

KINGSTON WETLAND PROTECTION REGULATIONS

1.00 INTRODUCTION AND PURPOSE

The Kingston Wetlands Protection Regulations (KWPR) are promulgated pursuant to Kingston Wetlands Protection By-law, Chapter 13, Article 12.

The purpose of these regulations is to define and clarify provisions of the Wetlands Protection By-Law and the process by which activities affecting areas subject to protection under the By-Law are to be regulated in order to contribute to the following interests:

- (a) public water supply
- (b) private water supply
- (c) surface water, ground water and water quality
- (d) flood control and management
- (e) erosion control
- (f) storm damage prevention
- (g) prevention and abatement of pollution
- (h) protection of fisheries (finfish and shellfish)
- (i) protection of wildlife and its habitat
- (j) protection of plant or animal species listed as special concern, threatened, or endangered and protection of their natural habitat
- (k) wetland plant and animal communities

2.00 JURISDICTION

2.01 Areas Subject to Protection

The following areas as set forth in Article 3.1 of the By-Law, shall be considered “resource areas” or “areas subject to protection” under the By-Law and the Regulations of the Kingston Wetland Protection By-Law and are subject to protection under the By-Law:

- bank,
- fresh water wetland,
- coastal wetland,
- beach,
- dune,
- flat,
- marsh
- meadow,
- bog,
- swamp,
- estuary, creek, river, or stream,
- pond or lake,
- land under said waters,
- land subject to tidal action, coastal storm flowage, flooding or inundation
- land within the 100-year storm line

2.02 Activities Subject to Regulation

Any activity proposed or undertaken within or within 100 feet of an area specified in 2.01 which, in the judgement of the Conservation Commission, will remove, fill, dredge, alter, or build upon an Area Subject to Protection under the By-law is subject to regulation under the By-Law and requires the filing of a Notice of Intent and the issuing of an Order of Conditions by the Conservation Commission.

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Any activity proposed or undertaken outside and beyond 100 feet of the areas specified in 2.01 shall not be subject to regulation unless in the judgment of the Conservation Commission, said activity has resulted or is likely to result in altering an Area Subject to Protection.

Any person, who wishes to have the Conservation Commission determine whether land or an activity is subject to regulation may file a Request for Determination of Applicability with the Conservation Commission.

2.03 Denial of Permit

The Commission may deny a permit for failure to meet the requirements of the By-Law and regulations; for failure to submit necessary information, plans, or analysis requested by the Commission; for failure to meet the design specifications, performance standards, or other requirements set forth by the Commission; for failure to avoid or prevent significant detrimental effect upon the Areas Subject to Protection or interests protected by the By-Law; or where no conditions are adequate to protect those values.

2.04 Enforcement

Any person who violates a provision of the By-Law, or of the regulations, or of any condition or permit issued by the Commission shall be punishable by a fine of not more than \$300 per offense. Each day or portion thereof during which a violation continues shall constitute a separate offense. Each condition violated shall constitute a separate offense. The By-Law, Regulations and permits may also be enforced by non-criminal disposition under MGL Chapter 40, Section 21D and Article 11 of the By-Law, in which case the penalty shall be as provided in the Town of Kingston General By-Laws, Chapter 15, Article 15-2-2.

Any Conservation Commissioner, staff of the Commission, Town police officer, or other officer having police powers may enforce the By-Law or Regulations.

2.05 Land in Forestry and Agriculture

Work performed for normal maintenance or improvement of land in agricultural use, as defined herein, or work performed under an approved forest cutting plan, as defined herein, shall be exempt from filing requirements provided that written notice has been given to the Kingston Conservation Commission prior to commencement of work, and provided that the work conforms to definitions, performance standards, and design specifications as set forth in 310 CMR 10.04 and 10.53 and conforms to the definitions in these Regulations, as the same may be amended.

2.06 Public Utilities

Work done in the normal course of maintaining, repairing, or replacing but not substantially changing or enlarging an existing and lawfully located structure or facility used in service of the public and used to provide electric, gas, water, telephone, telegraph, and other telecommunication services shall be exempt from filing requirements.

2.07 Reservation

These regulations shall not be construed to limit the Conservation Commission's authority under the Kingston Wetlands Protection By-Law. The Conservation Commission reserves the right to act in a manner consistent with the By-Law upon any matter within its jurisdiction.

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2.08 Severability

Should any portion of these regulations be declared invalid by a decision of court, the legislature, or other body having jurisdiction, the remainder of these regulations shall remain in full force and effect.

2.09 Waiver

- A. The Commission may vary a provision of these Regulations only when, in the Commission's opinion, the applicant has presented credible documentary evidence proving that:
 - 1. there are no reasonable conditions or alternatives that would allow the project to proceed in compliance with the By-Law or these Regulations;
 - 2. that mitigating measures are proposed that will allow the project to be conditioned so as to contribute to the protection of the interests identified in the By-Law and these Regulations; and,
 - 3. that the variance is necessary to accommodate an overriding community, regional, state or national public interest, or that it is necessary to avoid a Permit that so restricts the use of property as to constitute an unconstitutional taking without compensation.

- B. A request for a waiver shall be made in writing and shall include, at a minimum, the following information:
 - 1. a description of alternatives explored that would allow the project to proceed in compliance with the By-Law and Regulations and an explanation of why each is unreasonable;
 - 2. a description of the mitigating measures to be used to contribute to the protection of the interests identified in the By-Law and Regulations; and
 - 3. evidence that an overriding public interest is associated with the project which justifies waiver of the Regulations, or evidence that the permit so restricts the use of the land that it constitutes an unconstitutional taking without compensation.

3.00 DEFINITIONS

The definitions in Section 3.0 of these regulations are for terms as used in the By-Law and for terms as used in these regulations. To the extent not defined herein or in the By-Law, words used in the By-Law or in these regulations shall have the definitions contained in the Massachusetts Wetlands Protection Act (MGL Chapter 131, Section 40) and the rules and regulations promulgated thereunder.

Abutter is an owner of land in any direction sharing a common boundary with the site of the proposed activity, including any land located directly across a street, way, stream or river or diagonally across from an intersection of roads or properties bordering a pond, wetland or other resource area.

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Activity means any form of drainage, dumping, filling, dredging, 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 interception or diverging of ground or surface water; the installation of drainage, sewage and water systems; the discharging of pollutants; the destruction of plant life; the changing of any habitat; and any other changing of the physical characteristics of the land.

Alter means to change the condition of any Area Subject to Protection, including, but not limited to the following:

- a) the changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood retention characteristics;
- b) removal, excavation, or dredging of soils, sand, gravel, or aggregate materials of any kind;
- c) lowering or other disturbance of the water level or water table;
- d) dumping, discharging or filling with any material;
- e) the changing of water temperature, biochemical oxygen demand and other physical, biological or chemical characteristics of the receiving water;
- f) the destruction of vegetation including cutting of trees and brush;
- g) driving piles or erecting structures;
- h) placing of obstructions or objects in water;
- i) use of chemicals for plant or pest control
- j) any activities, changes or work which may cause or tend to contribute to pollution of any body of water or ground water.

Applicant is any person who files a Notice of Intent or a Request for Determination of Applicability or on whose behalf such notice is filed.

Approved Forest Cutting Plan is one that has been approved by the Conservation Commission.

Bordering means to touch at any point.

Breeding Habitat is an area used by wildlife for courtship, mating, nesting, or other reproductive activity and rearing of young.

Detention or Retention Pond means any structure or facility that is designed to accept and control stormwater runoff.

F.E.M.A. – Federal Emergency Management Agency

Frimpter Calculation is the method for determining ground water elevation correcting for seasonal fluctuations.

Isolated Land Subject to Flooding is any area subject to flooding or inundation which, in the Commission's judgement, does not support wetland vegetation and does not serve as Vernal Pool habitat.

Isolated Vegetated Wetlands occur within or contiguous to resource areas set forth in Section 2.01 of these Regulations and are areas which support wetland vegetation and which are not usually connected by surface water flow or continuous wetland vegetation cover to other resource areas and, in the Commission's judgement, do not serve as Vernal Pool breeding habitat and contains 1/16 acre-foot of water during a 100-year storm event.

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Land in Agriculture includes areas in continuous and productive agricultural use for the five consecutive years immediately preceding. Land that is not Land in Agriculture nor exempt under Section 2.05 is subject to any and all provisions of the By-Law and Regulations.

Land in Forestry Use includes any land on which work is performed under an approved forest cutting plan for which an approved forest management plan is on file with the Commission.

Limit of Work means the boundary beyond which no work may take place.

Normal Maintenance or Improvement of Land in Agricultural Use is as defined in 310 CMR 10.04.

N.G.V.D. – National Geodetic Vertical Datum

100 Year Storm Line means the extreme upper or lateral limit of flood water in any area or depression as calculated using the total natural area contributing stormwater flow runoff during a 100 year storm event or 7 inches of precipitation in 24 hours.

Permit means a valid and current Order of Conditions or negative Determination of Applicability.

Permit Application is a Request for Determination or a Notice of Intent as described in Section 5.03 of these Regulations.

Seasonal Wetlands occur within or contiguous to resource areas as set forth in Section 2.01 of these Regulations and are areas subject to flooding or inundation which form temporary bodies of water during periods of high water table, input from spring runoff, snowmelt, or heavy precipitation and support populations of wetland vegetation or obligate vernal pool species.

Significance means playing a role, having an influence or effect on protecting an interest under the By-Law. Resource areas are presumed to be significant.

Undisturbed Buffer Zone is the first 25 feet immediately adjacent to an area subject to protection as listed in Section 2.01 of Wetland Protection Regulations.

Vernal Pool means any seasonal or isolated wetland which, in the Commission's judgement, functions as breeding habitat for obligate vernal pool species as described in Massachusetts Audubon Society's vernal pool handbook, "Certified". Vernal pools may be certified by the Commission and protected wherever they occur. The Commission will follow procedures and standards as described in the handbook "Certified" and Reading High School Vernal Pool Association's "Wicked Big Puddles".

4.00 GENERAL PROVISIONS

4.01 Burden of Proof and Burden of Going Forward

Any person who files a written application for a permit as set forth in Article 9 of the By-Law to perform work within an Area Subject to Protection has the burden of demonstrating to the Conservation Commission by a preponderance of the credible evidence submitted by qualified experts in support of all matters asserted by the applicant (1) that the area is not significant to the protection of any of the interests identified in the By-Law, or (2) that the proposed work will contribute to the protection of the interests identified in the By-Law, or (3) that the presumption set forth in these regulations concerning the Area Subject to Protection is not valid. Failure to meet the burden of proof shall be cause for the Conservation Commission to issue a denial or such conditions as deemed appropriate for the proposal and any work or activity proposed therein.

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4.02 Presumption Concerning Title 5 of the State Environmental Code

A subsurface sewage disposal system that is constructed in compliance with the requirements of the Title 5 of the State Environmental Code (310 CMR 15.00 et seq.), or more stringent local Board of Health requirements or Zoning By-Laws, shall be presumed to protect any and all interests identified in the By-Law, provided that none of the components of said system is located upon or within 100 feet of any of the Areas Subject to Protection listed in 2.01. All distances shall be measured from the natural edge of the Area Subject to Protection, and no setbacks may be obtained by filling, altering, or relocating an Area Subject to Protection.

4.03 Presumption of Significance

Each Area Subject to Protection under the By-Law is presumed to be significant to one or more of the interests identified in 1.00.

4.04 Presumption Concerning Seasonal Wetlands

Seasonal wetlands are presumed to be Vernal Pool breeding habitat for obligate amphibian, reptile, crustacean, mollusk, plant, or insect populations. This presumption shall prevail through a minimum of one spring breeding season, for the purpose of documenting the occurrence of breeding activity or the lack of breeding activity of obligate vernal pool species. Clear, demonstrated lack of breeding activity of obligate vernal pool species which is documented by the Commission or by an accredited professional shall permit the commission to overturn this presumption.

4.04 Presumption Concerning Isolated Wetlands

Isolated vegetated wetlands of 500 square feet or more in surface area are presumed to be significant to the interest protected under the By-Law.

4.05 Isolated Land Subject to flooding

Isolated land subject to flooding may only have value for flood storage capacity, if in the judgment of the Commission, the area does not support wetland vegetation or function as breeding habitat for obligate vernal pool species.

5.00 GENERAL PROCEDURES

5.01 Time Periods

Time periods of ten days or less are counted in business days whereas periods greater than ten days are counted as calendar days.

5.02 Actions by the Conservation Commission

Any action taken by the Conservation Commission must be approved by vote of more than half the members present at a meeting of a quorum. A quorum is a simple majority of those members then in office.

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Any Enforcement Order or Notification of Violation shall be signed by a majority of the Conservation Commission, who need not convene as a body in order to sign, provided they met pursuant to the Open Meeting Law, MGL Chapter 39, Section 23a – 23c, when voting on the matter.

Any Enforcement Order or Notice of Violation shall be ratified by vote of the Conservation Commission at a regularly scheduled meeting.

5.03 Permit Applications

A. Request for Determination of Applicability

Any person may request that the Conservation Commission make a Determination as to whether or not an activity or area is subject to regulation by submission of a Request for Determination of Applicability (RDA).

RDA submission Requirement:

1. The Commission will accept as the Request under this By-Law, the Request for Determination of Applicability, Form 1, filed under the Massachusetts Wetlands Protection Act. Forms can be obtained at the office of the Building inspector or at the Commission office. Applicants must supply all information requested on the RDA form.
2. A plan or drawing which provides sufficient information to enable the Commission to find and view the area and to determine whether the activity will alter an Area Subject to Protection. Said plan or drawing shall provide the following information:
 - Location of proposed work and plan view distance (aerial) to any Wetland Resource Area
 - Project drawing with accurate measurements
 - North arrow and scale
3. Certification that the owner of the area subject to the request, if the applicant filing the request is not the owner, has been notified of the RDA filing.
4. Payment to the Town of Kingston in accordance with the fee schedule established and detailed in Section 5.09 of Kingston Wetland Protection Regulations.
5. The original and one complete copy of the RDA application shall be submitted to:

Kingston Conservation Commission
26 Evergreen Street
Kingston, MA 02364

One complete copy shall be submitted to:

Department of Environmental Protection
Wetlands Division
20 Riverside Drive
Lakeville, MA 02347

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Upon receipt of a RDA application, the Conservation Commission will:

1. Schedule a date, time and place for a public meeting to review the RDA.
2. Place a public meeting notice in a local newspaper at least five business days before said meeting. The applicant is responsible for payment of the advertisement fee.
3. Notify the applicant, the owner, Board of Selectmen, Board of Health, Planning Board, Building Inspector and Town Planner of the scheduled meeting.

Within 21 days of receipt of an RDA application, unless an extension has been granted by the

Applicant, the Conservation Commission will:

1. Hold a public meeting to review the RDA application.
2. Conduct a site visit to inspect the area and review proposed work.
3. Issue a Negative or Positive Determination of Applicability (DOA).
 - A Negative Determination requires no further action by the Commission providing the work proceeds as proposed. A Negative DOA with conditions may be issued for small projects in which compliance with simple conditions will protect the Wetland Resource Areas.
 - A Positive Determination requires the filing of a Notice of Intent in accordance with Section 5.03(B) of the KWPR prior to the commencement of any work.

B. Notice of Intent or Abbreviated Notice of Intent

Any person who proposes to do work that will remove, fill, dredge or alter any area subject to protection under the Town of Kingston Wetlands Protection By-Law shall submit a Notice of Intent (NOI). An Abbreviated Notice of Intent (ANOI) may be filed when a proposed project is likely to result in no impact to wetlands and when the following conditions exist:

- Project will disturb less than 1,000 square feet of surface area within the Buffer Zone or Land Subject to flooding
- Project will not require a U.S. Army Corp. of Engineers Permit or a license from the Division of Waterways.

NOI and ANOI Submission Requirements:

1. An NOI or an ANOI pursuant to the Wetlands Protection By-Law may be similar in form and filed concurrently with an NOI, Form 3, or ANOI Form 4, filed under the Massachusetts Wetlands Protection Act. Forms can be obtained at the office of the Building Inspector or at the Commission office. Applicants must supply all information required on the NOI or ANOI form.
2. A clear, detailed plan which includes but is not limited to the following relevant information:

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- North Arrow
- Locus
- Title box: date, property owner, bar scale
- Assessor's Reference
- Project drawing showing accurate measurements of the proposed work and plan view distances to any Wetland Resource Areas
- Original stamp and signature by the appropriate professional preparing the plan, no copies of seals or signatures will be accepted.
- All Areas Subject to Protection within 500 feet of the proposed work marked by competent professionals and clearly shown on the plan by numbers which correspond to wetland flag numbers placed in the field and located by standard accepted survey methods
- Any available spot elevations or contour lines based on NGVD datum
- Mean High Water Line
- Kingston Flood Plain and Watershed Protection District
- FEMA 100 year flood Elevations and Flood Zone
- Any boundary indicating the Water Resource Protection District, if applicable
- The location and detail of any proposed sedimentation/erosion control
- The location of all below-ground alteration and structure, i.e. drainage, septic system, storage tanks, wells
- Existing stone walls, buildings or other fixed landmarks on site
- Easements
- Frimpter Calculations
- Test pit data
- A scale no smaller than 1 inch equals 40 feet.
- Names of owners of all abutting properties.

Any and all revisions of plans shall conform to all standards listed here and must be clearly marked with the date(s) of revision(s) and shall include a fresh signature and seal executed on the date of the revision.

3. Notification to abutters as required under the Massachusetts Wetlands Protection Act. In addition to the requirements under the State Act, and in accordance with Article 4 of the Wetlands Protection By-Law, the time, date and place of the public hearing to review an NOI application must be mailed to all abutters of the land on which the proposed work is to be done. In order to schedule a time, date and place for the public hearing, the applicant must contact the Conservation Commission office. At this time the Commission will tentatively schedule the public hearing, which will be secured upon submission of the NOI or ANOI application.
4. A certified Abutters List, which can be obtained at the Assessor's Office.
5. An Affidavit of Service as required under the Massachusetts Wetlands Protection Act.
6. Payment to the Town of Kingston in accordance with the fee schedule established and detailed in Section 5.09 of KWPR. This fee is in addition to that required by the Massachusetts Wetlands Protection Act.
7. The original and one complete copy of the NOI or ANOI application and six complete sets of the plans shall be submitted to:

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Kingston Conservation Commission
26 Evergreen Street
Kingston, MA 02364

Two complete copies shall be submitted to:

Department of Environmental Protection
Wetlands Division
20 Riverside Drive
Lakeville, MA 02347

Upon receipt of an NOI or ANOI application, the Conservation Commission will:

1. Thoroughly review application for completeness.
2. Place a public meeting notice in a local newspaper at least five business days before said hearing. The applicant is responsible for payment of the advertisement fee.
3. Notify the applicant, the owner, Board of Selectmen, Board of Health, Planning Board, Building Inspector and Town Planner of the scheduled hearing.

Within 21 days of receipt of an NOI or ANOI application, unless an extension has been granted, the Conservation Commission will:

1. Hold a public hearing to review the NOI or ANOI application.
2. Request proof of abutter notification. Green Domestic Return Receipt cards are sufficient proof. If the green card is not available, the white receipt will be requested. If the number of abutters is greater than ten, the green cards should be presented in alphabetical order.
3. Schedule a site visit to inspect the area and review the proposed work. The following on site inspection requirements shall be met:
 - Visible identification of lot number or house number if existing.
 - All corners of proposed new structures or additions must be staked.
 - Proposed septic system and leaching field must be staked.
 - Edge of wetlands and flood zone boundaries must be flagged and numbered.
 - Property boundaries must be staked, if required by the Commission.

Within 21 days of closing the public hearing, the Conservation Commission shall either:

1. Make a determination that the area on which the work is proposed is significant to any of the interests identified in the Wetlands Protection By-Law and shall notify the applicant on Form 5, with an Order of Conditions either permitting or denying the project.

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2. Make a determination that the area on which the work is proposed is not significant to any of the interests identified in the Wetlands Protection By-Law and shall notify the applicant on Form 6, with a Notification of Non Significance.

5.04 Public Hearing

The Conservation Commission shall hold a public hearing for NOI and ANOI applications within 21 days of receipt and acceptance as complete by the Commission, unless an extension has been granted. Notice of time, date and place of hearing shall be given by the Commission as described in Article 4 of the Kingston Wetland Protection By-Law.

A public hearing may be continued for the purpose of gathering information, from the applicant or its representative, the Town or Commission or their employees, agents or consultants, or the public. If the Commission determines that the application fails to adequately identify the resource areas or describe the project or its impact, the project may be denied for lack of information. The Commission may require an application that may impact a seasonal wetland or vernal pool to contain information collected or recorded during seasonally wet periods. A hearing will not be closed until the Department of Environmental Protection issues a file number for the project with respect to the Act.

5.05 Order of Conditions

The Commission shall issue an Order of Conditions (OOC) to permit or deny activities for each NOI or ANOI that is filed with the Commission.

The following shall apply to all Orders of Conditions:

1. Conditions may apply to the construction period or may be ongoing and run with the Title to the property for all successors or assignees.
2. Orders of Conditions shall permit activities as described for a period of three years from the date of issuance. Some conditions may be ongoing and, therefore, do not expire at the end of three years.
3. Prior to the commencement of any work permitted or required by the permit, the permit shall be recorded with the Plymouth County Registry of Deeds or registered with Land Court for the County of Plymouth, whichever is applicable, and certification of recording shall be sent to the Conservation Commission using the form at the end of Form 5. If work is undertaken without a registered permit, the Commission may issue an Enforcement Order and/or record the permit in accordance with the fee schedule detailed in Section 5.09 of KWPR.
4. The permit shall be signed by a majority of the Conservation Commission and shall be mailed by certified mail or hand delivered to the applicant, the applicant's agent or attorney.

If the Conservation Commission finds that the information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the Kingston Wetlands Protection By-Law, it may issue an Order of Conditions prohibiting the project. The Order shall specify the information which is lacking and why it is necessary.

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An Order prohibiting the project may be issued also if, in the judgement of the Commission, there are no conditions that would provide adequate protection for the interests identified in the Kingston Wetland Protection By-Law.

5.06 Amendments to Order of Conditions

Changes to a project once a permit has been issued may mean either the issuing of an amended permit or the filing of a new NOI. If a change is merely clerical, such as change of landowner's name, or a minor modification which lessens the impact on resource areas, then the Commission can amend a permit without going through publication and hearing. An amended permit shall not extend the term of the original permit and shall expire on the date of the expiration of the original permit of any Extension thereto granted by the Commission. Any other amendment requires a new public hearing publicized and conducted in the same manner as the original application. Requests for an Amendment to a permit shall include the DEP file number and payment to the Town of Kingston in accordance with the fee schedule established and detailed in Section 5.09 of KWPR. The same rules and deadlines apply, except that the right of appeal extends only to the amendments. The amended permit should be recorded at the Registry of Deeds.

A new NOI should be considered when there has been a significant increase in the purpose, scope, or adverse impacts of the work.

5.07 Extension of Order of Conditions

Request for Extension of an Order of Conditions must be submitted to the Commission not more than sixty and no less than thirty days before the expiration date of the permit. Requests shall include the DEP file number and payment to the Town of Kingston in accordance with the fee schedule established and detailed in Section 5.09 of KWPR. The permit may be extended by a Commission one or more times for periods of up to three years.

An extension request may be denied, and a new NOI required if: no work has begun (except if there are unavoidable delays); new information indicates the interests of the By-Law are not being protected by the permit; incomplete work has led to damage to the interests of the By-Law; there is a violation of the permit, By-Law or Regulations; if the wetland boundary delineation is incorrect; or the Regulations have been amended.

Extensions must be granted through a vote at a public meeting, signed by a majority of the Commission and recorded in the same way as the original permit.

5.08 Certificate of Compliance

Requests for a Certificate of Compliance (COC) shall be in writing and shall include the DEP file number, proof of recording permit at the Registry of Deeds and payment to the Town of Kingston in accordance with the fee schedule established and detailed in Section 5.09 for KWPR. The request must contain written indication that the work was completed substantially in compliance and explain any deviations. The Commission may request an "as built" plan to demonstrate compliance and explain any deviations. Following a site visit by Commission members or staff, which the applicant is entitled to attend, the Commission may issue a COC if it feels that all general and special conditions have been met.

A partial COC may be issued for a portion or phase of a project.

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5.09 Fee Schedule

The schedule of fees, established as per Article 3 of the Kingston Wetlands Protection By-Law, and payable to the Town of Kingston, is as follows:

Notice of Intent / ANRAD – There are two fees payable to the Town of Kingston for a Notice of Intent / ANRAD Filing.

Fee Number One: The Wetland Protection Act fee as determined under WPA Appendix B is divided between the State and the Town.

Fee Number Two: The Kingston Wetland Protection By Law requires the additional fee listed below and is payable in its entirety to the town of Kingston.

Category 1	\$ 110.00
Category 2	\$ 500.00
Category 3	\$1050.00
Category 4	\$1450.00
Category 5	\$4 per linear foot
Category 6	\$2 per linear foot with a maximum of \$200 for a single family house project and a maximum of \$2000.00 for any other activity.
REQUEST FOR DETERMINATION OF APPLICABILITY	\$ 50.00
DETERMINATION OF APPLICABILITY	\$ 25.00
KINGSTON WPA ORDER OF CONDITIONS	\$ 50.00
WETLAND PROTECTION ACT ORDER OF CONDITIONS	\$ 50.00
EXTENSION OF ORDER OF CONDITIONS	\$100.00
DUPLICATE ORDER OF CONDITIONS	\$ 50.00
AMENDMENT TO ORDER OF CONDITIONS	\$ 50.00
CERTIFICATE OF COMPLIANCE	\$ 50.00
PARTIAL CERTIFICATE OF COMPLIANCE	\$ 50.00
RUSH CERTIFICATE OF COMPLIANCE (WITHIN 10 DAYS)	\$100.00
SITE INSPECTION (OWNERS REQUEST) 1ST ACRE	\$ 50.00
EACH ADDITIONAL ACRE	\$ 20.00
CONTINUATION OF A PUBLIC HEARING (APPLICANT REQUEST)	\$ 25.00
BANK LETTER FOR CLOSINGS	\$ 50.00

Final Version of Fees Revised and Implemented 10/8/2004

5.09 Emergencies, Meetings and Permits

Any person requesting to do an emergency project shall specify why the project is necessary for the health or safety of the citizens of the Town of Kingston and what Town Agency or sub-agency of the Commonwealth of Massachusetts is to perform the project or has ordered the project to be preformed. If the project is certified to be an emergency by the Conservation Commission, the certification shall include a description of the work that is to be allowed and shall not include work beyond that necessary to abate the emergency.

An emergency certification shall be issued only for the protection of public health or safety.

Emergency project shall mean any project certified to be an emergency by the Conservation Commission. Within thirty (30) days after a project is certified as an emergency, a public meeting shall be held on the project at which time the Conservation Commission may require a filing of a Notice of Intent or impose remedial conditions on the work. In no case shall any filling, dredging or altering commence prior to any emergency certification or extend beyond the time necessary to abate the emergency. These Regulations shall not apply to any emergency project as defined in MGL Chapter 131 Section 40.

Final Version Revised and Implemented 3/6/97

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6.0 PERFORMANCE STANDARD

6.01 Buffer Zone

Vernal Pool habitat, as certified by Massachusetts Natural Heritage and Endangered Species Program or the Kingston Conservation Commission, and a 100 foot buffer zone completely surrounding the vernal pool shall remain entirely natural and undisturbed, no activities or impacts of any nature will be permitted, including but not limited to stormwater discharge and water quality changes. The Conservation Commission requires that an undisturbed Buffer Zone be maintained a minimum of 25 feet in width adjacent to any area subject to protection and a minimum of 100 feet in width adjacent to any vernal pool. No activity of any kind shall be allowed in the undisturbed buffer zone without specific permission of the Commission.

The Commission may require, on a case by case basis, up to a 25 foot undisturbed buffer zone adjacent to an area subject to protection under the By-Law or up to a 100 foot undisturbed buffer zone adjacent to a vernal pool in the event that the Commission determines that the proposed work activity will harm the interests identified in the By-Law and these Regulations.

6.02 Stormwater Management systems

All stormwater management systems shall be designed and constructed to adequately control and contain flow resulting from a “100 year storm” event (7 inches of rain within 24 hours). All stormwater management systems shall remove all sediment, hydrocarbons, and coliform bacteria from stormwater flow and shall discharge all flows from a “100 year storm event” onsite through soil infiltration for ground water recharge. Adequate structures shall be designed and built to safely control and pass any overflow above design capacity. All water infiltrating soils or flowing out of stormwater management systems shall, at a minimum, meet ground water discharge standards. All water infiltrating soils or flowing out of stormwater management systems within sole source aquifers, well protection zones, or zones of contribution for public or private wells for potable water, shall meet drinking water standards. All stormwater management systems shall include provisions for periodic maintenance or repair in order to maintain design performance.

For the purpose of maintaining original design performance, detention or retention ponds approved by the Commission may be periodically maintained in accordance with methods accepted and included in the Order of Conditions, provided that a Determination of Applicability is filed and approved by the Commission if such maintenance is necessary after the expiration of the Order of Conditions.

6.03 Endangered Species Habitat

The Commission shall not allow any activity, alteration or impact on endangered, threatened, or special concern species habitat as listed with any State or Federal agency. If any State or Federally listed species is discovered at any time during the Commission’s review of a proposed project, the Commission must either continue the hearing until such studies or investigations have been completed by acknowledged experts in the appropriate field of study that the Commission deems necessary in permit to determine any possible impacts on that species or habitat, or the Commission must deny the proposed project for lack of information.

KINGSTON WETLAND PROTECTION REGULATIONS

6.04 Wetland Delineation

For all filings under the Wetlands Protection By-Law, vegetation shall determine the wetland boundary wherever a resource area is vegetated. Soils may be used for determination in disturbed, filled or other areas where vegetative methods are not possible.

Delineations of vegetated wetlands shall be made using a field method accepted by the Kingston Conservation Commission to determine points where 50% of the vegetation is made up of wetland species. These points shall be chosen to include the farthest points from the wetlands where the 50% limit exists. These points shall be connected with a line, no portion of which may include any area where more than 50% of the vegetation is wetland species. This 50% wetland vegetation line shall define the wetland boundary.

7.00 CONSULTANT FEES

The Commission may require, pursuant to Chapter 14 of the Town of Kingston General By-Laws, an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. The specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law.

The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision.

The applicant shall pay the fee to be put in a consultant services account of the Commission which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public meetings. The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary.