



## **Walpole Wetlands Protection Bylaw REGULATIONS**

(approved 7/ 14/ 2004, rev. 8/ 13,/2008)

### **Part I General Regulations**

#### **1.1 Purpose and Statutory Authority**

The Walpole Wetland Bylaw regulations (hereafter “the regulations”) has been promulgated by the Walpole Conservation Commission (hereby referred to as “the Commission”) in accordance with the provisions of the Walpole Wetlands Protection Bylaw (hereafter the Bylaw). The regulations are distinct from the Massachusetts Wetlands Protection Regulations (310 CMR 10.00). The purpose of the regulations is to expand and provide greater detail to effectuate the purpose of the Bylaw (Section 1).

#### **1.2 Protected Resource Areas**

Any bank, freshwater wetland, marsh, wet meadow, bog, swamp, stream, river, pond, lake, vernal pool (as defined by the Natural Heritage & Endangered Species Program), or any land bordering thereon, or any land subject to flooding or inundation. Bordering in this context shall mean either (a) 100-foot horizontally lateral from any of the foregoing areas; or (b) 100-foot lateral from the water elevation of the 100 year storm, whichever is the greater of (a) or (b); and (c) land within 200-feet of the mean annual high-water line of any year round river or stream. Further defined in Section 9 of the Bylaw.

#### **1.3 Bordering lands (also known as Buffer Zone)**

Bordering lands, as further defined by Section 9 of the Bylaw, are areas that have a high likelihood of adverse impacts, either immediately, as a consequence of construction, or overtime, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of ground water recharge, poor water quality, and loss of wildlife habitat.

Unaltered bordering lands protect the important functions and values of the wetland resource areas. Scientific research and the Commission’s own experience in reviewing a wide variety of projects, clearly demonstrates that alteration and construction activities within bordering lands consistently results in destructive and cumulative impacts on the wetland resource areas. Bordering lands are significant to all wetland resources and to the interests protected by the

Bylaw. Below are some of the benefits of bordering lands as available through scientific research:

- Forested buffers provide shade to adjacent wetlands and waterbodies, moderating temperature fluctuations and increasing the water's ability to hold oxygen;
- Bordering lands trap and filter sediment, nutrients and chemicals from surface waters and wetlands;
- Root systems from plants within bordering lands slow water velocity, decrease erosion and channelization and keep soils porous, permitting absorption into the ground and reducing the potential for flooding.
- Bordering lands provide wildlife corridors for travel, edge habitat, and food and shelter for wildlife that requires by both wetland habitat and upland habitat.

The Commission as a guideline encourages the enhancement of the bordering lands with native, non-invasive, vegetation suited for land bordering wetland resource areas.

The Conservation Commission has had an on-going policy of including in the Order of Conditions a condition designating a minimum of 25-feet of bordering land as "a no alteration" area. This section of the regulations strengthens the policy of a "no alteration" zone by making it a requirement of these regulations.

#### **1.4.1 No Alteration Zone**

The Commission shall require the Applicant to maintain a twenty-five (25) foot wide contiguous, undisturbed vegetative buffer measured from, and parallel to, the wetland resource boundary, as a minimum.

An Applicant may request a variation from the minimum twenty-five foot "no alteration zone". The Applicant shall provide to the Commission information and evidence of why a variation is needed, and how the Applicant will meet the purpose of the Bylaw to protect wetlands, water resources, and adjoining land as stated in Section 1 of the Bylaw.

## 1.5 Replication

To prevent the loss of *protected resources areas*, the Commission shall require Applicants to avoid alterations wherever feasible; shall minimize protected resource area alteration; and, where alteration is unavoidable, shall require mitigation. The Commission may authorize or require replication of protected resource areas as a form of mitigation, but only with adequate security, professional design, and monitoring, to assure success, because of the high likelihood of failure of replication. As a guideline, the Commission recommends a resource area replication of a 1:1.5 ratio.

### 1.5.1 Security

Adequate security shall mean a bond equal to the cost associated with the construction of a resource area to meet the requirements of section 10.55(4)b of the Massachusetts Wetlands Protection Act and the requirements of the Bylaw.

### 1.5.2 Replication Requirements

In order to provide the Commission with the best and most appropriate data and documentation to assure a reasonable success of the replication area an applicant proposing to alter a resource area under the protection of this Bylaw shall submit to the Conservation Commission the documentation listed in *Appendix 3. Replication Checklist of the Massachusetts Inland Wetland Replication Guidelines-March 2003* (and any revisions thereafter). The Commission may vary the documentation to be submitted upon request of the Applicant if the documentation is not applicable to the proposed project.

**Monitoring of Replication area:** Replication areas shall be monitored in accordance with the monitoring schedule as outlined in *Appendix 4. Example Monitoring Data Sheet of the Massachusetts Inland Wetland Replication Guidelines-March 2003* (and any revisions thereafter).

## **2.0 Application and Permit Requirements**

### **2.1 Review of Materials**

Application, plan and supporting documentation requirements (Application package) shall be submitted to the Conservation Office together as one package and not “piecemeal”. The application package shall be submitted at least sixteen (16) days prior to a scheduled hearing.

All supplemental information, either requested by the Commission or provided by the Applicant (plans, pictures, documents, etc.) for discussion or hearings, shall be submitted to the Conservation Office no later than five (5) days prior to the date the item is scheduled on the Agenda. Failure to submit supplemental information within this timeframe may be grounds for the Commission to continue the public hearing.

Once a complete Application package is submitted to the Conservation Commission Office the application will be scheduled for a public hearing within 21 days of its receipt. Hearings of the Conservation Commission are generally every second and fourth Wednesday of the month. You may call the Commission to confirm a date and time.

### **2.2 Applications**

Four (4) more copies of the Application with all the supporting documentation required under the Massachusetts Wetlands Protection Act shall be submitted to the Conservation Commission, in addition to the eight (8) copies requested in the Bylaw. The additional copies will cover review by staff and other Departments. One (1) copy shall have original signatures of the applicant, property owner and representative if applicable.

### **2.3 Plans**

Twelve (12) plan(s) shall be submitted to the Conservation Commission Office with all the supporting documentation required under the Massachusetts Wetlands Protection Act. The plan(s) shall be clearly drawn at a scale no less than 1" = 40' depicting all area(s) subject to protection and sufficient detail to describe the proposed project. The plan(s) when applicable shall include:

- a) Property lines, existing grades, proposed grades at two foot intervals, proposed and existing structures with dimensions, and/or other proposed activity, landmarks such as stone walls and street locations and names;
- b) The boundary (s) of all Areas Subject to Protection: Vegetated wetland boundary with consecutive numbered flags as located in the field; river boundary (mean high annual water mark elevation) with consecutive

numbered flags as located in the field; boundary of land subject to flooding or inundation up to the 100-year storm event; bank of intermittent streams; vernal pools or potential vernal pools if not certified; and elevation of standing water in lakes or ponds with date observed. Include name of the person, company who delineated the resource area(s) and the date of delineation.

- c) Location and number of test plots such as: delineation test plots (used for DEP Delineation Forms); test pits for percolation tests, and monitoring wells.
- d) Erosion and sedimentation controls with detail. Erosion and sedimentation control plan when applicable.
- e) 100-foot Buffer Zone boundary(s) and No alteration zone boundary.
- f) Resource area alterations (list square footage of each resource area alteration on plan). See full requirements for replication areas section 1.5.
- g) Plans shall be signed and stamped by a Certified Professional Engineer unless otherwise permitted by the Conservation Commission or their Agent. All revision dates shall be noted in date block.

### **2.3 Supporting Documents**

Two (2) copies (for large projects additional copies maybe requested) of supporting calculations and other documentation necessary to completely describe the proposed work, the resource areas and any mitigation measures including if applicable:

- For replication areas submit the documentation list in *Appendix 3 of DEP Replication Guidelines – March 2002*(and any revisions thereafter) for review with the application.
- Documentation of wetland boundary delineation (i.e. DEP Field data Forms or Botanist Report) supporting the method of delineation and description of the wetlands characteristics including vegetation, soils and hydrology.
- WPA Appendix C - Stormwater Management Form with appropriate calculations.
- Operation and Maintenance plans.
- A wildlife habitat assessment when altering areas subject to protection or within the “no alteration zone”.

- Alternatives assessment when proposing to alter areas subject to protection or area within the “no alteration zone”. Alternative assessment should include a no alteration scenario.

The Commission may choose, at its discretion to waive some of the above requirements for projects likely to have minimal or no impact. However the Commission reserves the right to request additional information during the course of the public hearing. Applicants who wish further guidance prior to filing may consult with the Conservation Agent.

### **2.3.1 Advertising fees**

An advertisement fee (determined by the Walpole Times) shall be submitted with Application package. Check shall be made out to “the Walpole Times”.

### **2.3.2 Fees**

See applicable fees under the Walpole Wetlands Bylaw Fee Sheet.

### **2.3.4 Abutters Notification**

Abutters within 300 feet of the property line of which the activity is proposed shall be notified when filing a Notice of Intent, Determination of Applicability\*, Abbreviate Notice of Resource Area Delineation or Abbreviated Notice of Intent as specified in the Bylaw.

For instances when an abutting property, such as a condominium, has a neighborhood association or governing body, that party may be notified by certified mail and requested to post for members; and each individual unit shall be notified by regular mail.

*{\*Note: Requirement to notify abutters for Determinations of Applicability was removed from Bylaw in 2014 revisions.}*

## **3.0 Enforcement and Fines**

Fines of up to \$300 per day per violation are issued by the Conservation Commission or their Agent for violations of the Bylaw.

Each day or part thereof of the violation of any provision of the bylaw or regulation whether such violation is continuous or intermittent, shall constitute a separate and succeeding offence.

## **4.0 Procedures**

### **4.1 Quorum**

Action by the Conservation Commission - where this by-law states that a particular action (except receipt of a request or notice) is to be taken by the Conservation Commission, that action is to be taken by more than half the members present at a meeting of at least a quorum.

Quorum - is defined as it is in section 310 CMR 10.05(2) of the Wetlands Act Regulations, as said Regulations may from time to time be amended.