

## Violation Policy

Town of Norwell Conservation Commission

*Adopted by Unanimous Vote on May 2, 2001*

*Amended by Unanimous Vote (7) on November 18, 2014*

*Amended by Unanimous Vote (7) on November 17, 2020*

Pursuant to the Town of Norwell bylaw § 61-12, and in accordance with M.G.L. c. 131 §40, the Massachusetts Wetlands Protection Act (“WPA,”) the Norwell Conservation Commission (“Commission”) has the authority to enforce the WPA and Norwell Conservation Commission bylaws, regulations, and permits issued thereunder through penalties, administrative orders, and civil and criminal court actions. The Commission and its Conservation Agent will determine violations, issue Violation Notices and Enforcement Orders, and seek and impose fines by all legal means necessary and appropriate.

### **Violators**

Any person, including, but not limited to builders, developers, contractors, arborists and tree removers, landscapers, property owners, or any other individual or entity, may be held as a Violator and may be subjected to a fine or other legal remedy or Enforcement Order who violates any provision of the bylaws or the WPA. Violators may be ordered to restore property to its original condition and take other actions necessary to remedy such violations.

The Commission expects homeowners to make anyone working on their property aware of the presence of wetlands on or adjacent to the property and advise of the existence of any Orders of Conditions, Violation Notices, and/or Enforcement Orders issued by the Commission.

Violations may include any activity such as removal, cutting, clearing, dumping, filling, dredging, altering, building upon, or causing detriment to any Resource Area or Buffer Zone. Violations may be deemed due to activity within 100 feet of any freshwater or coastal wetlands, bordering vegetated wetland or isolated vegetated wetland, vernal pool, marsh, meadow, bog, swamp, tidal flats, pond, lake or any land subject to flooding, or within 200 feet of any river, stream, or creek continuously flowing throughout the year toward a body of water (referred to as the "riparian zone") including the North River, without permission. (See Norwell Chapters 61 and 303.)

### **Fines and Penalties**

Fines will be issued at the discretion of the Commission to Violators based on violations of the Norwell Wetlands Protection bylaws. Fines may also be imposed for disregard or non-compliance with Violation Notices, Enforcement Orders, and/or Order of Conditions issued by the Commission. Pursuant to Norwell bylaw § 61-12, the penalty for violation of any provision of the bylaw shall be \$100 for the first offense; \$200 for the second offense; and \$300 for the third and each subsequent offense against each Violator. Each day a violation continues is a separate and subsequent offense.

Please be advised that upon the request of the Commission to the Board of Selectmen, Town Counsel may take legal action for enforcement under civil law. Additionally, upon request of the Commission, the Chief of Police of the Norwell Police Department may take legal action for enforcement under criminal law. Pursuant to M.G.L. c. 131 §40, Violators may be subject to a criminal fine of up to \$25,000, imprisonment for up to two years, or both, or a civil penalty of up to \$25,000 for each violation.

## **Identification of Violations**

Violations are identified by two primary means: Observations by the Conservation Agent or Commission members (primarily existing or impending projects) and citizens (existing, impending, or unidentified projects). Reports of violations from neighbors and other citizens are considered confidential. Conservation members and staff may not reveal, unless legally compelled to do so, the source of any report of possible violations. When perceived violations are reported to a Commission member or staff, the Conservation Agent will determine whether a violation exists, and issue a Violation Notice as necessary. The Agent may consult with the Chairperson and other members at this stage, but if time or other constraints exist, may proceed based on his or her best judgment.

## **Violation Notices**

If the Agent confirms or strongly suspects a Violation, a Violation Notice will be issued. Violation Notices will direct the property owners and contractors to (1) stop work; (2) identify Resource Areas or Buffer Zones on or adjacent to the site; (3) install erosion controls as necessary; and (4) meet with the Commission or its Agent to address the Violation(s). If a wetland line has been previously approved by the Commission, its location will be the basis for evaluation of the Violation. If a wetland line has not been established or approved by the Commission, then the Violation Notice may require the owner, developer, and/or contractor to employ an approved wetland scientist to identify wetland resource areas with flagging within a time frame not longer than one week from the date of the Violation Notice.

The Commission, in consultation with the Agent, will consider the following aspects of the violation:

Value of the wetlands resource area; Severity and permanency of the damage; Immediacy of the harm; Cost of restoration; Feasibility of restoration; Potential legal outcomes; and Potential financial burden to the Town of Norwell.

Based upon that review, the Commission and Agent will work with the owner, developer, and contractors to correct the Violation and may direct the owner, developer, and contractors to file an after-the-fact Notice of Intent and/or issue a Violation Notice.

As noted above, pursuant to the Town of Norwell bylaw § 61-12, and in accordance with M.G.L. c. 131 §40, the Commission will seek and impose penalties, administrative orders, and civil and criminal court actions as necessary and appropriate.

## **Enforcement Orders**

Enforcement Orders will be issued by the Commission when there is a serious Violation which requires an approved plan to correct and/or a Violator is not cooperating to correct the Violation. Enforcement Orders list the conditions that the owner, developer, and contractors must meet to resolve the Violation. No work will continue on the project until the conditions of the Enforcement Order have been met. A copy of the Enforcement Order will be sent to other Town Boards. Again, the Commission will seek and impose penalties, administrative orders, and civil and criminal court actions as necessary and appropriate.

## **Recording**

All Violation Notices, Enforcement Orders, and penalties issued will be maintained by the Commission and its staff, including the names and addresses of the owner, developer, and contractor.