

**IPSWICH WETLANDS PROTECTION BY-LAW  
RULES AND REGULATIONS**

Adopted April 29, 1992

Amended July 9, 1997, January 31, 2001, January 1, 2007, August 11, 2010, February 17, 2016,  
March 1, 2017, and January 17, 2018

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## INTRODUCTION

- A. These regulations are hereby adopted by the Ipswich Conservation Commission to set performance standards for work which will take place within areas of Commission jurisdiction established under Section 2 of the Ipswich Wetlands Protection By-Law, at Ipswich General Bylaws Chapter XVIII, as amended (hereafter the “Wetlands By-Law”). These Regulations are also promulgated to ensure fairness, to create a uniformity of process and to clarify and define the provisions of the Bylaw, administered by the Ipswich Conservation Commission, hereafter called the "Commission" or “ICC”. Finally, these Regulations set guidelines for submission of applications and the Commission’s review of proposed activities within its jurisdiction, as established by Section 2 of the Wetlands By-Law which include, but may not be limited to, the 100-foot buffer zone to inland or coastal wetlands, the 150 foot buffer zone of the Great Marsh Area of Critical Environmental Concern (“ACEC”), and the 200’ Riverfront Area to perennial streams and rivers.
- B. The intent of the Wetlands By-Law and these Regulations is to supplement the review of projects under the regulations promulgated under the Massachusetts Wetlands Protection Act (“the Act” or “WPA”). The Massachusetts Protection Act Regulations are intended to contribute to the protection of following interests:
- protection of public and private water supply
  - protection of ground water supply
  - flood control
  - storm damage prevention
  - prevention of pollution
  - protection of land containing shellfish
  - protection of fisheries
  - protection of wildlife habitat
- C. The Bylaw identifies one additional public interest not recognized by the Act: "erosion and sedimentation control ". Any permit issued under the Bylaw and Regulations must therefore not adversely affect this additional public interest. Anyone wishing to perform an activity within a wetlands resource area, as defined by the Bylaw, should consult with the Commission or its Agent for clarification if such activity requires a permit or other decision from the Commission.
- D. Fees for processing applications have been established by the Commission and are outlined in Section 9 of these Regulations. Fees for technical review are in addition to application fees in accordance with Section 4 of the Wetlands By-Law. A fee for technical review shall be assessed by the Commission only when it determines during a public hearing on a Notice of Intent (or amendment thereof), a Violation Notice, or an Enforcement Order that such a fee is necessary to provide the Commission with essential technical assistance in evaluating and taking timely action on the matter before it; that the fee assessed is reasonable and proper; and when the party against whom the fee is assessed has been afforded a reasonable opportunity before the Commission to challenge the need for and/or amount of the fee and to offer an alternative resolution. When such a fee has been assessed, further consideration of the project shall be tolled pending receipt by the Commission of good and sufficient funds to cover the assessment. Unanticipated circumstances may require the Commission to impose one or more additional fees in the same manner as above. All such funds shall be deposited with the Town

Treasurer in a special dedicated account. At the conclusion of the matter, any unspent balance of the fee(s) for technical assistance collected shall be returned to the payee, without interest thereon.

The Regulations adopted below represent the terms and requirements for complying with the Wetlands By-Law.

## **SECTION 1. AUTHORITY**

These Rules and Regulations (hereafter “Regulations”) have been adopted by the Ipswich Conservation Commission, hereinafter called the Commission, pursuant to Section 14 of Chapter 224 of the General Bylaws of the Town of Ipswich, as amended, known as the Wetlands Protection By-Law, hereafter called the Wetlands By-Law, and pursuant to Chapter 193 of the General Bylaws of the Town of Ipswich, known as the Stormwater Management Bylaw.

## **SECTION 2. SUBMISSION STANDARDS AND STANDARD OF REVIEW**

### **Preamble.**

A primary purpose of the August 11, 2010 amendment to these Town of Ipswich Wetlands Protection By-Law Rules and Regulations is to incorporate the provisions of the Massachusetts Stormwater Management Standards (set forth in the Massachusetts Stormwater Management Handbook), and also of the Ipswich Stormwater Management Bylaw; and to establish and maintain consistency with the Ipswich Stormwater Regulations for the issuance of local Stormwater Management Permits as adopted by the Ipswich Board of Selectmen and administered by the Ipswich Department of Public Works.

A primary purpose of the February 17, 2016 amendments to these Town of Ipswich Wetlands Protection By-Law Rules and Regulations is to improve consistency between the Town of Ipswich Wetlands Protection By-Law, as amended at the October 2015 Special Town Meeting, and these By-Law Rules and Regulations. A secondary purpose of the February 17, 2016, 2016 amendments to these Town of Ipswich Wetlands Protection By-Law Rules and Regulations is to create a Small Projects Permit category, in lieu of the State of Massachusetts “Minor Projects Exemptions” at 310 CMR 10.02(2)(b)(2).

Forms required by the Wetlands By-Law shall be the same as those required by Massachusetts General Laws Chapter 131, §40 and 310 CMR 10.00, as amended, so that no separate submission is necessary to comply with the Wetlands By-Law.

However, inadvertent or other failure to so reference the filing does not void the applicability of the Wetlands By-Law to that filing, the applicability of which only the Commission may decide. Some local may be subject only to the provisions of the Wetlands By-Law and not to the Wetlands Protection Act. Filings in such instances shall so note that limitation.

The following submission requirements are intended to minimize redesign and maximize efficiency in project review and reduce delay in the permitting process by providing applicants and their consultants with the information necessary to address the concerns of the Wetlands By-Law.

In addition to and in conformance with the requirements of 310 CMR 10.00 and these Wetlands By-Law regulation requirements, all submissions shall be concurrently filed with the Commission Office in an electronic version that is readable on Conservation Commission office computers and in its email, if emailed.

### **I. Request for a Determination of Applicability (“RDA”)**

The following material shall be submitted with the Request for Determination (WPA Form 1).

- A. An 8 ½ x 11 section of a USGS quadrangle sheet or locus map sufficient to show the location of the affected area, including streets and abutters as shown on the most recent town assessor’s map.
- B. Completed and signed “Mandatory Pre-Filing Checklist for an RDA”.
- C. A sketch or plan showing the proposed work. At a minimum, the plan/sketch submitted shall clearly and accurately show the present conditions and proposed work and depict the location of water bodies and wetlands, and the distance from the proposed work to the resource area. All plans must be signed/dated by the person who prepared them.

The Request for Determination of Applicability is not applicable to the verification of the delineation of a wetland resource area(s), for longer or complex wetland/resource delineation lines. For very small projects, the Applicant in any RDA must indicate the wetlands location with a scaled distance from nearest project proposal point on the RDA plan of submission. For longer or more complex delineations, the Applicant shall use the State law Abbreviated Notice of Resource Area Delineation (“ANRAD”) for delineation purposes. [Note: Any form of Notice of Intent may be submitted with a proposed delineation within its context, without the need for any separate ANRAD filing, except as noted below.]

### **II. Request for an Abbreviated Notice of Resource Area Delineation (“ANRAD”)**

- A. To minimize the potential design revisions of a project, the Commission requires that applicants file an ANRAD in order for the Commission to confirm and establish the delineation of the wetlands resource area prior to the filing of a Notice of Intent for the following categories of projects:
  - 1. All commercial subdivisions or developments.
  - 2. All residential subdivisions.
- B. To minimize the potential design revisions of a project, the Commission recommends that applicants file an ANRAD in order for the Commission to confirm and establish the delineation of the wetlands resource area prior to the filing of a Notice of Intent for the following categories of projects:
  - 1. Development of a new single family house lot when there is a proposed alteration or disturbance of 50% or more of the Buffer Zone.
  - 2. Development of a new single family house lot when 50% or more of the work is proposed to be in the Buffer Zone.
  - 3. Projects involving wetland crossings and wetland filling.

C. An ANRAD request shall be prepared by a professional botanist, wetland scientist or other qualified preparer and accompanied by a field surveyed plan prepared by a registered land surveyor or professional engineer of the Commonwealth of Massachusetts, containing the following information:

1. Property boundaries and existing topographic features and elevations of the project site.
2. The delineated boundary of the resource area(s) with flag numbers and elevations extending off the project site.
3. Location(s) of transects and soil sample sites
4. Location(s) of sample plot sites referenced on the field data sheets which may be required with the filing at the discretion of the Commission or the Agent.
5. The name of the preparer and date of the delineation.
6. The location of any soil sample sites and vegetation plot sites shall be staked or flagged in the field. The Applicant shall ensure that all delineation flags are physically present in the field at the time of the ANRAD submission.
7. The ANRAD shall also include the preparer's report of the delineation. If required by the Commission or its Agent, field data sheets shall be prepared and submitted in accordance with 310 CMR 10.55 (DEP Bordering Vegetated Wetland Delineation Form)."

C. In addition to the above plan, an ANRAD request shall also include the following:

1. A completed and signed "Mandatory Pre-Filing Checklist for an NOI, ANOI and ANRAD";
2. WPA Form 4A;
3. Abutters list certified by the Ipswich Assessors Office, Notification to Abutters, and Affidavit of Service forms pursuant to M.G.L Chapter 131, §40 and 310 CMR 10.05(4)(a) as amended, together with copies of "Receipt for Certified Mail" or "Return Receipt Cards," or "Certificate of Mailing".

### **III. Notice of Intent (Long ("NOI") and Abbreviated ("ANOI") Forms)**

A. The following material shall be submitted with the Notice of Intent.

1. Completed and signed "Mandatory Pre-Filing Checklist for an NOI, ANOI and ANRAD".
2. Form WPA 3 or 4.
3. For all projects subject to state or local stormwater management standards, a runoff plan and calculations showing the pre- and post-development runoff conditions for comparative purposes. Runoff calculations shall be prepared for the 1 year, 2 year, 10 year, and 100 year storm frequencies for all activities which impact wetland resource areas and land subject to flooding. Drainage calculations shall be prepared by utilizing the "Extreme Precipitation in New York & New England" [<http://www.precip.net>], developed by Northeast Climate Research Center at Cornell University or other method approved by the Commission. Stormwater control designs shall conform to the stormwater management standards

established by the Mass. Department of Environmental Protection (“MADEP”). See 310 CMR 10.02-10.05, 314 CMR 9.00 as well as Section V.E of these regulations.

4. A list of pesticides, herbicides, non-aqueous dust controls, or other chemical products to be applied to areas covered by the Notice of Intent. If the chemical products have MSDS sheets, copies shall be supplied to the Commission.
5. Water quality classifications of rivers and streams that are adjacent to, or have the potential to be impacted by the project, if requested by the Commission.
6. Abutters list certified by the Ipswich Assessors Office, Notification to Abutters, and Affidavit of Service forms pursuant to M.G.L Chapter 131, §40 and 310 CMR 10.05(4)(a) as amended, together with copies of “Receipt for Certified Mail” or “Return Receipt Cards,” or “Certificate of Mailing”.
7. A site plan including the following information/specifications:
  - a. Having a scale of 1” = 20’, or other scale acceptable to the Commission, delineating wetland resource areas including: the No-Disturbance Zone, the No-Build Zone, the 100 foot buffer zone, the 200 foot Riverfront Area, and the 150 foot buffer zone from the ACEC, and all proposed activities within wetland resource areas including Buffer Zones. Existing and proposed contours of the site and existing contours within 50’ around its perimeter shall be shown. The contour interval shall be one foot, except greater in those areas that exceed a 20% grade. Spot elevations shall be included in areas with grades of 2% or less. All elevations shall be based on the same Mean Sea Level Datum (NGVD 1929 or NAVD of 1988) which shall be noted on the plan. An assumed datum may be used for small renovation type projects located neither within the ACEC nor the 100 year FEMA flood zone.
  - b. Existing and proposed locations of all drainage structures, including foundation and roof drains, with rim and invert elevations, cross-sections and profiles of all proposed drain lines and culverts.
  - c. Lowest elevations for cellars, foundations, septic systems, leaching galleries and groundwater recharge systems (if within the jurisdiction of the Commission pursuant to the Wetlands By-Law).
  - d. Location of water retention/detention areas, swales and French drains with elevations for the bottom, inlet and outlet, spillway and 100 year flood level.
  - e. Observed and estimated maximum ground water elevations shall be obtained at the location of each proposed retention/detention basin, stormwater infiltration structure, and proposed wetland replication area(s). The dates at which the observations were made for detention ponds or retention ponds and the locations of observation pits or wells shall be indicated on the plans. NOTE: No excavation of test pits may take place within an area under the jurisdiction of the Commission, as defined in the Wetlands By-Law, unless the Commission has issued an approval Determination of Applicability or Order of Conditions.
  - f. General soil characteristics of the area as provided by the U.S. Natural Resource Conservation Service (and by hand dug soil observation pits at specified sites if there is

- a dispute as to the existing or former wetland line), or in enforcement cases when there is an attempt to determine the former wetland line, shall be included.
- g. The location of all easements, including but not limited to underground utilities, drainage or trail easements on the site.
  - h. Location(s) of any proposed stockpile(s).
  - i. Location(s) and detail(s) of all proposed erosion and sedimentation controls.
  - j. In the event of a proposed alteration of a water course, cross-sections showing slope, bank and stabilization treatment shall be shown at specified intervals along the affected water course.
- b. The location of any wells or sources of potable water on the site or within 100 feet of any property line.
  - c. Locations of snow storage areas.
  - d. The location of the proximate boundary of the ACEC if applicable (note that the ACEC boundary is found up to elevation 10 feet, NGVD).
  - e. Profile drawings shall be provided for all proposed drainage systems, including retention/detention basins, and for sewer systems if located within the buffer or resource area. Profiles shall be drawn at a horizontal scale of 1"= 20' and a vertical scale of 1" = 4'
  - f. Typical and actual cross section shall be provided for proposed wetlands driveway crossings, retention/detention basins, proposed drainage ditches or swales, and for proposed alterations to existing watercourses. Cross sections shall be drawn at a horizontal and vertical scale of 1" =5' and shall show existing and proposed slopes, banks, fill material, and surface treatment. Cross section intervals shall not exceed 50'.
8. For work in proximity to, and for determination of, Coastal Bank: at least two representative cross sections of slope, prepared in accordance with "Applying the Massachusetts Coastal Wetlands Regulations: A Practical Manual for Conservation Commissions to Protect the Storm Damage Prevention and Flood Control Functions of Coastal Resource" (the so-called Coastal Manual). T Cross section shall be accompanied by the completed Coastal Bank Data Checklist from the Coastal Manual; and the appropriate figure DEP from Policy 92-1.
- B. If the Commission determines that a Notice of Intent is incomplete or improper it may return the entire filing, in which case the time period for processing the deficient Notice of Intent as originally submitted shall no longer be valid; or it may accept the Notice and require additional information be submitted within a specified time period by the Applicant; or it may continue the public hearing with the Applicant's assent for a period to be determined by the Commission and the Applicant.

## **IV. Small Project Permit**

### **A. Intent**

The Commission has established a Small Project Permit to assist applicants deal with specific minor safety and maintenance issues requiring immediate attention, or with smaller projects to complete, while maintaining their obligation to protect the interest of the Ipswich Wetlands Protection Bylaw. This permit does not replace emergency permits issued under Section 7 of these regulations (M.G.L. Ch. 131, sect. 40 and 310 CMR 10.06).

### **B. General Applicability Permitting Procedure**

1. The application for a Small Project Permit may be used only if the proposed activity is outside of the jurisdictional wetland resources areas (Coastal Wetlands, Freshwater Wetlands, Bank, Beach, Dune, Marsh, Swamp, Intermittent or Perennial Stream, River, Land Under Water), and that meet any additional criteria listed in sub-sections C.1 through 19 below, as applicable.
  2. Small Project Permits are valid for 1 year from the date of issuance. These permits may not be amended or extended. Small Project Permits may not be used for work that would require filing an RDA or NOI application, including but not limited to foundations, swimming pools, work resulting in more than 120 sf of additional impervious coverage, involve re-grading by machine or installation of an on-site waste disposal work, or removal of mature tree or shrub root systems.
  3. All requests for a Small Project Permit require a site inspection by the Conservation Agent or Conservation Field Inspector and a fee as noted in Appendix A, and attendance at a public meeting. If it is determined that further approval is necessary under an RDA or NOI, this application fee will be applied to the RDA or NOI application fee. All applications for such permits are due at least 1 week prior to a regularly-scheduled Conservation Commission meeting, and will be reviewed by the Commission at their next available meeting.
  4. Small Project Permit applications shall include:
    - a. An 8 ½ x 11 section of a USGS quadrangle sheet or locus map sufficient to show the location of the affected area.
    - b. A sketch or plan that clearly and accurately show the present conditions and proposed work and depicts the estimated location of water bodies and wetlands, and the distance from the proposed work to the resource area. All plans must be signed/dated by the person who prepared them.
- C. The Small Projects Permit is not applicable to the verification of a wetland resource area(s) delineation.

#### D. Small Project Permit Categories

The proposed activities are limited to the following:

1. Unpaved pedestrian walkways less than 30 inches wide for private use or less than three feet wide for public access on conservation property, provided they are to be located outside of mandatory subzones (as defined in Section 2.VI.C of these regulations);
2. Fencing and stonewalls, provided they will not constitute a barrier to wildlife movement and are located outside of mandatory subzones (as defined in Section 2.VI.C of these regulations);
3. Vista pruning, provided the activity is located more than 50 feet from the mean annual high water line within a Riverfront Area or from Bordering Vegetated Wetland, whichever is farther. Vista pruning is defined as the moderate pruning of shrubs and trees and is limited to removing less than 30% of the existing plant structure to improve a view, and does not include disturbance of the soil. (Pruning of landscaped areas is not subject to jurisdiction under 310 CMR 10.00 or the Bylaw.);
4. Planting by hand of native species of trees, shrubs, or groundcover, but excluding turf lawns;
5. The conversion of up to 120 sq. ft. of lawn to uses accessory to residential structures such as decks, sheds, patios, replacement of a basement bulkhead and the installation of a ramp for compliance with accessibility requirements, provided the activity, including material staging and stockpiling area, is located outside of mandatory subzones (as defined in Section 2.VI.C of these regulations) to the mean annual high-water line to a river or perennial stream within the Riverfront Area, Bank or from Bordering Vegetated Wetland, whichever is farther. NOTE: The conversion of such uses accessory to existing single family houses to lawn is allowed without a Small Project Permit. Mowing of legally-established lawns is not subject to jurisdiction under the Bylaw;
6. Repair or replacement of a lawfully-existing deck (including landings and steps), patio or shed, as long as the size, configuration, and location of the structure does not change;
7. The conversion of impervious to vegetated surfaces, provided erosion and sedimentation controls are implemented during construction;
8. Activities located outside of mandatory subzones (as defined in Section 2.VI.C of these regulations) that are temporary in nature, have negligible impacts, and are necessary for planning and design purposes (*e.g.*, installation of monitoring wells, exploratory borings, and percolation tests for septic systems) provided that resource areas other than Buffer Zones/Riverfront are not crossed for site access and extensive clearing is not required;
9. Installation of directly embedded utility poles and associated anchors, push braces or grounding mats/rods along existing paved or unpaved roadways and public driveways, and their existing maintained shoulders, provided that all work is conducted within ten feet of the road or driveway shoulder with no additional tree clearing or substantial grading within the buffer zone, and provided that all vehicles and machinery are located within the roadway surface during work;

10. Installation of underground utilities (*e.g.*, electric, gas, water) within existing paved or unpaved roadways and driveways, provided that (a) all work is conducted within the limits of the established roadway or driveway, (b) that all trenches are closed at the completion of each workday, (c) that no dewatering is anticipated, and (d) the length of the entire project within Commission jurisdiction shall not exceed 200 feet or is a part of a project for which a Notice of Intent application is also before the Commission. This length restriction shall not apply to any portion of the proposed project that will be advanced by directional drilling or jacking;
11. Installation of underground sewer lines within existing paved or unpaved roadways and driveways, provided that (a) all work is conducted within the limits of the established roadway or driveway, (b) all trenches are closed at the end of completion of each workday, (c) that no dewatering is anticipated, and (d) the length of the project within Commission jurisdiction shall not exceed 200 feet or is a part of a project for which a Notice of Intent application is also before the Commission. This length restriction shall not apply to any portion of the proposed project that will be advanced by directional drilling or jacking;
12. Installation of new equipment within existing or approved electric or gas facilities when such equipment is contained entirely within the developed/disturbed existing fenced yard;
13. Installation of access road gates at public road entrances to existing utility right-of-way access roads, provided that all vehicles and machinery are located within the roadway surface during work;
14. Removal of existing public utility equipment (poles, anchors, lines) along existing or approved roadways or within existing or approved electric, water or gas facilities, provided that all vehicles and machinery are located within the roadway surface during work;
15. Vegetation cutting for road safety maintenance, limited to the following:
  - a. Removal of diseased or damaged trees or branches that pose an immediate and substantial threat to driver safety from falling into the roadway;
  - b. Removal of shrubbery or branches to maintain clear guardrails; such removal shall extend no further than six feet from the rear of the guardrail;
  - c. Removal of shrubbery or branches to maintain sight distances at existing intersections; such removal shall be no farther than five feet beyond the "sight triangles" established according to practices set forth in *American Association of State Highway and Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets, 2011*, 6th edition, and such removal is a minimum of ten feet from a resource area, other than Riverfront Area; and
  - d. Removal of shrubbery, branches, or other vegetation required to maintain the visibility of road signs and signals. Cuttings of shrubs and branches from mature trees will be performed with suitable horticultural equipment and methods that do not further damage the trees. To prevent the possible export of invasive plants, cut vegetation should be chipped and evenly spread on site, provided the chips are spread within the permitted work site, and raked to a depth not to exceed three inches, clear of all drainage ways. Alternatively all cuttings and slash shall be removed from the site and properly disposed;

16. Installation, repair, replacement or removal of public signs, signals, sign and signal posts and associated supports, braces, anchors, and foundations along existing paved roadways and their shoulders, provided that work is conducted as far from resource areas as practicable, and is located a minimum of ten feet from resource areas described in the preamble to this section, any excess soil is removed from the project location, and any disturbed soils are stabilized as appropriate;
17. Pavement and sub- grade repair, resurfacing, and reclamation of existing roadways within the right-of-way configuration provided that (a) the roadway and shoulders are not widened, (b) all staging or stockpiling of materials takes place outside of mandatory subzones (as defined in Section 2.VI.C of these regulations), (c) all disturbed road shoulders are stabilized within 72 hours of completion of the resurfacing or reclamation, (d) no work on the drainage system is performed, other than adjustments and/or repairs to respective structures within the roadway, and (e) the area of the project within Commission jurisdiction shall not exceed 5000 sq. ft.;
18. The repair or replacement of an existing and lawfully located driveway provided that all work remains within the existing limits of the driveway, adequate erosion control measures are provided, and all surfaces are permanently stabilized within 14 days of final grade;
19. Removal in a single event of up to 3 trees located outside of mandatory subzones (as defined in Section 2.VI.C of these regulations). NOTE: Removal of trees that are dead or dying *and* dangerous do not require a permit from the Commission, but may approved in advance by the Agent or the Field Inspector after a site visit.

## **V. Waiver of Submission Standards**

The Commission may waive any of the submission standards if, in its opinion, those standards do not apply or are not needed to reach an informed decision. The Commission may issue such a waiver either upon its own cognizance or in response to a written petition by the Applicant, if the Commission finds that such waiver is in the public interest, and is consistent with the intent and purpose of the Wetlands By-Law. Any request for a waiver must be submitted to the Commission in writing and it shall act on the request within 21 days of receipt of all the information necessary to make the waiver decision.

## **VI. Performance Standards and Standards of Review**

**A. Introduction.** When the work which is the subject of the Notice of Intent involves the altering of any area subject to the Wetlands By-Law the potential adverse effects on said area shall be minimized by complying with the performance standards established by 310 CMR 10.00 and these regulations.

1. Projects proposing to alter any wetland resource areas under the jurisdiction of the Wetlands By-Law and suitable for important wildlife habitat may be required to submit a wildlife habitat evaluation describing the alternatives and remediation for any loss of wildlife habitat values. Wildlife habitat evaluation may be required by the Commission for proposed alterations less than the thresholds adopted pursuant to 310 CMR 10.00.

2. The Ipswich Conservation Commission hereby adopts a standard of avoiding alteration of wetland resources whenever feasible. In those instances in which such alteration cannot be avoided, the Commission requires that it should be minimized to the greatest extent feasible by adopting reasonable measures on the site. If an applicant successfully demonstrates that a project cannot proceed without some alteration of wetland resources, the Commission shall require on-site or off-site mitigation. For on-site mitigation replication of at least 1.5 square feet for every 1 square foot of resource area altered is required. For off-site mitigation replication of at least 3:1 square feet for every 1 square foot of resource area altered is required. The 1.5 to 1 and 3 to 1 formulae for replication are based upon the Commission's desire to achieve a "no net loss" of wetlands in the Town of Ipswich. The Commission reserves the right to waive or increase this requirement depending upon the circumstances of the individual permit application. Criteria for approving and monumenting mitigation proposals are included in Section C 1 through 3 below.

## **B. Great Marsh ACEC**

1. The ACEC is an important resource area for fishing, shell fishing, environmental and economic reasons. Activities proposed within 150 feet of this ACEC may impact the resource areas as a result of construction or operations. As a result, certain activities within the buffer zone of 150 feet from the ACEC are regulated. This scope of local regulations is in addition to the state regulations adopted pursuant to the Wetlands Protection Act.
2. The ACEC is shown on the map at the Conservation Office and is further identified as up to elevation 10 NGVD, as defined in the Wetlands By-Law. Any work proposed within the buffer zone of the ACEC requires the filing of a Notice of Intent (long form or abbreviated) or a Request for Determination of Applicability.
3. Projects proposed in the area within the buffer zone of the ACEC shall be required to demonstrate that potential impacts on the ACEC or on the interests protected by the Wetlands By-Law for the proposed project are prevented, minimized or mitigated. The Applicant shall include erosion control measures and other measures to document how potential impacts will be minimized.

## **C. Buffer Zone**

1. Introduction
  - a. Section 2 of the Wetlands By-Law establishes the Commission's jurisdiction over projects in the buffer zone (which is defined as the 100-foot area horizontally (on a true lateral) landward of approved delineation of applicable wetland resource areas and the 150-foot area horizontally (on a true lateral) landward of the ACEC). Land subject to flooding that is NOT a jurisdictional wetland does not have a buffer zone. As defined in Section 2 of the Wetlands By-Law, these buffer zones are protected resource areas and are significant to the protection of the Interests specified in Section 1 of the Wetlands By-Law.

- b. When a proposed activity involves altering the Buffer Zone, the Conservation Commission shall presume that such activity shall have an impact on the adjacent wetland resource area or ACEC. The presumption is rebuttable and may be overcome upon a clear showing that such activity will not impact the adjacent resource area and that the activity can be conditioned to meet the performance standards for the protection of the Interests of the Wetlands By-Law.
- c. In evaluating the effect of activities which are proposed in the buffer zone, the Commission shall review the short-term, long-term, and cumulative effects of the activity on the adjacent resource areas. The Commission reserves the right to regulate the application of pesticides, herbicides, fertilizers and other materials in the buffer zone because of their potential impact upon the resource areas, including nutrient loading and other forms of pollution

## 2. Prohibited Activities

- a. The Commission presumes that the following activities occurring in the 100-foot wetlands or the 150-foot ACEC buffer zones will have an adverse impact on the adjacent wetland resource area or ACEC and shall not permit such activity:
  - i. Subsurface sewage disposal systems for new construction.
  - ii. Enlargement of design flow of subsurface sewage disposal systems for existing structures.
  - iii. Replacement of subsurface sewage disposal systems if a suitable area is available outside the Buffer Zone.
  - iv. Fueling or storage of construction equipment.
  - v. Storage of chemicals, herbicides, pesticides, and fertilizers.
  - vi. Storage of manure.
  - vii. Burial of any construction debris includes slash and stumps.
- b. The presumption is rebuttable and may be overcome upon a clear showing that such activity will not impact the adjacent resource area and that the activity can be conditioned to meet the performance standards for protection of the interests of the By-law. In cases involving subsurface sewage disposal systems, the Commission may grant a variance in situations where the applicant can demonstrate the following:
  - i. A substantial hardship, owing to the shape or topography of the Applicant's property, would be imposed on the Applicant if the Commission fails to grant the variance; and
  - ii. The Applicant has received a variance and permit from the Ipswich Board of Health or the Department of Environmental Protection.

## D. Mandatory Subzones

### 1. Intent

The Commission is concerned with future encroachments on resource areas and therefore requires that a permanent 50-foot No-Disturbance Zone and a permanent, additional 15-foot No-Build Zone be established on all projects in the buffer zone not otherwise exempted from this provision. For projects or activities proposed on previously developed lots for which neither a subdivision nor a change in use is proposed the No-Disturbance Zone shall be 25-feet. The No Disturbance Zone is defined as the area horizontally (on a true lateral) landward of a wetland resource area or the ACEC, other than the buffer zones thereto, in which there shall be no alteration. The No-Build Zone is defined as the 15-foot area horizontally (on a true lateral) landward of the No-Disturbance Zone in which there shall be no structures.

Structure is defined as any constructed, erected, or placed material or combination of materials in, upon or over the ground – including cantilevered structures - to give support or shelter, including but not limited to, buildings whether permanent or temporary, mobile homes, radio towers and microwave antennas or receivers, sheds, signs, storage bins, swimming pools, tennis courts, platforms, fences, pavement, walls, walkways, observation decks, wells, drainage structures such as culverts and discharge trenches, discharge channel, drainage basin, and grading associated with storm water management. The word “structure” shall be construed where the context allows as though followed by the words “or part thereof.”

The No-Disturbance Zone shall be marked with permanent monuments and shown on a plan, at the Applicant's expense, as defined in Paragraph 3 below.

These Zones shall not apply to activities which are exempt or are specifically permitted to occur in M.G.L. Ch. 131 Section 40. The Commission, at its discretion, may approve activities in these Zones which will have no impact on the adjacent resource area and serve to protect the Interests of the Wetlands By-Law.

### 2. Variances

Variances to the dimensional requirements of these Zones may be granted by the Commission in situations where the Applicant can demonstrate that a substantial hardship, owing to the shape or topography of the Applicant's property, would be imposed on the Applicant. In cases when a variance is considered, the Commission shall require mitigation as described below.

#### *a. On-site Mitigation*

In cases when a variance is considered, the Commission shall require one or more of the following at the project site:

- i. Creation of an additional No-Disturbance Zone of at least 1.5 times to 1 of the area of impact to the subzones;

- ii. Restoration and permanent protection of the Buffer Zone or adjacent wetland resource area as mitigation at a rate of at least 1.5 times to 1 of the area of impact to the subzones; or
- iii. Stormwater improvements, where these improvements are not already required by state or local regulations.

*b. Off-site Mitigation*

- i. When on-site mitigation cannot be accomplished to the Commission's satisfaction, the Commission may consider off-site mitigation. The criteria by which the Ipswich Conservation Commission will evaluate the acceptability of any proposed off-site mitigation will include the following:
  - The proximity of the mitigation site(s) to the project site;
  - Confirmation that mitigation site represents the same general ecosystem type (i.e., inland or coastal) and includes the same resource area to be impacted by the project (e.g., Bordering Vegetated Wetland, Coastal Bank, etc.);
  - Whether the site(s) are in the same watershed(s) as the proposed alteration of wetland resource areas and associated buffer zones and Riverfront Area;
  - Whether the site(s) have, or after restoration will have, natural resource and habitat values comparable in quality and quantity to those lost by the proposed project;
  - The geometric configuration of the site(s) and proximity to other protected properties, in order to protect wildlife corridors and natural resource connectivity, and reduce the burden of stewardship oversight; and
  - Whether the off-site mitigation will permanently protect from disturbance or alteration (other than by natural forces) of lands that:
    - ✓ Are at significant risk of alteration or destruction of natural resource values, or
    - ✓ Have been significantly altered or disturbed to the detriment of prior natural resource values associated with wetlands resource areas, and will be successfully restored and/or enhanced by the Applicant within a reasonable time period.
- ii. The Commission will also consider the following standards, in order of importance, when making their decision as to the acceptability of any proposed off-site mitigation:
  - Does the proposal provide for the acquisition of title to a parcel(s) of land, meeting the above criteria, including a subsequent conservation restriction on the land?
  - Does the proposal provide for the acquisition of less-than-fee protective interests, meeting the above criteria, such as a conservation restriction?

- Does the proposal provide for the remediation or restoration of altered lands, meeting the above criteria, which are permanently protected?
- Does the proposal provide for the remediation or restoration of altered lands, meeting the above criteria, which are not permanently protected?

### **3. Monumenting the No-Disturbance Zone**

- To maintain the perpetual integrity of the No-Disturbance Zone and for the purpose of informing the Applicant and future owners of the Applicant's land of the existence of the No-Disturbance Zone, the Commission requires the No-Disturbance Zone to be marked on the ground, at the Applicant's expense, with permanent markers.
- The markers shall include at least one granite monument measuring 6" x 6" x 66", and set approximately 36" into the ground. The marker shall have an aluminum sign of a size to be clearly visible within its surrounds, and of a thickness and a grade of aluminum to be highly resistant to vandalism and weather. The sign shall be attached on the top or upland side of the marker with an aluminum stem in a drilled hole, screws in drilled holes, or weather-resistant epoxy. This sign shall read: "No Disturbance Beyond This Point per order of the Ipswich Conservation Commission".
- In addition to the above granite marker, at least one additional marker shall be placed, which may include at the Commission's discretion, granite posts as described above, wooden posts as described below, or large boulders as described below, with the previously-described aluminum signs affixed to the top or upland side.
- If boulders are used as additional markers, they shall be 24" average diameter (400+/- pounds).
- If wooden posts are used as additional markers, they shall be 4" by 4" by 96" pressure-treated or black locust posts set approximately 48" in the ground.
- Markers shall be placed at approximate 50' intervals and/or at changes in direction of the line, to ensure the No-Disturbance Zone is accurately delineated, unless otherwise required by the Commission due to specific site conditions.
- The No-Disturbance Zone markers shall be survey-located and shown on the As-built Plan submitted with the Certificate of Compliance request.
- No work shall be performed until the No-Disturbance Zone is marked on the ground, as described above, and approved by the Commission or its agent. The Commission or its agent may allow work to commence without first installing the required markers if weather conditions (e.g., frozen conditions or other specific site constraints) prohibit their installation.

### **E. Wetland Resource Alteration and Replication**

- If wetland alteration and replication is proposed, a wetland replication narrative and detail plan shall be submitted with the Notice of Intent application. The narrative shall include, but not be limited to the following:

- a. A description of the existing wetland resource area(s) proposed to be altered including plant species composition and distribution, hydrologic characteristics and soil characteristics.
  - b. A description of existing conditions within the proposed wetland replication area(s) including soil characteristics and depth to observed and estimated seasonal high ground water.
  - c. A wetland replication methodology detailing construction sequencing for preparation of the replication area(s); proposed subsurface and finished grades; transfer and supplement of wetland (hydric) soils and vegetation; seeding/planting species list and prescribed seeding rates/planting densities; stabilization and erosion control methods; and monitoring, maintenance and contingency plan.
2. The wetland replication detail plan shall be prepared at a scale of 1" = 20' and shall indicate the following:
    - a. Limits of the wetland alteration and replication areas with the calculated square footage of each area.
    - b. All existing and proposed grades at one foot contours intervals and spot elevations; access routes; stockpile areas; and erosion controls.
    - c. Proposed planting layout and species distribution.
    - d. Profile of the replication area(s) at a horizontal scale of 1" = 20' and a vertical scale of 1" = 4' showing existing and proposed ground surfaces, estimated seasonal groundwater elevations, and proposed subsurface grade.
    - e. A summary of the construction sequencing and wetland replication methodology shall be provided on the detail plan.
    - f. Wetland replication areas shall be constructed at the same time as existing wetland areas are filled/altered and prior to all other components of the project.
  3. Subsurface and finished grades within the replication area(s) shall be verified by a field survey and an elevation certificate stamped by a Professional Land Surveyor of the Commonwealth of Massachusetts that shall be submitted to the Commission prior to proceeding with work on any other components of the project.

## **F. Stormwater Management**

### **1. Applicability**

- a. The Commission adopts and applies the Massachusetts Stormwater Management Standards as set forth in 310 CMR 10.02(3)-(5) and 10.05(6)(k)-(q) *provided that*: within the jurisdiction of the Commission as is now established or may be amended by the Wetlands By-Law, the application of the Stormwater Management Standards shall not be limited as set forth in 310 CMR 10.05(6)(l) and (m) as may be amended; but shall apply to any development and/or redevelopment project and/or land disturbance activity as set forth in Section 5. A. "Applicability" of Chapter XIX "Stormwater Management" of the General Bylaws of the Town of Ipswich ("Stormwater Management Bylaw"), and is not exempted by other provisions thereof.

- b. Except as expressly provided herein, stormwater runoff from all industrial, commercial, institutional, office, residential, roadway, and transportation projects including site preparation, construction, and additions/expansions that lie in whole or in part within the jurisdiction of the Conservation Commission and that result in a land disturbance exceeding an area of 10,000 square feet or an area of more than 50% of a parcel or lot, whichever is less, and all point source and non-point source stormwater discharges from said projects shall be managed according to these regulations. In the case of a single land alteration project, whether or not phased, involving more than one contiguous parcel or lot whether or not under common ownership, the entire area of the project shall be considered a lot or parcel under the these regulations.

## **2. Definitions**

The Commission adopts, to the extent they are applicable, the definitions appearing as Section 3. Definitions of the Stormwater Bylaw.

## **3. Stormwater Buyout**

The Commission may allow the applicant to contribute to the construction of a public or shared stormwater facility in lieu of an onsite stormwater facility where it has been demonstrated that there is not sufficient space for onsite stormwater best management practices.

## **VII. Monitoring of Permitted Work**

- A. In order to insure that the permitted work is performed in accordance with the approved plans and Order(s) of Conditions, as a condition of approval the Commission may require Applicants, at their own expense, to retain a consultant to monitor the process of the work and submit periodic reports to the Commission for the following types of projects, including but not limited to:
  1. Residential and commercial subdivisions.
  2. Projects in close proximity of wetland resource areas.
  3. Projects involving the disturbance of 50% or more of the Buffer Zone.
  4. Projects when 50% of more of the work is in the Buffer Zone.
  5. Projects within the resource areas of the ACEC.
  6. Other major land disturbance projects.
- B. The consultant shall be a qualified environmental professional acceptable to the Commission. The consultant shall prepare and submit certified reports to the Commission on a schedule established by it. If, during construction, unexpected site conditions require modifications to the approved plans, the consultant shall immediately notify the Commission and request the Commission to review and approve the necessary changes. No work shall be performed without the prior approval of the Commission.

### **SECTION 3. PUBLIC HEARING REQUIREMENTS**

The public hearing required by 310 CMR 10.00 to be held within 21 calendar days of receipt of a Notice of Intent, ANRAD, or a Request for Determination of Applicability shall be sufficient to meet the public hearing requirements set forth in Section 7 of the Wetlands By-Law.

### **SECTION 4. CHANGES IN WORK DESCRIBED IN THE NOTICE OF INTENT**

- I. The Applicant shall notify the Commission of any proposed changes to the work contained in the Notice of Intent. If, in the opinion of the Commission, the proposed changes significantly alter the nature or scope of the intended work, the Commission shall notify the Applicant whether the filing of a Formal Amendment or a Minor Modification to the Order of Conditions is required for the Commission to consider the proposed changes. In determination of the proper format for approving proposed changes in work, the Commission will consider MADEP's "Wetlands Program Policy 85-4: Amended Orders".
- II. If the project meets the following criteria, a Minor Modification may be considered:
  - A. The project change represents no change in scope
  - B. The project does not propose additional work closer to the resource area(s)
  - C. There will be no net increase in the amount of impervious surface;
- III. If the project meets the following criteria, a Formal Amendment may be considered:
  - A. The project changes represents a minor change in project scope;
  - B. There will be no increased adverse impacts to resource areas;
  - C. Performance standards can be met.
- IV. If there is a significant change in project scope the applicant shall apply for a new Notice of Intent.
- V. No work related to the proposed changes shall commence until the Commission has reviewed and approved the proposed changes and issued any requisite decision evidencing that approval, such as an Amended Order of Condition or a Minor Modification without formal amendment. No new work may begin until the Amended Order of Conditions has been recorded at the Registry of Deeds, and proof submitted to the Commission.

### **SECTION 5. ORDERS OF CONDITIONS, CERTIFICATES OF COMPLIANCE**

- I. The Orders of Conditions form issued pursuant to M.G.L Chapter 131, §40 shall constitute a permit under the provisions of Section 9 of the Wetlands By-Law in addition to any local special conditions that may be added to protect interests identified under the Wetlands By-Law. A copy shall be provided by the Commission to the Applicant within twenty-one (21) calendar days of the date of the Commission meeting at which the Order of Conditions was finally approved if no special conditions necessitate submissions pre-requisite to issuance of the Order. The applicant shall file the Order(s) of Condition with the Essex County Registry of Deeds within 30 days of issuance. A certificate of said filing with the Registry shall be

returned to the Commission within 21 days of recording and prior to commencement of any activities subject to the Order(s) of Conditions, including clearing or construction. The Commission reserves the right to revoke any Order(s) of Conditions which have not been recorded within 30 days of issuance.

- II. In the event of a denial of an application, a copy containing the detailed reasons for the denial shall be provided to the Applicant within twenty-one (21) calendar days of the date of the Commission's denial.
- III. The Order(s) of Conditions issued by the Conservation Commission shall be valid for a period of three (3) years from the date of issuance, unless extended in accordance with Section 6, or allowed by the Wetlands Protection Act.
- IV. The Applicant shall request a Certificate of Compliance ("COC") from the Commission upon completion of the proposed work inclusive of any approved changes therein. The request shall include a statement certifying compliance with the Order(s) of Conditions and the approved plan. The person certifying compliance must have inspected the site, reviewed the Order and all referenced documents, and reviewed the relevant Commission files.
- V. Upon receipt of said request, accompanied by appropriate certification and As-Built plans, if required, that the activities have been conducted in substantial compliance with the plans and Order(s) of Conditions, the Commission shall conduct a site inspection. If the Commission agrees that the proposed activity has been conducted substantially in accordance with the Order(s) of Conditions, it shall issue a COC. A copy of the COC shall be filed by the Applicant with the Essex County Registry of Deeds within 30 days of issuance and a copy of that recording information provided to the Commission within 21 days thereafter.
- VI. If the Commission determines that the activity has not been conducted in accordance with the Order(s) of Conditions, it may deny the COC request. Said denial shall list detailed reasons wherein the activity has been or is at variance with the Order(s) of Conditions.

## **SECTION 6. EXTENSION OF ORDERS OF CONDITIONS**

A request for an extension of the Order(s) of Condition shall be filed with the Commission at least thirty (30) days prior to its expiration date. The Commission may deny the request for an extension and require a new Notice of Intent for reasons contained in 310 CMR 10.05(b), as may be amended, or it may issue an Extension Permit for a period of up to three years to the Applicant.

## **SECTION 7. EMERGENCIES/EMERGENCY CERTIFICATION**

- I. In situations in which any person or party is requesting permission to do an emergency project pursuant to the requirements of M.G.L. Ch. 131, Sect. 40 and 310 CMR 10.06 for state law jurisdictional areas, or for areas of local Wetlands By-Law jurisdiction only, the applicant will specify why the project is necessary for the protection of the health or safety of the citizens of the Commonwealth, what agency of the Commonwealth or subdivision thereof has ordered the project to be performed, and/or which such agency is to perform the project. All requirements and limitations specified in 310 CMR 10.06 shall be followed. The

criteria must be met to the Commission's satisfaction before issuance of any Emergency Certification approval document, unless issued by a superseding authority. Additionally, the Request shall be signed by the chairman or agent of the board, commission, or agency ordering and/or conducting the emergency work, or by any other duly authorized public official if there is no board, commission or agency involved.

- II. In all emergency situations where the Commission approves and issues an Emergency Certificate, the Commission may also require an appropriate after-the-fact filing and/or the submission of a detailed follow-up report and/or site plan of the work that was completed, to be submitted when and as specified by the Commission for that situation. Any after-the-fact filing that is required for an emergency situation will NOT be subject to any filing fee penalties addressed in Section 9 of these local Regulations. The Commission may require such filings in those situations in which it deems it best or necessary to have a record of the exact work that was conducted.

## **SECTION 8. VIOLATIONS**

In the event of any finding of a violation by the Commission pursuant to the Wetlands Protection Act or the Wetlands By-Law, the Commission may require an after-the-fact filing. If no valid permit is then in effect for that project/site, then a new appropriate filing shall occur after-the-fact, as directed by the Commission, to accord with the regular filing requirements. If a valid permit exists that has been violated, then a formal full amendment filing shall occur after-the-fact, as directed by the Commission, to accord with the regular filing requirements.

## **SECTION 9. PROCESSING FEE SCHEDULE AND WORKSHEET**

### **I. Local Filing Fees**

In addition to the fees charged under the Wetlands Protection Act at M.G.L. Chapter 131, Sect. 40 and its regulations at 310 CMR 10.00 et seq.; these Regulations establish the local fees as set forth in the attached Processing Fee Calculation Worksheet (Appendix A). That Worksheet reflects the Wetlands Bylaw fees as of the latest revision date recited thereon and the Worksheet is intended to be part of, and is hereby made part of, these Regulations for all purposes. The completed Worksheet shall be submitted with all filings made to this Commission. All local fees for whatever purpose shall be as stated in the Worksheet. All local fees apply to all non-governmental projects. Costs associated with the publication of legal ad notices are not included in the Worksheet of processing fees, and are not set by the Commission, and shall be paid in full by the Applicant directly to the newspaper publisher upon receipt of its invoice(s). No decision or permit of the Commission will issue until any known outstanding unpaid legal advertisement bill is paid. If any decision or permit of the Commission has issued before the bill is paid for any reason, then any failure to pay such bill shall be a violation of the Order or other decision of the Commission once it becomes known that it is unpaid and work shall halt on the project until the bill is paid in full.

### **II. Failure-to-File Penalty Fees**

The local Wetlands By-Law processing fee for any filing made late in fulfillment of the requirements for an after-the-fact filing due to a failure-to-file shall be three times the regular processing fee(s) for each activity presented thereunder, as would be applicable under the above

regular processing fee category schedule had the filing occurred in a timely fashion in advance. Nothing in this Paragraph or Section shall abrogate, limit, or prevent the exercise by the Commission of its right under the Wetlands By-Law/Regulations, or under any other controlling or enabling authority, to impose fines pursuant to the Wetlands By-Law/Regulations or such authority. Any such fines that are imposed are in addition to the enhanced failure-to-file fees hereinabove.

### **III. Minor Modification Fees**

An Applicant may submit a request to the Commission for a finding that a proposed change to an Order of Conditions constitutes a minor modification without the requirement of a formal amendment to that Order. There shall be a required processing fee for any such request pursuant to the attached Processing Fee Calculation Worksheet (Appendix A).

## **SECTION 10. REQUIREMENTS FOR PUBLIC HEARINGS AND SITE VISITS**

### **I. For Public Hearings**

#### **A. Number of Copies**

The applicant shall submit by the published filing deadline schedule of the Commission, an original plus two copies of all documents, plus an electronic copy of all documents. Additional copies, sufficient to meet the needs of the Commission may also be required as detailed in the Pre-filing Checklists, and/or Filing Procedures, as applicable.

#### **B. Required Information**

The information shall consist of properly prepared and signed documents required by the Commonwealth of Massachusetts under the Wetlands Protection Act and the Town of Ipswich under its Wetlands By-Law including Mandatory\_Pre-Filing Check-list, with plans showing all the items specified in the General Instructions for Completing the Notice of Intent (Form 3) or the Abbreviated Notice of Intent (Form 4) of the Massachusetts Wetlands Protection Act and requirements of Section 2 of these Regulations.

Site Plans shall be stamped and signed by a Registered Professional Engineer or Land Surveyor of the Commonwealth of Massachusetts. Each set of plans shall have the original signature and seal of the engineer/surveyor. Applications for a Determination of Applicability need not have the signature or stamp of a professional engineer or land surveyor. If permission to waive a specific item or items has been granted in writing by the Commission, then those items waived may be omitted.

### **II. For Site Visits**

- A. The Commission requires the Applicant to complete the following tasks prior to the site inspection to ensure a thorough and efficient inspection:
  1. The location of all proposed structures must be staked and labeled and shall include: corners of the lot, corners of all buildings, corners of the septic system and expansion area, wells, driveways, roads, and drainage systems to the extent that such structures or proposed activities are within the jurisdiction of the Commission.

2. The boundaries of all wetland resource areas on the property, and those within 100-feet or 150-feet as applicable, of any proposed work must be flagged, including elevation 10 (NGVD) of the ACEC.
3. A representative of the owner or developer well versed in the plans should be present at the site inspection.

B. If the above requirements are not met, the hearings may be continued to the next scheduled Commission session following compliance with these requirements, or the Commission may deny the project due to lack of information.

## **SECTION 11. DISPOSITION OF FINES COLLECTED UNDER SECTION 16 OF THE IPSWICH WETLANDS PROTECTION BY-LAW**

Any fines received under Section 16 of the By-law shall be deposited in the General Fund.

## **SECTION 12. PROJECTS SUBJECT TO M.G.L. CHAPTER 91**

Projects subject to Massachusetts General laws Chapter 91, and 310 CMR 9.00, which include, but are not limited to piers, wharves, floats, retaining walls, revetments, fill, groins, dredging, beach nourishment, dams and building within flowed or filled tidelands as defined by said Chapter 91 also require a permit by the Commission and shall be subject to the following:

### **I. Work On New Structures**

For work on projects applied for after the effective date of these regulations, applicants shall be asked either to withdraw their applications or to request a continuance until after the MEPA process has been completed. The purpose of this procedure is to allow the Commission to participate in the MEPA review and more effectively to coordinate with the state agencies. As there are also permits for the project at the state level, this coordination will assist the Commission in dealing with what are usually difficult and complex reviews.

### **II. Work On Existing Structures**

For work on previously existing structures or projects for which applications were filed prior to effective date of these regulations, any project proponents wishing to perform any maintenance or repair work on an applicable structure within existing footprint shall be informed as to the required permit. Any project proponent wishing to perform any work beyond basic maintenance or repair of an existing structure shall be dealt with in the same manner as if it were a new structure or project.

## **SECTION 13. MOSQUITO CONTROL PROJECTS**

Massachusetts General Laws Chapter 131, Sect. 40 exempts certain mosquito control projects from review by the Commission. The Wetlands By-Law has adopted this exemption. In order for the exemption to apply, the owner or contractor must present the required written evidence to the Commission that it has complied with the requirements of Massachusetts General Laws Chapter 131, Section 40 and Chapter 252, Sect.5, clause 36, as either may be amended.

#### **SECTION 14. APPEALS**

Appeals of Orders of Conditions issued under the Wetlands By-Law shall be in accordance with the provisions of Massachusetts General Laws.

#### **SECTION 15. SEVERABILITY**

If any section of these Regulations is deemed invalid or unconstitutional, the remaining sections shall remain in full force and effect.

#### **SECTION 16. EFFECTIVE DATE**

These Regulations shall take effect for all filings submitted on or after August 4, 1997, and as they are amended, shall be effective for all filings submitted after the effective date of any amendments hereto. The Amendments of August 11, 2010 are effective as of midnight on that date. The Amendments of February 17, 2016 are effective as of midnight on that date. The Amendments of March 1, 2017 are effective as of midnight on that date. The amendments of January 17, 2018 are effective as of midnight on that date.

**APPENDIX A**

**TOWN OF IPSWICH WETLANDS PROTECTION BY-LAW PROCESSING FEE CALCULATION WORKSHEET (Effective January 17, 2018) IMPORTANT: BYLAW FEES ARE IN ADDITION TO WPA FEES**

(Submit this form with application with payment check made payable to Town of Ipswich)

1. A flat fee of \$30.00 for an **Small Project Permit** \$ \_\_\_\_\_
2. A fee for the following applications: (check off appropriate item)
  - \_\_\_\_\_ **Request for Determination of Applicability (RDA)** \$75.00 ea. \$ \_\_\_\_\_
  - \_\_\_\_\_ **Request for Certificate of Compliance (COC) if Order is unexpired** \$100.00 ea. \$ \_\_\_\_\_
  - \_\_\_\_\_ **Request for COC if Order is expired** \$200.00 ea. \$ \_\_\_\_\_
  - \_\_\_\_\_ **Request for Extension of Order** \$60.00 ea. \$ \_\_\_\_\_
3. The following schedule applies for **Notice of Intent** and **Abbreviated Notice of Resource Areas Delineation** categories at 310 CMR 10.03(7) (c), as follow:
 

	<u>No.</u>	<u>Total</u>
Category 1. \$75.00 per activity x _____	x _____	= \$ _____
Category 2. \$300.00 per activity x _____	x _____	= \$ _____
Category 3. \$650.00 per activity x _____	x _____	= \$ _____
Category 4. \$950.00 per activity x _____	x _____	= \$ _____
Category 5. (Not less than \$50.00 or more than \$1,000.00) \$2.00/L.F. x _____ L.F.	x _____	= \$ _____
<b>Total: \$</b>		_____
4. **Formal Amendment** to an existing Order (requires a public hearing):  
 Equal to original filing fee/per each activity \$ \_\_\_\_\_
5. **Minor Modification** to an existing Order (does not require a public hearing), *check appropriate item(s)*:
  - \_\_\_\_\_ First Request - Equal to 25% of original filing fee or \$30.00, whichever is greater \$ \_\_\_\_\_
  - \_\_\_\_\_ Second Request - Equal to 50% of original filing fee \$ \_\_\_\_\_
  - \_\_\_\_\_ Third and Subsequent Requests-Equal to original filing fee \$ \_\_\_\_\_

**Total: \$** \_\_\_\_\_
6. Application for review of resource area delineation: \$1.00/Linear Foot (LF) of not less than \$50.00 or more than \$200.00 for single family house projects; not less than \$50.00 or more than \$2000.00 for any other activity. This fee will be in addition to the fee for an RDA or NOI listed above.  
 Type of activity: \_\_\_\_\_ \$1.00/LF x LF = \$ \_\_\_\_\_
7. Fees for projects within the Riverfront Area and another resource area shall be 150% of the above (check off appropriate item)
  - \_\_\_\_\_ RDA: \$ 75.00 x 150% = \$ \_\_\_\_\_
  - \_\_\_\_\_ NOI (Total from Paragraph #3 above): \$ \_\_\_\_\_ x 150% = \$ \_\_\_\_\_
8. Late filing penalty fees: In the event of a violation finding by the Commission in which a filing is required after-the-fact, the local Wetlands By-Law fee for that late filing will be three times the normal fee(s) for the activities, applicable per the above schedule, including delineation fees.  
 Regular Processing Fee: \$ \_\_\_\_\_ x 3 (penalty) = \$ \_\_\_\_\_

**Name/project address of Applicant:** \_\_\_\_\_

**DEP or ICC File No.** \_\_\_\_\_ **(if applicable).**      **TOTAL BYLAW FEE SUBMITTED \$** \_\_\_\_\_

*Revised January 17, 2018*