

Article I Wetlands Regulations

Voted as Amended by the Conservation Commission on February 20th, 2024.

§ 303-1 General provisions.

- A. These regulations are adopted under the provisions of the Norwell Wetlands Bylaw, Chapter 61, §61-14 set forth in Article I, of the Norwell Town Code. These regulations include definitions, regulations, and performance standards necessary to provide guidance and to protect the interests and/or intent of the bylaw.
- B. These Norwell Wetlands Regulations are independent from, and in addition to, requirements in effect under the Massachusetts Wetlands Protection Act (WPA) and associated regulations and policies.
- C. Following public notice and a public hearing thereon, these regulations may be amended and/or added to by a majority vote of the Town of Norwell Conservation Commission.
- D. Any term, condition, definition or other language contained herein which may later be deemed invalid by competent legal authority does not invalidate the validity, full force and effect of any other language contained herein.

§ 303-2 Purpose; protected interests.

A. These regulations are promulgated in order to effectuate the purposes of the bylaw and contribute to the protection of the following wetland interests (hereinafter referred to as "protected interests") including but not limited to:

- (1) Groundwater.
- (2) Wildlife habitats.
- (3) Prevention of water pollution.
- (4) Aesthetics.
- (5) Sedimentation control.
- (6) Fisheries.
- (7) Flood control.
- (8) Private water supply.
- (9) Recreation.
- (10) Water quality.
- (11) Rare plant and animal species.
- (12) Erosion control.
- (13) Public water supply.
- (14) Public safety.

(15) Prevention of storm damage.

(16) Wildlife.

(17) Fish/shellfish habitat.

B. These interests are also known collectively as the "wetland values" protected under these regulations.

§ 303-3 Jurisdiction; resource areas and buffer zones.

A. Resource areas and buffer zones adjacent to the resource areas which are associated with the protected interests are subject to protection under the bylaw and are any of the following:

(1) Resource areas.

(a) Any freshwater or coastal wetland.

(b) Land under water bodies, including but not limited to ponds of any size, lakes, rivers, streams, creeks, springs, estuaries, and banks.

(c) The ocean and land bordering on the ocean, including but not limited to tidal flats, coastal bank, dunes, beaches, salt marshes, and salt meadows.

(d) Land subject to flooding or inundation by groundwater or surface water, including but not limited to freshwater wetlands, beaches, wet meadows, swamps, bogs, vernal pools (both certified by the Natural Heritage and Endangered Species Program or not certified), reservoirs or isolated wetlands.

(e) Land subject to coastal storm flowage or flooding, including but not limited to the coastal floodplain as set forth on the Flood Insurance Rate Maps (FIRM).

(f) Land within 200 feet of any river, stream, or creek continuously flowing throughout the year toward a body of water (hereinafter referred to as the "riparian zone") including the North River.

(2) Buffer zones.

(a) Land within 100 feet of any of the aforementioned resource areas (hereinafter referred to as the "jurisdictional buffer zone").

(b) Land within 50 feet of a bordering vegetated wetland or isolated vegetated wetland (hereinafter referred to as the "buffer strip" or "no build zone").

(c) Land within 100 feet of a vernal pool (hereinafter referred to as the "vernal pool protection zone").

B. Said resource areas shall be protected whether or not they border surface waters.

§ 303-4 Regulated activities.

Activities subject to regulation under the bylaw include the following:

- A. Any activity proposed or undertaken within a resource area or buffer zone to a resource area described in § 303-3.
- B. Any activity deemed by the Conservation Commission as likely to have a significant or cumulative detrimental effect upon resource areas as defined herein.
- C. Any forestry activities including without limitation the harvesting of trees and other vegetation in any wetlands resources area protected in this bylaw.

§ 303-5 Burden of proof.

The applicant shall have the burden of proof by a preponderance of credible evidence that the work proposed will not have a significant or cumulative detrimental effect upon resource areas or interests protected herein. No project determined to have a significant or cumulative detrimental effect upon resource areas or interests protected herein shall be allowed, unless mitigation is provided as part of the proposed project. Failure to provide adequate evidence to the Commission supporting this burden of proof shall be sufficient cause for the Commission to deny the proposed project. In all instances herein, the Conservation Commission, after due deliberation, shall have the discretion to determine the relative importance of the information presented or omitted. The Commission maintains the right to condition any project as it deems necessary to protect one or more of the interests set forth herein.

§ 303-6 Applications.

Activities that are proposed to take place within a resource area or buffer zone under the jurisdiction of the Norwell Conservation Commission require written approval prior to disturbance of any area under the jurisdiction of the Commission. Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by the bylaw. The permit application shall include information and plans as are deemed necessary by the Commission to describe the proposed activities and their effects on the resource areas protected by the bylaw. No activities shall commence without receiving and complying with the terms and conditions of any permit issued pursuant to the bylaw and these regulations.

A. Request for determination of applicability (RDA).

(1) Any person desiring to know whether or not a proposed activity or an area is subject to the Norwell Wetlands Bylaw may in writing request a determination from the Commission. A request for determination of applicability (RDA) shall be filed with the Norwell Conservation Commission prior to altering existing conditions or conducting any work within any resource area or buffer zone. This submission shall be made on the form and according to instructions provided by the Town of Norwell, § 303-6 of these regulations, and required by 310 CMR 10.05(3)(a) and (b) with the following additions: the fifty-foot no build zone will also be shown. The Conservation Commission may hold a public meeting on requests under both Town and state regulations at the same time. The Conservation Commission will render a positive or negative determination of applicability.

(2) The Commission shall have the authority to continue the meeting to a certain date announced at the meeting, for reasons stated at the meeting, which may include timely receipt of additional information from the applicant or others deemed necessary by the Commission in

its discretion to make a determination, including comments, recommendations, or action of the other Town boards and Town officials.

(3) If a positive determination is made by the Conservation Commission upon a request for determination, a notice of intent under the Norwell Wetlands Bylaw must be filed if the applicant wishes to proceed with the project. If a negative determination is made by the Conservation Commission upon a request for determination, no notice of intent under the Norwell Wetlands Bylaw need be filed. In either case, the applicant shall not commence work until a determination has been issued by the Commission and all appeal periods have elapsed or, in the event of an appeal, all appeals have been finally concluded.

B. Approval of resource area delineation. Any person who wishes to gain Norwell Conservation Commission approval of a resource area delineation under the Norwell Wetlands Bylaw may submit a written request. This request shall be made according to instructions and the form provided by the Massachusetts Department of Environmental Protection for abbreviated notice of resource area delineation (ANRAD) with the fifty-foot no build zone and vernal pools, as defined by the Norwell Wetland Bylaw, shown on the accompanying plan. The Conservation Commission may hold a public meeting on requests under both Town and state regulations at the same time. The Conservation Commission will approve, approve with modifications, or deny the delineation presented by the applicant. Approval of a wetland delineation shall be for only the referenced delineation on the plans approved by the Commission. It is not approval of, nor the determination of, the absence of wetlands on other portions of the property.

C. Notice of intent (NOI).

(1) A notice of intent must be filed with the Norwell Conservation Commission for any activity proposed within the resource areas or buffer zones, defined herein, which involves expansion or change in use or significant excavation and/or alteration of existing grades, soils and vegetation. The notice shall be submitted on the form and according to instructions provided by the Town of Norwell Conservation Commission and required by 310 CMR 10.05(4), and a public hearing on requests under both Town and state regulations shall be held at the same time.

(2) If required by the Commission, the applicant shall provide a copy of the application, by certified mail or hand delivery, to all appropriate Town officials, committees, or boards having joint jurisdiction over the proposed project. An affidavit of the person providing such notice shall be filed with the Commission. The Commission may seek written comments and/or recommendations from other boards and committees. The Commission, at its sole discretion, will allow adequate time for comments from other boards. The Commission may continue any project for which action by other Town boards or Town officials is required.

D. Application requirements. No hearing will be opened unless all required information is submitted to the Commission at least 10 business days in advance of the scheduled hearing date. In certain circumstances and at its sole discretion, the Commission may open a hearing when the applicant submits application materials in less than 10 days before the hearing.

E. Actions by the Commission.

(1) If a proposed project meets the requirements of the Norwell Wetlands Bylaw and these regulations, the Commission will approve the project by issuing a Norwell wetlands permit. Such permit will include the conditions under which the project may proceed. The permit will be in effect for three years from the date of approval. A ten-day appeal period shall begin from the approval, during which time an applicant may not begin work on the approved project.

(2) The Commission shall have the authority to deny any project for which:

(a) The application is incomplete and the Conservation Commission requires additional information not provided by the applicant; or

(b) The application for the proposed project does not protect the interests of the Norwell Wetlands Bylaw and/or does not meet the general performance standards set forth in § 303-8.

(3) The Commission shall have the authority to continue hearings to a certain date announced at the hearing, for reasons stated at the hearing, which may include timely receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion to make a determination, including comments, recommendations, or action of the boards and officials listed below.

F. Authority to reopen a hearing. The Commission may reopen a hearing to review whether the wetlands permit issued for a project protects the resource areas. Such hearing may be reopened when new information concerning site conditions or the approved project becomes available to the Commission.

G. Amended permit. An applicant or holder of a valid Norwell wetlands permit issued under the Norwell Wetlands Bylaw may request minor changes to a plan or previously imposed condition on a project by submitting an application with the requested change. The Commission will follow the standard procedure for a new application, including advertisement of a public hearing, notification of abutters, holding public hearing, and conditioning the amended project. The Commission may reduce the filing fee on small projects.

H. Permit extensions. A permit holder or his successor may request the Commission to extend the effective period of a Norwell wetlands permit. The Commission may extend a permit when a project has not been completed during the three-year period that the permit is in effect, as long as the project has been started and the applicant defines a date certain when the project will be completed. In no case will the Commission extend a permit for more than three additional years.

I. Administrative Permit. Any proposed activity within an area subject to the Norwell Wetlands Bylaw where the disturbance from the activity is minimal, but is not limited to, the following (based on review of its size, duration, site specific conditions, location, erosion and sediment control measures); the activity is within a previously disturbed area more than 90 feet from a resource area; less than 25% of the activity is within the 100 foot buffer zone; less than 500 sq. ft. of disturbance is within the 100 foot buffer zone; the activity is the removal of hazardous trees, as deemed by a certified arborist or if viewed by the Commission's agent; or the activity is the installation of a fence around an existing lawn. Any person desiring to propose such activities may, in writing, request an Administrative Permit. An Administrative Permit can be issued by the Conservation Agent, the Commission, or its designee(s),

subject to conditions after review of the project and site, once the fee is paid for the permit, and would not be requiring of a public hearing. The Administrative Permit shall be valid for three years from the issuance date. The Commission reserves the right to review and/or determine eligibility of such Administrative Permits by, no later than, the next publicly held meeting following its' issuance by the Agent (or its designee(s)), if they believe it does not meet the requirements stated above.

§ 303-7 Definitions.

Definitions of resource areas are found in subsequent sections for each resource area. (This section is reserved for additional definitions.)

§ 303-8 General performance standards.

The Commission finds that regulations applicable to activities in the following resource areas are necessary and proper to protect the wetland interests stated in § 303-2 of these regulations.

A. General provisions. All approved projects will be designed and executed so that stormwater is controlled and no direct discharge to a resource area is created. Stormwater will be controlled using the most current best management practices as defined by the DEP (Department of Environmental Protection), other regulatory bodies, relevant professional associations, or by additional standards which may be adopted by the Commission. In addition, all work will be conducted in such a way that there will be no adverse effect on other properties that are not considered part of the approved project.

B. Land under inland water bodies and waterways: rivers, creeks, streams, ponds, ditches or flats.

(1) Characteristics and definition: as defined in 310 CMR 10.56 with the following additions:

(a) A pond is the same as 310 CMR 10.56(2) with the following addition: The term "pond" shall include any open body of fresh water with a surface area observed or recorded within the last 10 years of at least 5,000 square feet. Ponds shall contain standing water except for periods of extended drought. For the purposes of this subsection, the definition of "extended drought" is the same as 310 CMR 10.58(2)(a)1f.

(b) The definition of stream in 310 CMR 10.04 is replaced with: "Stream" means a body of running water, including brooks and creeks, which moves in a definite channel in the ground due to a hydraulic gradient, and which flows within, into or out of an area subject to protection under MGL c. 131, § 40. A portion of a stream may flow through a culvert or beneath a bridge. Such a body of running water which does not flow throughout the year (i.e., which is intermittent) is a stream regardless of topographic location.

(2) Protected interests. Whenever a proposed project involves removing, filling, dredging, altering or building upon water bodies or the land beneath them, the Commission shall find that the water bodies and the land beneath them are significant to the protection of the following interests: groundwater, flood control, public water supply, wildlife habitats, private water supply, public safety, prevention of water pollution, recreation, prevention of storm damage, aesthetics, water quality, wildlife, sedimentation control, rare plant and animal species, fish/shellfish habitat, fisheries, and erosion control. These findings may be overcome only upon a clear and convincing showing that the water body or the land beneath it does not play a role in

protecting one or more of the interests given above and only upon a determination to that effect by the Commission.

(3) Performance standards. When land under an inland water body or land within 100 feet of land under an inland water body is determined to be significant to an interest protected by the bylaw, the following regulations shall apply:

(a) The Commission may impose such requirements as are necessary to protect the interests under the bylaw, including provision to minimize disturbance of buffer zone within 100 feet of a resource area when the pre-application condition is undisturbed.

(b) The fifty-foot no build zone applies to this resource area.

(c) Projects involving docks must prove to the Commission that they have accounted for light pollution from the project, and that it does not have any detrimental effect on any resource area or the habitat.

C. Salt marshes.

(1) Characteristics and definition: same as 310 CMR 10.32(2).

(2) Protected interests. Whenever a proposed project involves removing, filling, dredging, altering or building upon a salt marsh, the Commission shall find that the salt marsh is significant to the protection of the following interests: groundwater, public water supply, wildlife habitats, private water supply, public safety, prevention of water pollution, recreation, prevention of storm damage, aesthetics, water quality, wildlife, sedimentation control, rare plant and animal species, fish/shellfish habitat, fisheries, and erosion control. These findings may be overcome only upon a clear showing that the salt marsh does not play a role in protecting one or more of the interests given above and only upon determination to that effect by the Commission.

(3) Performance standards. When a salt marsh or land within 100 feet of a salt marsh is determined to be significant to an interest protected by the bylaw, the following regulations shall apply:

(a) The Commission may impose such requirements as are necessary to protect the interests protected by the bylaw, including minimizing the disturbance in the buffer zone when the pre-application condition is undisturbed.

(b) The fifty-foot, no build, buffer zone applies.

(c) Projects involving docks must prove to the Commission that they have accounted for any light pollution from the project, and that it does not have any detrimental effect on any resource areas or the habitat.

D. Land subject to flooding (both bordering and isolated areas).

(1) Characteristics and definition: same as CMR 310 CMR 10.57(2) with the following addition: The term "isolated land subject to flooding" shall include an area, depression, or basin that holds at minimum one-eighth acre-foot of water and at least six inches of standing water once a year.

The jurisdictional buffer zone for isolated land subject to flooding shall extend 100 feet from the highest extent of flooding, defined as the mean annual high-water line.

(2) Protected interests. Whenever a proposed project involves removing, filling, dredging, altering or building upon land subject to flooding, the Commission shall find that the land is significant to the protection of the following interests: groundwater, public water supply, wildlife habitats, private water supply, public safety, prevention of water pollution, recreation, prevention of storm damage, aesthetics, water quality, wildlife, sedimentation control, rare plant and animal species, and erosion control. These findings may be overcome only upon a clear showing that land subject to flooding does not play a role in protecting one or more of the interests given above, and only upon a determination to that effect by the Commission.

(3) Performance standards. When a land subject to flooding, bordering or isolated, or land within 100 feet of land subject to flooding, bordering or isolated, is determined to be significant to an interest protected by the bylaw, the following regulations shall apply:

(a) Projects on land subject to flooding shall be permitted only in connection with such procedures determined by the Commission as not having the effect of reducing the ability of the land to absorb and contain floodwaters.

(b) The Commission may require compensating or greater flood storage capacity in the same watershed if it permits any filling of land subject to flooding, and all filling of areas subject to flooding shall be strictly minimized. Except as stated in the preceding sentence, no proposed project shall be permitted to displace or direct floodwaters, through fill or other means, to other areas.

(c) Project shall not have any effect on vernal pools, whether certified by the Massachusetts Division of Fisheries and Wildlife or uncertified.

(d) A vernal pool protection zone, as defined under these regulations, is 100 feet.

(e) The Commission may impose such additional requirements as are necessary to protect the interests protected by the bylaw.

E. Vernal pools.

(1) Characteristics and definition.

(a) Vernal pools are a special type of land subject to flooding, which the Commission recognizes as having unique habitat functions. The term "vernal pool" shall include any confined basin or depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or vernal pool community species, regardless whether or not the site has been certified by the Massachusetts Division of Fisheries and Wildlife. This definition does not include vernal pools occurring in lawns, gardens, landscaped areas, or driveways that have existed for more than 10 years.

(b) The presumption of essential habitat value may be overcome by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide the habitat functions as specified in the bylaw regulations. Protection of the fifty-foot no build zone applies to vernal pools. In addition, a vernal pool protection zone shall extend 100 feet from the mean annual high-water line defining the depression.

(2) Additional performance standard for vernal pools. In recognition of the ecological requirement for an undisturbed area around a vernal pool for it to maintain its habitat value, the Commission will encourage applicants to minimize disturbance in the one-hundred-foot vernal pool protection zone around a vernal pool.

F. Vegetated wetlands (meadows, marshes, swaps and bogs).

(1) Characteristics and definition.

(a) Vegetated wetlands are freshwater wetlands which do or do not border on creeks, rivers, streams, ponds and lakes. The types of freshwater wetlands are wet meadows, marshes, swamps and bogs. Vegetated wetlands are areas where soils are saturated and/or inundated such that they support a predominance (greater than 50%, based on a standardized grid) of wetland indicator plants. The groundwater and surface water regime and the vegetational community which occur in each type of freshwater wetland are specified in MGL c. 131, § 40.

(b) The boundary of vegetated wetlands is the line within which 50% or more of the vegetational community consists of wetland indicator plants and saturated or inundated conditions exist. Wetland indicator plants shall include but not necessarily be limited to those plant species identified in the Act. Wetland indicator plants are also those classified in the indicator categories of facultative, facultative+, facultative wetland-, facultative wetland, facultative wetland+, or obligate wetland in the National List of Plant Species that Occur in Wetlands: Massachusetts (Fish and Wildlife Service, United States Department of the Interior, 1988) or plants exhibiting physiological or morphological adaptations to life in saturated or inundated conditions.

[1] Areas containing a predominance of wetland indicator plants are presumed to indicate the presence of saturated or inundated conditions. Therefore, the boundary as determined by 50% or more wetland indicator plants shall be presumed accurate when:

[a] All dominant species have an indicator status of obligate, facultative wetland+, facultative wetland, or facultative wetland- and the slope is distinct or abrupt between the upland plant community and the wetland plant community;

[b] The area where the work will occur is clearly limited to the buffer zone; or

[c] The Conservative Commission determines that the sole reliance on wetland plants will yield an accurate delineation.

[2] When the boundary is not presumed accurate as described in 310 CMR 10.55(2)(c)1a through c or to overcome the presumption, credible evidence shall be submitted by a competent source demonstrating that the boundary of vegetated wetlands is the line within which 50% or more of the vegetational community consists of wetland indicator plants and saturated or inundated conditions exist. The Commission will evaluate vegetation and indicators of saturated or inundated conditions if submitted by a credible source or may require credible evidence of saturated or inundated conditions sufficient to support wetland indicator plants shall include one or more of the following:

[a] Groundwater, including the capillary fringe, within a major portion of the root zone.

[b] Observation of prolonged or frequent flowing or standing surface water.

[c] Characteristics of hydric soils.

[3] Where an area has been disturbed (e.g., by cutting, filling, or cultivation), the boundary is the line within which there are indicators of saturated or inundated conditions sufficient to support a predominance of wetland indicator plants, or credible evidence from a competent source that the area supported or would support under undisturbed conditions a predominance of wetland indicator plants prior to the disturbance.

(2) Protected interests. Whenever a proposed project involves removing, filling, dredging, altering or building upon a vegetated wetland, the Commission shall find that the vegetated wetland is significant to the protection of the following interests: groundwater, flood control, public water supply, wildlife habitats, private water supply, public safety, prevention of water pollution, recreation, prevention of storm damage, aesthetics, water quality, wildlife, sedimentation control, rare plant and animal species, fish/shellfish habitat, fisheries and erosion control. These findings may be overcome only upon a clear showing that the vegetated wetland does not play a role in protecting one or more of the interests given above and only upon a determination to that effect by the Commission.

(3) Performance standards. When vegetated wetlands or land within 100 feet of vegetated wetlands is determined to be significant to an interest protected by the bylaw, the following regulations shall apply:

(a) The Commission may impose such requirements as are necessary to protect the interests protected under the bylaw.

(b) The fifty-foot no build buffer zone applies.

(c) Projects involving docks must prove to the Commission that they have accounted for any light pollution from the project, and that it does not have any detrimental effect on any resource area or the habitat.

G. Riparian zone or riverfront area.

(1) Characteristics and definition: same as defined at 310 CMR 10.58(1) and (2).

(2) Protected interests. When a proposed activity involves work within the riparian zone/riverfront area, the Commission shall presume that the area is significant to the protection of the following interests: private or public water supply, groundwater, flood control, storm damage prevention, pollution prevention, land containing shellfish, wildlife habitat, fisheries, aesthetics, water quality, sedimentation control, rare plant and animal species and erosion control. These findings may be overcome upon a clear showing that the riparian zone/riverfront area does not play a role in protecting one or more of the interests given above and only upon a determination to that effect by the Commission.

(3) Performance standards. When a riparian zone/riverfront area is determined to be significant to an interest protected by the bylaw, the following regulations shall apply:

(a) Except as stated below, the Commission hereby incorporates 310 CMR 10.58 in its regulations for land within 200 feet of rivers and perennial streams; the protection of these resources is extended to all rivers and perennial streams within the Town of Norwell including the North River.

(b) Notwithstanding the above, a river is any natural flowing body of water that empties to any ocean, lake, pond, other river, stream or wetland and which flows throughout the year. Perennial rivers, streams and creeks are rivers; intermittent streams are not. Notwithstanding 310 CMR 10.58, the burden of proof shall be on any applicant to show that a river, stream or creek is not perennial (i.e., is intermittent).

(c) Projects involving docks must prove to the Commission that they have accounted for any light pollution from the project, and that it does not have any detrimental effect on any resource areas or the habitat.

H. Forested wetland resource areas.

(1) Performance standards. Any forestry activities including without limitation the harvesting of trees and other vegetation in any wetlands resources area protected under bylaw shall be limited to only 10 percent of the basal area within the specific resource area in which forestry activities are proposed at any one time within a three-year period and forestry activities shall be limited to methods approved by the Conservation Commission that will not cause anything more than temporary rutting or soil compaction, erosion or sedimentation, including, where appropriate, excluding the use of forestry equipment that will adversely impact resource areas. Once the authorization of the approved activities in the Forest Cutting plan or permit have expired, the land will no longer be considered land in agricultural use, unless there is a long term forestry management plan.

I. Septic Systems.

(1) Require Permits. Any septic project, subject to the Norwell Wetland Bylaw, shall apply for one of the following permits, determined by the criteria below if the projects meet the following conditions.

(a) Administrative Permit. Less than 75% of the septic project is within already disturbed areas of the 100-foot buffer; the replacement of an existing septic within the same footprint of the old system, or with minor expansion of the footprint.

(b) Request for Determination. The septic project is fully within the 100-foot buffer; less than 50% of the septic project is within the 50-foot buffer; portions of the septic project are not within previously disturbed areas of the 100-foot buffer.

(c) Notice of Intent. More than 50% of the septic project is within the 50-foot buffer; septic projects are not within previously disturbed areas of the 50-foot buffer; clearing, grading, or fill is needed inside the 50-foot buffer for the project.

§ 303-9 Fees.

The Norwell Conservation Commission requires certain fees to be paid to the Town of Norwell when an applicant requests review and consideration of an application. The fees required under these regulations are in addition to those required by the Wetlands Protection Act (MGL c. 131, § 40) and regulations (310 CMR 10.00).

A. Application fees. The Norwell Conservation Commission will post an application fee schedule approved by the Commission following a public hearing and approval by a majority of the Commission members. Following approval by the Commission, the fee schedule table is incorporated by reference into these regulations. At the time of an application, the applicant shall submit a filing fee specified in the filing fees table. The Commission may waive the filing fee, costs and expenses for a permit application filed by a government agency or nonprofit entity.

B. Consultant fee.

(1) As provided by MGL c. 44, § 53G, the Norwell Conservation Commission may impose reasonable fees for the employment of outside consultants, engaged by the Conservation Commission, for specific expert services deemed necessary by the Commission to come to a final decision on an application submitted to the Conservation Commission pursuant to the requirements of the Wetlands Protection Act (MGL c. 131, § 40), the Norwell Wetlands Bylaw, Conservation Commission Act (MGL c. 40, § 8C), or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time.

(2) Funds received by the Conservation Commission pursuant to these rules shall be deposited with the Norwell Town Treasurer-Collector who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Conservation Commission without further appropriation as provided in MGL c. 44, § 53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.

(3) Specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, hydrogeology and drainage analysis, impacts on

municipal conservation lands, and environmental or land use law. The consultant shall be chosen by, and report only to, the Commission and/or its agent.

(4) The Conservation Commission shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.

(5) The fee must be received in its entirety prior to the initiation of consulting services. The Commission may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Commission within 10 business days of the request for payment shall be cause for the Commission to determine that the application is administratively incomplete (except in the case of an appeal). The Commission shall state such in a letter to the applicant, copied to the DEP. No additional review or action shall be taken on the permit request until the applicant has paid the requested fee.

(6) The applicant may appeal the selection of the outside consultant to the Norwell Board of Selectmen, which may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Norwell Board of Selectmen and a copy received by the Conservation Commission so as to be received within 10 days of the date consultant fees were requested by the Conservation Commission. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

§ 303-10 Other requirements.

A. Advertising public hearings and meetings. The Conservation Commission shall send notice of the public hearing to a newspaper of local circulation. The applicant is responsible for the cost of the legal notice.

B. Statement of compliance. At the completion of a project, the Norwell wetlands permit holder, or his successor, shall request that the Commission terminate the wetlands permit by issuing a statement of compliance. The Commission will issue a statement of compliance following a review of the project, a site visit if deemed necessary, and a determination that the conditions in the permit were met. Expired permits can receive a statement of compliance if the requirements of the permit were met. If there are outstanding conditions that were not met, a permit extension may be necessary to complete the project before a statement of compliance is considered. In certain special circumstances, the Commission may issue a statement of compliance for a project that is not completed when the permit holder provides sufficient funds to complete the work in the event the permit holder fails to do so within a reasonable period of time. Funds received by the Conservation Commission for this purpose shall be deposited with the Norwell Town Treasurer-Collector who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Conservation Commission

without further appropriation as provided in MGL c. 44, § 53G. Expenditures from this account shall be made only to complete the work in accordance with the order of conditions. The Commission will return unused funds to the permit holder when the required work has been completed to the satisfaction of the Commission or its agent.

C. Recording with Registry of Deeds or Land Court. If the applicant fails to record any of the following documents (Norwell wetlands permit, notification of non-significance, extension permit, and statement of compliance) issued by the Commission within 20 business days of the date of issuance, the Commission is empowered to record them at the applicant's expense. As proof of recording, the applicant must deliver to the Commission the recording slip at the bottom of the document. If the Commission must record any document, the applicant will be charged the cost of registration plus a fee of \$150. The Commission may issue an enforcement order as a result of failure to record at the Registry.