

TOWN OF NATICK WETLAND PROTECTION BYLAW

&

RULES AND REGULATIONS

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

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GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

SECTION 1 GENERAL PROVISIONS

1.1 PURPOSE

These rules and regulations are promulgated to create uniformity of process and to help clarify the provisions of the Town of Natick's General Wetlands Protection Bylaws (the Bylaw). They are intended to minimize delay in the permitting process by providing applicants and their consultants with information which will help them comply with the Bylaw. The Bylaw sets forth a public review and decision making process to protect wetlands and adjoining land areas by controlling activities deemed likely to have significant or cumulative impact on Resource Area Values, including but not limited to the following:

- a) protection of public or private water supply
- b) protection of groundwater
- c) prevention and control of flooding
- d) prevention and control of erosion & sedimentation
- e) prevention of storm damage
- f) prevention and control of pollution
- g) protection of water quality
- h) protection of agriculture and aquaculture
- i) protection of wildlife and wildlife habitat
- j) protection of rare species habitat including rare plant species
- k) protection and promotion of aesthetic values
- l) protection and promotion of recreation values
- m) protection and promotion of education values

(Collectively, the Resource Area Values)

1.2 Areas Subject to Protection Under the Bylaw

The Bylaw protects the following resource areas in addition to the areas protected by the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, Sec. 40) (hereinafter referred to as the "Act") :

- Any freshwater wetland, bank, beach, flat, marsh, swamp, wet meadow, or bog bordering on any creek, river, perennial stream, intermittent stream, pond, lake, or reservoir and
- any vernal pool, Riverfront Area, floodplain, isolated wetland, lands under any of the water bodies listed above, and lands subject to flooding or inundation by groundwater, surface water or storm water flow.

(Collectively the Protected Resource Areas).

The areas subject to protection under the Bylaw differ from those protected by the Act in that additional areas are protected by the Bylaw. The additional areas subject to protection under the Bylaw include all intermittent streams, land subject to flooding or inundation by groundwater, surface water, or storm flow, isolated wetlands, and all vernal pools.

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A buffer zone of 100 ft. around any resource area (except Riverfront Area and 100-year floodplain) is subject to regulation under the Bylaw. Within this buffer zone, setbacks from the edge of Protected Resource Areas are defined. These regulations establish minimum setbacks referred to herein as No Build Zones and No Disturbance Zones. Under the regulations, the commission shall consider whether activities within the buffer zone will likely affect the Protected Resource Areas and will presume that projects that work within specified setbacks from the wetland will so affect the wetlands. This presumption is rebuttable and may be overcome upon a clear showing by a preponderance of the evidence that the nature of the proposed work, special design measures, construction controls and/or site conditions which exceed the norm for work anywhere within the Buffer Zone will prevent alteration of the protected resource area

1.3 DEFINITIONS

Definitions which apply to this bylaw are presented in Appendix A. For additional definitions refer to section 2.2 of the Bylaw

1.4 REVISIONS

These rules and regulations may be revised from time to time by a majority vote of a quorum of the Conservation Commission after public notice, and a public hearing has been held.

SECTION 2 FILING FEES

2.1 FILING FEE SCHEDULE

At the time of a Notice of Intent, Request for Determination, Abbreviated Notice of Resource Area Delineation or administrative procedures, the applicant shall pay a filing fee in accordance with the schedule presented in Appendix B.

SECTION 3 APPLICATION PROCEDURES

3.1 APPLICATION FORMS

Applicants filing a Request for Determination of Applicability under the Bylaw shall use the latest form bearing the same title provided in regulations 310 CMR 10.00 of the Act and currently known as Form 1; and the words "Natick Wetlands Protection Bylaw" shall be typed onto the form. See Appendix C for filing checklist.

Applicants filing for a permit application under the Bylaw shall use the latest form entitled "Notice of Intent" or "Abbreviated Notice of Resource Area Delineation" as provided in regulations 310 CMR 10.00 of the Act and currently known as Form 3 and Form 4A respectively; and the words "Natick Wetlands Protection Bylaw" shall be typed onto the form. See Appendices D and E for filing checklists.

Requests for extensions, amendment or Certificate of Compliance to an Orders of Conditions shall be written in compliance with the regulations found at 310 CMR 10.01 (8) (a) & (b).

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3.2 PLANS AND INFORMATION

Plans and information shall be submitted which completely and accurately describe the proposed activity and its effect on the resource areas and values protected by Bylaw. Each plan, drawing, sketch or set of calculations shall be titled, dated and signed by the person responsible for their preparation. Plans or information involving the practice of professional engineering or surveying shall be stamped and signed by the appropriate design professional who shall be registered in the Commonwealth of Massachusetts.

Appendices C, D and E provides detailed checklist of information that may be required by the Commission to deem a filing complete. The following provides a general guideline of the minimum information necessary to present a proposal to the Commission.

3.2.1 Plans and information which are required by the Commission include, but are not limited to:

- (a) An 8 ½ x 11 excerpt of the USGA Quadrangle Map at its original scale showing the location of the proposed activity.

All plans shall be drawn to scale and shall include:

- (a) all wetlands within 100' of the property, wetland flags shall be shown and numbered on the plans;
- (b) the location, names and present widths of all streets, private ways, easements, covenants or restrictions on, bounding, approaching or within 50 feet of the parcel of which the project is located;
- (c) all property lines;
- (d) location, extent and area of all existing and proposed structures, paved areas and utilities including, but not limited to, facilities for sewage including expansion areas, refuse and waste disposal facilities, facilities for storm water drainage (both temporary and permanent) and facilities for water supply, electricity conduction and telecommunications;
- (e) boundaries of the resource area(s) within which work is proposed and within 100' of the property lines. All plans shall be drawn at a scale no smaller than 1"=40'. Dimensions from structures to flagged wetland resource area shall be shown on the plans; and
- (f) delineation of limit of work.

3.2.2. Additional plans and information which may be required by the Commission include, but are not limited to:

- (a) drainage calculations based on the USDA Soil Conservation Service TR-55 or TR-20 method for the 2, 10, 25 and 100 year storm events. Drainage calculations for each Sub watershed area shall include the hydraulic length drawn on the watershed plan, time of concentration calculation, pre-and post-development DN calculation, average watershed slope calculation, peak rate of runoff and volume of runoff;

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- (b) reservoir routing calculations shall be based on the Storage Indication or Modified Puls Method and shall include a stage-storage graph;
- (c) existing and proposed topography at 2 foot contour intervals for the subject parcel;
- (d) locations and basement floor elevations of all building structures;
- (e) soil logs including deep observation holes and percolation tests with dates and locations of test as may be required.
- (f) location of all wells within 100 ft of the proposed activity;
- (g) wildlife habitat analysis prepared in accordance with 310 CMR 10.60 as may be required;
- (h) a single sheet plan detailing all resource area within the project boundaries. This plan may be prepared at a scale of less than 1"=40, if necessary;
- (i) identification of all required federal, state and local permits and copies of all applicable federal, state and local environmental permits obtained;
- (j) replication plans as may be required and;
- (k) a written description of the methodology used to delineate the wetlands resource areas.

3.3 NOTICE TO ABUTTERS

Written notification of the filing of a Notice of Intent shall be delivered by certified mail to abutters within 100 feet of a project in accordance with the Act and applicable guidance. With the approval of the Commission, abutter notification may be by hand delivery. The applicant will be required to provide an affidavit of service. Evidence of proper notification shall be given to the Commission at the commencement of the Public Hearing. (See Appendix F – Abutters Information)

SECTION 4 PERFORMANCE STANDARDS

4.1 INTRODUCTION

The introduction, purpose and performance standards stated in 310 CMR 10.51 – 10.60 shall apply in addition to the additional performance standards identified below.

4.2 VEGETATED WETLANDS

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The definition of "freshwater wetlands" (see Appendix A) shall include both Bordering and Isolated Vegetated Wetlands. Isolated Vegetated Wetlands are those wetland areas which meet the definition and critical characteristics of Bordering Vegetated Wetlands but do not border on creeks, rivers, streams, ponds or lakes [See 310 CMR 10.53 (1) & (3)]. See definitions of Hydric Soil, Freshwater Wetlands & Vegetated Wetlands (Appendix A).

Replications:

In those instances where replication is required by State Law and/or approved by the Commission the following conditions shall be met:

- The replicated wetland shall be hydrologically and geographically associated with the same water body as the original wetland (310CMR10.55).
- The replicated wetland shall be constructed in full, and conditionally approved prior to construction of any structures. A qualified wetland scientist, employed by the Applicant, shall be required by the Commission during the construction of the wetland replication area.
- At a minimum the replicated wetland shall reproduce all the values and functions of the original wetland as determined by the Conservation Commission. Site conditions permitting, the Commission may require that additional values and functions be incorporated into the replication design.
- In particular, in circumstances where replacement of specific functions and values would require substantial amounts of time before being completely replicated (for example, those provided by large mature trees) the Commission may require additional compensation of area, functions, values, etc. beyond those required in other sections of the Bylaw and its regulations.
- The area of replication shall be at least as large as the area of the original resource that will be destroyed. The actual area ratio of replacement required by the Commission shall be decided on a case-by case basis, but will generally be at least 1.5 to 1.
- Soil materials to be reused (from the wetland to be lost during construction) shall be removed and placed in the prepared replication area within one day. If this is not possible, these soils shall be stockpiled for the minimum amount of time and kept loosely covered and moist at all times.
- Erosion control barriers shall be placed around the proposed wetland replication area prior to the start of construction.
- The proposed replication area shall be excavated to a depth of one foot below the proposed final grade, as specified in the specifications and plans submitted as part of the Notice of Intent and referred to in the Order of Conditions.
- A minimum of one foot (12 inches) of good quality, organic-rich (>10%by weight) topsoil shall be placed in the replication area. This soil may consist of soil removed from the wetland to be lost during construction or from an outside source. The soil may be amended with peat moss, peat humus, or composted manure in order to provide the necessary organic matter. Soils from an outside source shall be free of chemical contamination, sticks, trash, and rocks more than one inch in diameter. Reused wetland soils shall be free of sticks, trash, and rocks greater than six inches in diameter. Reused wetland soils shall not be screened prior to use in order to avoid removal of existing wetland vegetation. No soils from areas containing either purple loosestrife (*Lythrum salicaria*) or common reed grass (*Phragmites australis*) shall be used in the replication area.
- Following placement of topsoil, a minimum of 48 hours shall pass prior to planting of wetland vegetation to allow for rebound of buried or compacted peat. The final grade shall be adjusted as necessary.

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- The replication area shall be planted and seeded according to specifications and plans submitted as part of the Notice of Intent and referred to in the Order of Conditions. Plantings shall be fertilized and irrigated as necessary to promote successful establishment.
- Erosion control structures shall be removed upon stabilization of the replication area to allow free circulation of water between the wetland replication area and the adjacent, natural wetland.
- The wetland scientist shall inspect the wetland replication area once each year during the mid to late summer of the first two full growing seasons. A written report shall be submitted to the Commission at the end of each growing season. The spring inspection shall include monitoring of the groundwater elevation within a soil pit a minimum of 18 inches deep at each of three randomly distributed quadrants. The summer inspection shall include groundwater elevation monitoring and a vegetation survey to determine compliance with the general performance standard of 75% of the wetland surface being reestablished with indigenous wetland plant species within two growing seasons following planting. Vegetation monitoring shall occur within three randomly distributed quadrants sampled within the tree, shrub, and herb strata. Photos of each quadrant shall be taken during the summer inspection and submitted with the Commission report.
- An inspection report shall be submitted to the Commission no later than September 15 of each of the first two years. The report shall include all data collected during the inspections and photographs, and shall include recommendations for additional plantings or other remedial work as required, to ensure successful wetland replication.
- Any replication or restoration work that creates a resource on abutting properties shall require an easement from the abutting property owner covering the full extension of the resource on that property prior to commencement of the work.
- Standards for the replication shall be specified and verified in terms of functions, values, and actual performance. Technical and engineering specifications used for design and construction shall be considered approximate. Criteria for acceptance and approval shall be based solely on function and performance as specified in the Order of Conditions.

4.3 VERNAL POOLS

Vernal pools and vernal pool habitat as defined in the Bylaw shall be determined by the Natick Conservation Commission. The Commission need not identify vernal pool and vernal pool habitat locations prior to application with the Commission. It shall be the applicant's responsibility to indicate the location of possible vernal pools and vernal pool habitats on the subject property, during the application process. The applicant may request a determination of applicability prior to application for a permit under the Bylaw, if unsure as to whether a vernal pool exists on or near the subject site. The buffer zone of a vernal pool is presumed critical to the function of the pool and work in this area should be avoided. The presumption may be overcome by a clear and convincing showing that the ability of the vernal pool to function will not be impaired.

4.4 LANDS WITHIN 100 FEET

The land area within 100 feet of any freshwater wetland; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds; rivers; streams; creeks; beaches; land under water bodies; or surface water is subject to regulation under the Bylaw. Lands within 100 feet of protected resource areas are presumed important to the protection of these resources because activities undertaken in close proximity to wetlands and other resources have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or

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over time, 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 groundwater recharge, poor water quality, and harm to wildlife habitat. For this reason these buffer zone areas are a valuable resource under this Bylaw.

The following restrictions are intended to represent the limits beyond which the ability of the protected resource area to function is presumed to be impaired. The presumption may be overcome by a clear showing that the ability of the resource area to function will not be impaired.

No Disturbance Zone

The Commission will enforce a No Disturbance Zone measuring 25 feet (measured horizontally) from all resource area boundaries (except riverfront and floodplain). This is an area in which virtually no activities or work, other than passive passage, are permitted (i.e. Boardwalk). No vegetation may be disturbed, leaf litter and debris shall remain in place, and no dumping of grass clippings, brush, leaves or any other debris or trash is allowed. The no disturbance area should remain unchanged from its pre-project state (unless the Commission grants approval to an applicant's proposal to restore a previously altered area). The restrictions associated with a designated No Disturbance Zone shall not be lifted with the issuance of a Certificate of Compliance, but shall remain in force. Where a prior existing structure protrudes into, or a prior existing alteration exists in a No Disturbance Zone, the Commission may permit the extension of such non-conforming structure into, or further alteration in such zone in accordance with its Rules and Regulations.

No Build Zone

The No Build Zone extends 15 feet (measured horizontally) from the edge of the (25-foot) No Disturbance Zone, in the direction upland or away from the resource area. This is an area where no structures are allowed to be placed or constructed. Prohibited structures include buildings, houses, barns, garages, and sheds. Items such as fences, retaining walls, decks, patios, gazebos, lawn furniture, children's toys such as sandboxes and swing-sets, rip-rapped areas, boardwalks, driveways, parking areas and the like are not considered "structures" for the purposes of these regulations. The restrictions associated with a designated No Build Zone shall not be lifted with the issuance of a Certificate of Compliance, but shall remain in force. Where a prior existing structure protrudes into, or a prior existing alteration exists in a No Build Zone, the Commission may permit the extension of such non-conforming structure into, or further alteration in such zone in accordance with its Rules and Regulations.

100-foot of Vernal Pool

The Commission will enforce a No Disturbance Zone measuring at least 100 feet (measured horizontally) from all Vernal Pools. This is an area in which virtually no activities or work, other than passive passage, are permitted. The no disturbance area should remain unchanged from its pre-project state (unless the Commission grants approval to an applicant's proposal to restore a previously altered area). Where a prior existing structure protrudes into, or a prior existing alteration exists within the 100-foot Buffer Zone of a Vernal Pool, the Commission may permit the extension of such non-conforming structure into, or further alteration within the 100-foot Buffer Zone of a Vernal Pool in accordance with its Rules and Regulations.

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CONSIDERATIONS IN SETTING DISTURBANCE RESTRICTIONS

It is presumed that prohibited activities within the No Disturbance Zone, No Build Zone, and within the 100-foot Buffer Zone to Vernal Pools will result in alteration of the resource area. This presumption is rebuttable and may be overcome upon a showing by clear and convincing evidence that the nature of the proposed work, special design measures, construction controls, or site conditions will prevent alteration of the resource area, and will cause no significant harm to the areas or values protected by the Bylaw. Overcoming this presumption is to be granted only in rare and unusual cases.

In considering designation of buffer zone disturbance areas, the types of work and activities allowable, and conditions to apply, the Conservation Commission shall consider, in addition to other relevant criteria consistent with the wetland values:

1. Values and Functions of the Resource Area

The quantity and quality of resource values and functions shall be considered in placing conditions on buffer zone work. Some isolated land subject to flooding, for example, can serve for temporary flood storage only. Minimal buffer zone restrictions within several feet of the resource may be necessary under such circumstances only to prevent erosion.

Other isolated land subject to flooding can provide vernal pool habitat. It might also provide important flood storage capacity and intersect ground water. In such instances significant buffer zone restrictions shall be appropriate because a larger number of functions are involved and some functions, such as habitat, are more sensitive to buffer zone activity and require protection without exception. If rare or endangered species were found within a project area then still greater levels of restrictions would be appropriate, with no disturbance being allowed.

2. Pre-Project Characteristics of the Site

Ground slope, soil conditions, vegetation, and prior disturbance are just a few of the site specific characteristics that shall be considered in setting conditions for work in the buffer zone.

For example land that slopes toward a wetland demands greater restrictions on work and activity and larger no-disturbance distances to prevent pollution and silt from stormwater runoff from harming wetlands values than does land which slopes away from a wetland. Steeper slopes imply greater restrictions.

3. The Character of the Work or Activities Proposed and Alternatives

The applicant shall carry the burden of proof for demonstrating to the Commission's satisfaction that the proposed work or activities in the buffer zone are necessary and that reasonable alternatives, including reducing the scale and scope of the project, do not exist. The Commission shall consider the specific characteristics of the work proposed for immediate and cumulative impact on the wetland resource.

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4.5 STORMWATER MANAGEMENT

All storm water runoff systems shall at minimum conform to best management practices as specified in the Massachusetts Department of Environmental Protection (DEP) Storm Water Management Guidelines, Volumes I and II (or succeeding guidance). The Conservation Commission may impose more stringent conditions where resource values and functions warrant it.

SUBDIVISION ROADWAYS AND PARKING LOTS

For purposes of flood control, erosion control, water quality protection, and wildlife habitat preservation the Conservation Commission shall review all roadway and parking lot construction plans for impact, immediate and cumulative, on resource area functions and values in accordance with DEP's Stormwater Management Guidelines, Volume I and II (or succeeding guidance). In particular, the Conservation Commission shall enforce the following general performance standards:

1. No Net Change In Runoff Volumes

Pre-project and post-project hydrology should remain fundamentally the same as it pertains to protecting wetland functions and values. Of course some minor degree of change in hydrology is inevitable in any engineering/construction project and within reasonable limits the Commission shall permit such variation when in its judgment such changes will not produce a significant impact of wetlands functions and values.

Erosion control may require limiting stormwater discharge volumes and velocities, which will impact resource areas.

Therefore the Commission may require the construction of such stormwater control structures, and specify particular engineering and design details, as it deems necessary to protect wetland resources, values, and functions.

2. Minimizing Change In Runoff Water Quality

The physical, chemical, and biological qualities of stormwater runoff are altered by encounters with impervious surfaces, especially roadways and related structures. Increases in water temperature, reduction in pH, chemical and nutrient contamination, and transport of silt are just a few of the degrading shifts that may occur.

Where such waters are likely to contact wetland resources or buffer zones the Commission shall specify treatment of runoff or impose other conditions that in its judgment reduce undesirable water quality changes to levels that will not harm wetland functions or values, immediately or cumulatively. The Commission may require the construction of specific structures to improve stormwater runoff quality, such as wet detention basins for pollutant removal and broad riprap swales for aeration.

3. Requirements for Hydraulic Calculations

In accordance with the above, the Conservation Commission shall require as part of the application for permit complete hydrological calculations for the two, ten, twenty-five, and one-hundred year storm events. Such calculations shall include both pre-and post-project calculations for discharge volumes, peak flow rates, concentration times, discharge velocities, and other quantities that the Commission may require for complete information. All calculations and analysis shall be summarized and provided in an easily readable and understandable format.

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4. Groundwater Flows, and Impact to Water Quality and Groundwater Recharge

In cases where significant amounts of bedrock or ledge are present near the surface, or where naturally occurring springs exist, or where the project involves substantial potential for changes in groundwater flows (i.e. construction of wells, groundwater diversion trenches, etc.), or in large subdivision projects, the Commission shall require as part of the application for permit detailed information on pre-and post-construction groundwater flows. In such cases, the Commission shall review the information to ensure there are no detrimental impacts to water quality, groundwater recharge, or wetland resource areas as a result of the proposed project. All calculations and analysis shall be summarized and provided in an easily readable and understandable format.

5. Subdivisions vs. Individual Lots

Unless otherwise specifically identified, Orders of Conditions apply only to the roads, drainage, and related infrastructure on the definitive plan, and do not apply to any individual lots. Each lot within a resource area and buffer zone as defined under the Bylaw shall be required to file a separate Notice of Intent or Request for Determination for any additional work (construction of a house and yard, e.g.)

SECTION 5 ENFORCEMENT

- (a) The Commission, any member thereof, and its agents have the authority to enter upon privately owned land for the purpose of performing their duties under the Bylaw and these regulations.
- (b) Where a violation is found, the Commission, a member thereof, or its agent may issue any of the following, alone or in combination: enforcement order; administrative order; violation notice; or fine.
- (c) Any person who violates any provision of the Bylaw or these regulations, including causing, suffering, or allowing unpermitted work, any failure or refusal to comply with an enforcement order, violation notice or administrative order, and any failure or refusal to remove unpermitted fill, restore property, or obtain necessary Commission approval, or any person who violates the permits issued hereunder, shall be punished by a fine of not more than three hundred dollars (\$300.00) for each offense. Each day, or portion thereof during which a violation continues shall constitute a separate offense, or each provision of the Bylaw or these regulations or permit violated shall constitute a separate offense.
- (d) The Commission, any member thereof, and its agents may issue a notice of violation with specific penalty for violations of the Bylaw and these regulations under the non-criminal disposition procedure set forth in Chapter 40, Section 21D of the Massachusetts General Laws, which has been adopted by the Town in Article 92 of the Natick By-laws.

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- (e) The procedure for enforcement of the Bylaw and these regulations is summarized as follows:
1. Upon witnessing or receiving information indicating a suspected violation, a Commission member or agent will visit the area and make an investigation to determine the nature and extent of the violation.
 2. An effort will be made to contact the owner or manager of the property to provide notice that an investigation is underway.
 3. If a violation is found, the owner or manager of the property will be contacted, and an enforcement order or notice of violation may be issued by the Commission, a Commission member or agent. The enforcement order or notice of violation may direct the violator or a responsible party to cease the offending activity, to secure the area to prevent further or potential damage to the resource area(s), to restore the area, to pay a fine, or to attend a meeting of the Commission, or any combination of actions that the Commission member or agent deems necessary to protect the resource area(s) or ensure compliance with the Bylaw and these regulations.
 4. When a notice of violation includes a specific penalty, the enforcing officer, Commission member, or agent may, at the time of the violation or within fifteen (15) days after the violation may give to a violator a written notice to appear before the Clerk/Magistrate of the Natick District Court at any time during office hours, not later than twenty-one (21) days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his required appearance. Such notice shall be signed by the enforcing person and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received.
 5. Any person so notified to appear before the clerk of the district court may appear before said court and confess the offense charged, either personally or through a duly authorized agent, or by mailing to the Clerk of the Town of Natick together with the notice such specific sum of money as has been fixed for the violation. Receipt by the clerk of the district court from the Clerk of the Town of Natick of notification of such payment shall operate as a final disposition of the case.
 6. Any person so notified to appear before the clerk of the district court may contest the violation alleged in the notice following the non-criminal procedures set forth in Chapter 40, Section 21D of the Massachusetts General Laws. Failure to proceed in this manner or failure to proceed in a manner contained in paragraph 5 of this Section may result in the issuance of a criminal complaint.

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- (f) An enforcement order, administrative order, violation notice, or fine is effective immediately or by its terms; however, the Commission may, at a duly called meeting, by majority vote of those members in attendance, amend the terms of any order or notice and may increase or decrease the amount of any fine to the extent allowed by law.
- (g) Any fine issued by the Commission pursuant to the By-law may be in addition to any levied under the Wetlands Protection Act, G.L. Chapter 131, Section 40.

SECTION 6 EFFECTIVE DATE

These regulations shall be effective upon the date of adoption by the Commission

SECTION 7 APPEALS

A decision of the Commission shall be reviewable in the Superior Court in an action filed within the time provided by MGL c. 249, s 4.

APPENDIX A

Definitions

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APPENDIX A DEFINITIONS. For additional definitions refer to section 2.2 of the Bylaw.

ACTIVITY: any form of draining, dumping, dredging, damming, discharging, excavation, filling or grading; the erection, reconstruction, or expansion of any buildings or structures; the driving of pilings; the construction or improvement of roads and other ways; the changing of runoff characteristics; the intercepting or diverting of ground surface water; the installation of drainage, sewage and water systems; the discharging of pollutants; the destruction of plant life; and any other changing of the physical characteristics of land, or of the physical, biological or chemical characteristics of water.

ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION: (WPA Form 4A) provides a procedure for an applicant to confirm the precise boundaries of Bordering Vegetated Wetlands (BVW). The applicant also may use WPA Form 4A to seek confirmation of the boundaries of other resource areas which have been delineated, if the other resource area boundaries are identified on the plans which accompany the BVW boundary delineation. See Section 3.1 for details on application forms.

AESTHETICS: that quality which exists in the general aspect of a landscape, which adds to the array of impressive natural prospects and imposing features of a particular place. For the purposes of the General Wetlands Protection Bylaw, the natural prospects and imposing features referred to above are ones which are not manmade.

AQUACULTURE: the growing of aquatic organisms under controlled conditions, including but not limited to finfish, shellfish, amphibians, reptiles and seaweeds.

BOG: any area where standing or slowly running water is near or at the surface during a normal growing season, and where the vegetational community has a significant portion of the water or surface covered with sphagnum moss, and where the vegetational community is made up of a significant portion of one or more of, but not limited to nor necessarily all of, the following plants or groups of plants: azaleas (*Rhododendron canadense* and *R. viscosum*), black spruce (*Picea mariana*), bog cotton (*Eriophorum*), cranberry (*Vaccinium macrocarpon*), highbush blueberry (*Vaccinium corymbosum*), larch (*Larix laricina*), laurel (*Kalmia polifolia*), leatherleaf (*Chamaedaphne calyculata*), orchids (*Pogonia*, *Calopogon*), pitcher plant (*Sarracenia purpurea*), sundews (*Drosera rotundifolia*, *D. intermedia*), sweet gale (*Myrica gale*), white cedar (*Chamaecyparis thyoides*), sedges (*Dulichium arundinaceum*, *Carex canescens*, *Cares spp.*, *Rychospora spp.*, *Cladium mariscoides*).

BORDERING: touching

BOUNDARY: the boundary of the Area Subject to Protection Under the Bylaw.

BYLAW: refers to the Natick Wetlands Protection Bylaw, Article 30, of the Natick General Bylaws.

CERTIFICATE OF COMPLIANCE: a written determination by the Conservation Commission that the proposed work or a portion thereof has been completed in accordance with a pertinent Permit.

COMMISSION: the Natick Conservation Commission.

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CONDITIONS: those requirements set forth in a written Permit issued by the Conservation Commission for the purpose of permitting, regulating, or prohibiting any activity that removes, fills, dredges, builds upon, or alters an Area Subject to Protection Under the Bylaws.

CONSERVATION COMMISSION: that body comprised of members lawfully appointed pursuant to M.G.L. cl. 40, s 8C.

CREEK: the same as a stream.

DATE OF ISSUANCE: the date a permit, Determination, or Certificate of Compliance is mailed, as evidenced by a postmark or the date it is hand delivered.

DATE OF RECEIPT: the date of delivery to an office, home, or usual place of business by mail or hand delivery.

DEPARTMENT: Massachusetts Department of Environmental Protection (DEP).

DETERMINATION (of Applicability): a written finding by the Commission as to whether a site or the activity proposed thereon is subject to the jurisdiction of the Bylaw.

DREDGE: to deepen, widen, or excavate, whether temporarily or permanently.

EROSION CONTROL: the prevention or reduction of the detachment or movement of soil or rock fragments by water, wind, ice, and/or gravity.

EXTENSION PERMIT: a written extension of time within which the authorized activity shall be completed.

FILL: to deposit any material so as to raise an elevation, either temporarily or permanently.

FLOOD CONTROL: the prevention or reduction of flooding and flood damage.

FOR GOOD CAUSE: discovery by the Commission of new information related to the application and/or discovery by the Commission of information supplied by the applicant which in the opinion of a majority of a quorum of the Commission does not reflect actual site conditions.

FRESHWATER WETLANDS: any area where the topography is low and flat, where soils are annually saturated as demonstrated by the presence of hydric soils, or where the vegetation community is composed of species adapted to or characteristic of saturated areas. The Commission recognizes that soils can be slow to respond to hydrologic conditions and will allow a wetland delineation to be made without the presence of hydric soils. Freshwater wetlands include both Bordering and Isolated Vegetated Wetlands.

GROUND WATER SUPPLY: water below the earth's surface in the zone of saturation.

HYDRIC SOIL: the field Indicators for Identifying Hydric Soils in New England manual shall be used as the basis for determining hydric soil characteristics.

ISSUING AUTHORITY: the Conservation Commission.

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

LAKE: any open body of fresh water with a surface area of 10 acres or more, and shall include Great Ponds.

LAND SUBJECT TO FLOODING OR INUNDATION (by groundwater or surface water) – areas inundated by flood waters rising from creeks, rivers, streams, ponds, lakes, or water courses; and isolated or closed basins which at least once a year confine standing water to an average depth of six (6) inches and surface area of 2,000 square feet.

LAND UNDER WATER BODIES: the land under the surface of any lake, river, pond, stream, estuary, or watercourse. The boundary of Land Under Water Bodies is the mean annual low water level.

MAJORITY: more than half the members of the Conservation Commission then present.

MARSH: an area where water is at or above the surface of the ground during the growing season, and where a significant part of the vegetational community is composed of, but not limited to nor necessarily including all of, the following plants or groups of plants: bladder worts (*Utricularia*), bur-reed (*Sparganium*), button bush (*Cephalanthus occidentalis*), cattails (*Typha*), duck weeds (*Lemna*), hydrophilic grasses (*Calamagrostis Canadensis*, *Phalaris arundinacea*, *Phragmites australis*, *Glyceria*), pickerel weed (*Pontederia*), pipwort (*eriocaulon*), rushes (*Juncus effuses*, *Juncus spp.*), hydrophilic sedges (*Scirpus cyperinus*, *Carex stricta*, *Carex lacustris*, *Carex crinita*, *Carex lurida*, *Eleocharis spp.*, *Rhynchospora spp.*), hydrophilic smartweeds (*Polygonum spp.*), water will (*Decodon verticillatus*), arrow head (*Sagittaria*), or sweet flag (*Acorus calamus*).

NOTICE OF INTENT: the written notice filed by any person intending to remove, fill, dredge, or alter an Area Subject to Protection Under the Massachusetts Wetland Protection Act, M.G.L. c. 131, s. 40, or the Bylaw. See Section 3.1 for details on application forms.

OBSTRUCTION: (or objects in water) – means but is not limited to dams, weirs, sluiceways, docks, bulkheads, pilings, slips, floats, or cofferdams.

ORDER: an Order of Conditions, Superseding Order, or Final Order, whichever is applicable, issued pursuant to M.G.L. c. 131, s. 40, or the Bylaw.

ORDER OF CONDITIONS: the document issued by the Conservation Commission containing conditions which regulate or prohibit an activity under M.G.L. c. 131, s. 40 or the By-Law

PERMIT: the document issued by the Commission containing conditions which regulate or prohibit an activity under the Town of Natick Wetlands Protection Bylaw. The Commission in an appropriate case may combine the permit or other action on an application issued under the Bylaw with the Order of Conditions issued under the Wetlands Act, M.G.L. c. 131, s. 40.

PLANS: such data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the Conservation Commission to describe the site and activity; to determine the applicability of the Bylaw; or to determine the impact of the proposal upon the interests identified in the Bylaw.

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

POND: any open body of fresh water, either naturally occurring or man-made, which is (for not more than six months of the year) not without water due to natural causes, except during periods of extended drought. For purposes of this definition, extended drought shall mean any period of four or more months during which the average rainfall for each month is 50% or less of the ten year average for that same months. Basins or lagoons which are part of wastewater treatment plants shall not be considered ponds, nor shall swimming pools or other impervious man-made retention basins. A pond must have a minimum surface water area of at least 5,000 square feet, determined based on the annual high water elevation.

PREVENTION OF POLLUTION: the prevention or reduction of contamination of surface or ground water.

PRIVATE WATER SUPPLY: any source or volume of surface or ground water demonstrated to be in any private use, or demonstrated to have a potential for private use.

PROTECTION OF FISHERIES: protection of the capacity of an Area Subject to Protection Under the Bylaw to:

- a) prevent or reduce contamination or damage to fish, and
- b) to serve as the habitat and nutrient source of fish.

PUBLIC WATER SUPPLY: any source of volume of surface or ground water demonstrated to be in public use or approved for water supply pursuant to M.G.L. c. 111, s. 160 by the Division of Water Supply of the DEP or shown to have a potential for public use.

QUORUM: the majority of the duly appointed members of the Conservation Commission that when duly assembled is legally empowered to transact business.

REMOVE: to take away any type of material, thereby changing a resource area, either temporarily or permanently.

REQUEST FOR DETERMINATION OF APPLICABILITY: a written request made by any person to the Conservation Commission for a determination as to whether a site or a proposed activity thereon is subject to the Bylaw and MGL. Ch. 131, s. 40. See Section 3.1 for details on application forms.

RIVER: a naturally flowing body of water that empties to any ocean, lake, or other river, and which flows throughout the year.

RIVERFRONT AREA: a 200-foot wide corridor on each side of perennial river or stream, measured from the mean annual high-water line of the river or stream. See Massachusetts Wetlands Protection Act regulations at 310 CMR 10.58 for complete definition and performance standards.

SEDIMENTATION CONTROL: the prevention or reduction of the collection or concentration of sand, soil or rock fragments by the action of water, wind, ice or gravity.

SIGNIFICANT: means play role. A resource area is significant to an interest identified in the Bylaw when it plays a role in the provision or protection, as appropriate, of that interest.

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

STORM DAMAGE PREVENTION: the prevention of damage caused by water from storms, including but not limited to; erosion and sedimentation; damage to vegetation, property, or buildings; or damage caused by flooding, waterborne debris, or waterborne ice.

STREAM: a body of running water, including brooks, creeks and other watercourses, which moves in a definite channel in the ground due to a hydraulic gradient. A portion of a stream may flow through a culvert, is naturally obscured, or beneath a bridge. A stream's flow may be intermittent (i.e., does not flow throughout the year), or perennial.

SWAMP: an area where ground water is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface, and where a significant part of the vegetational community is made up of, but not limited to nor necessarily includes all the following plants or groups of plants: alders (*Alnus*), ashes (*Fraxinus*), azalea (*Rhododendron canadense* or *R. viscosum*), winterberry (*Ilex verticillata*), highbush blueberry (*Vaccinium corymbosum*), red maple (*Acer rubrum*), poison sumac (*Toxicodendron vernix*), spicebush (*Lindera benzoin*), sweet pepperbush (*Clethra alnifolia*), black gum (*Nyssa sylvatica*), swamp white oak (*Quercus bicolor*), willow (*Salix*), skunk cabbage (*Symplocarpus foetidus*), sphagnum moss (*Sphagnum*), cinnamon fern (*Osmunda cinnamomea*) or royal fern (*Osmunda regalis*).

WATERCOURSE: a stream wholly or partially man-made.

WET MEADOW: an area where ground water is at or near the surface of the ground for a significant part of the growing season, and where a significant part of the vegetational community is made up of, but not limited to nor necessarily includes all of the following plants or groups of plants: marsh fern (*Thelypteris palustris*), sensitive fern (*Onoclea sensibilis*), sedges (*Scirpus cyperinus*, *Carex stricta*, *C. lanuginosa*, *Eleocharis* spp.), hydrophilic grasses (*Calamagrostis Canadensis*, *Glyceria* spp., *Alopecurus pratensis*), rushes (*Juncus effusus*, *J. Canadensis*), blue flag (*Iris versicolor*), vervain (*Verbena hastata*), joe-pye-weed (*Eupatorium maculatum*), boneset (*Eupatorium perforliatum*), and meadowsweet (*Spiraea latifolia*, *S. tomentosa*).

WETLAND PLANT SPECIES: those species listed as occurring in bogs, marshes, swamps, or wet meadows, as well as any other plant species known to occur primarily in wetlands, and including all species classified as Obligate, Facultative Wetland, or Facultative + or Facultative according to the most recent edition of the National List of Wetland Indicators published by the United States Fish and Wildlife Service.

WILDLIFE HABITAT: areas having a plant community composition and structure, hydrologic regime, or other characteristics sufficient to provide shelter, nutrients, growing conditions, nesting or breeding sites conducive to the propagation and preservation of wildlife.

WORK: the same as Activity.

APPENDIX B
Filing Fee Schedule

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

APPENDIX B FILING FEE SCHEDULE

TOWN OF NATICK WETLANDS PROTECTION BY-LAW
FILING FEE CALCULATION WORKSHEET

(for Notices of Intent, Request for Determination of Applicability & Administration under the Natick Wetland Protection By-law)

(Submit this form & check with application. Please make checks payable to: **Town of Natick**)

NOTICE OF INTENT - CATEGORY 1 - \$100 per Activity # of Activities
Total \$

- a. Work on single family lot: addition, pool, porch, deck, walkway, driveways, etc. _____
- b. Site preparation of each single family house lot where actual house construction is not proposed. _____
- c. Control vegetation Single Family Home (SFH) _____
- d. Resource Improvement _____
- e. Work on septic system separate from house _____
- f. Monitoring well activities minus roadway _____
- g. New agricultural or aqua cultural projects _____
- h. Docks _____

TOTAL CATEGORY 1 \$ _____

NOTICE OF INTENT - CATEGORY 2 - \$150 per Activity # of Activities
Total \$

- a. Construction of SFH _____
- b. Parking lot _____
- c. Beach nourishment (placement of sand) _____
- d. Electric generating facility activities _____

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- d. Sand & gravel operations _____
- e. Railroad line construction _____
- f. Bridge _____
- g. Oil land fill closure, and hazardous material release response actions _____
- h. Dredging _____
- i. Package treatment plant and discharge _____

TOTAL CATEGORY 4 \$ _____

**ANRAD - CATEGORY 5 - \$250 per Notice
Total \$**

- a. Abbreviated Notice of Resource Delineation _____

TOTAL CATEGORY 5 \$ _____

**ADMINISTRATION - CATEGORY 6 -
Total \$**

- a. Extension of Order of Conditions \$50 _____
- b. Amendment of Order of Conditions \$50 _____
- c. Certificate of Compliance; Partial Certificate \$50 _____
- d. Review of change of Plans \$25 _____

TOTAL CATEGORY 6 \$ _____

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Request for Determination - CATEGORY 7 - \$100 per Request
Total \$

a. Request for Determination of Applicability _____

TOTAL CATEGORY 7 \$ _____

TOTAL DUE FOR FILING \$ _____
(All Categories)

APPENDIX C

Check List for Request for a Determination of Applicability

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

APPENDIX C CHECKLIST FOR REQUEST FOR A DETERMINATION OF APPLICABILITY

CHECKLIST FOR COMPLETENESS OF REQUEST FOR A DETERMINATION OF APPLICABILITY (RDA)

In order to facilitate review of your proposal, please verify the following items are included as part of your RDA. A copy of this checklist with appropriate items checked off is required as part of the RDA

RDA requirements under 310CMR 10.00 (DEP requirements) to be sent to the Massachusetts Department of Environmental Protection – Northeast Region

Attention Wetlands & Waterways

- 1) Two copies of a completed RDA form (Form 1).
- 2) Two copies of plans, supporting calculations, and other documentation necessary to completely describe the proposed work and mitigation measures (see NOTE 1, below).
- 3) Two copies of an 8 1/2"by 11 "section of the USGS quadrangle map of the area, marked to identify where the proposed work will be located.

NOTE 1.A determination that plans and other documentation are "complete" for the purposes of accepting a RDA does not necessarily mean that enough information has been provided to let the conservation commission adequately evaluate the project.

RDA Requirements under Town Bylaw

- 1) RDA and Plans: Three complete copies of the permit application and supporting documents. Applicants filing for a permit application under the Bylaw shall use the latest form entitled "Request for a Determination of Applicability" as provided in 310 CMR 10.00 and currently known as Form 1; and the words "Natick Wetlands Protection Bylaw" shall be typed onto the form. The submittal shall also include:
 - (a) an 8 ½ x 11 excerpt of the USGA Quadrangle Map at its original scale showing the location of the proposed activity, and
 - (b) a written description of the methodology used to delineate the wetlands resource areas

All plans shall be drawn to scale and shall include:

- (a) all wetlands within 100' of the property, wetland flags shall be shown and numbered on the plans;
- (b) the location, names and present widths of all streets, private ways, easements, covenants or restrictions on, bounding, approaching or within 50 feet of the parcel of which the project is located;
- (c) all property lines;
- (d) location, extent and area of all existing and proposed structures, paved areas and utilities including, but not limited to, facilities for sewage including expansion areas, refuse and waste disposal facilities, facilities for storm water drainage (both temporary and permanent) and facilities for water supply, electricity conduction and telecommunications;

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- (e) boundaries of the resource area(s) within which work is proposed and within 100' of the property lines. All plans shall be drawn at a scale no smaller than 1"=40'. Dimensions from structures to flagged wetland resource area shall be shown on the plans; and
- (f) delineation of limit of work.

Additional plans and information which may be required by the Commission include, but are not limited to:

- (a) existing and Proposed Topography at 2 foot contour intervals for the subject parcel;
- (b) locations and basement floor elevations of all building structures;
- (c) soil logs including deep observation holes and percolation tests with dates and locations of test as may be required.
- (d) location of all wells within 100 ft of the proposed activity;
- (e) a single sheet plan detailing all resource area within the project boundaries. This plan may be prepared at a scale of less than 1"=40, if necessary;
- (f) identification of all required federal, state and local permits and copies of all applicable federal, state and local environmental permits obtained and;

The appropriate filing fee and a copy of a worksheet (See Appendix B) showing the fee calculation.

APPENDIX D

Check List for Notice of Intent

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

APPENDIX D CHECKLIST FOR NOTICE OF INTENT

CHECKLIST FOR COMPLETENESS OF NOTICES OF INTENT

In order to facilitate review of your proposal, please verify the following items are included as part of your Notice of Intent. A copy of this checklist with appropriate items checked off is required as part of the Notice of Intent

NOI requirements under 310CMR 10.00 (DEP requirements) to be sent to the Massachusetts Department of Environmental Protection – Northeast Region

Attention Wetlands & Waterways

- 1) Two copies of a completed Notice of Intent form (Form 3).
- 2) Two copies of plans, supporting calculations, and other documentation necessary to completely* describe the proposed work and mitigation measures (see NOTE 1, below).
- 3) Two copies of plans showing compliance with Title 5 of the State Environmental Code, if a subsurface sewage disposal system (septic system) is proposed in an area subject to commission jurisdiction (e.g., in the 100-foot buffer zone or Land Subject to Flooding-- Title 5 does not permit construction of septic systems within 50 feet of most wetlands and within 100 feet of some wetlands).
- 4) Two copies of an 8 1/2"by 11 "section of the USGS quadrangle map of the area, marked to identify where the proposed work will be located.
- 5) The appropriate filing fee and fee transmittal form, a copy of the fee calculation and filing fee check.
- 6) Abutter list, affidavit of service, and evidence (certified mail receipts) that all abutters within 100 feet of the property or 1,000 feet of the work have been notified. See attachment for example affidavit of service and abutter notification information.
- 7) If applicable, evidence that a copy of the Notice of Intent was sent to the Massachusetts Natural Heritage and Endangered Species Program by Express or Priority mail on or before the date the Notice of Intent was filed, or other evidence that the Program received the Notice of Intent within 2 days of filing with the commission.

NOTE 1.A determination that plans and other documentation are "complete" for the purposes of accepting a Notice of Intent does not necessarily mean that enough information has been provided to let the conservation commission adequately evaluate the project.

NOI Requirements under Town Bylaw

- 1) Notice of Intent and Plans: Three complete copies of the permit application and supporting documents. Applicants filing for a permit application under the Bylaw shall use the latest form entitled "Notice of Intent" as provided in 310 CMR 10.00 and currently known as Form 3 respectively; and the words "Natick Wetlands Protection Bylaw" shall be typed onto the form
 - (a) An 8 ½ x 11 excerpt of the USGA Quadrangle Map at its original scale showing the location of the proposed activity.

All plans shall be drawn to scale and shall include:

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

- (a) All wetlands within 100' of the property, wetland flags shall be shown and numbered on the plans;
- (b) The location, names and present widths of all streets, private ways, easements, covenants or restrictions on, bounding, approaching or within 50 feet of the parcel of which the project is located;
- (c) All property lines;
- (d) Location, extent and area of all existing and proposed structures, paved areas and utilities including, but not limited to, facilities for sewage including expansion areas, refuse and waste disposal facilities, facilities for storm water drainage (both temporary and permanent) and facilities for water supply, electricity conduction and telecommunications;
- (e) Boundaries of the resource area(s) within which work is proposed and within 100' of the property lines. All plans shall be drawn at a scale no smaller than 1"=40'. Dimensions from structures to flagged wetland resource area shall be shown on the plans; and
- (f) Delineation of limit of work.

Additional plans and information which may be required by the Commission include, but are not limited to:

- (a) Drainage calculations based on the USDA Soil Conservation Service TR-55 or TR-20 method for the 2, 10, 25 and 100 year storm events. Drainage calculations for each Sub watershed area shall include the hydraulic length drawn on the watershed plan, time of concentration calculation, pre-and post-development DN calculation, average watershed slope calculation, peak rate of runoff and volume of runoff;
- (b) Reservoir routing calculations shall be based on the Storage Indication or Modified Puls Method and shall include a stage-storage graph;
- (c) Existing and Proposed Topography at 2 foot contour intervals for the subject parcel;
- (d) Locations and basement floor elevations of all building structures;
- (e) Soil logs including deep observation holes and percolation tests with dates and locations of test as may be required.
- (f) Location of all wells within 100 ft of the proposed activity;
- (g) Wildlife habitat analysis prepared in accordance with 310 CMR 10.60 as may be required;
- (h) A single sheet plan detailing all resource area within the project boundaries. This plan may be prepared at a scale of less than 1"=40, if necessary;

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- (i) Identification of all required federal, state and local permits and copies of all applicable federal, state and local environmental permits obtained;
- (j) Replication Plans as may be required;

A written description of the methodology used to delineate the wetlands resource areas.

The appropriate filing fee and a copy of a worksheet (See Appendix B) showing the fee calculation.

APPENDIX E

Checklist for Abbreviated Notice of Resource Area Delineation

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

APPENDIX E CHECKLIST FOR ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION (ANRAD)

CHECKLIST FOR COMPLETENESS OF NOTICES OF ANRAD

In order to facilitate review of your proposal, please verify the following items are included as part of your ANRAD. A copy of this checklist with appropriate items checked off is required as part of the ANRAD.

ANRAD requirements under 310CMR 10.00 (DEP requirements) to be sent to the Massachusetts Department of Environmental Protection – Northeast Region

Attention Wetlands & Waterways

- 1) Two copies of a completed ANRAD (Form 4A).
- 2) Two copies of plans, supporting calculations, and other documentation necessary to completely describe the project area (see NOTE 1, below).
- 3) Two copies of an 8 1/2" by 11" section of the USGS quadrangle map of the area, marked to identify where the proposed work will be located.
- 4) The appropriate filing fee and fee transmittal form, a copy of the fee calculation and filing fee check.
- 5) Abutter list, affidavit of service, and evidence (certified mail receipts) that all abutters within 100 feet of the property or 1,000 feet of the work have been notified. See attachment for example affidavit of service and abutter notification information.

NOTE 1.A determination that plans and other documentation are "complete" for the purposes of accepting a ANRAD does not necessarily mean that enough information has been provided to let the conservation commission adequately evaluate the project.

ANRAD Requirements under Town Bylaw

- 1) ANRAD and Plans: Three complete copies of the permit application and supporting documents. Applicants filing for a permit application under the Bylaw shall use the latest form entitled "ANRAD" or "Abbreviated Notice of Resource Area Delineation" as provided in 310 CMR 10.00 and currently known as Form A respectively; and the words "Natick Wetlands Protection Bylaw" shall be typed onto the form
 - (a) An 8 1/2 x 11 excerpt of the USGA Quadrangle Map at its original scale showing the location of the property.

All plans shall be drawn to scale and shall include:

- (a) All wetlands within 100' of the property, wetland flags shall be shown and numbered on the plans;
- (b) The location, names and present widths of all streets, private ways, easements, covenants or restrictions on, bounding, approaching or within 50 feet of the parcel of which the project is located;
- (c) All property lines;

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- (d) MA DEP Wetland Delineation forms. A written description of the methodology used to delineate the wetland resource areas.

The appropriate filing fee and a copy of a worksheet (See Appendix B) showing the fee calculation.

APPENDIX F
Abutter Information

**EXAMPLE ABUTTER NOTIFICATION LETTER – TO BE SENT
TO ALL ABUTTERS (NOI AND ANRAD FILINGS)**

###ADD Date###

**Re: Notification of Abutters
###ADD Project Location###
Natick, Massachusetts**

Dear Abutter:

Enclosed please find a Notification to Abutters form to inform you of a public hearing that will be held by the Town of Natick Conservation Commission under the Massachusetts Wetlands Protection Act and the Town of Natick Wetland Bylaw. The subject of the hearing is for proposed **###ADD proposed project description###** at **###ADD project location###** in Natick, Massachusetts.

Should you have any questions relative to this project contact the Town of Natick Conservation Commission at (508) 647-6452 or me at **###ADD phone ###**.

Sincerely,

###ADD signature###

Enclosure:

**EXAMPLE AFFIDAVIT OF SERVICE – TO BE INCLUDED IN
ALL NOTICE OF INTENT AND ANRAD FILINGS
WITH ABUTTER LIST**

Affidavit of Service

I, ### ADD signatures name###, hereby certify under the pains and penalties of perjury that on ###ADD Date### I gave notification to abutters in compliance with the second paragraph of Massachusetts General Laws Chapter 131, Section 30, and the DEP Guide to Abutter Notification dated April 8, 1994 and the Town of Natick Wetland Bylaw in connection with the following matter:

A Notice of Intent filed under the Massachusetts Wetlands Protection Act and the Town of Natick Wetland Bylaw by ###ADD Name of Applicant### with the Town of Natick Conservation Commission on ###ADD Filing Date### for property located on ###ADD Project Address### – Natick, Massachusetts.

The form of the notification, and a list of the abutters to whom it was given and their addresses, are attached to this Affidavit of Service.

###ADD Signature###

Date

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

ABUTTER NOTIFICATION FORM – TO BE SENT TO ALL ABUTTERS (NOI AND ANRAD FILINGS)

Notification to Abutters Under the
Massachusetts Wetlands Protection Act and the Town of Natick Wetland Bylaw (the
Bylaw)

- A. The name of the applicant is _____

- B. The applicant has filed a Notice of Intent with the Conservation Commission for the municipality of
Natick
_____ seeking permission to remove, fill, dredge or alter an Area Subject to Protection Under the Wetland Protection Act (General Laws Chapter 131, Section 40) and the Bylaw.
- C. The address of the lot where the activity is proposed is _____

- D. Copies of the Notice of Intent may be examined at
The commission office (call for appointment)
_____ between the hours of 9 and 5 on the following days of the week:
M-F (Leave message)
_____ For more information, call: (508) 647-6452.
Check one: This is the applicant , representative , or other (specify: Commission):

- E. Copies of the Notice of Intent may be obtained from either (check one) the applicant , or the applicant's representative , by calling this telephone number _____ between the hours of ___ and ___ on the following days of the week: _____
- F. Information regarding the date, time, and place of the public hearing may be obtained from
The Natick Conservation Commission
_____ by calling this telephone number (508) 647-6452 between the hours of 9 and 5 on the following days of the week:
M-F(Leave message)
_____ Check One: This is the applicant , representative , or other (specify: Commission):

NOTE: Notice of the public hearing, including its date, time, and place, will be published at least five (5) days in advance in the Metrowest Daily or Natick Bulletin - Contact Conservation Commission to confirm Paper

NOTE: Notice of the public hearing, including its date, time, and place, will be posted in the Town Hall not less than forty-eight (48) hours in advance.

APPENDIX G

Frequently Asked Questions

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

APPENDIX G FREQUENTLY ASKED QUESTIONS

APPLICATION FOR PERMITS AND REQUESTS FOR DETERMINATION

The regulatory trigger for filing an application under this Bylaw is the buffer zone. Any proposal to do work within the buffer zone (or within a resource area) will need the approval of the Conservation Commission prior to commencement. This approval will be in the form of a negative Determination of Applicability or an Order of Conditions. No person can do work (or have work done by someone) in the buffer zone or a resource area without one of these forms of authorization.

All Notice of Intent (NOI) and Request for Determination of Applicability (RDA) filings must be complete and in accordance with the check-off lists provided at the within the Bylaw regulations in order to qualify as having been filed. In the case of incomplete applications (i.e. NOIs which do not contain the information necessary for the Commission to complete its review, or do not have the appropriate fee attached), the applicant will be notified and the application package will be returned to the applicant for completion. In those instances where the application is returned for insufficient information, no public hearing will be advertised or held, and the 21-day period will not start until receipt of a complete application.

Completeness in this context means only that the application contains certain items specified in the Regulations and the Town Bylaw. It does not necessarily mean that the application contains all of the information the Commission will need to determine whether the proposed work meets the performance standards; the Commission's review of the application and the public hearing are designed to ensure all necessary information is provided.

REQUEST FOR DETERMINATION OF APPLICABILITY

The Request for Determination of Applicability should be used when the applicant is unsure if the area or the work in question is subject to the Bylaw, and seeks a determination by the Commission whether or not a Notice of Intent will be required. Requests for Determination of Applicability should be used when a proposed project is within the 100-foot Buffer Zone but is (a) outside all resource areas including riverfront, and (b) the work is far enough away from the resource area or is so minimal that it extremely unlikely to have any impact on the resource area.

When to Use an RDA

Specifically, a Request for Determination of Applicability should be used when an applicant seeks a determination by the Commission that:

1. The **area(s)** depicted on the referenced plan(s) are (or are not) areas subject to protection under the Bylaw
2. The **boundary delineation** of the resource area(s) depicted on the referenced plan(s) is confirmed as accurate
3. The **work** depicted on the referenced plan(s) and document(s) is (or is not) subject to the Bylaw

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

4. The **scope of alternatives** is adequate for work in the Riverfront Area as depicted on the referenced plan(s)
5. The area and/or work, if any, is (or is not) subject to the Bylaw but not subject to the Massachusetts Wetlands Protection Act, and/or
6. The work described in the RDA, while in an area subject to protection, meets the requirements for an exemption as specified in the Bylaw, therefore no Notice of Intent is required

Information Required

The information required by the Commission for review of a Request for Determination of Applicability may be somewhat less than what is required with a Notice of Intent, however the applicant should refer to the checklist in the Appendix C for the exact requirements. Applicants for a Request for Determination of Applicability are not required to notify abutters. A site walk may be required before the Commission can issue a Determination. A person may submit a Request for Determination of Applicability relating to an area or a project on land not owned by them, but proof that the owner has been notified will be required.

Form of Approval/Denial

When all available information has been presented and considered by the Commission, a Determination of Applicability will be issued to the applicant. A Negative Determination will be issued when the Commission has determined that the proposal will not alter an area subject to protection, or that the area or work in question is not subject to this Bylaw. A Positive Determination will be issued when the Commission has determined that the project is likely to affect an area subject to protection, or that the area or work is subject to the Bylaw. Applicants are advised that, although work may commence immediately upon issuance of a Negative Determination, there is an appeal period during which the applicant works at his own risk.

NOTICE OF INTENT & ORDER OF CONDITIONS

The Notice of Intent should be used when the applicant is proposing to do work in a resource area and/or the buffer zone.

When to Use an NOI

The Notice of Intent (as opposed to the Request for Determination of Applicability) should be used for any large project that is within the 100-foot buffer zone or within the 200-foot riverfront area. Some examples of a large project are: A new house or any structure requiring excavation for a foundation; an in-ground pool; a wall requiring a footing; any substantial increase in impervious (paved) area; any filling, excavation, or grading; substantial landscaping.

Smaller projects in the buffer zone may be reviewed under the Request for Determination of Applicability process. Some examples of a small project are: A deck addition to an existing house requiring minor excavation for discrete footings; a small shed or gazebo sitting above the ground on discrete footings; a children's play structure or sandbox; minor landscaping (with non-invasive plants); a fence or a low wall not requiring excavation; a patio employing pervious materials.

Form of Approval/Denial

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

When all available information has been presented and considered by the Commission, the Commission will either issue an Order of Conditions or a Denial. By issuing a Denial, the Commission has determined that the project as proposed cannot be conditioned in such a way to avoid damage to a resource area subject to protection. Applicants whose projects are denied are free to file a new Notice of Intent with a similar or modified project, or to appeal the denial to the appropriate judicial body.

Requirements After Approval

After the close of the public hearing, if the project is not denied, the Commission will issue the Order of Conditions to the applicant within 21 days. After issuance, the applicant is advised to wait until the passage of the appeal period before commencing work.

The Order of Conditions must be recorded at the Middlesex Registry of Deeds before work may begin. Proof of recording must be delivered to the Commission. Again, the applicant is advised to wait for the passage of the 10-day appeal period before recording the document.

Applicants whose projects are permitted under an Order of Conditions must comply with each condition contained in the Order of Conditions. Failure to comply is a violation of the Bylaw and the Act, and may result in an enforcement order, revocation of the permit, fines, or any other remedy allowed by law.

Request for Extension

An Order of Conditions is typically valid for three years from the date of issuance. Applicants may request extensions before expiration, if additional time is required to complete a project or to comply with the Order of Conditions. Once an Order of Conditions has expired, extensions can no longer be granted, and it may be more difficult for the applicant to obtain a Certificate of Compliance in the future.

THE PUBLIC HEARING PROCESS FOR NOI & RDA

After the completed application (NOI or RDA) is received at the Conservation Commission office, a hearing will be scheduled at a regular meeting of the Commission. Applicants should call the Community Planning Office nearer the date of the hearing to find the precise time that the hearing is scheduled.

Lack of Quorum

From time to time, the Commission may find that it does not have a quorum present at a given hearing on a Notice of Intent, and therefore cannot legally act upon the applicant 's submission. Every effort is made to ensure that a quorum is always present, but in certain instances, family emergencies or unexpected obligations may cause a member to be unavailable. In such instances, it is the policy of the commission to open and continue (if a new hearing) or continue the hearing to the next available date. This action is necessary, because the law requires that the Commission act to open a hearing within a set time-period from the filing date of the NOI. A quorum is not necessary for members of the Commission to open and continue a hearing for lack of a quorum.

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

Who Should Attend

The applicant should attend and bring any additional materials such as photographs or more detailed plans to the hearing. Some applicants ask their engineer, scientist, lawyer, or contractor to attend in case the Commissioners have any technical questions that the applicant might not be able to answer. Usually this is only necessary for more complicated projects or controversial resource delineations, but applicants are welcome to bring anyone they feel can help them at the hearing.

Information Typically Requested

The applicant should be prepared to describe the area, the proposed work, methods and materials of construction, and to answer any questions from the Commissioners. The applicant should also be prepared to consider alternatives that would reduce the impact or potential for impact to the resource area(s). These alternatives might include a reduction in the size of the project, a change in the orientation or placement of a structure, a change in the schedule (to accommodate animal migratory habits, e.g.), additional vegetation to enhance habitat, and the addition of physical markers, walls, fences, or vegetative barriers to discourage future activity near the resource area(s).

During the hearing, the applicant will be asked to present the details of the project, with reference to plans, photographs, and any other submitted materials. The Commissioners will then ask questions of the applicant. At some point, the chairman will open the floor to those in the audience who wish to speak. Speakers must state their name if they wish to be recognized by the chairman. Speakers should address their comments through the chairman, and should not repeat questions or comments that previous speakers have already raised. At the chairman's option, the time allotted for each speaker may be limited. Written comments are always welcome, and can be very useful if a resident has many complicated questions or concerns regarding a particular project. Written comments should be submitted to the Commission in advance of a hearing if possible, to allow Commissioners time to read them.

Continuances

Hearings may be continued to a future meeting of the Commission with the permission of the applicant. Some of the reasons the Commission may request a continuance are: To consider the information that has been presented; to allow the Commission or the applicant time to gather and submit additional information; to conduct a site visit; to wait for a particular event or time of year that may yield valuable information (in the case of vernal pools, e.g.), or; to allow an opportunity for a consultant hired by the Commission to perform additional investigation or analysis.

When all available information has been presented and considered by the Commission, the hearing will be closed and the Commission will vote either deny the project, or vote to issue a Determination of Applicability (for an RDA) or an Order of Conditions (for an NOI).

ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION

The Abbreviated Notice of Resource Area Delineation (WPA Form 4A) provides a procedure for an applicant to confirm the precise boundaries of Bordering Vegetated Wetlands (BVW). The applicant also may use WPA Form 4A to seek confirmation of the boundaries of other resource areas which have been delineated, if the other resource area boundaries are identified on the plans which accompany the BVW boundary delineation.

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

The filing of an Abbreviated Notice of Resource Area Delineation is optional. However, any work within an area subject to the jurisdiction of the Wetlands Protection Act may not proceed until either a Negative Determination of Applicability or a final Order of Conditions has been issued by the Conservation Commission or the Department of Environmental Protection.

The applicant is responsible for providing the information required for the review of this application to the issuing authority (Conservation Commission or the Department of Environmental Protection). The submittal of a complete and accurate description of the site and project will minimize requests for additional information by the issuing authority which may result in an unnecessary delay in the issuance of an Order of Resource Area Delineation.

The issuing authority also may require that supporting materials be prepared by other professionals including, but not limited to a registered landscape architect, registered land surveyor, environmental scientist, geologist, or hydrologist when the complexity of the proposed work warrants specialized expertise.

CERTIFICATE OF COMPLIANCE

Upon completion of a project covered by an Order of Conditions, the applicant must apply for a Certificate of Compliance. The Certificate of Compliance is the official recognition by the Commission that all requirements in the Order of Conditions have been satisfactorily met. There is no Certificate required for a Request for Determination of Applicability.

Why the Certificate of Compliance is Important

Applicants are advised that many mortgage companies (representing future prospective buyers) will look to see that a Certificate of Compliance was issued. If an applicant has not received the Certificate of Compliance, prospective buyers may be justifiably concerned that there are substantial and expensive conditions required by the outstanding Order of Conditions that have not yet been met. This unfortunate but avoidable situation can cause significant frustration during the purchase and sale process, and is best avoided.

When to Apply/Information Required

At the point in time when the applicant feels that all of the requirements of the Order of Conditions have been met (but before the permit expires), the applicant should apply for a Certificate of Compliance using the appropriate form. Along with the form (and any applicable fee), the applicant must submit an as-built survey plan stamped by a registered professional engineer, with the following language on the plan:

I certify that the construction substantially conforms to the approved plan and Order of Conditions with the following exceptions [if any]:

Upon receipt of a completed Request for Certificate of Compliance, the Commission will schedule a time at a future meeting to evaluate the request. The applicant is advised to attend the meeting, especially if the project was a large or complicated one, or if there are any deviations from the approved plans or Order of Conditions. If the project was a simple one, the applicant might speak with a representative of the Commission to see if his presence will be necessary.

A cover letter explaining compliance with the Order of Conditions can be helpful, and photographs are welcome.

GENERAL WETLANDS PROTECTION RULES AND REGULATIONS

If the applicant has successfully demonstrated compliance with the Order of Conditions, the Commission will likely issue the Certificate of Compliance. This must then be recorded at the Middlesex Registry of Deeds by the applicant.

Conditions That Continue to be in Force

Applicants should be aware that there may be conditions within the Order of Conditions that do not expire with the issuance of the Certificate of Compliance. Some conditions are permanent and will run with the land because they are necessary to protect the resource areas. These conditions will be clearly identified in the Order of Conditions.

If there are substantial deviations between the approved plan and the as-built plan submitted with the Request for Certificate of Compliance or what was actually built, the Commission may order the applicant to make the necessary changes in the field to comply with the Order of Conditions. The Commission is not likely to issue a Certificate of Compliance until the project is substantially in compliance with the approved plans and Order of Conditions.