



TOWN OF WAYLAND  
MASSACHUSETTS  
01778  
**CONSERVATION COMMISSION**

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**Wetlands and Water Resources Bylaw Chapter 194  
RULES AND REGULATIONS**

Adopted February 12, 2004

Revised 6/05/08, 5/28/2010, and June 12, 2014

**The following are some general requirements and definitions that the Wayland Conservation Commission uses in evaluating any project subject to their jurisdiction. The purpose of listing the general requirements of the Commission is to inform an applicant and others of the requirements that are used in reviewing a project, approving a project, and approving a project's completion.**

These rules and regulations have been adopted as part of Wayland's Wetlands and Water Resources Bylaw in accordance with Chapter 194, Section 194-7.

*Please note that these rules and regulations may or may not be specifically discussed during a hearing or public meeting. However, they are reflected, as applicable, in decisions made by the Conservation Commission. If there is any question about the following, applicants are advised to seek clarification of a requirement prior to their public hearing as it may affect the project being presented to the Commission at the time of the hearing or public meeting.*

Further the purpose of these regulations relating to work in the floodplain is to carry out the purposes of the National Flood Insurance Program so as to enable interested persons to purchase insurance against loss resulting from physical damage to, or loss of, real property, or personal property related thereto, arising from a flood.

**A: RULES AND REGULATIONS:  
PRIOR TO STARTING WORK**

**1. Exploratory work, temporary in nature:**

Limited soil sampling and other tests may be conducted in the buffer zone, beyond 50 feet from the wetland line, **provided a written notice of this activity has been filed with the Conservation Commission** and a site inspection has been conducted by the Commission and/or staff. The property owner agreeing to the testing/sampling must sign this notice.

This exploratory work is permitted when such work shall be followed by a formal application before any further activity of a less temporary nature is conducted in the buffer zone. Furthermore, sediment and erosion controls shall be used during the temporary exploratory work.

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Failure to meet these conditions shall be deemed a violation of Chapter 194 subject to applicable penalties.

No activity, however temporary or exploratory in nature, is permitted in potential resource areas (i.e. vernal pools, land subject to flooding and inundation) without first obtaining formal approval from the Conservation Commission.

## **2. Submission of Applications:**

**Abutter Notification:** A list of all abutters, within 100 feet of the property/ies, must be submitted with the application. The Conservation Commission may require mailing labels for abutters list of more than thirty abutters.

**Application Documentation:** Subject to the requirements specified in the checklist an applicant may submit a similar set of supporting documentation, with references, for an application (Notice of Intent) filed pursuant to the Wetlands Protection Act – MGL Chapter 131, Section 40. However, the requirements for submission under Chapter 194 are more inclusive.

**Application Form:** The Conservation Commission has a separate application form that must be filed for an activity or action under Chapter 194. A copy of the application form is available in electronic format, in the Conservation Department’s portion of the Town of Wayland’s web site as well as, available from the Conservation Office. **The application must be signed by the owner/s, or power of attorney, of the property/ies upon which an activity is proposed or a resource area has been defined.**

**Fees:** A separate fee schedule will be promulgated and adopted by the Conservation Commission.

**Consultant Fees:** Consulting fees may be required by the Conservation Commission for applications and activities in which the Commission seeks additional technical support according to the Rules contained within these regulations. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment shall be cause for the Commission to deny the permit application. See “Rules for Engaging A Consultant” included in this document.

**Performance Guarantees:** The Conservation Commission will seek a performance guarantee for projects. The amount will be based upon the nature of the work, impact to resource areas, other similar projects, project size, and related factors. The performance guarantee may be cash, a bond, or a letter of credit. The amount of the bond is based upon an estimate of the value of the work being done within the areas subject to regulation by the Conservation Commission, the importance of compliance with the conditions imposed, and the impact of that a lack of compliance may have to the resource areas protected by the Bylaw. The Conservation Commission will seek forfeiture of a performance bond, either all or in part, only after providing formal notice to the applicant/bonding party and holding a public meeting to formally vote on the matter, unless said forfeiture has been defined in the Chapter 194 Permit. The Commission may adopt a condition defining forfeiture of all or part of a performance guarantee for a failure to meet certain conditions in individual Chapter 194 Permits.

**Resource Area Delineations:** Applications for Notices of Resource Area Delineation (ANRAD) are encouraged to be submitted **between the months of May and October** and shall not be finalized between the months of November through April of any given year.

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**Submission of material to the Conservation Commission:** Any material intended to be presented to the Conservation Commission for a meeting shall be submitted to the Conservation office **no fewer than six business days before the scheduled Commission meeting** and with no fewer than one original and eight copies. The Staff will do distribution of the material.

Submission of material for a project having either a Town of Wayland Determination number (D-XXX) or a Department of Environmental Protection Number (DEP 322-XXX) must include that file number with the submittal in addition to having the required number of copies.

**Submission of material at a Conservation Commission meeting:** Any material submitted to the Conservation Commission during a meeting shall be submitted the following day to the Conservation office with a cover memo and will be date stamped on the day it is provided to the office. A hearing at which new material is presented may be continued at the Commission's discretion.

### **3. Items to Consider, Where Applicable:**

**Best Management Practice (BMP):** If applicable, the type of BMP, (see Definitions), to be used must be clearly defined and must be identifiable in a technical manual. The technical manual the Conservation Commission shall refer to is entitled "***DEP Stormwater Technical Handbook, March 1997***" and the ***Massachusetts Stormwater Handbook adopted February 2008 as applicable***. Any other technical publication used to designate a BMP must be clearly referenced and available to the Conservation Commission. *A stormwater analysis shall be done both in a narrative format and a table that names each BMP being used and what performance (% solids removed or other treatment credit being sought) is being attributed to each BMP. The Commission seeks not less than 80% total suspended solids removal as one performance criterion of a BMP. The effectiveness of each BMP for the removal of soluble pollutants shall also be assessed.*

**Base Flood Elevation Data.** *Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.*

**Compensatory Flood Storage:** If required by the Commission, compensatory flood storage must be provided in an area that is not currently within the flood plain or land subject to flooding and inundation, and must be at the same elevation, equal in volume, calculated at one foot intervals to the volume of land filled, as well as equal to the total area of flood plain or land subject to flooding and inundation filled. Compensatory flood storage is at a ratio of 1:1 or greater at each 1-foot interval.

**Land subject to flooding and inundations:** These are areas where there is sufficient change in topography to contain no fewer than 250 cubic feet of water (500 square foot area with at least 6 inches of storage) at least once during a year. Sufficient topographical information must be provided, at no fewer than one half-foot elevation and spot grades to demonstrate that an area is capable of holding at least 250 cubic feet of water. Chapter 194 contains the manner in which the total area of land subject to flooding and inundation shall be calculated. As stated in Chapter 194, land subject to flooding and inundation may have more than one of the characteristics listed, however it is not required.

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**NOTIFICATION OF WATERCOURSE ALTERATION**

In a riverine situation, **the Conservation Commission or their agent** shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

**Runoff Calculations:** Calculations for runoff shall use a 1-inch rainfall, a 10-year storm event, and a 100-year storm event (no fewer than 7 inches of rainfall in a 24 hour period or greater), and shall include changes in both the rate and volume of runoff pre and post construction. *Four copies of these calculations must be submitted with the application.* The Conservation Commission does not permit an increase in the rate or volume of runoff for frequent storm events (0.5" rainfall, 1" rainfall, 2-year storm event), and requires no increase in volume for the 10-year, 25-year storm events, and generally no increase for the 100-year storm events. An application must clearly define how rates and volumes are being mitigated. This is best achieved with a narrative submitted that describes the calculations done to create the evaluation, the assumptions made, the watershed areas pre and post development, and where, if an increase in volume has been proposed, that increase will occur. *Rainfall data must consider the Cornell Study, TR-40, and other sources of rainfall to justify the amount used for each storm event.* [Cornell University, Northeast Regional Climate Center. September 1993. Atlas of Precipitation Extremes for the Northeastern United States and Southeastern Canada Publication RR 93-5]

**Stormwater Pollution Prevention Plan (SPPP):** A SPPP plan shall be required for all construction projects involving the disturbance of soil, grading, and movement of earth seeking a permit pursuant to Chapter 194. Projects involving fewer than 10,000 square feet of disturbance may submit a soil and erosion plan only. A Stormwater Pollution Prevention Plan is a document and/or plan, which is consistent with NPDES that describes the measures to be implemented during construction to contain sediments and erosion. All approved projects will be required to clearly define the responsible person who shall be charged with daily inspections of the sediment and erosion control barriers.

Any SPPP plan provided shall include, but not be limited to, the following items:

- *Considerations must be given to phasing site disturbances to minimize the impact of disturbed soils and exposed slope;*
- A construction schedule that includes installation of sediment barriers, clearing, and grubbing of the site;
- The measures for temporary and permanent erosion controls in areas graded;

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- Additional measures to be employed to prevent erosion on graded slopes;
- The location of any temporary sedimentation basin;
- Information on dewatering practices to be used;
- A blank log to note the time of and person making the daily inspections of the sediment barriers.

If the site is more than one acre a Permit may also be required from the DEP/EPA under the National Pollution Discharge Elimination System (NPDES) included in the Federal Clean Water Act.

**Snow Management Plan:** This plan may be part of the overall Operation and Maintenance Plan and is a plan or document that addresses how snow plowing, stockpiling, and other cold weather activities will be conducted on a site with particular attention given to avoiding any potential impact to sensitive resource areas. *The Snow Management Plan shall clearly identify responsible parties during construction and for the long-term management of a property.*

**Stormwater Management Plan (SMP):** The Wayland Storm Water Management Plan is designed to reduce the discharge of pollutants from the municipal separate storm sewer systems (Ms4) to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act.

**Stormwater Pollution Prevention Plan (SWPPP):** A site specific document that identifies potential sources of stormwater pollution at a construction site, describes specific practices to be used to reduce pollutants in stormwater discharges from the construction site (Reduction of pollutants is often achieved by controlling the volume of stormwater runoff (e.g. taking steps to allow stormwater to infiltrate into the soil).), and identifies the procedures that the applicant, or person to be assigned this responsibility, will implement to comply with the terms and conditions of a construction general permit or construction permit, as applicable. [Adapted from US EPA “Developing Your Stormwater Pollution Prevention Plan”, dated May 2007.]

**Operation and Maintenance Plan:** A plan that outlines the regular inspection and cleaning schedule needed to keep a BMP in good repair and operating efficiently. An O&M Plan is a critical component to the success of either a stormwater runoff control BMP or a pollution prevention plan required under the NPDES program. The Operation and Maintenance Plan shall clearly identify responsible parties during construction and for the long-term management of a property.

**Landscaping/Planting:** Invasive species (see “Definitions”) are not permitted. Native species (See “Definitions”) are generally required. Cultivars may be used as a substitute when documentation is provided that native species are not available. A list of invasive species is available upon request. Guides to invasive species are also listed on the Town of Wayland’s web page under the Conservation Department ([www.wayland.ma.us](http://www.wayland.ma.us)).

**Lawn Irrigation, Sprinklers and Underground watering systems:** No irrigation systems will be permitted for new projects within the 100-foot buffer zone of a wetland and riverfront area. Existing irrigation systems cannot be expanded to within 50 feet of a wetland, are discouraged elsewhere and must comply with all other applicable bylaws.

**Vegetated Areas Adjacent to Wetlands:** A vegetated buffer (i.e. not mowed) of 15 feet for additions and existing dwellings must be kept and/or restored as undisturbed. Variable width may be considered with clear statement of net increase of resource area protection and overall area equal to or greater than the guidelines. For new construction a vegetated buffer of no fewer than

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30 feet *with permanent demarcation* is required. Slopes, existing vegetation, and soils all may result in the request for an increased buffer. **These areas shall consist of plants that require little or no maintenance and is not mowed more than once a year. Plants shall include both native shrubs and trees and shall not include the planting of any invasive plant species (see “Definitions”). This area may also be referred to as an undisturbed buffer, vegetated buffer, or no-disturb zone and permanent demarcation (i.e. boulders, fences, walls etc.) of the limit of lawn is required.**

**Riverfront Area:** An application seeking to work within 200 feet of a perennial stream, i.e. the riverfront area shall include an alternatives analysis. The alternatives analysis for new development must include the date the lot was created and an evaluation of the alternative for development completely outside the riverfront as a base case. New development is for construction of a replacement building (tear down), new building on an existing lot or subdivision covered by this regulation. If there is proposed alteration of riverfront, the alternatives analysis must present incremental development on the lot with increments of not more than 2% and propose not more than 10% alteration to the total riverfront area on the Lot. New subdivisions shall look at alternatives on other properties within the Town and shall not propose more than 4% alteration to the total riverfront area on the developed lots in the subdivision. The application shall also provide clear delineation of other resource areas, the wetland buffer zone and first 100 feet of the riverfront area. Generally the Commission will not permit any work within the first 100 feet of riverfront area for new construction. For lots with existing structures the Commission will consider, but may not approve, work within the first 100 feet of riverfront area provided there is a decrease in total impervious surface on the lot, there is an improvement to the riverfront area proposed as part of the application such as, but not limited to revegetation of previously altered riverfront area, and there is mitigation of further impacts by some form of a permanent restriction on future development of the riverfront area. Applications will be considered more favorable if permanent limitations on development of the riverfront area are provided through a deed restriction or conservation restriction.

**Streams:** The Commission shall presume a stream is perennial along its entire length, i.e. it flows throughout the year as the result of surface water runoff and/or groundwater discharge unless evidence has been provided to show that the stream does not flow throughout the year. Evidence to demonstrate the absence of flow must include, but may not be limited to, observations of the stream without water for not less than five (5) consecutive days. Such evidence must include photographs with third party documentation of the date the photo was taken (e.g., newspaper) or equivalent methodology pre-approved by the Commission. Because of the interaction with groundwater, perennial streams may be discontinuous along their length and evidence of the absence of flow must be at points not less than 200 feet apart along the length of the stream being evaluated. Evidence must also be supported with a report of average rainfall data for at least three months prior to the dated observations and the rainfall data during the period of the observations. The location of water withdrawal wells for potable or irrigation use within 0.5 mile must be identified and when present the presumption that the well(s) have caused the absence of flow must be overcome by the applicant. Any upstream impoundments or ponds with control structures must be identified and when present the presumption that the control structure(s) have caused the absence of flow must be overcome by the applicant.

**Wetlands Replication/Restoration:** Any replication/restoration of wetlands shall be at a ratio of not less than 1.5:1 Replication/Wetland Filled. ***The Conservation Commission discourages filling of wetlands and alternatives should be fully explored and reported to the Conservation Commission with any application that includes a request to fill or replicate a wetland.***

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Alternatives shall include looking at other similar lots where filling would not be required, reducing or reconfiguring the proposed project, and other means to avoid filling of wetlands. The failure to provide evidence of examining alternatives shall be deemed an incomplete application.

**B: RULES AND REGULATIONS:**  
**DURING WORK**

**1. Items to Consider:**

**Changes in Previously Approved Plans:** The Conservation Commission **must review any changes in plans** before they are implemented. Failure to report, *in writing*, any changes in the scope of a project or in the plan prior to implementation may result in the imposition of penalties as permitted by Chapter 194.

**Site Inspections:** A site inspection by a professional engineer may be required for any project where grading or drainage is proposed. Multiple site inspections may be required for work that is expected to be more than a month in duration.

**Written Notice to the Conservation Commission:** E-mail (electronic mail) is not considered written notice to the Commission.

**C: RULES AND REGULATIONS:**  
**WORK COMPLETION**

**1. Conservation Commission Conditions:**

**Standard Conditions:** The Conservation Commission has some standard conditions that are contained in almost all Orders of Conditions. These are noted on the Certificate of Compliance as continuing conditions. These conditions include, but may not be limited to, the following:

- No debris, refuse or other materials, including but not limited to landscaping debris, leaves, shrubs and tree trimmings, logs, bricks, stone or trash shall be deposited within the vegetated wetland or within 50 feet of the vegetated wetland and/or riverfront area.
- No de-icing chemicals shall be used on any paved surface located within the 100-foot buffer zone and/or riverfront area, except with the prior written permission of the Commission.
- No pesticides, herbicides or insecticides shall be used on the lawns or grounds located within the 100-foot buffer zone and/or riverfront area, except with the prior written permission of the Commission.
- No sprinklers within the buffer zone for new construction or within 50 feet of the wetlands and/or riverfront area, for existing structures.
- Consulting fees may be required by the Conservation Commission for applications and activities in which the Commission seeks additional technical support according to the Rules contained within these regulations.

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- Performance guarantee. The Commission will impose a performance guarantee on most work permitted under Chapter 194. The purpose of the performance guarantee is to assure compliance with the conditions imposed including, but not limited to, required site inspections by a professional (specified in the decision). This performance guarantee will not be returned if the conditions imposed have not been met.
- One or more times, as specified in the Order, the applicant shall have a site inspection (performed during work hours at the site) by a Registered Professional Engineer, to determine if all work is being performed in compliance with this Order of Conditions. After the inspection, the applicant shall submit a written report to the Conservation Commission, from the Registered Professional Engineer certifying that, to the best of his/her knowledge and belief based upon the site inspection, the work is being done in compliance with this Order of Conditions. If the work is not in compliance, he/she will note where a deviation/s from the Order occurred and what corrective action/s is required.
- A status report must be submitted to the Conservation Commission *6 months prior* to the expiration of the Order of Conditions.

## **2. Certificates of Compliance:**

**Requests for Certificates of Compliance:** An affidavit or correspondence prepared by a professional containing the phrase “in substantial compliance” without some detailed explanation of discrepancies **will not be accepted** as part of the required documentation for a Certificate of Compliance.

**Issuance of a Certificate of Compliance:** The Commission may elect to issue a “Partial Certificate of Compliance” for an Order of Conditions that has conditions that are intended to survive the work permitted by the Order.

## **3. Wetlands Replication and/or Restoration:**

**Wetlands Monitoring:** Wetlands monitoring may be required for three or more growing seasons after the initial planting of the wetland has been done. If planting is done in September or October that shall not constitute a growing season (see “Definitions”).

**Wetlands Success:** The Commission may require higher standards of wetlands plant growth (greater than 75%). Invasive plant species (see “Definitions”) may not be counted towards plant density and must be removed from a wetlands replication area or wetlands restoration area.

## **4. Enforcement Orders:**

**Enforcement Orders:** The Conservation Commission may issue an Enforcement Order for a violation of Chapter 194. The Commission may elect, pursuant to Chapter 194 and the Wetlands Protection Act (Massachusetts General Laws Chapter 131, Section 40) to issue a notarized copy of an Enforcement Order to be filed at the Middlesex South Registry of Deeds.

## **5. Work in the Floodplain:**

All encroachments, including fill, new construction, substantial improvements to existing structures and other development, are prohibited, unless certification by a registered professional



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engineer or architect is provided by the applicant for a Wetlands and Water Resources Bylaw permit and/or building for any such encroachment within the floodway demonstrating that such encroachment shall not result in an increase in flood levels during the occurrence of the one-hundred-year flood by providing compensatory flood storage as required by these regulations.

Within Zone A, as shown on the Flood Insurance Rate Map (FIRM), where the base flood elevation is not provided on the FIRM, each applicant for a building permit for any building and/or structure lying within Zone A, upon approval of said work by the Conservation Commission shall obtain any existing base flood elevation data, and it shall be reviewed by the Building Commissioner for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the most recent edition of the Massachusetts State Building Code.

## **DEFINITIONS**

**Best Management Practice (BMP):** Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and non-point source pollution, and promote stormwater quality and protection of the environment. BMP should include the use of Low Impact Development (LID) strategies and techniques. When a LID is used the design source shall be cited in the application.

- Structural BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff.
- Nonstructural BMPs (including LIDs) use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

**Cultivar:** A plant originating and persisting through cultivation.

**Federal Flood Protection District:**

A Federal Flood Plain Protection District, defined as the one-hundred year floodplain, within the Town of Wayland is designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Wayland are panel numbers 25017C0369F, 25017C0386F, 25017C0388F, 25017C0389F, 25017C0507F, 25017C0509F, 25017C0517F, 25017C0526F, 25017C0527F, 25017C0528F, 25017C0529F, and 25017C0536F dated July 7, 2014. The exact boundaries of the District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated July 7, 2014. Said FIRM and FIS report are incorporated herein by reference and are on file in the office of the Town Surveyor.

The purpose of these regulation is to carry out the purposes of the National Flood Insurance Program so as to enable interested persons to purchase insurance against loss resulting from physical damage to, or loss of, real property, or personal property related thereto, arising from a flood.

**Growing Season:** A growing season is considered April through October of any given year.

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If planting is done after September 1 of a year that year will not be considered or counted as a year of the growing season.

**Invasive Plant Species**: Invasive plant species are plants that have spread into native or minimally managed plant systems in Massachusetts and cause economic or environmental harm to the native plant species. Some common invasive plants species are: Asian or Asiatic bittersweet, oriental bittersweet (*Celastrus orbiculatus*), European or glossy buckthorn (*Frangula alnus*), garlic mustard (*alliaria officinalis*), purple loosestrife (*Lythrum salicaria*), Eurasian or European water milfoil (*Myrophyllum spicatum*), common reed (*Phragmites australis*), Japanese knotweed (*Polygonum cuspidatum*), and Norway Maple (*Acer platanoides*). An invasive plant species list is maintained in the Conservation office and links are listed on the Town's web page, [www.wayland.ma.us](http://www.wayland.ma.us) under "Conservation".

**Native Plants (Plant Species)**: Native plants are those species that were historically indigenous to the Town. References of native plant species include The Vascular Plants of Massachusetts: A County Checklist by Bruce A. Sorrie and Paul Somer, Massachusetts Division of Fisheries and Wildlife, Natural Heritage & Endangered Species Program. The Commission maintains additional links and information on native species. Wetlands replications, no-disturb zones, and/or vegetated buffers must be planted with native plant species. The Commission may consider a cultivar in some instances.

**Stormwater**: Stormwater is water that falls on surfaces, flows across the surface, and may or may not enter into the drainage system. Stormwater may be from runoff, snowmelt runoff, and surface water runoff and drainage.

**Wetlands Replication**: The process of attempting to create a new wetland, including the functions, to replace one that has been permanently altered, including the functions of the wetland that has been lost. Such an activity may include, but not be limited to, excavating, grading, adding organic soils, and wetlands plants. The Conservation Commission requires a ratio of not less than 1.5 to 1 replication to wetlands altered.

**Wetlands Restoration**: The effort to return an existing wetland that has been impacted in some manner to its original condition including the functions of the system that were disturbed. The Commission will seek more wetlands to be restored than impacted.

## **RULES FOR ENGAGING A CONSULTANT**

As provided by GL Ch. 44 § 53G, the Wayland 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 in order to reach a final decision on an application submitted to the Conservation Commission pursuant to the requirements of the Wetlands Protection Act (GL Ch. 131 § 40) and/or the Wayland Wetlands and Water Resources Bylaw Chapter 194, the Conservation Commission Act (GL Ch. 40 § 8C), or any other state or municipal statute, bylaw [ordinance] or regulation, which may be amended or enacted from time to time.

Funds received by the Conservation Commission pursuant to these rules shall be deposited with the Wayland Town Treasurer 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 GL Ch. 44 §53G. Expenditures from this account shall be

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made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.

Specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, hydrogeologic 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 Administrator.

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 estimated 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.

The totaled estimated fee must be received in their 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 ten (10) business days of the request for payment shall be cause to deny the application. 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. Any remaining balance shall be returned to the applicant.

The applicant may appeal the selection of the outside consultant to the Board of Selectmen, who 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 Board of Selectmen and a copy received by the Conservation Commission, so as to be received within ten (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.

## **CHAPTER 194 APPLICATION SUBMISSION REQUIREMENTS**

- CHECKLIST- Obtain current copy from Conservation office.  
Applicant must submit signed statement listing waivers being requested. The waiver is intended, in part, as a statement that the applicant has read the submission requirements under Chapter 194.
- The Conservation Commission may deny an incomplete applicant.