

**REGULATIONS – WETLANDS PROTECTION**

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**Section 1 - Introduction and Purpose**

A. Introduction. These regulations are promulgated by the Town of Arlington Conservation Commission pursuant to the authority granted to it under the Town of Arlington Wetlands Protection Bylaw (hereinafter referred to as the "Bylaw"). These regulations complement and implement the Bylaw and shall have the force of law upon their effective date. These regulations set forth additional definitions, regulations and performance standards necessary to protect the

(2) The Conservation Commission may grant a variance from these rules and regulations when necessary to avoid so restricting the use of the property as to constitute a taking of private property without compensation. The Commission may request an opinion from Town Counsel or other legal consultant at the expense of the applicant as to whether the application of the Bylaw to a particular case will result in a taking of property without compensation.

### **Section 29 - Areas of Critical Environmental Concern**

A. Any areas within the Town of Arlington which have been designated as Areas of Critical Environmental Concern by the Secretary of Energy and Environmental Affairs, Commonwealth of Massachusetts, are so designated due to the particularly unique environmental factors that affect such areas and that highlight the unique importance of each area so designated.

B. As a result of such designation, it is incumbent upon the Commission to be even more diligent in its review of projects proposed within such areas. The highest standards of scrutiny as to the impact of any proposal are required shall be exercised by the Commission.

C. Further, close scrutiny shall be given by the Commission to any proposals involving an application of new pavement or newly installed other impervious materials within any area less than 100 feet from bordering vegetated wetland, bank, beach, and meadow.

### **Section 30 – Wildlife Habitat**

The Town of Arlington accepts and adopts the definitions, requirements, and performance standards for wildlife habitat as specified in the Massachusetts Department of Environmental Protection’s Wetlands Regulations in 310 CMR 10.00.

### **Section 31 – Climate Change Resilience**

A. The impacts of climate change can adversely affect each Resource Area’s ability to provide and promote the resource area values protected by the Bylaw. (See definitions of “adaptation” and “alter” and “impacts of climate change” in Section 4 above). Resource Areas are critical to building a community’s resilience/adaptation to the impacts of climate change due to their ability to provide for flood control, storm damage prevention, and other Resource Area Values.

B. The Applicant shall, to the extent practicable and applicable as determined solely by the Commission, integrate considerations of adaptation planning into their project to promote climate change resilience so as to protect and promote resource area values into the future. These considerations are especially important in Land Subject to Flooding (floodplain) and Riverfront Area and other Resource Areas which protect the interest of Flood Control and Storm Damage Prevention, including Adjacent Upland Resource Areas. These Resource Areas may be directly impacted by extreme weather events expected to be more prevalent or more intense due to climate change, in surface runoff of pollutants, and in wildlife habitat due to changes in temperature.

The Applicant shall consider the project's adaptation to potential climate change impacts by addressing the following:

- (1) Describe project design considerations to limit storm and flood damage during extended periods of disruption and flooding as might be expected in extreme weather events. See Vegetative Wetlands Section 21, Land Subject to Flooding Section 23, and Adjacent Upland Resource Area Section 25, of these Regulations.
- (2) Describe project stormwater surface runoff, which may increase due to storm surges and extreme weather events, and how this will be managed / mitigated to prevent pollution (including nutrients from fertilizers, roadway runoff, etc.) from entering the resource area with consideration of eliminating impervious surfaces as feasible. See Stormwater Management Section 33 of these Regulations.
- (3) Describe project vegetation / planting plans and other measures to improve the resiliency of the wildlife habitat of the resource area to withstand potential temperature and rainfall changes (drought and excess) due to climate change. See Vegetation Removal and Replacement Section 24 of these Regulations.
- (4) Describe measures to protect proposed structures and minimize damage to structures due to the impacts of climate change.

### **Section 32 - Ecological Restoration Projects**

The Commission may allow ecological restoration projects as defined and provided in 310 CMR 10.00.

### **Section 33 - Stormwater Management**

A. Work or activity specified in a request for determination of applicability or an application for a permit and subject to the Bylaw shall meet, at a minimum and to the extent practicable, the best management practices for stormwater management as set forth in the Stormwater Standards of the Massachusetts Department of Environmental Protection. The Commission may in its sole discretion require the applicant to provide a runoff plan and calculations using the "Cornell" method, and based on the ten-year, fifty-year and one-hundred-year-flood frequency event period. Calculations shall show existing and proposed runoff conditions for comparative purposes and include a narrative on the proposed project's impact on climate change resilience of the resource area (see Section 31).

B. The requirements of this section shall be met commensurate with the nature, scope, type, and cost of the proposed project or activity

### **Section 34 - Severability; Compliance With Court Decisions**

A. The invalidity of any section or provision of the Bylaw or of these regulations shall not invalidate any other section or provisions thereof, nor shall it invalidate any permit which previously has been issued.

B. If any Court of the Commonwealth shall invalidate any provisions of the Bylaw or of these regulations, the Conservation Commission may promulgate additional rules and regulations or present to the next Town Meeting after such invalidations, amendments to the Bylaw or regulations which are designed to comply with any Court decision invalidating such provisions or regulations, as the case may be.

**Section 35 - Effective Date**

The effective date of these rules and regulations shall be March 1, 2018, and the provisions of these rules and regulations shall apply to all work performed, and all applications or requests for determination of applicability received on or after that date.

*[Editor's notes: Regulations first approved January 4, 2001; revised: June 2001, September 20, 2001; February 2005; April 7, 2005; September 16, 2010; January 20, 2011; June 4, 2015; and March 1, 2018.]*