

## **Section ?? – Administrative Review of Minor Projects or Work**

[I suggest inserting these as a new Section 8 and moving the other sections accordingly-NS]

### A. Findings

Some projects are simple, small in scale, minor, or routine, and such projects involve very little activity or alteration in Resource Areas protected by the Bylaw and are not likely to have a significant or cumulative effect on the Resource Area Values protected by the Bylaw. Such projects ~~would not even require a Request for Determination of Applicability and~~ usually may be reviewed and approved by the Conservation Agent rather than the full Commission.

### B. Applicability

If a project meets the criteria in Section 8?? B.(1) or (2) below, the work may be reviewed and approved by the Conservation Agent. If the Conservation Agent has any doubt that a project meets these criteria ~~or if the public has substantial comments based on review of the Administrative Review Decision~~, the Applicant will be required to file a Request for Determination of Applicability or a full application for a permit (Notice of Intent).

**Comment [e1]:** PH- can't we add a provision for the Administrative Review Decisions to be filed in draft form, be included on Agenda so that it is noticed and so that public has opportunity to comment.

(1) A project may be approved by the Conservation Agent if it meets all of the following conditions:

a. No work is proposed in the Resource Areas listed in Section 2.A.(1), (2), (3), (4), ~~or (7)~~ of these regulations [Note: these are all RA's except AURA, Riverfront Area and Land Subject to Flooding];

**Comment [e2]:** PH thinks we need to include Land Subject to Flooding as another instance where the Administrative Review would not apply, but instead an RDA or NOI should be required. The State Wetland Protection Act excuses Applicants from filing for minor work in the buffer zone and Riverfront Area, but the provisions in 10.02(2)(b) do not apply to land subject to flooding.

b. Work is not proposed within ~~25~~ 50 feet from the edge of the Resource Areas listed in Section 2.A.(1), (2), (3), or (4) of these regulations;

c. No uprooting of non-invasive vegetation and not mowing to the ground or clear-cutting is proposed;

d. Other conditions? Work is not proposed in floodplain area that would impact flood storage or other floodplain functions that impact resource area values as listed in Section (23?)

**Comment [SC3]:** I propose we make it 50 feet, since that is our no-build for the AURA

~~d-e.~~ Work will not adversely impact the climate change resilience functions of the project area

(2) A project may be approved by the Conservation Agent if it falls within one of the following activities:

a. Fencing, provided that ~~it will not constitute a barrier to wildlife movement and~~ there are openings along the bottom at least 4 inches high ~~in~~ to allow wildlife

movement; a sketch or survey of the property showing the proposed fence location must accompany the application.

- b. Installation of dried laid (not mortared) stone walls and compacted gravel footing, provided they do not constitute a barrier to wildlife movement; a sketch or survey of the property showing the proposed fence location must accompany the application.
- c. Vista pruning of shrubs and trees according to the following guidelines . . . [See Falmouth's for detailed parameters]?
- d. Removal of invasive species by hand on the \_\_\_\_ list within the Buffer Zone and Adjacent Upland Resource Area provided native plants from the \_\_\_\_ list are planted in the same area ?or nearby?
- e. Planting of native species of trees, shrubs, or groundcover that are on the \_\_\_\_ list, but excluding planting or expansion of lawn area.
- f. Not within 50 feet of the Resource Areas listed in Section 2.A.(1), (2), (3), or (4) of these regulations, the conversion of impervious surface to lawn, provided erosion and sedimentation controls are implemented during construction;
- g. Activities that are temporary in nature, having negligible impacts, and are necessary for planning and design purposes (e.g., installation of monitoring wells, exploratory borings, sediment sampling, and surveying); a sketch or survey of the property showing the proposed locations and resource areas must accompany the application.
- h. Pervious walkways of no more than four (4) feet in width as long as no trees or shrubs will be removed;
- i. Filling of less than 1 cubic foot of floodplain . . . ?
- j. Conversion of existing lawn area to uses accessory to a single-family house, provided that the work is located more than 50 feet from the Resource Areas listed in Section 2.A.(1), (2), (3), or (4) of these regulations and is built on sono tubes, such as: open-slotted decks with crushed stone underneath, above-ground pools, patios under 100 square feet provided there is spacing between patio stones; freestanding (no foundation) sheds with a foot print of less than 15 x 15 feet; steps under 100 square feet; porches under 100 square feet on concrete sono tube footings. The conversion of such accessory uses to lawn is also allowed.

k. [any other specific types of projects?] Work within existing footprints of the existing structures on the site (e.g., roof replacement), provided that sufficient sedimentation and erosion controls are implemented during construction.

k-l. other?

**Comment [e4]:** PH wonders why we can't just use the language of Wetland Protection Act in 10.02 (2)(b)2c here.

**Comment [SC5]:** Or impervious to pervious? What about pervious patios? Or will these require an RDA? Or just reference "I" below?

**Comment [e6]:** PH suggests using language of WPA in 10.02(2)(b)2a here, "unpaved pedestrian walkways less than 30 inches wide for private use and less than three feet wide of public access on conservation property." 4 feet in width is less stringent than the WPA, which I don't think we should be.

**Comment [e7]:** PH believes this should be deleted because a) we should regulate work on land subject to flooding by either filing of an NOI or an RDA because that is what WPA requires, and b) we haven't seen a lot of evidence that folks now how to calculate this.

**Comment [e8]:** PH suggests adding additional projects that the WPA classifies as minor in section 10.02(2)(b) 2 and that are otherwise not part of WPA exemption for certain public facilities. The suggested additions would be: 10.02(2)(b) 2n, o, and p which are vegetating cutting for road safety maintenance, removal of signs, and pavement repair, resurfacing and reclamation of existing roadway/driveways under conditions noted in WPA

C. Procedure:

- a. The Applicant shall complete and submit a Form \_\_\_\_ [*create form and name it*] that shall contain sufficient information to determine where the project or work is proposed and whether it meets the requirements set forth in this section.
- b. The Applicant must provide a complete written description of all the work proposed and protective or mitigation measures proposed
- c. The Conservation Agent shall visit the site and the boundaries of Resource Areas must be clearly evident to the Conservation Agent;
- d. The Conservation Agent shall determine whether the project or work meets the criteria listed in Section \_\_ (B) above.
- e. The Conservation Agent shall issue an Administrative Review Decision (Form \_\_\_\_ ) within 7?? days of receipt of Form \_\_\_\_ that fulfills the information requirements of this section.
- f. The Conservation Agent may approve the work as proposed, approve it with conditions, or deny the work.
- g. The decision will be filed with the Commission and a copy provided to the Applicant.

[*Discussion point: do we want the Commission to be able to appeal to itself/reverse decision?*]

D. Appeal

The decision rendered by the Conservation Agent may be appealed by the person seeking Administrative Review by filing a Request for Determination of Applicability. [*Do we want the following?*] Any person aggrieved by a decision rendered by the Conservation Commission under this Section may file an RDA with the Commission within ??? days.

E. x