

B. NOTICE OF INTENT

1. **GENERAL** Any person who desires review of a Notice of Intent shall file with the Commission plans and specifications as required under the Act, and as further defined below.

The form for Requests For Determination of Applicability, Abbreviated Notice of Resource Area Delineation, Abbreviated Notice of Intent, Notices of Intent and Certificates of Compliance shall be consistent with the Act and Regulations promulgated thereunder and will also be in conformity with the Ordinance and its regulations. Details are outlined in the Taunton Conservation Commission Policy Handbook. Any application for Notice of Intent on commercial and residential projects over five acres must contain an Order of Resource Area Delineation (ORAD).

2. **FILING PROCEDURES** Eight copies of the Notice of Intent application, accompanying plans and pertinent data, and the appropriate filing fee, payable to the "City of Taunton", shall be sent by certified mail, or hand delivered, to the City of Taunton Conservation Services, 15 Summer Street, Taunton MA 02780. The applicant shall provide, as part of the application, an original form with original signatures and stamp and two copies, a list of abutters (certified by the Assessor) within 100 feet of the property on which the work is proposed. The notice to abutters shall include the description of the project as found in the application. The applicant shall provide copies of proof of mailing to abutters at the time of filing. At least one copy of the Notice of Intent plan must be at the same scale as the ORAD plan
3. **COMPLETION OF FORM(S) AND SUPPLEMENTARY WRITTEN MATERIALS(S)**

3.1 **General** Written responses to the questions on the forms, and narratives explaining in detail how the proposed project protects the interests identified in the Act and the Ordinance receive close attention from the Commission. These text materials are a required and important part of the record the basics of which are outlined below. The Commission reserves the right to request further information in any reasonable form as necessary to render a decision.

3.2 **Preliminary Narrative** Start with a background section briefly outlining the characteristics of the site: its topography, geologic origin, soil characteristics, and relation to regional drainage, current land use and vegetation cover, and describe wetland resource areas and their current condition.

For each resource area type, show how your design minimizes the adverse impact on the specific interests mentioned in the Act and Ordinance (Public and private water supply, prevention of storm damage, surface and groundwater quality, etc.).

3.3 Stormwater Management Storm water maximum flow rate estimates and hydrographs shall be prepared in accordance with Appendix C of the Notice of Intent application. The applicant is required to submit three (3) copies of all Stormwater Management documents required to comply with the Act.

3.4 Incomplete Application An application shall include, at a minimum, a properly executed Notice of Intent form issued by DEP or the Commission and the items required in these Regulations as outlined in General Instructions for filing.

If the Commission determines that an application is incomplete or improper, it shall notify the applicant within 21 days of the date of receipt. The Commission may, at its discretion:

1. Return the entire application, in which case all required time periods for processing the application shall be void. Upon receipt of the complete application, a new time period for action will commence.
2. Require that additional information or materials be submitted within a specified period of time.

3.5 Narrative The description must specifically identify all work proposed, the area affected by the work including any removal of trees or other vegetation, the steps that will be followed in doing the work, and the measures that will be taken to avoid affecting resource areas and to restore the work areas after the work is finished, such as loaming and planting grass.

Sequences and timetables should be given. The Commission normally requires all mitigation, replication, easements, open space amenities and the like to be completed before any other construction is allowed. Any applicant requesting a different sequence shall show why such a procedure is necessary, and propose a method such as a performance bond by which the public interest in such mitigation, etc., may be protected.

3.6 Requirements for Large Projects All projects, not identified as small projects (See Requirements for Small Projects Section 3.9) are large projects and shall conform to these guidelines applicable to large projects, unless the Commission has found by majority vote that some other procedure satisfactorily protects the interests of the Ordinance and Regulations. The Commission encourages innovative practices to promote the interests of the Act, the Ordinance and the Regulations promulgated thereunder, but applicants will be expected to provide a preponderance of evidence and documentation to support any contention that some other method is superior to methods referenced here.

If the Commission recognizes a project as “specialized” it may, in its sole discretion, waive some or all of these requirements.

All projects involving the use of herbicides, de-icers, fertilizers, and/or

insecticides shall specify the trade name, components, application rates and frequencies. In order to protect resource areas, wildlife, and water quality, the Commission may regulate the above procedures including but not limited to requiring compliance with all label requirements and other official recommendations. The Commission may also require the substitution of other substances or procedures.

3.6.1 Supporting Documentation. Document the basis in the engineering or scientific literature for statements, interpretations and proposed management practices. If a publication is particularly important to an argument, provide a photocopy of it or of the relevant sections.

3.6.2 Replication Plan. If wetland replication is planned, the applicant must file a detailed plan including procedures and timetables for preparation, planting, and evaluation. The specific requirements for a replication plan are as follows:

3. The proposed replication area must be shown. This area must be at least twice the area of the wetland the applicant seeks to fill except for jurisdictional ILSFs (those holding less than a quarter acre-foot of water or less than 1000 sq ft in surface area). This replication area must be at least equal to the area of the ILSF the applicant seeks to fill;
4. The elevation of the adjacent wetlands and the base elevation of the excavation in the replicated area;
5. A Planting Grid showing the location, species and density of all proposed plantings;
6. A species list of plants used. The species must represent those found in the surrounding wetlands;
7. A detailed sequence of replication events;
8. The area designated for stockpiling soils to be used in the replication, including a cross section of the proposed silt protection.

3.6.3 Procedure

9. All replicated areas are to have a hydrological connection to the wetland proposed for filling.
10. Applicants are encouraged to transplant using plants and soil from the filled area.
11. No plants may be removed from the buffer zone.
12. The elevation of wetlands replication area is to be the same surface elevation of the adjacent, existing wetland.
13. The proposed plant density in the replicated area should equal that of the altered wetlands.
14. The replication should occur as early as possible in the construction process and should be substantially complete (excluding grow out) prior to construction of any buildings.

15. No Final Certificate Of Compliance will be issued until replication is complete and successful such that:
 - a. No less than two (2) growing seasons have passed;
 - b. At least 50% of the replication area has achieved at least 50% coverage with the proposed wetland species; and
 - c. Hydric soils are present in the entire replication area.

The Commission reserves the right to require fencing to protect newly planted replication areas.

3.6.4 Mitigation Plans The Commission may require additional work to minimize adverse impacts in any area under the jurisdiction of the Commission.

3.7 General Plan Requirements

3.7.1 Scale of Main Plan. Scale of the map should be suitable for detailed study and measurement of the proposed work, not more than 50 feet to the inch. Existing and proposed contours at an interval of not more than two feet should be shown. Each plan shall show both a numerical indication of scale and a graphical scale.

If insets have a different scale than the main plan, this must be clearly indicated.

3.7.2 Supplementary Plans. More than a single plan may be necessary to clearly and legibly represent all the relevant information. The page sequencing for supplementary plans shall be clearly indicated. Supplementary maps particularly likely to be needed are: total watershed including the site and offsite areas draining into any part of the site, sub-watersheds, soil and cover. Where the information on such supplementary plans can be presented legibly on a reduced-size plan at a scale of more than 50 feet per inch, such reduced plans may be submitted in lieu of full size plans, but the main plan must meet the stated scale requirement.

Eight copies of the plans shall be filed with the NOI.

3.7.3 Specific Data Required on Plans. The following are minimum data requirements for all filings and drawings. Drawings failing to provide all applicable data from this list may cause your filing to be considered incomplete. Incomplete filings may be returned by the Commission and the 21 day period for scheduling of the public hearing will be considered not to have started. Additional site-specific data requirements may be imposed by the Commission if it finds they are needed to evaluate the impact of the proposed project on the interests mentioned in the Act and Ordinance, and these data requirements are in addition to those requested in the guidelines issued from time to time by the Department of Environmental Protection Wetlands Division.

3.7.4 Title Block. Title block at lower right of drawing giving purpose of survey, owner's name, street address if applicable, map and lot number, date of submission of plan.

3.7.5 Revision Block. All drawings shall have a revision block with provision for dates and explanations for all change. Revision information shall be kept current and complete.

3.7.6 North Arrow

3.7.7 Identifying Information. Stamp and signature of Registered Professional Engineer responsible for the plan. When wetland lines are shown, the name of the person making the delineation shall be included on the plan as well as the date said line was accepted by the Commission.

3.7.8 Legend. A legend shall show the meaning of all line types and symbols used on the plan. The vertical datum and benchmarks used shall be clearly stated.

3.7.9 Locus Map. The main plan shall contain a small inset locus map (this is in addition to any locus map that may be attached to the application).

3.7.10 Wetlands Flag Locations. Each wetlands flag shall be individually identified on the plan with a unique identifying number or other designation from a consistent numbering system applied over the whole project. The wetlands flag itself shall be marked in the field with a number matching the number on the map and the initials of the botanist. Wetland flags shall be distinguishable by color or markings from all other flags used at the site. (Wetlands flags are to be maintained until a final Certificate of Compliance is issued.)

3.7.11 Location of Existing and Proposed Structures. Locations of all existing and proposed dwellings, other buildings, roadways, driveways, parking areas, underground utilities, pipes, and sewage disposal facilities and other structures. Proposed paving material must be specified for driveways, roadways and parking areas. Approximate or provisional locations are not acceptable. A "footprint" on the plan is considered to be a commitment that no part of the final structure will be outside the line shown.

3.7.12 Surface Water. Locations of all water bodies and permanent and intermittent water, and the course of surface water shall be shown.

3.7.13 Stockpiling Areas. Any areas to be used for stockpiling of fill or excavated materials on the site, including silt protection as required by the Commission, or a statement that all stockpiling will be outside the buffer zone will be included on the plan.

3.7.14 Areas Subject to Flooding. The estimated maximum extent of flooding in the 100 year statistical storm for both bordering and isolated areas subject to flooding shall be shown on the plan including a note of the source for establishing said elevation.

3.7.15 Subsurface Sewage Disposal Systems. Location, elevation, and type of all subsurface sewage disposal systems within 100 feet of the limit of work shall be shown.

3.7.16 Wells. All existing or proposed wells within 100 feet of the site shall be shown, and details of any actual or potential public water supply in the watershed shall be given.

3.7.17 Point Source Discharges. All point source discharges into the buffer zone and/or resource areas shall be shown, with information on their sources, water quality characteristics, and estimated maximum flows. An artificial surface channel or swale entering the buffer zone shall be considered a point source for this purpose.

3.7.18 Drainage Structures. Locations, dimensions, elevations of inverts and slopes of all proposed, and all relevant existing, drainage and flood control structures, ditches, swales, pipes and culverts.

3.7.19 Easements. All existing and proposed rights of way, trails, easements, and restrictions shall be shown.

3.7.20 Grading Tolerances. Plan must show existing and proposed contours.

3.7.21 Vegetation Types and Trees. All trees exceeding 6 inches diameter at a height of 4.5 feet within the Commission's jurisdiction, shall be individually shown on the plan including stem location and the line of maximum extent of crown coverage ("drip line"). When jurisdictional area of project exceeds 1 acre a narrative describing the approximate number of trees exceeding 6 inches diameter at a height of 4.5 feet will suffice. Trees to be removed must be clearly marked on the plan, and flagged in the field.

3.7.22 Revisions and Amendments To Plans. No change may be made in a structure, location or elevation on a submitted plan without prior written approval of the Commission or its designated Agent.

3.7.23 Digital Format – all plans shall be submitted to the Conservation Commission in a digital “dxf” format in addition to the paper plan sets.

3.8 Performance Standards And Supplemental Documentation

3.8.1 Flood Control Engineering calculations shall be submitted to fully support

the design of compensating flood storage areas for alterations that affect bordering land subject to flooding and isolated land subject to flooding. The calculations shall detail the existing incremental flood storage volumes and the proposed incremental flood storage volumes up to 100-year flood elevation. There shall be no net loss of flood storage volume at any elevation. There shall be no net increase in the rate of runoff as a result of any project.

3.8.2 Detention Structures No water may be discharged into detention structures until those structures have been fully stabilized. The inlet(s) and outlet(s) are to be built and protected with siltation barriers. Siltation barriers are to be placed at catch basins to prevent detention basins from silting. The barriers are to be utilized whenever an unstabilized lot could deposit silt into the roadway.

3.8.3 Binder course The binder course is to be placed as soon as possible after road base is placed and must be placed before the end of the paving season.

3.8.4 Wildlife Habitat The applicant must submit a description of valuable and/or unique wildlife habitat characteristics observed on the subject property. This includes wildlife habitat in wetlands and the upland portion of the buffer zone or in or near areas identified by NHESP. Valuable upland habitat shall, to the fullest extent possible, not be used to locate wetland replication areas. The Commission shall not render a decision on a project until NHESP has submitted comments or the comment time period has expired.

In a situation where the alteration of a habitat of rare species is involved, or where a vernal pool would be altered, in or near areas identified by NHESP, or in areas where the Commission has received evidence from credible sources that the land contains unique wildlife habitat or credible evidence that the land contains core habitat as defined by Fish and Wildlife, a habitat study be performed by a qualified wildlife biologist may be required by the Commission. The habitat study and the design of a compensating wetland/wildlife habitat shall be performed to the satisfaction of the Commission. Projects resulting in the loss of critical habitat, or causing negative impacts on critical habitat, of rare, threatened, endangered species or species of special concern shall not be permitted.

3.8.5 Storm Water Management The Applicant must submit all documents in compliance with current Massachusetts Stormwater Regulations and submitted with the NOI application. The method and calculation for total suspended solids removal must be acceptable to Commission. The Operation and Maintenance Plan must be defined and to the satisfaction of the Commission.

3.8.6 Detention/Retention Basins The detention basin outlet works shall, to the fullest extent possible, be designed to be maintenance free, and self-cleaning.

The detention basin inlet and outlet works shall be designed to avoid scour and erosion of the basin bottom and discharge channel.

Storage capacities shall be based on the volume of active storage above the maximum seasonal ground water level. Test pits will normally be required to determine the maximum groundwater level.

3.9 Requirements For Small Projects Definition: small additions to a single-family house within one hundred feet of a resource area, minor landscaping projects near, but not in, resource areas, small detached structures, septic repairs and similar projects. A project is considered a small project only if it does not involve work within a resource area.

3.9.1 Plan Required A detailed sketch map or plan shall be provided on an 8.5 x 11 inch sheet attached to the form. It must be drawn to scale, with:

16. A wetland line.
17. A title block giving the street address, owner's name, date prepared, map and lot number (from the Assessor's records), and type of project (e.g. "House addition", "New Shed").
18. Dimensions for all existing and proposed structures.
19. Location of the proposed work, with measured distance to the nearest point of the wetlands, measured distances from nearest fixed structures and distances to property line.
20. Location of wetlands within 100 feet of the work.
21. Any trees within 100 feet of a resource area the applicant seeks to remove which are larger than 6 inches in diameter at a height of 4.5 feet above the ground should be individually shown on the plan and flagged. Any trees to be removed must be specifically marked on the plan, and also the trees themselves must be marked with flagging tape. The owner is responsible for ensuring that only those trees marked and approved for removal by the Commission are removed or damaged in the course of the work, on penalty of a fine or revocation of permit.
22. Topographical information adequate for the Commission to evaluate potential runoff impacts.

3.9.2 Digital Format – all plans shall be submitted to the Conservation Commission in a digital “dxf” format in addition to the paper plan sets.

3.10 Changes and Amendments The narrative and plan are a legal obligation on applicant’s part to do the work in the way specified. Changes in the location, size or type of work are not permitted without the written approval of the Commission. For more detailed information regarding the application process see the Permits and Decisions.

4. PUBLIC HEARING The Commission shall hold a public hearing on the Notice of Intent and shall issue a written decision within twenty-one days after the close of the public hearing. Prior to the close of a public hearing, all data deemed pertinent

to the decision must be submitted and reviewed by the Commission. If additional data, or time to review data, is needed, the Commission may vote to continue the public hearing.

5. PREREQUISITES FOR COMMENCEMENT OF WORK

5.1 Recording Requirements Prior to commencement of site alteration, the applicant shall provide to the Commission receipted proof that the permit has been recorded in the chain of title of the subject property at the Registry of Deeds or Land Court.

5.2 Bond Prior to commencement of site alteration, the bond must be posted if required by the Commission.

5.3 Site Sign Prior to commencement of site alteration, the applicant shall display at the entrance of the site a sign identifying the permit for the work. If the DEP number is posted as required by an Order of Conditions, it will be sufficient. Otherwise the local permit number must be shown on a sign at least 2' x 2' and no larger than 3' x 3'.

5.4 Maintenance of Conservation Structures The applicant shall be responsible for securing by way of a covenant, easement, deed restriction, or other legal instrument a perpetual mechanism or fund for the maintenance of the basin by the heirs and assigns of the property on which the basin is located. Proof of said filing shall be required prior to issuance of COC.

6. **CERTIFICATE OF COMPLIANCE** Prior to expiration of Order of Conditions the applicant shall apply for a Final Certificate of Compliance for work performed under the Order of Conditions. The Commission will require a letter from the applicant or engineer of record stating work is performed in accordance with terms of the Order and an as-built plan confirming stabilization of all disturbed areas.

Where the final as-built survey shows grading specifications have been deviated from the Commission may require the applicant to re-grade to specifications. The Commission may issue a letter for purpose of transfer of property only if the sole remaining issue is stabilization. Failure to obtain a Certificate of Compliance prior the expiration of the Order of Conditions will be a violation of the Ordinance.

C. Amendments and Revisions Prior to any change, the applicant must request a determination from the Commission as to whether the proposed change is a minor (revision) or major (amendment) change. Said request shall include a full description of the proposed changes including a detail of continued compliance with performance standards

If the Commission finds the change requires an amendment of the plan upon a majority vote of the Commissioners, the Commission will require the filing of an amendment and

a public hearing and review as the proposed change will be found likely to represent a significant change in the wetlands impact of the project. The expiration date of the Order of Conditions will not be extended unless the applicant specifically asks.

A minor revision shall not require a new hearing. A minor revision shall require a review by the Commission or its designee to determine that the change is in conformance with the stated criteria below. A minor revision shall include the following;

1. Typographic errors
2. Reduction of impervious area
3. Movement of a project further away from a resource area and not closer to or into another resource area
4. A decrease in the scope of work in the jurisdictional area
5. Any change determined by majority vote of the Commission to be minor in nature

Approval of an amendment does not extend an Order of Conditions . Also, Amendment and revisions shall be submitted at the same scale as the original approved plan

Failure to adhere to the plan puts the applicant and any other persons responsible at risk of fines as delineated in the Ordinance and the Regulations promulgated there under.

D. Revocations, Modifications, Amendments The Commission may revoke, modify or amend an order issued under the Act and/or Ordinance and Regulations if any of the following circumstances occur:

1. The applicant and/or his successors fail(s) to comply with the terms of the order;
or
2. New information relating to the project is obtained which indicates that previous information presented to Commission was inaccurate.

The Commission may revoke a permit when evidence from credible sources indicate information presented to the Commission contain inaccuracies sufficient to have caused a denial of the permit.

The applicant may request, and/or the Commission may grant, a modification to an existing Order if the proposed change is considered minor or insignificant by the Commission. If the Commission issues a decision that requires a plan revision, a copy of that revision shall be sent to the Commission and accepted as a modification.

The applicant may request, and/or the Commission may grant, an amendment to an existing Order if that change can adequately be addressed by amending the existing Order. An amendment requires the applicant to follow procedures required for a new public hearing.

E. Performance Guarantee

1. **ONGOING CONDITIONS** The Commission may specify on the Certificate of Compliance that certain conditions of the order, such as maintenance of waterways and catch basins, and erosion control measures, are imposed perpetually and do not expire with the issuance of the Certificate.

The person to whom the Certificate is issued shall forthwith record it in the Registry of Deeds or Land Court in the chain of title of the affected property.

2. **BONDS OR SURETY**

2.1 **Amount of Bond or Surety** The Commission may require the applicant to file a performance bond or a deposit of money in an amount determined by the Commission to be sufficient to cover the cost of all or any part of the site alterations specified in the Permit and/or shown on the plans approved by the Commission. Bond amounts will be set so that funds will be adequate to comply with the Order of Conditions, repair damage to wetlands and to permanently stabilize the work site and all soils. Bonds shall be determined on a site-by-site basis using these general guidelines:

Project Range of Bond · Single Family Home \$3,000 to \$10,000. · Commercial/Industrial Facility \$5,000 to \$15,000. · Subdivision 0-20 homes (within jurisdiction) \$10,000, 21-40 homes \$20,000, 41-60 \$30,000, etc.

2.2 **Reduction of Bond or Surety** The penal sum of any required bond, or the amount of any deposit held hereunder may, from time to time, be released by the Commission and the obligations of their parties thereto released by the Commission in whole or in part. As the work progresses towards completion, the Commission may chose to retain only a portion of the bond sufficient to complete remaining work.

2.3 **Release of Performance Guarantee** Upon completion of site alterations required in the permit, security for the performance of which was given by bond, deposit or covenant, or upon the complete performance of the covenants with respect to the site, the applicant may request and agree on terms of release with the Commission.

If the Commission determines that said alterations have been completed in compliance with the conditions of the permits, it shall release the interest of the City in such bond and return the bond or the deposit to the person who furnished same, or release the covenant, if appropriate.

If the Commission determines that said alterations have not been completed in compliance with the permit, it shall, within 45 days, specify to the applicant, in writing, the details wherein said alterations fail to comply with the permit.

3. **COVENANT** The Commission may require the applicant to secure the performance and observance of conditions imposed on the project, by a

conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the City whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.