

***Bridgewater, Massachusetts
Wetlands Protection By-Laws***

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Wetlands Protection By-Laws

Section 1 Purpose

The purpose of this by-law is to protect the wetlands, related water resources and adjoining land areas in the Town of Bridgewater by controlling activities deemed by the Bridgewater Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but no limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution control, fisheries, wildlife habitat, recreation, aesthetics and agricultural values (collectively the “wetlands values protected by this by-law”.

Section 2 Jurisdiction

Except as permitted by the Bridgewater Conservation Commission or as provided in this by-law, no person shall remove, fill, dredge, build upon or alter the following areas:

- a. Within 100 feet of any freshwater wetland, marsh, wet meadow, bog, or swamp;
- b. Within 100 feet of any bank, lake, pond, stream;
- c. Any land under said waters;
- d. Within 100 feet of any land subject to flooding or inundation by groundwater or surface water.

Section 3 Exceptions

A Notice of Intent required by this by-law shall not be required for maintaining, repairing or replacing an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services provided that:

- a. The structure of the facility is not substantially changed or enlarged;

- b. Written notice with detailed plans of the work to be performed has been given to the Conservation Commission prior to commencement of work;
- c. The work conforms to performance standards and design specifications in regulations adopted by the Commission.

A Notice of Intent required by this by-law shall not apply to emergency projects necessary for the protection of health or safety of the public provided that any one of the following apply:

- d. The work is to be performed by or has been ordered to be performed by an agency of the Commonwealth of Massachusetts or a political subdivision thereof;
 - e. Advance written notice has been given to the Commission prior to commencement of work within 24 hours or at the latest by the end of the following work day;
 - f. The Commission or its Agent certifies the work as an emergency project;
 - g. The work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency;
 - h. Within 21 days of commencement of an emergency project as determined by the Conservation Commission, a Notice of Intent shall be filled with the Conservation Commission for review as provided in this by-law.
 - i. Special Exception: Normal operation and maintenance of agricultural land
- Upon failure to meet these and other requirements of the Commission, the Commission may after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than as stated in this section the exceptions provided in Mass. General Law C. 131 Section 40 (Wetlands Protection Act) shall not apply.

Section 4 Permit Applications and Requests for Determinations

A Notice of Intent under MGL C.131 Sec. 40 (Wetlands Protection Act) shall be filed with the Conservation Commission to perform activities regulated in this By-Law affecting resource areas protected by this By-Law. The Notice of Intent shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with the Order of Conditions issued pursuant to this By-Law and MGL C.131 Sec.40.

Any person desiring to know whether or not proposed activity or any area is subject to this By-Law may request a determination from the Commission. A Request for Determination of Applicability shall contain data and plans specified by the regulations of the Commission.

At the time of filing a Notice of Intent or Request for Determination, the applicant shall pay a filing fee specified in the regulations of the Commission or as specified in MGL C.131 Sec 40 (Wetlands Protection Act and 310 CMR 10, as amended August 1989 and

November 1989, whichever is larger). The Commission may waive the filing fee for a Notice of Intent or request filed by a government agency.

Section 5 Notices and hearings

At the same time any person files an application or Request for Determination with the Conservation Commission, he/she shall give written notice thereof, by certified mail to all abutters according to the most recent records of the Assessors, including those across a traveled way, a body of water, or a town line. The notice to abutters shall enclose a copy of the application or request, with plans, or shall state where copies may be examined by abutters. When a person requesting a determination is other than the owner(s), the request, the notice of the hearing and determination itself shall be sent by the Commission to the owner(s) as well as to the person making the request.

The Commission shall conduct a public hearing on any application or request for determination with written notice given by the applicant at the expense of the applicant, in a newspaper of general circulation in the Town (Brockton Enterprise) at least 5 working days prior to the hearing.

The Commission shall commence with the public hearing within 21 days of recorded receipt of a completed application or Request for Determination and shall issue its determination in writing within 21 days of the close of said public hearing. An application or request may be rejected as incomplete by the Commission if the application or request is not filed with the applicable filing fee and advertising fee. In an appropriate case, the Commission may combine its hearing under this By-Law with the hearing conducted under MGL C.131 Sec. 40 (Wetlands Protection Act).

The Commission shall have authority to continue any hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant and deemed necessary by the Commission in its discretion or comments and recommendations of other Town boards and officials. If the applicant objects to a continuation or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

Section 6 Determinations and Conditions

If, after a public hearing, the Conservation Commission determines that the activities which are the subject of the application are likely to have significant or cumulative effect upon the wetland values protected by this By-Law, the Commission shall, within 21 days of the close of the hearing, issue or deny a permit for the activities proposed. If it issues a permit, the Commission shall impose conditions, which it deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions.

The Commission is empowered to deny a permit for the following reasons:

- a. Failure to meet the requirements of this By-Law;
- b. Failure to submit necessary information and/or plans requested by the Commission;

- c. Failure to meet the design specifications, performance standards and other requirements in the regulations of the Commission;
- d. Failure to avoid or prevent unacceptable significant of cumulative effects upon the wetland values protected by this By-Law.
- e. Where no conditions would adequately protect the wetland values protected by this By-Law.

Due consideration shall be given to demonstrated hardship on the applicant or by reasons of denial, as presented at the public hearing.

A permit shall expire three years from the date issued. Any permit may be renewed once for an additional two-year period, provided that a written request for renewal is received by the Commission at least 30 days prior to the expiration date.

Any permit issued under this By-Law may be revoked or modified by the Commission for good cause after public notice, public hearings and notice to the holder of the permit.

In an appropriate case, the Commission may combine the permit with other action on an application issued under this By-Law with the Order of Conditions issued under the Wetlands Protection Act.

Section 7 Regulations

After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to achieve the purposes and objectives of this By-Law. 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 By-Law.

The following items are to be included as amendments under

Section 7. Regulations as of February 14, 2006

- a. Fine schedule for wetland infractions to include filling and disturbing is \$100 per day. Payment not received within 30 days from date of issuance for wetland violations shall result in a work permit issued on the subject property. The work permit shall include the fine to be paid and shall be recorded at the Registry of Deeds. Proof of recording shall be supplied to the (BCC). The owner shall be notified prior to the issuance of a work permit. (Work permit will only be applicable on an actual filing initiated by the applicant.) For unauthorized activities or work being conducted without a valid Order of Conditions (OOC), or work being conducted in violation of an OOC, the recording instrument should be in the form of an Enforcement Order (EO) or a Cease and Desist Order (CDO).

- b. All storm water detention basins shall include inlet and outlet elevations. The bottom of the detention basin shall be set at least 6-inches above maximum ground water level at the locus. Locations for the 10, 25 and 100-year flood elevations must be noted on all plans accompanying an application for a permit filed with the BCC. Detention basins shall be located outside all protectable wetlands resources located on a site for which a permit is requested of the BCC. Plans filed with the BCC shall at a minimum include: cross sections and groundwater determination data for each detention basin proposed on a site. The BCC reserves the right to establish criteria to be used in establishing groundwater levels for sites requiring the use of detention basins as a means of storm water runoff volume and rate of runoff attenuation.
- c. The BCC may in certain instances, retain an outside professional consultant to assist it in its evaluation of a project and its associated impacts on wetland resources. When, in the opinion of the BCC, the services of an outside professional consultant are necessary, it shall notify the applicant in order to arrange for the applicant to submit payment for the services of the consultant. All funds collected from an applicant for the services of an outside professional consultant shall be placed in an escrow account established by the Town Treasurer for that purpose. Any unused funds remaining upon completion of a project shall be returned to the applicant. The escrow account shall not accumulate any interest income on the principle. The applicant shall be advised of the need to deposit additional payment into the escrow account if the original payment proves to be insufficient to cover the services of the outside professional consultant. The escrow funds shall be over and above the ordinary filing fee required to be paid with an application.
- d. DEP file number shall be visible on site at all times while work is being conducted
- e. At the time an application is filed with the BCC, ten copies of the site plan shall be submitted with the application.
- f. Any Notice of Intent (NOI) filing that includes a wetland resource delineation that has not been verified by the BCC through an ANRAD review process shall require an additional local by-law fee payment by the applicant, based on a fee schedule of \$1.00 per linear foot.

- g. For any project that involves bordering vegetated wetlands (BVW) resource filling and replication, the BCC shall consider any prior work on site that may have involved BVW filling and replication, and shall consider the cumulative impact of all prior site activities as part of its evaluation of a project's viability. In no case shall the BCC approve any project for which the cumulative impact exceeds the allowable threshold, change in project proponent or property ownership notwithstanding. The BCC shall consider wildlife habitat and nesting value of the buffer zones associated with a BVW resource where filling of the resource is proposed. Applicants are encouraged to seek alternative development options that would minimize or avoid BVW filling and replication where filling is designed to achieve the required fifty (50) foot building setback from a BVW boundary.
- h. All building permit applications filed with the Bridgewater Building Inspector, where a proposed structure (including, but not limited to any applications for sheds with sona tubes, four-season rooms, garages, etc.) is located within one hundred (100) feet of bordering vegetated wetlands (BVW) or within the riverfront of a perennial waterway, shall require permit sign off by the BCC.
- i. Installation of stormwater management facilities and infrastructure within a riverfront area is allowed. However, the BCC shall consider the potential impact of constructing stormwater management facilities within the riverfront when evaluating the aggregate impact of work inside the allowable alteration of ten (10) percent of the total riverfront area on a site.
- j. There shall be a **25-foot "no activity"** buffer around a bordering vegetated wetland for all construction activities including but not limited to grading and brush dumping. Since this amendment was done under the Town of Bridgewater Wetland By-Law any appeals would be required to be filed in Superior Court
- k. ***An interim foundation as-built plan shall be required in all cases where a building foundation is proposed at a distance of less than sixty (60) feet*** from the boundary of an approved bordering vegetated wetlands (BVW) resource. A building permit other than a foundation permit shall not be granted until the Bridgewater Conservation Commission (BCC) receives and approves the interim foundation as-built plan. A foundation as-built plan shall include a setback distance from the BVW.
- l. A locus plan drawn at a scale of not less than one inch to 1,000 feet shall be included on every plan submitted for review and approval by the BCC. Plans showing the details of proposed work must be drawn to scale in accordance with the following schedule: ***Individual lot/site development plans*** must be drawn to a scale of ***1 inch = 20 feet***; ***subdivision plans*** must be drawn to a scale of ***1 inch = 40 feet***. Each application filed with the BCC shall be submitted with ten copies of the site/subdivision plan(s). All submittals must be received in the BCC's office no later than two weeks prior to a scheduled hearing date.
- m. All plans submitted to the BCC for its review and approval shall include a reference to the subject property by street address. If no street address is available for the subject property, the plan shall include a reference for the addresses of at least two abutting properties lying adjacent to the property in question.

- n. At least three (3) business days prior to the first hearing date, the applicant shall stake out the project area in the field. The two front corners of the project site must be staked and the site identified with a temporary sign noting the Map and Parcel number, and where applicable, the appropriate street address.
- o. All BVW delineation flags shall be numbered sequentially in the field. The flag numbers shall also be noted on each plan filed with the Bridgewater Conservation Commission.
- p. All permanent BVW boundary markers as required in an Order of Conditions (OOC) issued by the BCC shall be installed in accordance with the following specifications: Permanent BVW boundary markers shall be constructed of a 2-inch diameter schedule 40 PVC pipe material; the markers shall be spray-painted green, capped and installed with a minimum buried depth of three (3) feet, and no more than one foot (1 ft.) above the surface elevation of the adjoining ground. The permanent markers shall be installed with a maximum spacing of thirty (30) feet between any two markers in series.
- q. Should have evidence that a one hundred (100) foot jurisdictional/protective buffer zone shall be established around the boundaries for all certified and potential vernal pools with a storage volume equal or greater than one-quarter acre-foot during wet seasons (December-April).
- r. Except as otherwise approved by the BCC, erosion control barriers shall be installed no closer than twenty-five (25) feet to the boundary of an approved BVW. Erosion control barriers shall include row(s) of staked silt fence and/or staked hay bales. Hay bales or silt fence are required when the slope is less than 1:5. In all cases where ground slopes are greater than 1:5, the erosion control barrier shall be in the form of a row of staked silt fence butted against staked hay bales. For the purpose of establishing the applicable erosion control barrier configuration to be employed at a given site, each plan filed with the BCC shall include a slope detail indicating the general ground surface slope(s) in percent or as a ratio. Erosion control barriers shall be regularly inspected and maintained and repaired as necessary throughout the construction phase by the applicant. All erosion control barriers shall remain in place throughout construction and may only be removed when all disturbed surfaces have been adequately stabilized. Stabilization shall only be evidenced by the issuance of a Certificate of Compliance (COC) by the BCC.
- s. In-ground swimming pools within the 100-foot buffer zone of a BVW resource or a vernal pool shall be installed with cartridge filters. Surface discharge or backwash water shall not be allowed.

Section 8 Definitions

The following definitions shall apply in the interpretation and implementation of this By-Law:

The term “person”, shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth of Massachusetts or political subdivision thereof to the extent subject to Town By-Laws, administrative agency, public or quasi-public corporation or body, the Town of Bridgewater and any other legal entity, its legal representatives, agents or assigns.

The term “alter” shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this By-Law:

- a. Removal, excavation or dredging of soil, sand, loam, peat, gravel or aggregate materials of any kind.
- b. Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns of 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 materials, which would alter elevation(s);
- f. Driving of piles, erection, alteration or repair of buildings or structures of any kind;
- g. Placing of obstructions or objects in water;
- h. Destruction of plant life including cutting of trees;
- i. Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of water;
- j. Any activities, changes or work, which may cause or tend to contribute to pollution of any body of water or groundwater.

Section 9 Security

As part of a permit issued under this By-Law; in addition to any security required by any other Town or State board, agency or official, the Conservation 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 proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission;
- b. By a Conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of Bridgewater whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

Section 10 Enforcement

The Conservation Commission, its Agent, 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 examination, surveys or sampling as the Commission deems necessary.

The Commission shall have the authority to enforce this By-Law, its regulation, and permits issued thereunder by violation notice, cease and desist orders, administrative orders and civil and criminal court actions.

Upon request of the Commission, the Board of Selectmen and the Town Counsel shall 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.

Town boards and officers, including any police officer or other officer having police powers, shall have the authority to assist the Commission in enforcement.

Any person who violates any provision of this By-Law, regulations thereunder, or permits issued thereunder, shall be punished by a fine of not more than \$300.00. Each offense and each provision of the By-Law, regulations, or permit violated shall constitute a separate offense.

In the alternative to criminal prosecution, the Commission may elect to utilize the non-criminal disposition procedure set forth in MGL Ch.40 S 21D.

Section 11 Burden of Proof

The applicant for a permit shall have the burden of proof by a preponderance of the credible evidence that the work proposed on the application will not have unacceptable significant or cumulative effect upon the wetland values protected by this By-Law. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

Section 12 Certificate of Compliance

A Certificate of Compliance shall be issued by the Conservation Commission upon the request of the applicant or property owner after construction has been completed in accordance with the applicable Order of Conditions. Request for such Certificate must be filed with the Commission in writing at least 15 days prior to the actual date the Certificate is needed.

Section 13 Relation to the Wetlands Protection Act

This By-Law is adopted under the Home Rule Amendment of the Massachusetts Constitution and the House Rule Statutes, independent of MGL Ch.131 S40 (The Wetlands Protection Act) and regulations thereunder.

Section 14 Severability

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination, which previously has been issued.

*Fall Town Meeting
November 13, 1990*