,000; effective for the fiscal year beginning July 1,2004

**Chapter 59, Section 5 (41A)-ATM 3/9/02 Art. 25-**by authorizing an increase in the income limit for any exemption granted under the MGL, Ch 59, Sec. 5, Clause 41 A

**Chapter 59, Section 5 clause 17D, as amended by the Acts of 1995, Ch. 181-** Tax abatement increase-Accepted ATM 3/11/00 Article 23.

**Chapter 59, Section 5, amended 1986 to Ch. 73, Sec. 4-**Real Estate exemptions 17D and 41C (3/14/87 Art. 48.)

**Chapter 59, Sec. 5K-ATM 3-10-07 –SR. Tax Relief-**Accept the provisions of M.G.L. Chap. 59, Sec. 5K-“Property Tax Liability Reduced in exchange for volunteer services: Persons over age 60.”

**Chapter 59, Section 5 Clause 37A -ATM-4/25/92-**Accept provisions of MGL Ch. 59, Sec. 5, Clause 37A which expands from \$437.50 to \$500.00 the amount of actual Real Estate Tax exemption for legally blind taxpayers.

**Chapter 59, Section 38 ATM 3/3/79 -**Accepted the provisions of Ch. 59, Sec. 38, as amended by Ch. 576 of the Acts of 1978-normal repairs and maintenance shall not be considered in determining cash valuation of property.

**Chapter 59, Section 57C (as enacted by Ch. 653, Sec. 41 of the Acts of 1989)-ATM 4/27/91-**Provides for the issuance and collection of Tax bills on a quarterly basis to commence with FY 1993.

**Chapter 60, 3C, Acts of 1993--4/23/94-Art. 13-**Voted to accept the provisions of Ch. 60, Sec 3C of the MGL, as amended by Ch. 71, Sec. 26 of the Acts of 1993 which would authorize the designation of a place on Municipal Tax bills, whereby taxpayers could voluntarily check off, donate and pledge an amount not to exceed less than one dollar to establish a Town Educational Fund. The purpose of which shall be to provide supplemental educational funding for local educational needs.

**Chapter 60A-sec. 1, ATM 3/8/86-**Accepted a portion of Ch. 60A, Sec. 1 that provides an exemption from Motor Vehicle excise for one motor vehicle owned and registered for personal non-commercial use by a former P.O.W.

**Chapter 60, Section 2-ATM 4/24/93 Art. 26-**Accept Ch 281A 1990 Ch. 60, Sec. 2-permitting abatement of Tax Bills less than \$10.00 on real or personal property when the tax to be collected is less than ten dollars (\$10).

**Chapter 71, Section 7E-TM 10/21/1978-**Accepted Ch 71 sec 7E putting Adult Education into a Revolving Fund.

**Chapter 71, Section 14-accepted in 1975-**Accepted CH. 71, sec. 14 Regional School District Planning Committee.

**Chapter 71, Section 17A-STM 11/9/81 Art. 3-**Which provides, in essence, for a revolving fund or the Culinary Arts program in the High School.

**Chapter 71, Section 71F ATM 3/12/83-**Accepted Ch 71, Sec. 71F (revolving fund for non-resident students).

**Chapter 71, Section 83 of the Acts of 1993-ATM 3/23/94-**Provides for participation of up to five (5) teachers in an early retirement incentive program providing that those teachers agree to waive the retirement incentive provided for in the collective bargaining agreement.

**Chapter 73, Section 4-ATM 4/14/87-Article 48-**Accepted the provisions of CH. 73, Sec. 4 of the Acts of 1986 to allow an additional exemption to persons determined eligible for certain real estate exemptions as contained in MGL Ch. 59, Sec. 5, said exemptions to apply to FY 1988.(17D and 41C).

**Chapter 74-1952-**Accepted Ch. 74 and as amended, the School Committee establish and maintain State-aided vocational education.

**Chapter 80-ATM 3/11/72 Art. 20**-Accepted assessing betterments.

**Chapter 80, Section 13B ATM 3/9/96**-Deferral and recovery agreements.

**Chapter 83, Section 1-4/2/77**-Accepted Ch. 83,Sec. 1 establishing a Board of Sewer Commissioners who shall be the Board of Selectmen until such a Committee shall be elected.

**Chapter 83, Sections 16A through 16F-STM 11/9/81-Art. 8**-Accepted the provisions of Ch. 83, sec. 16A through 16F inclusive which provide for a system of tax liens for unpaid annual sewer charges.

**Chapter 85, Section 11A-ATM 3/10/56**-Accepted Ch. 85, Sec. 11A which provides for registration and regulation of the operation of bicycles in this Town.

**Chapter 90, Sections 20A, 20A1/2, 20C, 20D and 20E added by Sections 115 of Ch. 351 of the Acts of 1981-STM 11/9/81 Art. 6**-It provides in essence for the processing of all parking violations by the Town.

**Chapter 90, Section 20C and 20D-STM 3/9/74**-Accepted provisions of Ch. 90, Sec. 20 C and 20D thereby incorporating the pre-numbered parking tag of the prepared triplicate notice type.

**Chapter 90E-STM 6/1/81 Art. 3**-Ch. 90E and Ch. 356 Acts of 1977, Bikeway Committee or Selectmen may receive and expend funds.

**Chapter 114, Section 6 through 9**-Please look in the file of Duxbury's Petitions to the Legislature for a Special Act" under CREMATORY.

**Chapter 121B-3/17/70**-Established a Housing Authority under Ch. 121B.

**Chapter 130, Section 52 and 57 -ATM 3/7/42**-regulate/prohibit taking of shellfish, Board of Selectmen may issue licenses for private shellfish grants amended by Ch. 598 Acts of 1941

**Chapter 138, Section 126A(1991)--ATM 4/24/93-Article 27**-Authorizes the Board of assessors to permit the deferral of property tax payments for certain eligible property owners whose gross income is less than \$25,000.

**Chapter 138, Section 17B -ATM 3/8/97**-Allows selectmen to grant additional licenses if seasonal licenses are granted under Ch. 138, Sec. 15 liquor licenses.

**Chapter 140, Section 147A-Accept the provisions of Ch. 140, Sec. 147A of MGL-4/25/92**- which allows the Town to assume responsibility and liability for licensing, control and regulation of dogs.

**Chapter 147, Section 17B- ATM 3/15/65**-Accepted the provisions of Ch. 147, Sec. 17B providing for restriction of police officers to a 5 day, 40 hour week, overtime with the approval of the Chief.

**Chapter 148 (March 1,1924)**- Accepted Ch. 148 regarding removal of Combustible material.

**Chapter 148, Section 26E-ATM 3/8/80**-Accepted Ch. 148,sec.26E, added by Ch 712 of the Acts of 1979 requiring the installation of Smoke detectors in certain residential buildings and structures.

**Chapter 148, Section 26G( ATM 4/23/94)**- relates to the installation of Automatic Sprinklers in non-residential new construction or additions to existing buildings over 7500 sq. feet.

**Chapter 148, Section 26H (ATM 4/27/91)**-Which requires automatic sprinkler systems in lodging and boarding houses for six (6) or more persons.

**Chapter 148, Section 26I (ATM 4/27/91-Art. 19)**-Which requires the installation of automatic sprinkler systems in new or rehabilitated multi-unit residential structures of four (4) or more dwelling units.

**Chapter 148, Section 56 (8/21/76)**-Accepted provisions of Ch. 148, Sec.56 allowing for the licensing of open air parking lots.

**Chapter 148, Section 26G (4/13/94-Art. 17)**-Voted to accept the provisions of MGL 148,Sec. 26G, relating to the installation of automatic sprinklers in non-residential new construction or additions to existing buildings over 7,500 square feet.

**Chapter 152,Section 69-ATM 3/10/51**-To extend the term "laborer" as used in Ch. 152, Sec. 69 of Work Men's Compensation Act to include all employees of the Town regardless of the nature of their duties except Police and Fire.

**Chapter 152, Section 69, (1972)**,as amended by Ch. 401 Acts of 1966,as shown in Ch. 555 Acts of 1959, adds a sentence to Ch. 152, sec. 69

**Chapter 153, Acts of 1916-3/12/21**-Accepted Ch. 153, Acts of 1916, regarding the Slaughtering License Fee.

**Chapter 166, Section 32-3/4/50**-as amended by Ch. 529 Acts of 1949 pertains to the appointment of an inspector of wires.

**Chapter 188, Section 13-12/2/85**-Accepted provisions of Ch. 188, Sec. 13 of the Acts of 1985 which provide for a Professional Development Grant program for teachers.

**Chapter 194, Section 419 (Acts of 1998) ATM 3/13/99**-Agreement-cooperative recycling on the South Shore.

**Chapter 217-Acts of 1963-adds a new Section 30 to CH. 143-3/9/63**-Accepted Ch. 217 Acts of 1963, adding a new section 30 to Ch. 143 (s. 30 repealed by Ch. 802, sec 28 Acts of 1972.

**Chapter 217 Acts of 1963 ATM 1964 Art. 58**-Accepted Ch. 217 of the Acts of 1963 which provides for appointment of an inspector of gas piping and gas appliances who shall be a licensed plumber or a gas fitter.

**Chapter 217-Chapter 30B-4/28/90**-Voted to rescind the acceptance of Ch. 217 of the Acts of 1980 and vote to accept all provisions of Ch. 687 of the Acts of 1989, commonly referred to as the Uniform Procurement Act (Chapter 30B of MGL

**Chapter 240 Acts of 1920-7/17/20**- Accepted Ch. 240 Acts of 1920 to permit, under public regulation and control, certain sports and games on the Lord's Day.

**Chapter 258, Section 13-3/28/81 ATE Ques. #1**-Accepted the provisions of Ch. 258, sec. 13 which provides the indemnification of elected or appointed Town officials.

Chapter 268A-Special Municipal Employee-"State Ethics Commission "-Special Meeting of the Selectmen Dec. 16, 1981.

**Chapter 270, Section 16-ATM 4/24/93 Art. 33**-Designate the Board of Health Agent and the Board of Health, as enforcing officers in accordance with the provisions of MGL, Chapter 270, Sec. 16.(Disposal of rubbish)

**Chapter 280 Acts of 1948-7/9/48**-Accepted Ch. 280, Acts of 1948, provides for the creation of an Old Colony High School District Planning Committee.

**Chapter 291, Acts of 1990-STM-4/27/91**-Relative to Enhanced 9-1-1 service and that the town Clerk notify the Sec. of the Commonwealth of said acceptance before Dec. 11,1991.

**Chapter 304, Section 84 Acts of 1929-3/5/32-Accepted Ch. 304, Sec. 84 Acts of 1929** further regulating the taking and possession of certain shellfish.

**Chapter 330 Acts of 1955-8/12/55** -Accepted Ch. 330 Acts of 1955 authorizing the Town to take over the properties and assume the obligations of Duxbury Fire and Water District.

**Chapter 332, Acts of 1955 3/10/56**-Accepted Ch. 332 Acts of 1955 which adds sections 42G, 42H and 42I to Ch. 40, making it possible to levy betterment assessments for the assessment of water mains, etc.( G, H and the letter I)

**Chapter 356-ATM-1981-Art. 3- CH. 90E and Ch. 356 Acts of 1977**- Bikeway Committee or Selectmen may receive and expend funds.

**Chapter 383 Acts of 1963-3/9/63**-Accepted provisions of Ch. 383 Acts of 1963 relative to enforcement of certain marine fisheries laws by police officers.

**Chapter 441-Acts of 1971**-Selectmen under Ch 441 Acts of 1971, authorized the treasurer to deliver to department heads the payroll checks of employees of such department.

**Chapter 478 Acts of 1963 adopted in 1964**)- Chapter 478 of the Acts of 1963, which increases the amounts of pensions and retirement allowances payable to certain former public employees.

**Chapter 531 Acts of 1952,as amended by Ch 20 Acts of 1953-3/14/53**- Accepted Ch. 351 Acts of 1952 as amended by Ch. 20 Acts of 1953 regarding the construction of sea walls in Duxbury.

**Chapter 595 Acts of 1959-Town Election 3/19/60**-Accepted Ch. 595 of the Acts of 1959 which provides that the Town pay on half premium costs payable by retired employee for group life insurance, and for group general or blanket hospital, surgical and medical insurance

**Chapter 624 Acts of 1952-ATM 3/14/53 Art. 28**-Chapter 624 of the Acts of 1952 which will increase the pensions of Town employees who retired prior to April 1,1951,etc

**Chapter 640 Acts of 1985-ATM 3/1//89**-Accept Ch 640 Acts of 1985 granting renewal of certain licenses and permits-Effect to deny the issuance of renewal, etc., for failure or refusal to pay taxes, fees betterments or other charges.

**Chapter 645 Acts of 1913-3/10/1917**-Established a Reserve Fund under Ch 645 Acts of 1913

**Chapter 647 of the Acts of 1960-ATM 1961 art. 48**-Accepted Ch 647 of the Acts of 1960, which provides for increasing the amounts of pension and retirement allowances payable to certain former public employees.

**Chapter 670 Acts of 1955-Atm 1956 Art. 38**-Accepted Ch 670 of the Acts of 1955

**Chapter 687 Chapter 30B MGL. (STM 4/28/90**-Accepted all provisions of Ch. 687 of the Acts of 1989, commonly known as the Uniform Procurement Act Chapter 30B of MGL.

**Chapter 781 Acts of 1951 (ATM 1952 Art. 33)**-Accepted Ch 781 of the Acts of 1951. This will increase pensions of Town employees who retired prior to 11/1/49

with 15 years of creditable service at the time of separation, but no increase shall be given which will make normal amount to exceed \$2,000. This will affect the same pensioners as CH 820 which the Town voted to accept last year. (1951).

**Chapter 807--5/17/1914**-Acts of 1913 relating to the compensation of laborers. Chapter 820-Acts of 1950-(3/10/51-Art. 27)-Voted to accept the provisions of Ch 820 of the Acts of 1950 which provides for an increase of \$200 in the Annual amounts of certain pensions for employees separated from the service by retirement prior to 11/1/49 and at the time of such separation from service had at least 15 years creditable service.

### **Duxbury's Petitions to the Legislature for a Special Act (1972-2005)**

**Affordable Housing Trust Fund- ATM 3-13-04**-An act to establish an Affordable Housing Trust Fund-signed 10-11-2005

**Alcohol License- ATM 3/12/1983**-An Act authorizing the Town of Duxbury to issue an additional license for the sale of alcoholic beverages not to be drunk on the premises to Osborn's Country Store, Inc. Chapter 247-Acts of 1983- Approved June 7,1983

**Appointed vs Elected**-look under Treasurer-Town Collector

**Borrowing Money-Powder Point Bridge-( STM-6/29/74 Art. 1)**-An Act authorizing the Town of Duxbury to borrow money for a repair of a certain public way. Chapter 653 Acts of 1974-Approved July 31,1974

**Borrowing Money-Powder Point Bridge-(STM 3/8/75 Art. 2)**-An Act increasing the amount of money the Town of Duxbury may borrow for repair of a certain public way. Chapter 63 Acts of 1975 Approved 3/19/75.

**Borrowing Money-Powder Point Bridge-(STM 8/28/86 Art. 5)**-An Act furthering the amount of money the Town of Duxbury may borrow for the repair of a certain way. Chapter 538 Acts of 1987 Approved November 25,1986

**Borrowing Money-Powder Point Bridge-(STM 3/8/86 Art. 15)**-An Act increasing the borrowing authorization of the Town of Duxbury for repair of a certain public way. Chapter 61 Acts of 1986 Approved June 3,1986

**Conservation Lands**-look under Water Supply--Lands.

**Chief of Police**-see Police.

**Crematory-(ATM April 1,1978 Art. 52)**-An Act authorizing the Town of Duxbury to operate a Crematory-in accordance with MGL Chapter 114, Sec. 6 through 9 inclusive. Chapter 270 Acts of 1978. Approved June 23, 1978

**Dogs-(ATM 3/13/82 Art. 19)**-An Act relative to Licensing and keeping of Dogs in the Town of Duxbury-out of the Plymouth County Dog System. Chapter 511 Acts of 1993.Chapter 511 Acts of 1983. Approved Nov. 22,1983

**Fisheries-(ATM 3/11/72 Art. 69)**-NB-this petition was made to the Director of Marine Fisheries-For the right to control and regulate Alewives fisheries as provided in Sec. 94 of Ch. 130 of the General Laws.

**Manager (Town )-ATM 3/14/87 Art. 9)**-An Act providing for a Town Manager in the Town of Duxbury. Chapter 353 Acts of 1987. Approved August 11,1987.

**Police(Chief)-(ATM 10/21/78 Art. 22)**-An Act exempting the office of Chief of Police of the Town of Duxbury from the provisions of the Civil Service Law. Chapter 78 Acts of 1979. Approved April 9,1979.

**Police-STM 3/14/87 Art. 9-**A bill designed to create the position of Deputy Chief in the Duxbury Police Dept to exempt the position from Ch. 31, Sec. 52C **died in Committee** . It was House Bill #5302(in the warrant it appears as MGL Ch. 53, Sec.52b)

**Police-ATM 4/28/90 Art. 29-Died in Committee-**to petition the General Court for a special act authorizing the appointment of Special Police Officers.

**Police-(ATM 10/21/78 Art. 21)-**An Act authorizing the Town to reimburse a Police Officer for certain legal expenses incurred by him. Chapter 124 Acts of 1979 Approved May 4,1979.

**Powder Point Bridge-**Look under Borrowing.

**Public Works Dept. (ATM 3/9/85)-**An Act establishing a Dept. of public Works in the Town of Duxbury----total of 6 sections (section 2= Director of Public Works). Chapter 266 Acts of 1985. Approved Sept. 18,1985.

**Treasurer-Town Collector-(STM 9/20/1982 Art. 3)-**An Act providing for the appointment of the Treasurer-Town Collector in the Town of Duxbury. Chapter 559 Acts of 1982. Approved Dec. 23,1982. **NB-**This not only changed the offices to appointed, but combined them-they had previously been on the ballot separately.

**Validating Procedure for Posting-**No Town Meeting action-the Selectmen petitioned the Legislature. An Act validating the Acts and procedures of the STM held in the Town of Duxbury on June 23,1986. Chapter 260 Acts of 1986. Approved July 16,1986.

**Validating Procedure for Posting-(STM 6/23/86 Art. 5)-**An Act validating a certain Special Election in the Town of Duxbury. Chapter 261 Acts of 1986. Approved July 16,1986. This is additional information in the town Clerk's office explaining the reasons for Ch 260 and 261 of 1986.Improper posting by the Selectmen's office.

**Water Supply-Lands-(ATM 1977 art. 30)-**An Act authorizing the Town of Duxbury to transfer certain Conservation Lands to the Water Dept. for water supply purposes.-Parcels of land off Mayflower and East Streets, etc. Chapter 298 Acts of 1977. Approved June 14,1977.

***APPENDIX B***

***An Act Providing for a Town Manager  
in the Town of Duxbury***

***Chapter 353  
Acts of 1987***

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Upon the effective date of this act, the town of Duxbury shall be governed by the provisions of this act. To the extent that the provisions of this act modify or repeal existing General Laws and special acts or the by-laws of the town of Duxbury, this act shall govern.

SECTION 2.

- A. The Board of Selectmen shall serve as the goal setting, long range planning and policy making body of the town, recommending major courses of action to the town meeting, and adopting policy directives and guidelines which are to be implemented by officers, boards, committees, commissions and employees of the town.
- B. The Board of Selectmen shall have the power to enact rules and regulations to implement policies and to issue interpretations.
- C. The Board of Selectmen shall exercise, through the town manager, general supervision over all matters affecting the interests or welfare of the town.
- D. The Board of Selectmen shall appoint the town manager, town counsel, registrars of voters, election officers, constables, and members of all committees, boards, and commissions except those appointed by the moderator or elected by the voters.
- E. The Board of Selectmen shall have general administrative oversight of such boards, committees, and commissions appointed by the Board of Selectmen.
- F. The Board of Selectmen shall have the responsibility and authority for licenses and other quasi-judicial functions as provided by the General Laws and the town of Duxbury by-laws.
- G. The Board of Selectmen shall be responsible for the preparation of all town meeting warrants.
- H. The Board of Selectmen may make investigations and may authorize the town manager or other agents to investigate the affairs of the town and the conduct of any town department, office, or agency, including any doubtful claims against the town, and for this purpose the Board of Selectmen may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of any such investigation shall be placed on file in the office of the town clerk, and a report summarizing such investigation shall be printed in the next annual town report.
- I. The Board of Selectmen shall review the annual proposed budget submitted by the town manager and make recommendations with respect thereto as they deem advisable. The town manager shall present the budget, incorporating the recommendations of the selectmen, to the finance committee and the fiscal advisory committee.
- J. The Board of Selectmen, by a majority vote of its full membership, shall appoint a town manager, who shall be a person with executive and administrative qualifications and especially fitted by education, training, and

experience to perform the duties of the office. The office of town manager shall not be subject to the consolidated personnel by-law. The town may from time to time, by by-law, establish such additional qualifications as seem necessary and appropriate.

- K. The Board of Selectmen may remove the town manager at any time by a majority vote. Within seven days thereafter, the town manager may appeal the decision of said board by filing a written request for a public hearing. If such a request is filed, the Board of Selectmen shall conduct a public hearing within fourteen days, and shall act on the appeal within seven days thereafter.
- L. The Board of Selectmen shall set the compensation for the town manager, not to exceed an amount appropriated by the town meeting.
- M. The board of Selectmen shall designate a qualified person to serve as acting town manager and to perform the duties of the office during any period of any vacancy exceeding thirty days, caused by the manager's absence, illness, suspension, removal or resignation. The appointment shall be for a period not to exceed one hundred and eighty days.

### SECTION 3.

- A. the town manager shall be the chief administrative officer of the town and shall be responsible to the board of selectmen for the effective management of all town affairs placed in the manager's charge by this act, the board of selectmen, by-law, or vote of town meeting and implementation of town policies placed in the manager's charge by the board of selectmen.
- B. The town manager shall be the chief financial officer of the town and shall be responsible for the design and preparation of the municipal budget, filing grant applications, and controlling budget expenditures, including approval of the warrants for the payment of town funds prepared by the town accountant in accordance with the provisions of section fifty-six of chapter forty-one of the General Laws. Without limiting the generality of the foregoing the town manager shall have the following specific budgetary powers:
  - 1.) The town manager shall submit to the board of selectmen a written proposed budget for town government for the ensuing fiscal year, including the budget as proposed by the school department. The proposed budget shall detail all estimated revenue from all sources, and all proposed expenditures, including debt services for the previous, current, and ensuing years. It shall include proposed expenditures for both current operations and capital projects during the ensuing year, detailed by agency, department, committee, purpose, and position, together with proposed financing methods; and the proposed budget shall include estimated surplus revenue and free cash available at the close of the fiscal year, including estimated balances in special accounts. The town may, by by-law, establish additional financial information and reports to be provided by the town manager.
  - 2.) The town manager shall report on the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the tax rate necessary to raise such amount.

- 3.) The calendar dates on or before which the proposed budget, revenue statement, and tax rate estimate are to be submitted to the board of selectmen, and the budget presented by the town manager to the finance committee and the fiscal advisory committee, as required by subsection I of section two, shall be as specified by by-law.
  - 4.) To assist the town manager in preparing the proposed annual budget of revenue and expenditures, all boards, officers, and committees of the town, including the school committee, shall furnish all relevant information in their possession and submit to the town manager, in writing, a detailed estimate of the appropriations required and available funds.
  - 5.) The town manager shall submit annually to the board of selectmen and the finance committee and the fiscal advisory committee a five year capital improvements program to include: (a) a list of all capital improvements proposed to be undertaken during the next five years, together with supporting data; (b) cost estimates, methods of financing, and recommended time schedule; and (c) the estimated annual cost of operating and maintaining any facility to be constructed or acquired. A capital improvement shall be defined by by-law.
- C. In addition to specific powers and duties provided in this act, the town manager shall have the powers and duties enumerated in this section:
- 1.) The town manager shall be responsible for coordination of operational and strategic planning for the town.
  - 2.) The town manager shall supervise all town departments under the jurisdiction of the selectmen and direct the operations of the town.
  - 3.) The town manager shall have the power to appoint, on the basis of merit and fitness; and, except as otherwise may be provided by civil service regulations, the personnel by-law, or tenure of office provisions may remove: the town accountant, town collector-treasurer, fire chief, police chief, director of public works, building inspector officer, all inspectors except as otherwise provided by General Law, harbormaster, shellfish warden, recreation director, director of veterans service and agent, director of civil defense, zoning enforcement officer, animal control officer, and any other positions as designated by town meeting. The town manager shall hold the aforementioned department heads responsible for the proper staffing of their departments.
  - 4.) All appointments and removals by the town manager shall be subject to ratification by the board of selectmen which shall act upon each appointment and removal within fifteen days following notification thereof. Failure of the board to act within the fifteen day period shall constitute assent.
  - 5.) The town manager, subject to any applicable provisions of the General law relating thereto, may assume, temporarily, the duties of any office which the manager is authorized to fill by appointment.
  - 6.) The town manager shall have the power to appoint and remove other employees as authorized by General Law, by-law, or town meeting vote and for whom appointment is not otherwise provided.

- 7.) He town manager is responsible for administration of the personnel plan including personnel evaluation policies, practices, enforcement of labor contracts, labor relations, collective bargaining and state and federal equal opportunity law compliance functions of the town.
  - 8.) The town manager shall keep full and complete records of the office and annually submit to the selectmen, unless requested to do so more frequently, a full written report of the operations of the office of town manager. The town manager may also prepare reports to boards and committees and for the town meeting.
  - 9.) The town manager shall advise the selectmen of all matters requiring action by them or the town.
  - 10.) The town manager shall attend all meetings of the board of selectmen and all town meetings and shall be permitted to speak when recognized by the moderator.
  - 11.) The town manager shall act as central purchasing agent for all town departments and activities, except those under the jurisdiction of the school committee and board of library trustees, unless requested by either agency.
  - 12.) The town manager shall manage and be responsible for all town buildings, property and facilities, except those under the jurisdiction of the school committee and the board of library trustees, unless requested by either agency.
  - 13.) The town manager shall be responsible for the negotiation of all contracts, which are subject to execution by the board of selectmen.
  - 14.) The town manager shall administer, either directly or through a person or persons appointed by him, in accordance with this act, all provisions of general and special laws applicable to said town, all by-laws, and all regulations established by the board of selectmen.
  - 15.) The town manager shall oversee the activities of the town counsel under the direction of the board of selectmen.
  - 16.) The town manager shall receive and address citizens complaints and problems.
  - 17.) The town manager shall be responsible for the management of the town insurance program.
  - 18.) The town manager shall represent the town at a local, state and regional meetings and undertake public relations activities under the direction of the board of selectmen.
  - 19.) The town manager shall perform such other duties consistent with the office, as may be required of the manager by by-law or by vote of the board of selectmen or town meeting.
- D. The town manager shall have access to all municipal books, papers and documents or information necessary for the proper performance of the duties of the town manager. The town manager may, without notice, cause the affairs of any division or department under the manager's supervision or the job-related conduct of any officer or employee thereof to be examined.

SECTION 4.

- A. All laws, special acts, by-laws, rules, regulations, and voted of town meeting in force on the effective data of this act, or any portion or portions thereof, not inconsistent with the provisions of this act shall continue in full force and effect amended or repealed.
- B. The position of executive assistant to the board of selectmen shall be terminated upon assumption of office by the town manager.

SECTION 5. This act shall take effect upon its passage.

House of Representatives, August 3, 1987.

Passed to be enacted, George Keeverian, Speaker.

In Senate, August 3, 1987.

Passed to be enacted, Walter J. Boverini, Acting President.

August 11, 1987.

Approved at Three O'Clock and 15 minutes, P.M.

Michael Dukakis, Governor.