

**BEDFORD CONSERVATION COMMISSION**  
**REQUEST FOR A DETERMINATION OF APPLICABILITY**

The following information is a brief introduction to the requirements of state and local wetlands laws.

The Conservation Commission administers the *Massachusetts Wetlands Protection Act* and the *Town of Bedford Wetlands Protection Bylaw*. These statutes both require the Commission to conduct pre-construction review for projects within wetland resource areas and the upland area adjacent to and extending 100 feet horizontally from wetland resource areas, known as the "100-foot buffer zone". The *Massachusetts Rivers Protection Act* also requires Commission review of certain projects within 200 feet of perennial streams.

Most small residential projects within the 100-foot buffer zone may be adequately reviewed through a *Request for Determination of Applicability*, and will include the following decisions:

- (1) Whether wetlands are properly identified and located on a plan;
- (2) Whether the project as proposed will adversely affect wetlands;
- (3) Whether the project as proposed will meet the performance standards for buffer zone under the Bylaw.
- (4) Whether the project requires review under the *Rivers Protection Act*.

Within 21 days of the receipt of a *Request for a Determination of Applicability*, the Commission will review the application, schedule a site visit, and make its decision at a public meeting. The decision is issued in the form of a *Determination of Applicability*, which is valid for three years.

This filing application package includes an application checklist, meeting and filing guidelines, the *Request for a Determination of Applicability* and instructions, billing authorization form from *Gatehouse Media – New England* for the required legal notice, excerpts from the regulations to the Bylaw, and examples of a project plan, project description, and Bylaw compliance narrative. At your request, the Conservation Office will provide a color print of a 40-scale Town GIS wetland and floodplain map for your property. Wetland boundaries shown on the Town wetland maps are approximate and subject to field verification. More detailed explanations of wetland and floodplain boundaries are also available.

Please consult with the Conservation Office to determine if your project can be reviewed under a *Request for a Determination of Applicability*. Larger buffer zone projects, or those proposed within wetland resource areas, including the 100-year floodplain, will require the filing of a *Notice of Intent*. Examples of such projects include new house construction, additions and garages, and extensive ground alteration.

Please read the attached filing information and compile a basic file of your proposed submittal. If you require further assistance, it will be helpful if you have given your project and these guidelines some preliminary consideration.

## **REQUEST FOR A DETERMINATION OF APPLICABILITY FILING GUIDELINES:**

The attached Instructions for Completing the Application contain the state requirements for this application. In addition, the Town of Bedford Wetlands Protection Bylaw Regulations include a Checklist for Request for a Determination of Applicability. This application package also includes information on the following requirements:

### **Gatehouse Media New England Billing Authorization Sheet**

By law you are required to pay for the legal notice for the public hearing, which will be published in *The Bedford Minuteman* the Thursday prior to the meeting. *Gatehouse Media New England* must receive prior authorization from the person or agency responsible for payment. The Conservation Office will arrange publication of the notice and transmittal of your authorization.

### **Wetland Boundaries**

The Town of Bedford GIS Wetland Maps provide approximate locations of streams, ponds, and boundaries to most wetlands. However, these maps were created from aerial surveys, with ground checking at select locations. Some wetlands are not shown on these maps; many wetland boundaries have never received ground review. Therefore, the maps are used as guidelines, and are subject to field verification. A site visit will be required during the application process to review the wetland boundary. The Commission may require a professional delineation and location of the wetland boundary on a survey plan. More information on wetland boundary delineations is available from the Conservation Office.

### **100-Year Floodplain (1% Annual Chance Flood)**

If your proposed project is located near the 100-year floodplain, please request a copy of the narrative on floodplain boundaries. The Commission will require specific documentation of the 100-year floodplain boundary with respect to your project.

### **Riverfront Area**

Certain minor projects within the Riverfront Area and Buffer Zone do not require review under the Wetlands Protection Act. These include decks, sheds, patios and pools, so long as these structures are located at least 50 feet from the bank of the river or bordering vegetated wetland, and are not within another wetland resource area. However, these projects will still require submittal of an application and review under the Bylaw. Please consult with the Conservation Office regarding projects within the Riverfront Area.

**Further information on wetland resource areas, wetlands laws including the Request for Determination of Applicability application package may be found on the Town of Bedford web site at www.bedfordma.gov. The Request for a Determination of Applicability Form may also be found on the Massachusetts DEP website at www.mass.gov/eea/agencies/massdep.**

## **REQUEST FOR DETERMINATION OF APPLICABILITY FILING GUIDELINES:**

### **Project Plan**

This is one of the most important parts of the application. Please see the Bylaw plan requirements in the Checklist for a Request for Determination of Applicability. A copy of a recent submittal to the Commission is attached as an example. Please note that several resource area and buffer zone boundaries may be required, as listed below. The scale of the plan must be chosen to show these areas clearly:

- Bank of stream (perennial or intermittent); Bank of pond
- Bordering Vegetated Wetland boundary
- 100-foot buffer zone boundary to Bordering Vegetated Wetland boundary
- 25-foot buffer strip boundary (Bylaw requirement)
- 25-foot yard setback or 50-foot buffer zone boundary (Bylaw requirement)
- 100-year floodplain boundary (Bordering Land Subject to Flooding)
- 100-foot buffer zone to 100-year floodplain boundary (Bylaw requirement)
- 100-foot boundary to Bank of perennial stream  
(Inner Riparian Zone of Riverfront Regulations)
- 200-foot boundary to Bank of perennial stream  
(Outer Riparian Zone of Riverfront Regulations)

Topographic information must also be shown on the plan. The Town Wetland Maps include contour lines at intervals of two (vertical) feet. The Commission may require the plan to show one-foot contour intervals, both existing and proposed. If work is proposed near the 100-year floodplain boundary, the Commission may require surveyed elevations and location of the floodplain on the plan. Please consult with the Conservation Office and Code Enforcement Office to determine if a plot plan or surveyed wetlands plan is on file for your property, and if such a plan may be used to develop your project plan. You may also request a 40-scale color Town GIS map of your property. The project plan is a scaled diagram of your property and proposed project, developed in accordance with the Bylaw Checklist and showing the following features:

- |  |                                       |
|--|---------------------------------------|
| Footprint of structures                    | Topography                            |
| Grading                                    | Limit of work or alteration           |
| Distances from wetlands to limit of work   | Distances from wetlands to structures |
| Erosion and sedimentation control measures |                                       |

### **Performance Standards**

The Bylaw sets specific standards for work within the 100-foot buffer zone. The Applicant is responsible for reviewing the performance standards and designing a project that ensures compliance with these standards. Excerpts from the Bylaw regulations are attached.

**The Bylaw requires calculation of the percentage of buffer zone on your lot covered by present and proposed impervious surfaces. Impervious surfaces include buildings, swimming pools, paved or concrete patios and paved driveways, and decks constructed over impervious surfaces. The ratio of the total square feet of impervious surface to the total square feet of buffer zone may not exceed 25%. Please see the example included in the application package. Please note the Bylaw limitations on alterations to the 25-foot buffer strip, and the 25-foot yard setback (50-foot buffer). The Application must include a project narrative that describes the project, the construction process, and compliance with Bylaw performance standards.**

**THE CONSERVATION OFFICE WILL NOT ACCEPT YOUR APPLICATION FOR SCHEDULING WITHOUT THE FOLLOWING MATERIALS.**

**REQUEST FOR DETERMINATION OF APPLICABILITY**

- Completed Application Form** – the form currently approved by the Bedford Conservation Commission includes application under the Town of Bedford Wetlands Protection Bylaw
- Scaled plan** or sketch showing **All** applicable resource areas, buffer zone boundaries and proposed work
- Narrative** of complete project and work description
- Narrative of compliance with Bylaw performance standards, including calculation of impervious surface** showing a less than 25% lot coverage within the 100-foot buffer zone, and **buffer compensation area** for structures proposed within the 50-foot buffer zone (25-foot yard setback)
- Legal Notice Authorization Form** (one copy)
- 1 PDF e-mailed to Conservation@bedfordma.gov of the Complete** Application including form, plans, narratives & photographs. **Please e-mail as one complete attachment.**
- 2 Copies** of the **Complete** Application including form, plans, narratives & photographs submitted to the office.
- 1 Copy of Complete Application package Mailed to DEP** (address included in application)
- Photographs** of the project area in relation to wetlands (one color copy) (black and white copies may be included with each copy of the application)
- Field Data Sheets** are required only when submitting a delineation

**OTHER INFORMATION MAY BE REQUIRED. PLEASE CONSULT THE INSTRUCTIONS AND CHECKLISTS IN THE APPLICATION PACKAGE AVAILABLE FROM THE CONSERVATION OFFICE.**

**PLEASE SIGN AND DATE BELOW - YOUR SIGNATURE VERIFIES THAT YOU HAVE PROVIDED ALL OF THE ITEMS REQUIRED FOR YOUR APPLICATION**

**SIGNATURE \_\_\_\_\_ Date \_\_\_\_\_**

**LEGAL NOTICE AUTHORIZATION FORM**

**GATEHOUSE MEDIA NEW ENGLAND**  
**Community Newspaper Company**  
254 Second Avenue, Needham, MA 02494-2811

Date: \_\_\_\_\_

I hereby acknowledge that the application I am submitting to the:

TOWN OF BEDFORD - BEDFORD CONSERVATION COMMISSION

***\*The section below is to be filled out by the BEDFORD CONSERVATION COMMISSION STAFF:***

The application requires a legal notice of public hearing. Said hearing is to be held on \_\_\_\_\_ . Legal Notices are currently submitted to the BEDFORD MINUTEMAN for publication on the following date: \_\_\_\_\_ .

***\*The section below is to be filled out by the APPLICANT:***

I hereby AUTHORIZE that the required legal notice be billed directly to me by, GateHouse Media New England, d/b/a/, Community Newspaper Company, Inc.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_, State: \_\_\_\_\_, Zipcode: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_



# WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
and Town of Bedford Wetlands Protection Bylaw

## A. General Information

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

Name	E-Mail Address	
Mailing Address		
City/Town	State	Zip Code
Phone Number	Fax Number (if applicable)	

2. Representative (if any):

Firm		
Contact Name	E-Mail Address	
Mailing Address		
City/Town	State	Zip Code
Phone Number	Fax Number (if applicable)	

## B. Determinations

1. I request the Bedford Conservation Commission make the following determination(s). Check any that apply:

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance or bylaw** of:

Bedford  
Name of Municipality

- e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).



## WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
and Town of Bedford Wetlands Protection Bylaw

### C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

Street Address	Bedford
	City/Town
Assessors Map/Plat Number	Parcel/Lot Number

- b. Area Description (use additional paper, if necessary):

---

- c. Plan and/or Map Reference(s):

Title	Date
Title	Date
Title	Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

---



## WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
and Town of Bedford Wetlands Protection Bylaw

### C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

---

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single-family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)

---





**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

BEDFORD  
City/Town

**WPA Form 1- Request for Determination of Applicability**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
and Town of Bedford Wetlands Protection Bylaw

**D. Signatures and Submittal Requirements**

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

Name

Mailing Address

City/Town

State

Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

Signature of Applicant

Date

Signature of Representative (if any)

Date



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection – Wetlands Program

**WPA Form 1 Request for Determination of Applicability**  
Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40)  
**Instructions and Supporting Materials**

---

**Instructions for Completing Application**  
**WPA Form 1 – Request for Determination of Applicability**

*Please read these instructions before completing the Request for Determination of Applicability (WPA Form 1) for more information on certain items that are not self-explanatory.*

**Purpose of the Request for Determination of Applicability**

The Request for Determination of Applicability is a process which provides applicants with the *option* of seeking a determination on the applicability of the Wetlands Protection Act (the Act) to a proposed site or activity. Before filing this form to confirm the boundary delineation of a resource area, the applicant should discuss other delineation review options with the Conservation Commission. The Commission may require the submission of WPA Form 4A (Abbreviated Notice of Resource Area Delineation), WPA Form 3 (Notice of Intent), or WPA Form 4 (Abbreviated Notice of Intent).

The applicant is responsible for providing the information required for the review of this application to the issuing authority (Conservation Commission or the Department of Environmental Protection). The submittal of a complete and accurate description of the site and project will minimize requests for additional information by the issuing authority which may result in an unnecessary delay in the issuance of a Determination of Applicability.

The issuing authority also may require that supporting materials (plans and calculations) be prepared by professionals including, but not limited to, a registered engineer, registered architect, registered landscape architect, registered land surveyor, registered sanitarian biologist, environmental scientist, geologist, or hydrologist when the complexity of the proposed work warrants specialized expertise.

To complete this form, the applicant should refer to the wetlands regulations (310 CMR 10.00) which can be obtained from the Department's web site at [www.mass.gov/dep](http://www.mass.gov/dep). Regulations are available for viewing at public libraries and county law libraries across the state, as well as at the Department's Regional Service Centers. Regulations also are available for sale from the State House Bookstore (617.727.2834) and State House Bookstore West (413.784.1378).

**Completing WPA Form 1**

**Section B: Determinations.** The Request for Determination of Applicability can be used for a variety of purposes. Check one or more of the boxes under the following circumstances.

**1a.** To determine whether the Act applies to a particular area of land. Areas subject to jurisdiction are described in the wetlands regulations at 310 CMR 10.02.

**1b.** To confirm the precise boundaries of any delineated wetland resource area. NOTE: before checking 1b., consult the Commission to determine whether it will provide confirmation of wetland resource area boundaries in response to the filing of WPA Form 1. If the request is filed for a determination of Bordering Vegetated Wetlands (BVW) boundary, the Commission may require applicants to file WPA Form 4A (Abbreviated Notice of Resource Area Delineation), WPA Form 3 (Notice of Intent), or WPA Form 4 (Abbreviated Notice of Intent) to obtain confirmation.

**1c.** To determine whether the Act applies to work which is planned within a wetland resource area or within the Buffer Zone to a resource area. Work subject to jurisdiction is described in the wetlands regulations at 310 CMR 10.02.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection – Wetlands Program

**WPA Form 1 Request for Determination of Applicability**  
Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40)  
**Instructions and Supporting Materials**

---

**1d.** To determine whether the city or town has a local wetlands ordinance or bylaw which applies to any particular area of land and/or to work which is planned within this area of land.

**1e.** To determine the scope of alternatives to be considered for work in the Riverfront Area. The scope of alternatives which must be considered for various types of projects in the Riverfront Area is contained in the wetland regulations at 310 CMR 10.58(4)(c)2.

*In order for the reviewing agency to obtain a complete description of the project site, resource area boundaries must be clearly delineated. Further explanation of Boxes 1a – 1e follows.*

**Resource Areas: Boundaries.**

For boundaries of inland resource areas (including the Riverfront Area, which may be either inland or coastal), refer to subsection (2), "Definitions, Critical Characteristics and Boundaries" for each resource area covered under 310 CMR 10.54 – 10.58.

For boundaries of coastal resource areas, refer to the definitions in 310 CMR 10.04 and 10.24 for each resource area covered under 310 CMR 10.25 – 10.35, as well as in the text of Section 10.25 – 10.35.

The boundary of the Buffer Zone is determined by measuring 100 feet horizontally from those areas specified in 310 CMR 10.02(1)(a).

**1a.** Describe the site and, if possible, the boundary of any area that may be subject to protection under the Act (including the Buffer Zone).

**1b.** As noted earlier, 1b, should only be checked with approval of the Conservation Commission. If checked, submit:

- plans identifying the precise boundaries of the resource area(s) delineated;
- method used to determine the boundaries of Bordering Vegetated Wetland. Note whether the boundary was delineated based on the presence of one or more of the following:
  - 50% or more wetland indicator plants
  - Saturated/inundated conditions
  - Groundwater Indicators
  - Direct Observation
  - Hydric soil indicators
  - For disturbed sites: specific, credible evidence of conditions prior to disturbance.

Use one of the methods indicated above to determine the boundaries of Bordering Vegetated Wetlands (BVW). On the form, check all the methods that are used to determine the boundary. These methods are discussed in the wetland regulations at 310 CMR 10.55(2)(c). When undertaking BVW delineations, whether by vegetation alone or by vegetation and other indicators of wetland hydrology, applicants are encouraged to use the Department's BVW Handbook: *Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act* (1995). This document is available for purchase from the State House Bookstore (617.727.2834) and State House Bookstore West (413.784.1378). The Department encourages applicants to complete the BVW Field Data Form contained in the handbook and submit it with the Request for Determination of Applicability. If detailed vegetative assessments are not required for a particular site, the reasons should be noted on the Field Data Form.

**1c.** Describe the boundaries of all resource areas and Buffer Zones where work will occur or which could be impacted by the work.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection – Wetlands Program

**WPA Form 1 Request for Determination of Applicability**  
Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40)  
**Instructions and Supporting Materials**

---

1d. Describe the site, and if possible, the boundary of any area that may be subject to a municipal wetlands ordinance or bylaw. If there are areas on the site which are not subject to the Wetlands Protection Act, but which may be subject to a municipal wetlands ordinance or bylaw (if any), specifically note the boundaries of such areas. Describe all areas where work is planned if such work may be subject to a municipal wetlands ordinance or bylaw.

1e. Indicate the precise location of all work relative to the boundaries of the Riverfront Area.

**Section C: Project Description.** In this section, the applicant must describe the area and proposed work (if any) subject to the Request. The type of information required depends, in part, on the type of determination requested in Section B. In all cases, the applicant should describe the site based on resource areas jurisdiction and boundaries under the Wetlands Protection Act and regulations.

1a. Location. Include a street address (if one exists) and, if known, the Assessors map or plat number, the parcel number, and the lot number. The map or plat, parcel, and lot numbers must be included if the lot subject to the Request does not contain a residence, school, or commercial or industrial establishment, or if the lot is being subdivided.

1b. Area Description. The area should be described in narrative form. If needed, attach additional sheets for a more complete description of the area; a map or plan may also be used as part of the area description (see instructions for 1c for plan and map requirements).

1c. Plan and/or map reference(s). On the application form, list the titles of all attached plans and maps, as well as, the most recent revision date.

Submit an 8.5" x 11" section of the U.S. Geologic Survey (USGS) quadrangle or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site.

Plans should be of adequate size, scale, and detail to completely and accurately describe the site, resource area boundaries, and proposed work. The following guidelines are provided to encourage uniformity:

*Sheet Size*

- Maximum 24" x 36"
- If more than one sheet is required to describe the proposed site and/or proposed work, provide an additional sheet indexing all other sheets and showing a general composite of all work proposed within the Buffer Zone and areas subject to protection under the Act

*Scale*

- Not more than 1" = 50'
- If plans are displayed, include graphical scales

*Title Block*

- Included on all plans
- Located at the lower right-hand corner, oriented to be read from the bottom when bound at the left margin.
- Include original date plus additional space to reference the title and dates of revised plans



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection – Wetlands Program

**WPA Form 1 Request for Determination of Applicability**

Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40)  
**Instructions and Supporting Materials**

---

2a. Work Description. Work subject to the jurisdiction of the Wetlands Protection Act is described in 310 CMR 10.02. If the Request is for determining jurisdiction over proposed work, the applicant is asked to describe the work in detail. Proposed work can be described in narrative form. If needed, attach additional sheets for a more complete description of the work; a map or plan may also be used to describe the work (see instructions in 1c for plan and map requirements).

Provide the following information, depending on which boxes were checked under Section B:

1c. Describe the proposed work and its precise location relative to the boundaries of each wetland resource area and the Buffer Zone on the site.

1d. Describe the proposed work and its precise location relative to the boundaries of areas which may be subject to municipal wetland ordinance or bylaw.

1e. Describe the proposed work and its precise location relative to the boundaries of the Riverfront Area.

2b. Exemptions. Exemptions are allowed under the Wetlands Protection Act for certain mosquito control, commercial cranberry bogs, agricultural, and aquacultural projects and for projects authorized by Special Act prior to 1/1/73. These exemptions are defined, in part, in 310 CMR 10.03(6) and in the definitions of agriculture and aquaculture in 310 CMR 10.04. In addition, there are exemptions for certain stormwater management projects (310 CMR 10.02(3)); specific minor activities in the Buffer Zone (310 CMR 10.02(2)(b)); and certain other projects in the Riverfront Area (310 CMR 10.58(6)(b)).

3a. Riverfront Area Scope of Alternatives. Complete this section *only* if 1e. under Section B is checked. In 3a, check one box that best describes the project. The classifications listed in 3a and the scope of alternatives which projects in each classification must analyze are explained in 310 CMR 10.58(4)(c)2.

**Section D: Signatures and Submittal Requirements**

A completed WPA Form 1, with all attachments, must be submitted to the Conservation Commission. Applicants also must send a copy of WPA Form 1 and all attachment to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community> for locations of regional offices and the communities they serve) and to the property owner, if different from the applicant. **The original and copies must be sent simultaneously.** Failure by the applicant to send the copies in a timely manner may result in dismissal of the Request for Determination of Applicability

**Fees**

There is no application fee for the Request for Determination of Applicability. However, a notice of the application must be placed in a local newspaper, and published at least five days prior to the hearing, at the applicant's expense. Please contact your Conservation Commission regarding the procedure for public newspaper notice.

## **PART 2**

### **2.1 INTRODUCTION**

Part Two applies to all activity which will alter any freshwater wetland, marsh, wet meadow, bog or vernal pool, any bank, land under any watercourse or waterbody, land subject to flooding, or an area within 100 feet in a horizontal straight line of any of the foregoing. Part Two is intended to establish criteria for the uniform and coordinated administration of the Bylaw. It is intended to ensure that any proposed alteration of a resource area is performed in such a manner that the interests of the Bylaw are protected.

If the Commission determines that a resource area is significant to any of the wetland values identified in the Bylaw for which no presumption is stated in the preamble to the applicable section, the Commission shall impose such conditions as are necessary to protect the wetland values.

### **2.2 PERFORMANCE STANDARDS**

#### **2.2.1 General Standards**

##### **2.2.1.1 Activities in Resource Areas**

With respect to any proposed activity within a resource area as defined in section 1.3.1,

- a) in order to control flooding, the activity shall not result in an increase in the peak discharge rate of surface run-off from either a 10-year or a 100-year storm at the boundary of the wetland resource area(s) in question [exclusive of the Buffer Zone];
- b) in order to prevent erosion, the activity shall not increase the peak velocity of run-off from either a 10-year or a 100-year storm to any portion of the resource area(s) in question [including the Buffer Zone];
- c) in order to protect the hydrology of resource areas, the activity shall not decrease the amount of water discharge that would normally enter the wetland resource area(s) in question [exclusive of the Buffer Zone]; the stormwater management system shall be designed to maximize infiltration prior to discharge, and to maintain, to the extent possible, flows and watershed lines; and
- d) in order to preserve water quality, the activity shall not increase levels of contaminants or pollutants in groundwater, surface water, or surface runoff; the stormwater management system shall be designed to maximize treatment prior to discharge; drainage structures shall not discharge directly to any wetland resource area [exclusive of the Buffer Zone]; all unvegetated drainage structures (including outfall pipes and riprap or velocity dissipators) shall be set back at least 50 feet horizontally from the edge of the wetland resource area; the Commission may require an additional setback (not to exceed a total setback of 100 feet horizontally from the wetland resource area) due to conditions affecting water quality, including but not limited to slope, soil infiltration rates, vegetative cover, and the effectiveness of the proposed stormwater Best Management Practices in preventing erosion and channelization within the Buffer Zone and in promoting infiltration, sheetflow runoff, and removal of sediments, nutrients and other pollutants.

### 2.2.1.2 Rare and Endangered Species

When a wildlife or plant species listed as rare, threatened, endangered or of special concern by the Massachusetts Natural Heritage Program is known to inhabit or occur in a protected resource area, no activity shall occur in the resource area that will destroy or displace said species or will alter either permanently or temporarily, said species' habitat, niche, or food source. The Commission shall presume that any activity in a resource area where any listed species is known to inhabit or occur will adversely affect the species unless the contrary is proven by a preponderance of the credible evidence presented to the Commission by the proponent.

## 2.2.2 Specific Standards

### 2.2.2.1 Buffer Zone

Where an activity is proposed within the Buffer Zone, the Commission shall presume that the activity has a high likelihood of altering any resource area adjacent to the Buffer Zone unless the proponent proves by a preponderance of the credible evidence that either:

- a) the Buffer Zone does not play a role in the protection of any of the wetland values of the Bylaw; or
- b) the activity shall occur in such a manner that any potential adverse environmental impacts on any of the wetland values are avoided.

Notwithstanding any of the above, the placement of impervious surface in the Buffer Zone is limited to the greater of:

- a) 25% of the Buffer Zone; or
- b) the percentage of the Buffer Zone covered by previously placed impervious surface due to activity allowed at the time it was performed.

### 2.2.2.2 Buffer Strip

Where an activity is proposed within the Buffer Zone to a wetland, vernal pool, bank or beach, or isolated land subject to flooding, the Commission shall require that a continuous Buffer Strip (at least 25 feet wide) of undisturbed, natural vegetation be maintained between the proposed activity and the resource area(s). The Commission may require that a buffer strip be created where none currently exists, due to previous activities.

In designing a project to meet this performance standard, the applicant shall take into account not only proposed construction activity, but also realistic future use of the site. As an example, in the case of construction of a single-family residence, it shall be presumed that such future use includes a yard, and that the yard shall extend at least 25 feet horizontally from the structure, exclusive of any portion of the Buffer Strip. Typically, the Commission shall expect new structures to be sited at least 50 feet from wetland resource area(s), and that a Buffer Strip significantly greater than 25 feet will be provided where slopes exceed 25%.

When partial encroachment of proposed structures into the 25-foot "yard" setback is unavoidable, the applicant may mitigate the encroachment by increasing the Buffer Strip area by an amount equal to or greater than the encroachment into the "yard". The following guidelines are offered: (1) The encroachment should not exceed 10% of the total recommended "yard" setback for the lot; and (2) The encroachment should not exceed one quarter of the recommended width of the total setback from the resource area.

It is the applicant's burden to demonstrate to the Commission's satisfaction that realistic future use of the site is not likely to result in intrusion into, or alteration of, the Buffer Strip. The Commission may require the applicant to submit a use plan and narrative as part of that demonstration. At the Commission's request, the applicant shall demonstrate to the Commission's satisfaction that work or activities proposed at the edge of the Buffer Strip are necessary and that reasonable alternatives, including reducing the scale and scope of the project or adjusting other setbacks, do not exist:

#### 2.2.2.3 Bank

Where a proponent proposes altering a bank, the Commission shall presume that the bank is significant to all the wetland values of the Bylaw. This presumption is rebuttable, and may be overcome upon the proponent proving by a preponderance of the credible evidence that the bank does not play a role in the protection of any of the wetland values. When the presumption is not overcome, activities affecting a bank shall comply with the performance standards identified in 310 Code of Massachusetts Regulations (CMR) 10.54 (4)(a) 1-5, and any amendments thereof.

#### 2.2.2.4 Wetland

Where a proponent proposes altering a wetland, the Commission shall presume that the wetland is significant to all the wetland values of the Bylaw. This presumption is rebuttable, and can be overcome upon the applicant proving by a preponderance of the credible evidence that the wetland does not play a role in the protection of any of the wetland values. In the event the presumption is not overcome, no activity may alter a wetland area, except that, the Commission, at its discretion, may issue an Order of Conditions permitting any activity to alter a wetland when all of the following conditions are met:

- a) the area to be altered is less than 5000 square feet;
- b) the proponent has provided the Commission with an evaluation of the reasonableness of any previously or currently available alternatives.
- c) every reasonable effort has been made to minimize the amount of wetland altered;
- d) the replicated wetland shall be created in a non-wetland area located within the bounds of the proposed project on at least a one-to-one basis, shall comply with the performance standards identified in 310 CMR 10.55(4)(b) and any amendments thereof and shall protect the wetland values of the Bylaw;



## CALCULATING IMPERVIOUS SURFACE WITHIN THE 100-FOOT BUFFER ZONE

1. Scale the 100-foot buffer zone boundary on the plan/map.
2. Calculate the area of the 100-foot buffer zone on the plan/map in square feet.
3. Measure the existing areas of impervious surface on the property:  
House, garage, shed, pool, driveway, walkway, step, wall  
Decks underlain by pervious surface are not considered impervious  
Non-cemented brick or paver walkways are not considered impervious  
Measure the proposed new areas of impervious surface on the property
4. Add these areas together and calculate the total impervious surface.  
It is preferable to separate the existing and proposed calculations.
5. Divide the Total Impervious Surface by the  
Total Area of Buffer Zone
6. **This figure is the Percentage of Impervious Surface within the  
100-foot Buffer Zone.**

In accordance with the Regulations to the Town of Bedford Wetlands Protection Bylaw, this percentage may not exceed 25 percent (25%).

Example: The property contains 10,000 square feet of buffer zone.  
The existing impervious surfaces add up to 1,500 square feet.  
The proposed additional impervious surface is 500 square feet.

The existing impervious surface within the 100-foot buffer zone is 1,500 square feet.

$$\frac{1,500}{10,000} = .15 \text{ or } 15\%$$

The existing and proposed impervious surfaces within the 100 foot buffer zone total 2,000 square feet.

$$\frac{2,000}{10,000} = .20 \text{ or } 20\%$$

---

The final percentage is below the Bylaw limitation of 25%.

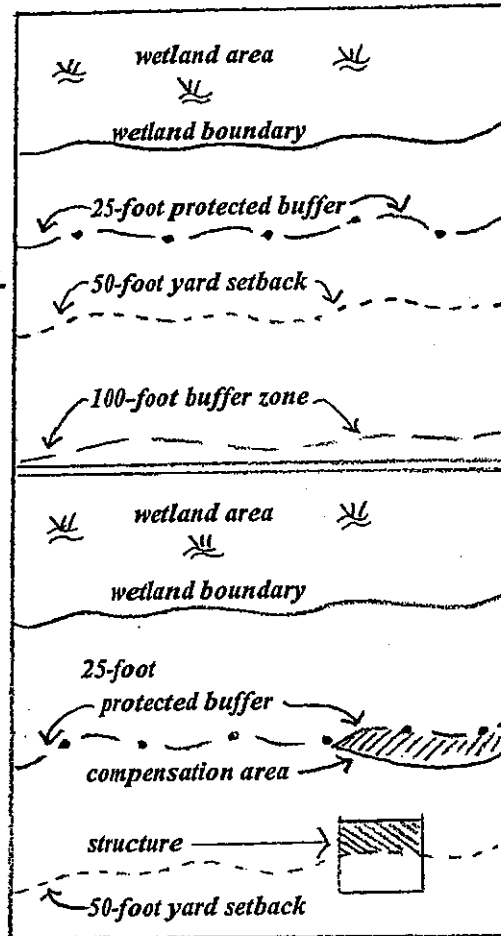
*Dear Bedford Resident:*

**PLEASE CONSIDER THE FOLLOWING NOTES ON WETLAND BUFFER AREAS  
WHEN PLANNING YOUR PROJECT**

*The Town of Bedford Wetlands Protection Bylaw regulation requires a 25-foot protected buffer to wetlands. This 25-foot buffer is a relatively small, but very important protective area between residential use and wetlands. The buffer must be allowed to remain in a natural, vegetated state, and yard waste such as leaves, grass clippings and brush must not be disposed of there. Removal of trees or limbs must be approved in advance by the Conservation Office.*

*A recent Bylaw regulation requiring a 50-foot setback from wetlands for structures may have applied to your house placement, and will apply to future building on your lot. The upper half of this area (the 25 feet upgradient of the 25-foot protected buffer boundary) is viewed as a "yard area". Although normal yard use will apply to some activities such as gardening and play areas, permanent structures such as fences, pools and sheds are generally prohibited in this area.*

*When there is no alternative to placing a structure within the 25-foot yard setback, the Commission may consider a proposal which includes a permanent compensation area enlarging the 25-foot protected buffer.*



*Conservation Commission jurisdiction includes the upland areas within 100 feet of wetlands, ponds, seasonal streams and the 100-year flood plain, and within 200 feet of rivers and streams which flow year-round. When you begin to plan a future project within 100 feet of wetlands, please contact the Conservation Office for further information on State and local Bylaw regulations, and assistance in preparing your application.*

**Elizabeth Bagdonas**  
**Conservation Administrator**

**Town Hall, 10 Mudge Way**  
**(781) 275-6211**

**EXAMPLES OF PROJECT PLANS  
AND NARRATIVES**

**Work Description:**

1. Construct an 11' x 14' screened room attached to the rear of the existing structure. Removing windows and installing sliding glass doors for access to the screened room. The screened room will set on concrete sauna tubes approximately 16" off the ground; under the screened room will be landscape fabric that will be pervious for run-off.
2. Construct 10' x 10' storage shed that will be placed on concrete blocks approximately 6" off the ground with landscape fabric underneath to allow run-off.
3. Also erecting 6' high fence in back yard, approximately 30'+/- in length from the rear of the house on both sides and across the back approx. 68'+/-.

**Bylaw Performance Standards:**

- 2.2.1.2 No rare or endangered species inhabit the proposed work area.
- 2.2.2.1 The proposed work will not pose any potential adverse environmental impact on any of the wetland values.
- 2.2.2.2 This work will not increase the already established yard area, which infringes on both the 25 foot buffer strip and the 25 foot yard setback. A compensation area is proposed to enlarge the 25 foot protected buffer zone (see map).
- 2.2.2.3 Not Applicable
- 2.2.2.4 Not Applicable
- 2.2.2.5 Not Applicable
- 2.2.2.6 Not Applicable

**TOTAL AREA WITHIN WETLAND BUFFER ZONE: 23,934 sq.ft.**

**EXISTING IMPERVIOUS AREA WITHIN WETLAND BUFFER ZONE:**

House foundation	44.5' x 44' = 1,958 sq.ft.
Driveway	22 x 26 = 572 sq.ft.
<b>TOTAL EXISTING IMPERVIOUS AREA:</b>	<b>2,530 sq.ft.</b>
Percentage of Total Area	10.57%

**PROPOSED ADDITIONAL IMPERVIOUS AREA:**

Screened Room	11' x 14' = 154 sq.ft.
Percentage	0.64%

Storage shed	10' x 10' = 100 sq.ft.
Percentage	0.42%

**GRAND TOTAL IMPERVIOUS AREA WITHIN WETLAND BUFFER ZONE: 11.63%**  
 2,530 sq.ft. + 154 sq.ft. + 100 sq.ft. = 2,784 sq.ft.