

II DEFINITIONS

Massachusetts General Laws, Chapter 40 Section 8C and Chapter 131, Section 40 , as well as 310 CMR 10.00 Wetlands Regulations are hereby incorporated by reference and made a part hereof, except as otherwise modified by the Taunton Conservation Ordinance (City of Taunton Ordinances Chapter 16 section 30-38) and the Regulations promulgated herein and any subsequent amendments. References to government bodies shall be taken as references to those government bodies or to their successors in the relevant governmental role.

The definitions provided in the Act shall apply to the Ordinance and Regulations except for those detailed below:

"Burden of Proof" means the applicant must demonstrate by a preponderance of credible evidence that the work proposed in the application taking place anywhere within the Commission's jurisdictional areas shall not have an unacceptable significant and/or cumulative effect upon the wetland values protected by the Ordinance. Failure to provide adequate evidence that the work proposed in the application shall not have an unacceptable significant and/or cumulative effect upon the wetland values protected by the Ordinance shall be sufficient for the Commission to deny a permit or grant a permit with conditions.

"Conservation Structures" are defined as any structure required by an Order of Conditions whose function is to protect resource areas and which require maintenance that must continue after the issuance of a Certificate of Compliance (See Section III 6. for further details). Such structures include, but are not limited to detention/retention basins, drainage swales, catch basins, artificially created breeding habitat and wildlife crossing tunnels.

"Freshwater Wetland" under the Ordinance shall mean any area that meets the criteria of the currently applicable procedures under the Act or meets at least 2 of the following 3 criteria:

1. Vegetation within the community consists of at least 50% wetland plant species, listed as Obligate, Facultative Wet, or Facultative by US Fish and Wildlife Service (FWS);
2. Hydric soils as listed by the US Natural Resources Conservation Service are present; or
3. Hydrology or field indicators of hydrology according to the procedures of the most current Federal Method for Wetlands Delineation (US Environmental Protection Agency) are present.

"One Growing Season" is considered the entire period from approximately May 30th to October 15th.

"Permits" shall collectively refer to Orders of Conditions, Resource Area Delineations, and/or Determinations of Applicability.

"Vernal Pools" are considered to be any confined basin depression that has been certified as such by the Natural Heritage and Endangered Species Program, or has been demonstrated by credible proof to contain obligate vernal pool breeding species. All such pools are protected by the Ordinance and regulations promulgated hereunder including vernal pools contained within an ILSF and BVW regardless of size. All vernal pools have a buffer zone of 100 feet and a wetland protection zone of no less than 25 feet and not more than 100 feet from its outermost edge. This edge is defined as the highest observed water level in the pool or its maximum holding capacity in a 100-year storm event which ever is greater. The "highest observed water level" can be documented through photographs or through the observation of staining. When calculating the maximum holding capacity a "100 year storm event" of 7 inches of rain in a 24-hour period will be used. This calculation will allow for no infiltration.

"Wetland Protection Zone" (WPZ) describes an area of no less than 25 feet and no more than 100 feet from the border of BVWs, vernal pools, lakes, ponds and ILSFs larger than a quarter acre-foot in size. This zone has been established to limit or prohibit activities that may have negative impact on resource areas. Such activities may include but are not limited to the following: clearing, filling, dredging, removal of vegetation, dumping or construction. The size of the WPZ will be determined by the nature of the project and the sensitivity of the area. ILSFs containing less than a quarter acre-foot do not have a protection zone. River front area outside of the 200-foot outer riparian zone does not have a WPZ.

WPZ greater than 25 feet minimum will be required in the following situations:

1. Large, multi-lot developments in undisturbed areas;
2. Project in which a significant portion of the lot will be converted into impervious surface;
3. Areas in or near rare or endangered species;
4. Wildlife corridors;
5. Areas prone to flooding or excessive run-off.

Exemptions to the 25-foot minimum WPZ may be allowed in the following situations. In these cases the applicant will be expected to present an appropriate mitigation plan.

1. Work the Commission believes is in the interest of public safety (e.g., removal of hazards, clearing sight lines etc) or environmental protection.
2. ILSF of less than one-quarter acre-foot.
3. ILSF of greater than a quarter acre-foot the WPZ may be reduced to less than 25 feet if it can be demonstrated that they do not serve any other function than stormwater retention and recharge.

4. Under certain circumstance, the Commission may grandfather lots in existence prior to enactment of the Ordinance providing the applicant demonstrates, by a preponderance of evidence, the WPZ would represent a hardship and said hardship was not created by or with the consent and/or knowledge of the applicant.

“Hardship:” A property owner can claim hardship if they suffer significant loss of the use of their property resulting from the enforcement of either state or local wetlands regulations. Such loss of use cannot be the result of action on the part of the property owner nor can an owner claim hardship if the loss is the result of regulations in place prior to the property acquisition. The applicant must prove by a preponderance of evidence that without relief from either compliance or enforcement of the regulations would cause a hardship. In such cases the Commission may allow some regulatory relief.

“Jurisdictional ILSF:” ILSFs of greater than a quarter acre-foot are jurisdictional as currently stated in the Act and in addition under this Ordinance shall have a WPZ.

ILSFs that hold less than a quarter acre-foot of water are also presumed to be jurisdictional unless it can be demonstrated that they do not have a minimum of 1000 sq. ft. in surface area or contain 100 cubic feet of water at any time of the year. Although protected such areas have no WPZ or buffer zone. Altering such ILSF may be allowed, if the applicant demonstrates a legitimate hardship and an appropriate mitigation plan is proposed.

“Critical Breeding Habitat:” is defined as any resource or buffer zone area being used by rare and endangered species as found on the NHESP list for breeding purposes. Such areas are necessary to the survival of such species and are afforded special protection by this Ordinance. Activities which alter such areas in ways that are likely to impact the breeding success of rare and endangered species will not be approved.

“Wildlife Corridors:” are contiguous areas of land within a Wetlands Protection Zone, which provide feeding areas, breeding areas, and normal home range movement for wildlife. An area will be deemed a wildlife corridor upon presentation of credible evidence of the corridors and wildlife value. Wildlife corridors may be both narrow and vulnerable. Wildlife corridors can also contain core vegetative life, which make them sensitive and important for plant diversity.

The Taunton Conservation Commission may enforce standards for Wildlife Corridors if credible evidence is presented that an area under the jurisdiction of the TCC serves important wildlife corridor functions.

Standards for Wildlife Corridors

1. Fencing or any structural barrier to wildlife movement within corridors shall be prohibited.
2. The applicant shall ensure drainage from roadways be diverted away from depressed areas that may contain fragile vegetative life or shelters for wildlife.

3. Natural, indigenous vegetation shall be encouraged or enhanced by the project.
4. Disturbed areas shall be re-vegetated as rapidly as possible or within a time frame issued by the Commission.
5. Dramatic changes in topography shall be discouraged and the footprint of disturbed areas shall be limited.
6. Storage of any chemicals or materials that pose a threat to wildlife and have the capability of leaching into the environment, are prohibited in this area.