

Holden Conservation Commission
Rules and Regulations
Adopted November 2, 2011

1. INTRODUCTION AND PURPOSE

1.1. Purpose

The purpose of these Regulations is to set uniform standards and provisions for work conducted within Resource Areas and to aid in the implementation of the Town of Holden Wetlands By-laws.

1.2. Relationship with Wetlands Protection Act

Except as specified herein, all of the standards, requirements, and procedures set forth in the Massachusetts Wetlands Protection Act (the "Act") [M.G.L. c. 131, § 40] and the Massachusetts Wetlands Protection Act Regulations (the "State Regulations") [310 CMR 10.00] are incorporated and made part of these Regulations as if restated herein. Where the Regulations differ from the State Regulations, these Regulations shall apply and those provisions shall supersede the State Regulations.

2. GENERAL PROVISIONS

2.1. Waivers

The Commission may waive any provision of these Regulations and/or the Town of Holden Wetland By-laws, Chapter 2, Article XXIII, where the Commission specifically finds that literal enforcement of the provision would involve demonstrated substantial hardship to an applicant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Regulations and/or By-law.

3. FILING REQUIREMENTS

3.1. Request for Determination of Applicability (RDA)

Any Person who desires a determination as to whether the Chapter and/or Act applies to an area, or work to be performed within such area may submit a written RDA Application to the Commission.

3.1.1. An RDA Application shall be submitted on the same form used for filing a RDA under the Act to the Town Clerk's Office. An RDA Application shall include an original and eight (8) copies of the following:

- a. WPA Form 1
- b. Plans; one full size and eight copies of 11" x 17"

At a minimum, the plan submitted as part of an RDA Application shall include:

1. The boundaries of all Resource Areas on the site, including Riverfront Area and Buffer Zone, and 25-foot No Disturbance Area;
 2. Location of all existing roads, cart paths, buildings, septic systems, wells, and other existing conditions features;
 3. Location of all proposed roads, pavement, vegetation removal, buildings, wells, and other proposed features;
 4. Proposed erosion and sedimentation controls (if applicable);
 5. The limit of disturbance; and
 6. Any additional items required by the RDA Application Form.
- 3.1.2. The Town shall be responsible for the submission of the required legal notice and the applicant shall be responsible for paying for the publication of the legal notice of the public meeting in a newspaper of general circulation in the Town of Holden.
- 3.1.3. The Commission will issue its decision in a Determination of Applicability Permit using the same form required under the Act.

3.2. Abbreviated Notice of Resource Area Delineation (ANRAD)

Any Person who desires a Permit to confirm the delineation of Bordering Vegetated Wetlands (BVW) and other Resource Areas, may submit a written ANRAD Application to the Commission.

- 3.2.1. An ANRAD Application shall be submitted on the same form required under the Act. An ANRAD Application shall include an original and eight (8) copies of the following;
- a. ANRAD Application:
 1. Signed WPA Form 4A;
 2. ANRAD Wetland Fee Transmittal Form;
 3. BVW Field Data forms (if applicable);
 4. USGS map of the area;
 5. Attachments (if any);
 6. Plans including one full size and eight copies of 11" x 17"
 7. One copy of the Application and the plan in digital format: PDF file.
 - b. Assessor's List of 300-foot Abutters;
 - c. Affidavit of mailing to all Abutters within 300 feet of the subject property;
- 3.2.2. At a minimum the plan submitted as part of an ANRAD Application shall include:
- a. Title and date;
 - b. Applicant's name and address;
 - c. Land Owner's name and address;
 - d. Assessor's map, block, lot number, street number and subdivision lot number, where applicable, of the subject property;
 - e. Land Owner's name, assessor's map, block, lot number, and street number of adjacent properties;
 - f. Existing Conditions:

1. Buildings and structures;
 2. Pavement;
 3. Edge of lawn / landscaping; and
 4. Stormwater structures.
- g. The boundaries of all Resource Areas on the site, including Riverfront Area and Buffer Zone, and the 25-foot No Disturbance Area;
 - h. Wetlands on and within 200 feet of the property utilizing best available information;
 - i. The location of consecutively numbered flags delineating Resource Areas;
 - j. Name of the person who performed the delineation and date of the delineation;
 - k. Certification by a Professional Engineer or Land Surveyor; and
 - l. A preliminary plan showing any known or expected alterations to the site.
- 3.2.3. The Town shall be responsible for the submission of the required legal notice and the applicant shall be responsible for paying for the publication of the legal notice of the public meeting in a newspaper of general circulation in the Town of Holden.

3.3. Notice of Intent (NOI)

Any person who wishes to perform work within a Resource Area may submit a written NOI Application to the Commission. An NOI Application shall be submitted on the same form required under the Act.

- 3.3.1 An NOI Application shall consist of an original and eight (8) copies of the following;
- a. NOI Application and required attachments:
 1. Plans as required by the Regulations One full size and eight 11 x 17" copies.
 2. One copy of the Application and the plan in digital format: PDF file.
 - b. Assessor's List of 300-foot Abutters;
 - c. Affidavit of mailing to all Abutters within 300 feet of the subject property;
- 3.3.2 At a minimum the plan submitted as part of a NOI Application shall include:
- a. Title and date;
 - b. Applicant's name and address;
 - c. Land Owner's name and address;
 - d. Assessor's map, block, lot number, street number and subdivision lot number, where applicable, of the subject property;
 - e. Land Owner's name, assessor's map, block, lot number, and street number of adjacent properties;
 - f. Existing and proposed conditions:
 1. Buildings and structures;
 2. Pavement;
 3. Edge of lawn / landscaping;
 4. Stormwater structures;
 5. Snow storage;

6. Two-foot contours or less;
 7. Limit of work;
 8. Above and underground utilities; septic systems and wells
 9. Erosion control devices; and
 10. Commercial trash receptacles.
 - g. Construction stockpiling and staging areas;
 - h. Details for proposed stormwater structures, erosion control and stabilization;
 - i. The boundaries of all Resource Areas on the site, and a 25-foot No Disturbance Area;
 - j. Wetlands on and within 200 feet of the property utilizing best available information;
 - k. Name of the person who performed the delineation and date of the delineation;
 - l. Certification by a Professional Engineer or a Professional Land Surveyor;
- 3.3.1. The Town shall be responsible for the submission of the required legal notice and the applicant shall be responsible for paying for the publication of the legal notice of the public meeting in a newspaper of general circulation in the Town of Holden.
- 3.3.2. The Applicant is responsible for notifying abutters within 300 feet of the subject property. The Applicant must present either the certified mail receipts or certificate of mailing for all abutters prior to the beginning of the public hearing.

3.4. Request for Extension Permit (EP)

Any Applicant who wishes to extend an Order of Conditions or Order of Resource Area Delineation, may submit a written request for an Extension Permit (EP) thirty (30) calendar days prior to the expiration of said Permit. An EP Application shall be submitted on the same form required under the Act.

The filing shall consist of the EP Application form detailing the current status of the project, reasons for the Extension Request and any additional information affecting the site.

3.5. Request for Certificate of Compliance (RCOC)

Any Applicant who wishes to obtain a COC for work completed under an Order of Conditions may submit a written Request for Certificate of Compliance (RCOC) Application to the Commission. An RCOC Application shall be submitted on the same form required under the Act.

- 3.5.1. An RCOC Application shall include the following:
- a. The RCOC Application:
 1. WPA Form 8A
 2. Affidavit by a professional that all conditions have been satisfactorily completed if applicable
 - b. As-builts, if required.

3.5.2. Continuing Conditions

If the Permit contains conditions which continue past the completion of the work, such as maintenance or monitoring, the COC shall specify which, if any, of such conditions shall continue. The COC shall also specify to what portions of the work it applies, if it does not apply to all the work regulated by the Permit.

3.6. Consulting Fees

- 3.6.1. As provided by M.G.L. c. 44 § 53G, the Commission may impose reasonable fees for the employment of outside consultants engaged by the Commission for specific expert services deemed necessary by the Commission to come to a final decision on an Application submitted to the Commission. The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information or technical assistance acquirable only through outside consultants would be necessary for the making of an objective decision.
- 3.6.2. Funds received by the Commission pursuant to the rules shall be deposited with the Town of Holden Treasurer who shall establish a special account for this purpose.
- 3.6.3. The Commission shall give written notice to the Applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the Applicant, and a request for payment of said fee in its entirety.
- 3.6.4. The fee must be received in its entirety prior to the initiation of consulting services. The Commission may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. No additional review or action shall be taken on the Permit request until the Applicant has paid the requested fee. Repeated failures to pay requested fees shall be grounds for denial of the underlying Application.
- 3.6.5. The Applicant may appeal the selection of the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. Such an appeal must be in writing and received by the Holden Board of Selectmen and a copy received by the Commission, so as to be received within ten (10) days of the date consultant fees were requested by the Commission.

3.7. Standard Conditions

The Commission shall include Standard Conditions in all Orders of Conditions approving a proposed activity. These conditions may be modified at the Commission's discretion to suite the needs and demands of a particular site or project. *See Appendix A: Standard Conditions.*

3.8. Special Conditions

The Commission may impose additional special conditions modified at the Commission's discretion to suit the needs and demands of a particular site, project or activity that shall be included in the Permit.

3.9. Other Special Conditions - Security

As part of a Permit the Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the following methods:

3.9.1. Security Deposit

Prior to the commencement of work, the Commission may require a proper bond in the form of a tri-party agreement or letter of surety.

3.9.2. Conservation Restrictions

With the consent of the Land Owner, the Commission may require a conservation restriction, easement, or other covenant enforceable in a court of law executed and duly recorded by the Land Owner of record, running with the land to the benefit of the Town of Holden, or other acceptable conservation organization, that will protect the interest of the Restriction whereby the conditions of the Permit shall be performed and observed before any lot may be conveyed other than by mortgage deed.

4. ENFORCEMENT AND FINES

4.1. Violation of the Bylaw or a Permit

4.1.1. Actions taken to resolve violations under the Chapter may include, but are not limited to:

- a. The issuance of an Order to Cease and Desist, and/or an Enforcement Order that includes specific requirements for the restoration of the site to its original condition within a specified time period. An Enforcement Order may require the submission of a complete Notice of Intent Application and/or a detailed restoration plan, prepared by a qualified professional, including specific dates for submissions, construction, and compliance milestones. Once an acceptable restoration plan is received, the plan will be incorporated as a dated attachment to the original Enforcement Order.
- b. A fine may be issued in accordance with Chapter 2, Article XXIII.
- c. Failing to receive an adequate response, further action may be taken through criminal or civil action.

Response to Possible Wetland Violations

4.1.2. Order to Cease and Desist

If the Commission, its agent, or their designee becomes aware of an activity that is potentially in violation of the Chapter or a Permit issued under the Chapter, the

Commission or its agent shall review records and available resources/tools (such as aerial photos) and conduct a site visit if warranted. While conducting a site visit, the Commission or its agent shall observe the possible violation from the site as permitted or from a public location (street or town property) and/or from an adjacent property as appropriate. The Commission or its agent shall take photographs and detailed notes, and determine whether or not there is a wetland violation and, if so, what actions are warranted. Based on the above, the Commission or its agent shall:

- a. If the Commission or its agent, based on review of the available resources/tools and any site visits, determines that no unauthorized activity is altering or has altered a Resource Area, then the Commission or its agent shall determine that no violation has occurred; or
- b. If the Commission or its agent determines that there is an activity occurring or that an activity has occurred, which is altering or has altered a Resource Area, then the Commission or its agent shall issue an immediate Order to Cease and Desist.

4.1.3. An Enforcement Order shall be issued in accordance with the following:

- a. The Commission, its agent, or their designee shall issue a Notice of Violation if its determined that an activity which has altered a Resource Area will not cause additional impact or degradation to the Resource Area value protected under the Act/Chapter. The Notice of Violation shall be sent by certified mail, return receipt requested, or by hand delivery to the responsible party and Land Owner if different. If it is hand delivered, the individual who delivered the document shall sign the Notice of Violation and either obtain a receipt or draft an affidavit documenting service for the Commission's records; or
- b. If the activity that is altering or has altered a Resource Area is determined by the Commission or its agent to have the potential to cause additional impact or degradation to the Resource Areas Values, then the Commission, its agent, or their designee shall issue a Notice of Violation and an Enforcement Order. An Enforcement Order issued by the Commission's agent shall be ratified by a majority of the Commission at their next scheduled meeting. The Notice of Violation and Enforcement Order shall be sent by certified mail, return receipt requested, or by hand delivery to the responsible party and a copy sent to the Land Owner, if different. If it is hand delivered, the individual who delivered the document shall sign the Notice of Violation and Enforcement Order and either obtain a receipt or draft an affidavit documenting service for the Commission's records.

4.1.4. Review of Orders to Cease and Desist, and Enforcement Orders.

- a. A public meeting will be scheduled by the Commission to discuss the violation and to detail specific restoration requirements. The Commission may also require the Land Owner to file an RDA or NOI Application, either retroactively for the work performed, or to condition additional work that is required for stabilization or restoration.

- b. The Land Owner or their representative may be required to attend the public meeting. The Land Owner will be notified at least forty-eight (48) hours in advance of the meeting. If required to attend, the failure to do so or to arrange an alternative acceptable time shall result in an Enforcement Order being issued, if one has not already.
- c. During any meeting to review an Enforcement Order, the Commission shall require the following:
 - 1. An NOI or RDA Application shall be filed with the Commission by a date certain for the specified activity; and
 - 2. Any stabilization, restoration or correction deemed appropriate by the Commission shall be described in the NOI or RDA Application and depicted on accompanying plans.
 - 3. Resource Area alterations resulting from activity shall be corrected and the Resource Areas returned to their original condition; and/or
 - 4. A restoration plan shall be filed with the Commission by a date certain; and/or
 - 5. The Land Owner shall take corrective actions to prevent further violations of the Act and Chapter as determined by the Commission by a date certain.

4.1.5. In lieu of or in addition to any order issued under this section, the Commission may issue fines for violations of the WPA and activities jurisdictional under the Wetlands By-law.

4.1.6. Factors in Determining the Issuance of a Fine

The Commission shall consider the following factors in imposing fines:

- a. Whether the violation was willful or negligent;
- b. Any economic benefit gained by the Land Owner as a result of the violation;
- c. Actual and potential harm to the values protected by the Chapter, safety, or the environment resulting from the violation;
- d. Actual and potential cost to the Town resulting from the violation, including its enforcement costs and attorney's fees;
- e. Actual and potential damages suffered by the Town or any other person(s), resulting from the violation, including its enforcement costs and attorney's fees;
- f. Whether the violator took steps to prevent the violation(s);
- g. Whether the violator promptly took steps to come into compliance after the occurrence of the violation(s);
- h. Whether the violator took steps to remedy and mitigate whatever harm occurred as a result of the violation(s);
- i. Any history of noncompliance by the violator; and
- j. Deterrence of future violations.

4.1.7. When deemed appropriate by the Commission, the Commission may accept a written plan with a timetable for full restoration of the violation and may then suspend sending the notice of fine(s) for a specified time period, provided that written notice of the Commission's intention to do so is provided to the

responsible party and/or Land Owner. If satisfactory restoration is not made in a timely manner, the notice of fines is retroactive to the date that the Commission notified the responsible party and/or Land Owner of its intention to suspend the fine.

- 4.1.8. In addition to the remedies set forth above, the Commission may seek civil or criminal enforcement of the Chapter and these Regulations in the appropriate court of law.

5. APPEALS

A decision of the Commission issued under the Chapter may be appealed to the Superior Court of Massachusetts.

6. ADDITIONAL REGULATIONS FOR WETLANDS

Activities within Areas Subject To Protection under the Chapter

6.1. Performance Standards for Wetland Replication

The Act directs the Commission to require Applicants to address not just the size of the impacted wetland, but its specific ecological functions, and it confers broad authority to determine what measures are necessary to ensure that a replication area will replace the lost functions of an impacted wetland.

Accordingly, the Commission shall strongly discourage any replication proposal for wetland impacts where the proponent has not clearly demonstrated, to the greatest extent practicable, the proper sequence of avoidance and minimization.

In those instances where replication is approved by the Commission and required for unavoidable wetland impact, the following performance standards shall be met and the following submissions required:

- 6.1.1. The area of replication will generally, at a minimum, be twice as large as the resource area that is to be destroyed or impaired. However, the Commission retains the discretion to allow a smaller area of replication, where credible evidence is presented, but not less than a ratio of one to one.
- 6.1.2. The Applicant shall submit complete replication plans and a replication proposal with the Application for Permit. The plan and proposal shall include, at a minimum, topography, location and size of BVW to be altered, a description of the BVW to be altered including and evaluation of its functions and values, the location and size of the proposed replication area, hydrology and water flow in and out of the proposed replication area, compatibility of the replication area with landscape position and neighboring land uses, and a description and detailed methodology of the replication work. The plan shall reflect the following requirements:
 - a. The ground water and surface water elevation of the replicated area shall be approximately equal to that of the lost area;

- b. If the Resource Area is bordering a waterbody or waterway, the replicated area shall have an unrestricted hydraulic connection to the same water body or waterway associated with the lost area;
 - c. The replication area shall be located within the same general area of the wetland loss;
- 6.1.3. The Applicant must provide a seasonal schedule and construction sequence which includes progress reports on the construction, planting, and growth of vegetation within the replication area.
- 6.1.4. The Commission requires that a qualified wetland scientist, employed by the Applicant, be present during the construction and planting of the wetland replication to accept responsibility for identification of plants
- 6.1.5. The application should include a plan and schedule for monitoring of the replication area and a schedule for reporting to the Commission immediately following initial construction and at the end of each growing season for the following two years. The final monitoring report shall indicate the conditions at the replication. Failure to achieve the standard of 75% wetlands vegetation within two growing seasons will require inclusion of additional contingency measures and a COC will not be issued until regulatory compliance is achieved.
- 6.1.6. The replication area shall be free of invasive non-native plant species.

6.2. Activities within the Buffer Zone

6.2.1. General Performance Standards

25-foot No Disturbance Area: No grading, filling, excavation, removal of vegetation, or other construction activity shall be allowed within twenty-five (25) feet of any Resource Area, excluding Riverfront Area and Buffer Zone.

- 6.3.2. Where activity is proposed up to the 25-foot No Disturbance Area a permanent barrier must be proposed for the purpose of preventing future encroachment to the wetlands. Acceptable barriers can consist of, but are not limited to; fencing, stone walls, or large boulders that cannot be easily moved.

6.2.3. Work within the 25-foot No Disturbance Area

The Commission may allow work within the 25-foot No Disturbance Area if the Applicant demonstrates:

- a. Alternatives have been considered and in the judgment of the Commission no practical alternative is available;
- b. Site conditions (including but not limited to slope, soil type and hydrology) or erosion control measures will prevent wetland damage from such work;
- c. Work will enhance the values protected by the Chapter (e.g. invasive plant species removal, wetland creation, removal of hazardous material, removal of fill, and/or restoration of those portions of the Buffer Zone that in the judgment of the Commission, are deemed to be degraded);
- d. Limited Project Wetland Crossings

- 6.2.4. Section 310 CMR 10.53(3) indicates that the Commission has discretionary authority to issue Permits for limited projects. The Applicant shall submit an alternative concept plan for each wetland crossing proposed in a limited project. A concept plan requires only existing topography, wetlands, roadways, lot lines, and wetland impact areas. The Commission may require the Applicant to submit additional information regarding an alternative concept plan where the circumstances of the project so warrant.
- 6.2.5. The Commission will only consider a wetland crossing when all options for accessing upland areas are unfeasible and the crossing is the only means of access after rigorous alternatives have been investigated and an analysis performed by the Applicant/Land Owner and presented to the Commission for a final determination.

6.3. Vernal Pools

- 6.4.1. Any area meeting the definition of the a vernal pool as defined in the Bylaw is jurisdictional under the Bylaw. The resource area of a vernal pool is considered the mean annual boundary as well as the 100' offset from the perimeter of this boundary. The jurisdictional buffer zone is an additional 100' from the resource area.
- 6.4.2. The presence of the following obligate vernal pool species or evidence of the obligate species breeding in standing water will verify the existence of a vernal pool:
 - a. Wood Frog
 - b. Spotted Salamander
 - c. Blue-spotted Salamander
 - d. Silvery Salamander
 - e. Tremblay's Salamander
 - f. Marbled Salamander
- 6.4.3. The Commission may require that the verification of a vernal pool be postponed until the appropriate time of year to adequately observe site conditions.

7. CONSTRUCTION STANDARDS

7.1. Erosion and Sediment Control

Land clearing and grading for construction purposes leaves soils susceptible to erosion. If not controlled, eroded soils may reach streams and water bodies, filling them in and adding pollutants attached to the soil particles. It is important to have controls in place to prevent and control the erosion of disturbed lands. The following standards shall be met for erosion control:

- 7.1.1.** Prior to any land disturbance activities commencing on the site, the Developer shall physically mark the limits of no land disturbance on the site with tape, signs, or orange construction fence, so that workers can see the areas to be protected. The physical markers shall be inspected daily.

- 7.1.2.** Appropriate erosion and sediment control measures shall be installed prior to soil disturbance. Measures shall be taken to control erosion within the project area. Sediment in runoff water shall be trapped and retained within the project area. Wetland areas and surface waters shall be protected from sediment.
- 7.1.3.** Sediment shall be removed once the volume reaches $\frac{1}{4}$ to $\frac{1}{2}$ the height of the silt fence or haybale.
- 7.1.4.** Divert off-site runoff from highly erodible soils and steep slopes to stable areas.
- 7.1.5.** Land disturbance activities exceeding two (2) acres in size should not be disturbed without a sequencing plan that requires stormwater controls to be installed and the soil stabilized, as disturbance beyond the two (2) acres continues. A construction phasing plan shall be submitted to the Conservation Office prior to any construction on the site. Mass clearings, grubbing, and grading of the entire site shall be avoided.
- 7.1.6.** Soil stockpiles must be stabilized or covered at the end of each workday. Stockpile side slopes shall not be greater than 2:1. All stockpiles shall be surrounded by sediment controls.
- 7.1.7.** The area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than fourteen (14) days shall be stabilized.
- 7.1.8.** For active construction areas such as borrow or stockpile areas, roadway improvements, and areas within fifty (50) feet of a building under construction, a perimeter sedimentation control system shall be installed and maintained to contain soil.
- 7.1.9.** A tracking pad shall be constructed at all entrance/exit points of the site to reduce the amount of soil carried onto roadways and off of the site.
- 7.1.10.** Dust shall be controlled at the site.
- 7.1.11.** On the cut side of roads, ditches shall be stabilized immediately with rock rip-rap or other non-erodible liners, or where appropriate, vegetative measures such as sod.
- 7.1.12.** Permanent seeding shall be undertaken in the spring from March through May, and in late summer and early fall from August to October 15. During the peak summer months and in the fall after October 15, when seeding is found to be impractical, an appropriate temporary mulch shall be applied. Permanent seeding may be undertaken during the summer if plans provide for adequate mulching and watering.

- 7.1.13.** All slopes steeper than 3:1 (h:v / 33.3%), as well as perimeter dikes, sediment basins or traps, and embankments must, upon completion, be immediately stabilized with sod, seed and anchored straw mulch, or other approved stabilization measures. Areas outside of the perimeter sediment control system must not be disturbed.
- 7.1.14.** Monitoring and maintenance of erosion and sediment control measures throughout the course of construction shall be required. The applicant shall submit an Operation and Maintenance Plan for temporary and permanent erosion control measures as part of the application package.
- 7.1.15.** Temporary sediment trapping devices must not be removed until permanent stabilization is established in all contributory drainage areas. Similarly, stabilization must be established prior to converting sediment traps/basins into permanent (post-construction) stormwater management facilities. All facilities used as temporary measures shall be cleaned prior to being put into final operation.
- 7.1.16** All temporary erosion and sedimentation control measures shall be removed after final site stabilization. Disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within thirty (30) days of removal.

8. ELECTION AND OPERATIONS

8.1. Appointment

Appointment to the Commission shall be made by the Town Manager and approved by the Board of Selectmen on the recommendation of the chairman. The Commission consists of seven members. Failure to attend 50% of the meetings or perform other duties set forth in these Rules and Regulations may be cause for dismissal.

Term of Appointment

Terms shall be three years in accordance with the Town Manager Charter and the General Laws of Massachusetts.

Removal and Suspension of Members

A member may be removed or suspended with cause by a two-thirds (2/3) vote of the Commission, only after reasonable notice and an opportunity to be heard.

8.2 OFFICERS

Election and Term of Office

The officers of the Commission shall be elected by the members from the membership. Elections shall be decided by a majority of those present and voting

Duties of the Chairman

The Chairman shall, in addition to the duties imposed by law, preside at all meetings of the Commission at which he/she is present, and direct the work of the Commission. This person shall appoint members to sub-committees.

Duties of the Vice Chairman

The Vice-Chairman shall preside at all meetings of the Commission in the absence of the Chairman, and shall perform all duties and shall have all powers of the chairman in case of absence or incapacity of the Chairman.

Regulation Meetings

The Commission shall conduct monthly meetings except when a quorum is not present or when no business has been presented for action

Quorum

A majority of the members of the Commission shall constitutes a quorum in the event that a vacancy causes the Commission to have an equal number half that number shall constitute a quorum and shall be sufficient to conduct the business of the Commission.

Sub-committees

Sub-committees may be created by a vote of the Commission as such sub-committees may be needed. These committees shall be responsible for planning or a specific area of concern and for reporting the results of this planning to the Commission.

8.3 Amendment

These Rules and Regulations may be amended at any regular meeting of the Commission by a two-thirds (2/3) vote of the total Commission, provided a written notice to amend is sent to each member of the Commission at least seven (7) day prior to the meeting at which the proposed action is to be taken.

APPENDIX A

STANDARD CONDITIONS

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three (3) years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three (3) years, but less than five (5) years, from the date of issuance. If this Order is intended to be valid for more than three (3) years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three (3) years each upon application to the issuing authority at least thirty (30) days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
7. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the Owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the Owner of the land upon which the proposed work is done. Prior to the commencement of work, proof of the recording of this Order shall be provided to the Commission either by filling out the form attached to his Order and providing it to the Commission or providing the Commission with a copy of the recorded document showing the Book and Page numbers.
9. A sign shall be displayed at the site not less than two (2) square feet or more than three (3) square feet in size bearing the words,

“Massachusetts Department of Environmental Protection” [or, “MassDEP” or “Department”]
“File Number 183-”

10. Where the Department is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Commission.
12. Prior to the start of any excavation or construction, there shall be an on-site meeting between the contractor responsible for the work, the project engineer and a member of the Holden Conservation Commission and/or the Conservation Agent to ensure the requirements of this Order are understood. The Application shall notify the Commission, or their Agent, 72 hours before any activity commences on the site.
13. The work shall conform to the plans and special conditions referenced in this order.
14. The contractor employed to execute filling and/or grading activities within the Resource Areas or the Buffer Zone must be provided with a copy of this Order and, thereafter, said contractor shall be held jointly responsible for any violation and the penalties under the law for such violation.
15. This Order of Conditions shall be incorporated into all construction contracts for this project and shall supersede any other conflicting contract requirements. All contractors working at the site shall be made aware of the provisions contained within this Order of Conditions and shall adhere to the special provision contained herein. The Order of Conditions shall be provided to the project supervisor and shall be available on site at all times during construction.
16. Any change to the plans identified in Condition #13 above shall require the Applicant to inquire of the Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
17. The Agent or members of the Commission and MassDEP shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Commission or Department for that evaluation.
18. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
19. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until the Commission has issued a Certificate of Compliance.

20. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the Applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
21. All gutters and downspouts from a home shall be provided with energy dissipaters.
22. All disturbed areas shall be loamed and seeded or sodded by September 30th of each year or stabilized before the ground freezes.
23. All erosion control devices shall be maintained to ensure effectiveness. At no time shall any sediment be deposited in the Resource Areas. During construction, all drainage structures shall be kept clean and inspected after heavy rainfalls.
During all phases of construction, all disturbed or exposed areas shall be brought to final finished grade either a) loamed and seeded in accordance with USDA Natural Resource Conservation Service guidelines for permanent stabilizations, or b) stabilized in another way approved by the Commission. Bare ground that cannot be permanently stabilized within thirty (30) days shall be stabilized by temporary measures acceptable to the Commission.
24. Servicing of equipment (fueling, changing, adding, or applying lubricants or hydraulic fluids) must be done outside the Buffer Zone. Equipment must be maintained to prevent leakage of discharge of pollutants. Overnight storage of equipment must be a minimum of 100 feet, or the greatest distance possible from a Resource Area boundary.
25. There shall be no stockpiling of soil or other material within thirty (30) feet of any Resource Area. Any soil stockpiled overnight shall be covered with plastic or canvas, or stabilized in a manner acceptable to the Commission so as to prevent soil from entering the wetland.
26. Prior to any work being done on the project site, the proposed limit of work shall be clearly marked with construction fencing and shall be approved by the Commission and/or their Agent. Such fencing will be maintained until all construction on the site's perimeter is complete. All workers shall be informed that no construction activity is to occur beyond this line at anytime. This fencing shall remain in place until re-vegetation of the site is sufficient to prevent sedimentation or other alteration of the wetland, as determination by the Conservation Commission/Agent.
27. Construction will be phased in order to provide maximum protection to the wetlands from stormwater runoff and sedimentation during construction.
28. The work associated with this Order (the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Management Standards. If the work is subject to the Stormwater Management Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System, Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Professional Engineer provides a Certification that:
 - i. All construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post-construction operation for stormwater attenuation, recharge, and/or treatment, if the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications, and that the BMP has been properly cleaned or prepared for post-construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. As-built final construction BMP plans are included, signed and stamped by a Professional Engineer, certifying the site is fully stabilized;
 - iii. Any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
 - iv. All post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
 - v. Any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The Land Owner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement (“O&M Statement”) for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMPs Operation and Maintenance Plan (“O&M Plan”) and certifying the following: *i.*) The O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) The future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

- e) Unless and until another party accepts responsibility, the Land Owner, or Owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the Land Owner of the property must submit to the issuing authority a legally binding agreement of record, and acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Commission upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited