



# Town of Danvers

## **Wetlands Protection Bylaw**

### General Bylaw Chapter XXVI

*Last revised at the November 2021 Special Town Meeting*

*Approved by the Attorney General on March 4th, 2022*

## **Wetlands Protection Bylaw (Ch. XXVI)**

---

**Section 1: Purpose.** The purpose of this bylaw is to conserve and protect the resource areas, the resource interests, and natural resource services in the Town of Danvers by regulating activities deemed by the Conservation Commission likely to have a significant or cumulative adverse effect upon resource interests. Protected resource interests include but are not limited to the following: Public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of water pollution, fisheries, shellfish, wildlife habitat, rare species habitat, recreation and aesthetic values deemed important to the community, agriculture, aquaculture and historic values (collectively, the interests protected by this bylaw).

This bylaw is intended to utilize the Home Rule authority of the Town of Danvers to conserve and protect additional resource areas, with additional standards and procedures stricter than those of the Wetlands Protection Act (MGL c. 131, § 40) and regulations thereunder (310 CMR 10.00)

### **Section 2: Jurisdiction and Activities Subject to Regulations.**

1. Except as permitted by the Conservation Commission pursuant to this bylaw or as otherwise allowed by this bylaw, no person shall commence to remove, fill, dredge, degrade, discharge into, pollute, or alter the following areas (“Resource Areas”):
  - a) any freshwater or coastal wetland; salt marsh; wet meadow; bog; swamp; vernal pool; spring; bank; reservoir; lake; pond; river or stream; beach; dune; estuary; coastal bank; lands under any water body; land subject to flooding or inundation by groundwater or surface water; land subject to tidal action; coastal storm flowage or flooding; and
  - b) land within 200 feet of any river or perennial stream, brook or creek (“Riverfront Area”)
2. Except as permitted by the Conservation Commission pursuant to this bylaw or as otherwise allowed by this bylaw, no person shall commence to alter lands within 100 feet of any: freshwater or coastal wetland; salt marsh; wet meadow; bog; swamp; vernal pool; spring; bank; reservoir; lake; pond; stream; beach; dune; estuary; coastal bank; lands under any water body; or land subject to tidal action (“Resource Area Buffer Zone(s)”)
3. Except as authorized by the Commission and as otherwise prohibited in this bylaw, no activity or alteration shall be permitted within thirty-five feet (35’) of any resource area defined in Section 2.1.(a) and the closest limit of proposed site disturbance. This area shall be defined as the “No-Disturb Zone”
4. Except as authorized by the Commission and as otherwise prohibited in this bylaw, no activity or alteration shall be permitted within fifty (50’) feet of any resource area defined in Section 2.1(a) and the closest limit of proposed site disturbance. This area shall be defined as the “No-BuildZone”.
5. A resource area, where isolated and of a size of 5,000 square feet or greater, shall be protected whether or not it borders surface waters.
6. Residential dock and pier projects, as defined herein, shall adhere to the performance standards and regulations adopted by the Commission.

### **Section 3: Presumptions:**

1. In reviewing activities within a “Resource Area Buffer Zone”, the Commission shall presume a Resource Area Buffer Zone is important to the protection of the Resource Area(s) because activities undertaken in the Resource Area Buffer Zone have a high likelihood of adverse impact upon the Resource Area(s), either immediately, as a consequence of the activities, or over time, as a consequence of daily operation or existence of the activities. Adverse impacts from such activities and

use can include, without limitation, erosion, accretion, siltation, loss of groundwater recharge, degradation of water quality, excess nitrogen and phosphorous loading and loss of wildlife habitat.

2. In reviewing activities within the Riverfront Area, the Commission shall presume the Riverfront Area is important to all the Resource Areas unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of credible evidence that:
  - a. There is no practicable alternative to the proposed project with less adverse effects; and
  - b. Such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by the bylaw.
3. In reviewing activities involving the construction, use, and maintenance of docks and piers, the Commission shall presume that the activity is likely to have a significant or cumulative adverse effect on the Resource area values of storm damage prevention, shellfish, fisheries, wildlife habitat, aesthetics, erosion and sediment control, aquaculture, and recreation.

**Section 4: Definitions.** The following definitions shall apply in the implementation of this bylaw.

The term "alter" shall include, without limitation, the following actions when undertaken in resource areas subject to this bylaw:

- a) Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
- b) Changing of pre-existing 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 which would change elevation;
- f) Driving of piles, erection of buildings or structures of any kind;
- g) Placing of obstructions or objects in water or waterways;
- h) Destruction of or injury to plant life including cutting of trees or their branches or roots;
- i) Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of water;
- j) Any activities, changes or other work which pollute any body of water or groundwater.
- k) Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

The term "bank" shall mean any land area that normally abuts and confines a water body, the lower boundary being the mean annual low-flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The term "buffer zone" shall mean a band of land, contiguous or intermittent, with a defined dimension, subject to restriction, extending 100 feet horizontally outward from the boundary of any resource area specified in Section 2.2.

The term "construction" shall mean the construction of any permanent or temporary structure or building, including, without limitation, any residential or commercial building, garage, shed, barn,

deck, swimming pool, parking area, driveway, fence, landscaping project, patio, retaining wall, or the like. For means of interpreting construction activities, attention should be given to the coverage and amount of increased impervious surface and site disturbance.

The term “dock” shall mean the entire structure of any pier, wharf, walkway, bulkhead or float, and any part thereof including pilings, ramps, walkways, float and/or tie-off pilings.

The term "freshwater wetland" shall include any marsh, bog, swamp or wet meadow, whether or not it borders on a water body. Said wetland may be defined by its vegetational community, soil composition or hydrologic regime.

The term “intermittent stream” shall mean a body of running water, including brooks and creeks, which moves in a defined channel, that may cease to flow from time to time throughout the area, including portions of up gradient of all bogs, swamps, wet meadows, marshes and vernal pools.

The term “No-Build Zone” shall mean that portion of the Resource Area Buffer Zone, extending fifty linear feet (50’) from the edge of any Wetland Resources, contiguous or intermittent, subject to restriction as defined in the regulations.

The term “No-Disturb Zone” shall mean that portion of the Resource Area Buffer Zone extending thirty- five linear feet (35’) from the edge of any Wetland Resources, contiguous or intermittent, subject to restriction, as defined in the regulations.

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town by-laws, administrative agencies, public or quasi-public corporations or bodies, Town of Danvers, and any other legal entity, its legal representatives, agents, or assigns.

The term “pond” shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply.

The term “practicable alternative” shall mean that which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

The term “structure” shall mean combination of materials assembled at a fixed location to give support or shelter such as a building, house, barn, garage, or shed.

The term “vernal pool” shall mean, in addition to scientific definitions found in the Regulations, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways which, in most years, holds water for a minimum of two continuous months during the spring and/or summer; contains at least 200 cubic feet of water at some time during most years; is free of adult predatory fish populations; and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife.

### **Section 5: Exemptions:**

1. The application and permit required by this bylaw shall not be required for maintaining, repairing or replacing, but not substantially changing or enlarging, an existing or lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunications services, sanitary sewers and storm sewers, provided the activity meets the performance standards found in the regulations adopted by the Commission.

2. This bylaw shall not apply to any activity performed for the normal maintenance or improvement of land activity devoted to agricultural use at the time of application.
3. Limited Projects, as defined under MGL 310 CMR 10.53(3), shall be exempt from the requirements of this bylaw Section 2.3 and 2.4, No-Build and No-Disturb Buffer Zones. Where applicants are applying for limited project status the Commission has the authority to waive the restrictions of Section 2.3 and 2.4 of this bylaw. However, applicants are encouraged to avoid the 35' No-Disturb and the 50' No-Build buffer zones to the greatest extent possible. Exemption from the buffer zone restrictions does not imply exemption from any and all other applicable State and local requirements.

### **Section 6: Minor Projects**

Certain projects may involve minimal activity and/or alteration within the Resource Area Buffer Zone. The Commission may consider such projects, as defined below, to be minor in nature and is of the opinion that requiring review under an RDA or an NOI would be unnecessary. Considering this, the Conservation Commission designee shall have the authority to review applications for minor activities and further issue Minor Project Permits, for projects that meet the standards defined herein and in the regulations adopted by the Commission.

1. **Applicability:** Minor Projects are defined as those that occur:
  - a) Within the 100' buffer zone, but outside of the 50' No-Build Zone; or
  - b) Within the riverfront area, but at least 50' from the identified Mean Annual High Water Line (MAHWL)
2. **Minor Activities:** Minor activities include, but are not limited to:
  - i. Unpaved pedestrian walkways for private use;
  - ii. Fencing, stonewalls, and stacks of cordwood up to a maximum of 200 linear feet, provided they will not constitute a barrier to wildlife movement.
  - iii. Vista pruning for branches less than 1 inch in diameter.
  - iv. Mowing of pre-existing lawns and pruning of pre-existing landscaped areas but not including disposal of lawn clippings or other yard debris
  - v. Planting of native trees, shrubs, or groundcover, but not turf lawns;
  - vi. Conversion of patios, pools, sheds, or other impervious surfaces to lawn or natural vegetation.
  - vii. Removal of dead or dying trees or pruning of live trees that pose a hazard to structures or public safety;
  - viii. Removal or trimming of healthy and/or non-hazardous trees in areas determined to not be providing crucial or critical shade habitat for surrounding resources areas.
  - ix. Activities, such as monitoring wells, exploratory borings, soil sampling, and surveying, that are temporary, have negligible impacts, and are necessary for planning and design purposes.
  - x. Conversion of lawn to uses accessory to existing single-family homes that results in no more than 500 square feet of permanent alteration.
3. The following minor activities proposed in the No-Disturb or No-Build Zones are permitted, granted they conform to the associated performance standards required in the regulations and this bylaw:

- i. Maintenance, rehabilitation, repair or replacement of any existing structure within the No-Disturb Zone or No-Build Zone, granted the structure dimensions and locations stay the same with the exception that they are being reduced, removed, or relocated further away from the resource area.
  - ii. All activities listed in Section 6.2 above, but not including iii, viii, and x.
- 4. **Performance Standards:** All minor projects must be designed and executed in a manner so as to reduce the potential for any adverse impacts to the resource area during construction. Factors to consider when measuring the potential for adverse impacts to resource areas include the extent of the work, the proximity to the resource area, the need for erosion controls, and the measures employed to prevent adverse impacts to resource areas during and following the work. The follow standards apply to all minor projects:
  - a. Erosion and sediment controls must be installed and inspected prior to construction.
  - b. All exposed soils and work areas must be stabilized following construction.
  - c. There shall be no stockpiling of materials within the 50' No-Build Zone.
- 5. **Permit Application Requirements:** Property owners seeking to conduct any minor activity listed in Section 6.2 above, must submit a Minor Project Permit application to the Commission office at least fourteen (14) days prior to the commencement of any planned construction. The following requirements apply to all Minor Project Permit requests:
  - a. The applicant shall be required to provide the materials listed in the Minor Project Permit application, as it may be amended.
  - b. In its review of the minor activity, the Commissions designee may require the applicant to provide additional detailed information such as a site survey and wetland delineation to further determine the extent of any resource area buffers that may be impacted by the activity. In these instances, it is not the intent of the designee to create hardships on applicants seeking to conduct minor activities, but to preserve the resource areas that may be impacted by the activity itself.
  - c. Projects that meet the requirements listed in this Section, and that comply with the requirements found in the Minor Project Permit application, shall be issued an approval by the Commissions designee through a Minor Project Permit.
  - d. Minor Project Permits shall lapse three years from the date of issuance.
  - e. Minor Project Permits may include conditions or safeguards as seen appropriate by the Commission or its designee in order to ensure the performance standards listed in Section 6.4 (a)-(c) are met.
  - f. The fee for a Minor Project Permit shall be defined in the Conservation Commissions fee schedule.

**Section 7: Emergency Projects:** The permit and applications required by this Bylaw shall not be required for emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof, and provided that all the following conditions are met:

- a) Written notice has been given to the Commission prior to the commencement of work or within twenty- four (24) hours after commencement. In cases determined by the Commission to be extreme emergencies, verbal notice to be provided within five (5) business days.
- b) The Commission or its agent certifies the work as an emergency project;
- c) The work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and
- d) Within twenty-one (21) days of commencement of an emergency project an application for permit shall be filed with the Commission for review as provided in this bylaw.

Upon failure to meet these conditions, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

**Section 8: Application for Permits and Request for Determinations.** A written application shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as set forth in the Danvers Wetlands Protection Regulations authorized under Section 12 of this bylaw and as may be deemed necessary by the Commission to describe the proposed activities and their effects on the resource areas protected by this Chapter. No activities shall commence without receiving and complying with a permit issued pursuant to this Chapter.

1. The application and plans shall contain data as required by this bylaw and regulations adopted by the Commission. The Commission, in appropriate cases, may accept as the permit application and plans under this Chapter the Notice of Intent (NOI) or Abbreviated Notice of Resource Area Delineation (ANRAD) and plans filed under the Wetlands Protection Act, G.L. Ch. 131, Sec. 40, and Regulations, 310 CMR 10.00.
2. Any person desiring to know whether proposed work or an area is subject to this bylaw may in writing request a determination of applicability (hereinafter "request for determination") from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission.
3. At the time of filing a permit or other application, the applicant shall pay a filing fee specified in regulations of the Commission. This fee is called the "Filing Fee". The filing fee is in addition to that required by the Wetlands Protection Act, MGL c. 131, § 40, and Regulations, 310 CMR 10.00.
4. Upon receipt of a permit or other application, the Commission is authorized to require an applicant to pay a consultant fee, pursuant to Section 17 of this bylaw, for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to make a final decision on the application and for enforcement services. This fee is called the "Consultant Fee" and may be required in addition to the Filing Fee. The specific consultant services may include but are not limited to resource area survey and delineation and analysis of resource area values, including wildlife habitat evaluations, hydrological and drainage analysis, hydric soil analysis and environmental or land use law.
5. Adequate access must be granted to the Commission, its agents and consultants, to determine the accuracy of the information submitted in any permit application or other application requests.

**Section 9: Notice and Public Hearings:**

1. Any person filing an application with the Commission shall at the same time give written notice thereof, by certified mail, certificate of mailing, or hand delivery, to all abutters according to the most

recent records of the assessors, including those across a traveled way, across a body of water, and within 300 feet of the parcel which is the subject of the application or request. The notice shall include a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters free of charge. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

2. The Commission shall conduct a public hearing on any application or request for determination, with written notice given at the expense of the applicant at least five working days, not including Saturdays or Sundays, prior to the hearing, in a newspaper of general circulation in the Town.
3. The Commission shall commence the public hearing on any application or request for determination within 21 days of a complete application.
4. The Commission shall issue its permit or other action, or determination, in writing within 21 days of the close of the public hearing thereon.
5. The Commission may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, G.L. C. 131, Section 40, and may combine the public notices thereof.
6. For reasons announced by the Commission at the hearing, the Commission shall have authority to continue the hearing to a date certain announced at the hearing, either for receipt of additional information offered by the applicant or others, or for information required of the applicant, deemed necessary by the Commission in its discretion. In the event the applicant objects to a continuance, the hearing shall be closed, and the Commission shall take action on such information as is available.

#### **Section 10: Permits, Determinations, and Conditions.**

1. If the Commission after a public hearing determines that the area which is the subject of the application is likely to be significant to the interests protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the work requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those interests, and all work shall be done in accordance with those conditions.
2. The Commission is empowered to deny a permit for failure to meet the requirements of this Chapter; for failure to submit necessary information and plans requested by the Commission; for failure to meet design specifications, performance standards; and other requirements in the regulations of the Commission; for failure to avoid, minimize, mitigate, or prevent significant or cumulative detrimental effects upon the resource area values protected by this Chapter; for failure to provide sufficient information; and where no conditions would be adequate to protect the resource area values set forth herein.
3. The Commission may establish, in its Order of Conditions, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of resource areas, including without limitation strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the resource area values protected by this Chapter.
4. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing. The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in this bylaw



or the rules and regulations promulgated hereunder, provided that requirements listed in the regulations have been met and that:

- a. the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations;
  - b. avoidance, minimization and mitigation have been employed to the maximum extent feasible; or
  - c. the waiver is necessary to accommodate the public interest, or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.
5. The Commission may revoke or amend a permit issued under this Chapter after notice to the holder, public, abutters and Town Boards and a public hearing and notice in writing to the holder of the permit.
  6. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or in the Land Registration section of said Registry as may be appropriate for the district wherein the land lies and until the holder of the permit provides a certified copy of the recording activity to the Commission.
  7. In acting on a request for determination, the Commission shall reference the data and plans relied on and may impose conditions on its determination on which the determination is contingent.

### **Section 11: Permit Extensions**

Permits and determinations shall expire three years from the date of issuance. Any permit may be renewed once for an additional one-year period, provided that a request for an extension is received in writing by the Commission prior to expiration and other requirements found in the regulations are met. Said request shall include the expected completion date and the reasons for the requested extension.

### **Section 12: Regulations.**

1. After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw, including filing fees. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.
2. The Commission may establish in its rules and regulations design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, maintenance of strips of continuous undisturbed vegetative cover, landscaping and other features, and other work limits for protection of Resource Area Buffer Zones.

**Section 13: Security.** As a part of a permit issued under this bylaw, in addition to any security required by any other town or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder 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 sufficient in the opinion of the Commission to secure faithful and satisfactory performance of the work required by the Permit.

- b) By a covenant, or other enforceable undertaking, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of Danvers and members of the public, whereby the permit conditions shall be performed and observed before the property on which the work is to be performed may be conveyed, other than by mortgage deed. Such covenant shall be recorded with the Essex South District Registry of Deeds or with the land registry section of such registry if the land is registered land. A mortgagee who acquired title to the mortgaged premises by foreclosure or otherwise, may sell the same, subject to covenant. Nothing herein shall be deemed to prohibit conveyance by a single deed, subject to the permit and all its conditions, and the subject covenant, of the entire parcel of land of which the area that is the subject of the permit is part, as described by the deed or deeds established ownership of the area subject to the permit at the time the permit is issued. If this form of security is used, the permittee shall deliver to the Commission, prior to issuance of the permit, certified copies of said deed or deeds.

#### **Section 14: Enforcement.**

1. No person shall remove, fill, dredge, build upon, degrade or otherwise alter resource areas protected by this Chapter, or cause, suffer or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or Enforcement Order issued pursuant to this Chapter.
2. The Commission shall have the authority to enforce this Chapter, its regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions. Any person who violates any provision of this Chapter may be ordered to restore the property to its original condition and to take other action deemed necessary to remedy such violation, or may be fined, or both.
3. The Commission, its agents, officers and employees shall have the authority to enter upon privately owned land for the purpose of performing their duties under this by-law and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary.
4. Upon request of the Commission, the Town Manager shall direct the Town Counsel to take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.
5. Town Boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.
6. Any person who violates any provision of this bylaw, regulations thereunder, or permits issued thereunder, shall be punished by a fine of not more than \$100. 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.

**Section 15: Burden of Proof.** The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not harm the interests protected by this bylaw. Failure to provide adequate evidence to the Commission supporting a determination that the proposed work will not harm the interests protected by this bylaw shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

**Section 16: Severability.** The invalidity of any section or provision of this bylaw or its associated regulations shall not invalidate any other section or provision thereof, nor shall it invalidate any permit which previously has been issued. If any Court of the Commonwealth shall invalidate any provision of the bylaw, the

Commission shall present to the Town Meeting after such invalidation, amendments to the bylaw which are designed to comply with any Court decision invalidating such provision.

**Section 17: Fees.**

1. At the time of filing a permit or other application the applicant shall pay a filing fee specified in the regulations of the Commission. This filing fee is in addition to that required by the Wetlands Protection Act, MGL c. 131, Sec. 40 and Regulations 310 CMR 10.00.
2. The Commission may waive the filing fee, for a permit or other application, RDA or other request, when such application is made by a government agency.
3. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fees shall be based upon its reasonable finding that the additional information acquirable only through outside consultants or to provide enforcement services is necessary for the rendering of an objective decision.
4. Fees may be established by the Commission and may be amended. No such fee schedule shall be implemented unless a public hearing is held to discuss the fees.
5. In the event that the applicant has not paid the filing and/or consultant fees as required herein, the Commission may deny the requested permit for lack of sufficient information.