

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

***Table of Contents:***

Purpose  
Jurisdiction  
Exceptions  
Permit Applications and Requests for Determination  
Notices and hearings  
Permits, Determinations and Conditions  
Regulations  
Definitions  
Security  
Enforcement  
Burden of proof  
Certificate of compliance  
Relations to Wetlands Protection Act  
Severe ability

***Wetlands Protection By-Laws***

***Section 1 Purpose***

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

***Section 2 Jurisdiction***

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

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

***Section 3 Exceptions***

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

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

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

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

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

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

***Section 4 Permit Applications and Requests for Determinations***

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

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

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

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

***Section 5 Notices and hearings***

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

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

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

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

***Section 6 Determinations and Conditions***

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

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

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

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

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

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

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

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

***Section 7 Regulations***

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

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

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

- a. Removal, excavation or dredging of soil, sand, loam, peat, gravel or aggregate materials of any kind.
- b. Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns of flood retention characteristics;
- c. Drainage or other disturbance of water level or water table;
- d. Dumping, discharging or filling with any material which may degrade water quality;
- e. Placing of fill, or removal of materials, which would alter elevation(s);
- f. Driving of piles, erection, alteration or repair of buildings or structures of any kind;
- g. Placing of obstructions or objects in water;

- h. Destruction of plant life including cutting of trees;
- i. Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of water;
- j. Any activities, changes or work, which may cause or tend to contribute to pollution of any body of water or groundwater.

***Section 9 Security***

As part of a permit issued under this By-Law; in addition to any security required by any other Town or State board, agency or official, the Conservation Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below;

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

***Section 10 Enforcement***

The Conservation Commission, its Agent, officers and employees shall have the authority to enter upon privately owned land for the purpose of performing their duties under this By-Law and may make or cause to be made such examination, surveys or sampling as the Commission deems necessary.

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

Upon request of the Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under Civil Law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under Criminal Law.

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

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

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

***Section 11 Burden of Proof***

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

***Section 12 Certificate of Compliance***

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

***Section 13 Relation to the Wetlands Protection Act***

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

***Section 14 Severability***

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

*Fall Town Meeting  
November 13, 1990*

