

TOWN OF STOW
CONSERVATION COMMISSION



REGULATIONS
WETLANDS PROTECTION BYLAW

Adopted September 15, 1987

Revised July 3, 1990

1 Introduction

1.1 Authority

These regulations are promulgated by the Stow Conservation Commission, hereinafter called the Commission, under the authority of the Home Rule Amendment Article LXXXIX (89) of the amendments to the Constitution of Massachusetts, 1966, and pursuant to the authority granted by the Stow Wetlands Protection Bylaw, Article IX (9) of the Town of Stow General Bylaws, hereinafter referred to as the Bylaw, and shall have the force of law upon fulfillment of all legal requirements for their effectiveness.

1.2 Purpose

These regulations are promulgated to create a uniformity of process and to clarify and define the provisions of the Bylaw. Also, these regulations are intended to establish criteria and standards of performance for activities subject to regulation under the Bylaw.

2 Definitions

2.1 Abutter

The owner of record of land which contains a point which is located not more than three hundred (300) feet from a boundary of any parcel of land on which the proposed activity will take place in any direction, including land located across a street, way, lake, pond, river, stream, creek or brook. For purposes of filings with the Commission, a certified list of abutters shall be obtained from the Town of Stow Board of Assessors. In the case of land having a common border with or containing a boundary of the Town of Stow, a list of abutters shall include those abutters listed by the Board of Assessors of the adjoining town.

2.2 Activity

Any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; the erection, reconstruction, expansion or demolition of any buildings or structures; the construction or improvement of roads or other ways; the changing of runoff characteristics; the interception or diversion of ground or surface water; the installation of drainage, sewage or water systems; the destruction of plant life; or any other changing of the physical characteristics of the land.

2.3 Agriculture

(A) Land in agricultural use:
Defined in the Bylaw

(B) Normal maintenance of land in agricultural use:
Defined in the Bylaw

2.4 Alter

Defined in the Bylaw

2.5 Applicant

Any person who files a Notice of Intent, Abbreviated Notice of Intent or Request for Determination of Applicability or on whose behalf such a notice is filed.

2.6 Bank

Defined in the Bylaw

2.7 Buffer Zone

Any area located less than one hundred (100) feet from an area subject to protection under the Bylaw. (See section 3.1 of these regulations.)

2.8 Bylaw

Article IX (9) of the General Bylaws of the Town of Stow, otherwise known as the Stow Wetlands Protection Bylaw and referred to in these regulations as “the Bylaw”.

2.9 Certificate of Compliance

A written determination by the Commission that work has been completed in accordance with an Order of Conditions.

2.10 Commission

The Conservation Commission of the Town of Stow.

1.11 Conditions

Those requirements set forth in a written Order issued by the Commission for the purpose of permitting, regulating or prohibiting any activity within the jurisdiction of the Commission.

1.12 Days

Working days (Monday through Friday) up to ten and calendar days if more than ten.

1.13 DEP

The Massachusetts Department of Environmental Protection.

1.14 Determination of Applicability

A written finding by the Commission as to whether a site or the work proposed thereon is subject to the jurisdiction of the Bylaw.

1.15 Dredge

To deepen, widen or otherwise excavate, either temporarily or permanently.

1.16 Erosion Control

Prevention or reduction of the detachment or movement of soil particles or rock fragments by water, wind, ice and/or gravity.

1.17 Fill

To deposit any materials so as to raise an elevation, either temporarily or permanently.

1.18 Fisheries

Any water body containing any species of fish and any land containing shellfish.

1.19 Flooding Control

The prevention or reduction of flooding and flood damage.

2.20 Flooding

Any local or temporary inundation of water or a rise in the surface of a body of water such that it covers land not usually under water.

2.21 Flood Plain

Any land susceptible to being inundated by a flood having a one percent or greater chance of being equaled or exceeded in any given year.

2.22 Groundwater

Water below the surface of the earth in the zone of saturation.

2.23 Interests of the Bylaw

Public and Private Water Supply

Groundwater

Flood Control

Erosion and sedimentation Control

Storm Damage Prevention

Pollution Control

Fisheries

Shellfish

Wildlife (Wild Plants and Wild Animals)

Recreation

2.24 Lake

Any open body of fresh water with a surface area of one acre or more.

2.25 Land Subject to Flooding

(A) Any area, which floods due to a rise in a water body or waterway.

(B) Any area, which serves as a ponding area for runoff or high groundwater which has risen above the ground surface.

(C) The boundaries of land Subject to Flooding shall be defined by the 100 year flood elevation.

2.26 Land Under Water Bodies and Waterways

The bottom of, or land under the surface of, any lake, pond, river, stream, creek or brook.

2.27 Majority

More than half of the members of the Commission then in office.

2.28 Major Water Body or Watercourse

Any lake, pond, river, stream, creek or brook which contains water throughout the year and which supports aquatic (animal and plant) wildlife. Includes but is not limited to: Lake Boon, White Pond, Ministers Pond, Delaney Pond, Wheeler Pond, Fletcher's Pond, Delaney Complex, Flagg Hill Pond, Assabet River, Elizabeth Brook (otherwise known as Assabet Brook), Heath Hen Meadow Brook, Sandy Brook, Hiley Brook, Potash Brook, or Bailey Brook.

2.29 Marsh

Defined by MGL Chapter 131 section 40 paragraph 10.

2.30 Meadow (or Wet Meadow)

Defined by MGL Chapter 131 section 40 paragraph 9.

2.31 Newspaper

Any newspaper of general circulation in the Town of Stow.

2.32 Notice of Intent

The written application filed by any person intending to remove, fill dredge or alter any area subject to regulation by the Bylaw.

2.33 Order

Order of Conditions

2.34 Plans

All data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the Commission to fully describe the site and/or work to determine the applicability of the Bylaw or to determine the impact of the proposed activity on the interests of the Bylaw.

2.35 Pond

Any open body of fresh water, either naturally occurring or man-made by impoundment with a surface area of at least five thousand square feet and which is never without standing water due to natural causes, except during periods of extended drought. For purposes of this definition, extended drought shall mean any

period of four (4) or more months during which the average rainfall for each month is 50% or less of the ten (10) year average for that same month.

2.36 Private Water Supply

Any source or volume of surface or groundwater demonstrated to be in any private use or to have a potential for private use as a water supply.

2.37 Protection of Fisheries

Protection of any area subject to protection under the Bylaw from reduction in its capacity to support fish; prevention of contamination of the water, reduction or other adverse changes in habitat or nutrient source.

2.38 Public Water Supply

Any source or volume of surface or groundwater demonstrated to be in the public use or to have potential for public use as a water supply.

2.39 Quorum

The majority of the duly appointed members of the Commission.

2.40 Remove

To take away any type of material, thereby changing an elevation, either permanently or temporarily.

2.41 Request for Determination of Applicability

A written request made by any person to the Commission for a determination as to whether a site or work thereon is subject to regulation by the Bylaw.

2.42 Resource Area

Any area subject to protection under the Bylaw.

2.43 Significant

Plays a role. A resource area is significant to an interest identified in the Bylaw when it plays a role in the provision or protection, as appropriate, of that interest.

2.44 Storm Damage Prevention

Prevention of damage caused by water from storms, including, but not limited to, erosion and sedimentation, damage to property, buildings or vegetation, or damage caused by flooding, water-borne debris or water-borne ice.

2.45 Stream

A body of running water, including brooks and creeks, which normally contains water for more than three (3) months of the year.

2.46 Swamp

Defined by MGL chapter 131 section 40 paragraph 8.

2.47 Town
Unless otherwise specified, the Town of Stow.

2.48 Waiver
Authorization from the Commission to an applicant for a deviation from the requirements of these regulations as described in section 4.5 of these regulations.

2.49 Wetland
Defined by MGL Chapter 131 section 40 paragraph 7.

2.50 Work
Means the same as Activity.

2.51 Zone of Saturation
The sub-surface zone in which all pore spaces are filled with water. The area of groundwater as defined by these regulations.

3 Jurisdiction

3.1 Areas Subject to Protection Under the Bylaw

- (A) Any bank bordering on any lake, pond, river, stream, creek or brook.
- (B) Any wetland, swamp or marsh.
- (C) Land under any water body.
- (D) Flood Plains and Land Subject to Flooding.

3.2 Activities Subject to Regulation Under the Bylaw

- (A) Activities within any area subject to protection under the Bylaw: Any activity proposed or undertaken which alters in any way an area subject to protection under the Bylaw.
- (B) Activities within the Buffer Zone: Any activity proposed or undertaken within one hundred (100) feet of an area subject to protection under the Bylaw.
- (C) Other Activities: Any activity proposed or undertaken which is more than one hundred (100) feet from any area subject to protection under the Bylaw.

4 General Provisions

4.1 Burden of Proof

- (A) Any person who files a Notice of Intent, an Abbreviated Notice of Intent or a Request for Determination of Applicability to perform any work within an area subject to regulation under the Bylaw has the burden of demonstrating to the Commission that:

- 1 The proposed work will protect the interests of the Bylaw and complies with the performance standards established by these regulations for the affected area; or
- 2 The affected area is not significant to the protection of any of the interests of the Bylaw.

(B) Any person who requests the Commission to regulate work taking place outside an area subject to protection under the Bylaw and outside the buffer zone has the burden of demonstrating that the work has in fact altered an area subject to protection under the Bylaw.

4.2 Presumption of Significance

Each area subject to protection under the Bylaw is presumed to be significant to one or more of the interests of the Bylaw. This presumption is rebuttable upon a clear showing that the proposed activity will not harm the interests of the Bylaw. In the event that this presumption is overcome, the Commission shall make a written determination to this effect, setting forth its grounds for this determination.

4.3 Presumption Concerning Stow Board of Health Permits

A subsurface sewage disposal system that is to be constructed in compliance with the requirements of the Stow Board of Health and with a permit issued by the Stow Board of Health shall be presumed to protect the interests of the Bylaw as long as none of the components of said system is located within any area subject to regulation under the Bylaw. This presumption is rebuttable upon a clear showing that the proposed activity will harm the interests of the Bylaw. In the event that this presumption is overcome, the Commission shall make a written determination to this effect, setting forth its grounds for this determination.

4.4 Fees

(A) Procedures

- 1 Fees are payable to the Town of Stow at the time of application and are non-refundable.
- 2 Town of Stow projects are exempt from the fees.
- 3 One (1) fee shall suffice for filings under both the Town of Stow Wetlands Protection Bylaw and MGL Chapter 131 section 40.
- 4 The cost of legal notices shall be borne by the applicant.
- 5 Fees shall be calculated by the Commission as per the schedule of section 4.4(B) below.
- 6 The area specified in section 4.4(B) shall be total area of the parcel(s), as shown on the Assessor's maps, on which the regulated activity is to be performed. For areas over two acres the determining area shall be

rounded to the nearest integer number of acres, i.e. rounding down if the fractional portion of the number is less than 0.5 and rounding up if the fractional portion of the number is 0.5 or greater.

(B) **Fees** (In addition to the fee schedule under Massachusetts Wetlands Protection Act, MGL. Chapter 131, s.40.)

1	Notice of Intent	
	(a) Up to two (2) acres	\$110.00
	plus \$2.00 for each listed abutter	
	(b) Two acres or more but less than ten acres	\$120.00
	plus \$10.00 for each acre over two	
	plus \$2.00 for each listed abutter	
	(c) Ten acres or more but less than fifty acres	\$200.00
	plus \$5.00 for each acre over ten	
	plus \$2.00 for each listed abutter	
	(d) Fifty acres or more	\$400.00
	plus \$2.50 for each acre over fifty	
	plus \$2.00 for each listed abutter	
2	Abbreviated Notice of Intent	\$ 50.00
	plus \$2.00 for each listed abutter	
3	Request for Determination of Applicability	\$ 35.00
	plus \$2.00 for each listed abutter	
4	Extension of Orders of Conditions	\$ 25.00

(C) In addition, the applicant shall agree in writing to pay the costs and expenses of any expert consultant, if deemed necessary by a majority vote of a quorum of the Commission, to review the submission, up to a maximum of \$2,500.

4.5 Waiver From Rules and Regulations

Strict compliance with any of these Regulations for the Bylaw may be waived when, in the opinion of the Commission, such action is in the public interest and is consistent with the intent and purpose of the Bylaw. Any request for a waiver must be submitted to the Commission on Form “W” appended hereto. The Commission shall act on the request within thirty (30) days of the date of receipt, and will provide to the applicant, either by certified mail or hand delivery, its written decision.

5 Performance Standards for Activities Subject to Regulations

5.1 Activities Involving Banks

Any activity subject to regulation by the Bylaw shall not impair:

- (A) The physical stability of the bank; or
- (B) The water carrying capacity of the existing channel within the bank; or
- (C) The groundwater and surface water quality; or
- (D) The capacity of the bank to provide breeding habitat, escape cover and nutrient sources for fisheries.

5.2 Activities Involving Wetlands

(A) Any activity within a wetland for which the presumption of significance has not been overcome shall not destroy or otherwise impair any function of the wetland identified with the interests of the Bylaw except as provided for in section 5.2.B et seq. of these regulations.

(B) Any activity, which alters a wetland for which the presumption of significance has not been overcome, may be permitted provided that an area, which shall replace all the functions of the altered area, shall be provided. This area shall be subject to the following conditions:

- 1 The replacement area shall have a direct free flowing hydrologic connection with the altered area.
- 2 The replacement area shall lie within the land owned by the applicant.
- 3 The replacement area shall be not more than two hundred (200) feet from the altered area.
- 4 The replacement area shall not be less than 110% of the altered area. The additional area will compensate for the time required for the replacement area to assume all the functions of the altered area.
- 5 The replacement area shall provide not less than 110% of the flood storage area lost by alteration.
- 6 The altered area shall not be greater than five thousand (5,000) square feet except in the case of special projects as defined in section 5.2© of these regulations.
- 7 At least 10% of the original wetland shall remain and shall be contiguous with the replacement area along a line which has a length of at least 10% of the circumference of the replacement area to ensure the complete

repopulating of the replacement area with the vegetation existing in the original wetland.

8 No replication will be permitted of previously replicated wetlands.

(C) The following special projects may be permitted if in the judgement of the Commission any damage to the interests of the Bylaw is out weighted by an overriding public benefit. These projects may be subject to conditions issued by the Commission:

1 The construction, reconstruction and maintenance of underground and overhead public utilities, including but not limited to electrical distribution or transmission lines, communications, water and natural gas lines providing:

(a) The Commission may require a reasonable alternative route with fewer adverse effects on the interests of the Bylaw; and

(b) The best available measures shall be used to minimize adverse effects during construction; and

(c) The vegetation and surface contours of the area shall be substantially restored.

2 The construction and maintenance of a new roadway or driveway providing:

(a) The roadway or driveway shall be the minimum legal and practical width acceptable to the Planning Board; and

(b) The roadway or driveway shall not restrict the flow of water; and

(c) The route taken by the roadway or driveway shall minimize any impact on an area subject, by the Act, for protection.

3 The maintenance of existing public roadways provided:

(a) The roadway is not made wider than its original width; and

(b) Stabilizing fill added to the roadway shall be free of toxic substances; and

(c) No herbicides or toxic chemicals shall be used within 100 feet of any wetland.

- 4 The excavation of ponds for fire protection provided:
 - (a) A fire pond is required by the Fire Department; and
 - (b) Excavation of ponds for fire protection shall be the minimum size necessary to satisfy the requirements of the Fire Department.
- 5 The maintenance of beaches and boat launching docks which existed as of September 15, 1987, the original effective date of these regulations.
- 6 The maintenance and repair of buildings and structures which existed as of September 15, 1987, the original effective date of these regulations.
- 7 The routine maintenance and repair of road drainage structures including culverts and catch basins, drainage easements, ditches, watercourses and artificial water conveyances to insure flow capacities which existed as of September 15, 1987, the original effective date of these regulations.
- 8 Routine maintenance of lakes, ponds, watercourses, and waterways to ensure the capacity existing as of September 16, 1987 or such other date as determined by the Conservation Commission.

5.3 Activities Involving Land Subject to Flooding

Any activity subject to regulation by the Bylaw shall:

- (A) Provide at least 110% compensatory storage volume for any flood storage capability lost by reason of the activity, either temporarily or permanently; and
- (B) Maintain or increase the capacity of the area to recharge groundwater supplies; and
- (C) Maintain or increase the capacity of the area to prevent pollution of groundwater supplies by filtration; and
- (D) At least 10% of the original flood storage area shall overlap the replacement area.
- (E) Surface contours shall not be changed in such a way to divert water away from the flood area.

5.4 General Performance Standards Applying to Any Area Subject to Regulation

- (A) An undisturbed vegetative buffer of naturally occurring plant materials shall be left adjacent to all wetlands, water bodies and watercourses to a minimum width of thirty-five (35) feet.

- (B) All disturbed areas shall be seeded in accordance with Soil Conservation Service guidelines to stabilize the soil as soon as possible. If work is completed or halted after November of any year, disturbed areas shall be covered with mulch to aid in the absorption and retention of surface water and to reduce erosion. The Commission may require further measures for this purpose. This mulch and/or any other required measures shall remain in place until permanent vegetation is reestablished.
- (C) Haybales, siltation screen or other measures shall be placed between any disturbed areas and wetlands or waterbodies to prevent siltation. The Commission may require similar protection between disturbed areas and flood plains.

6 Procedures

6.1 Determination of Applicability

(A) Requests for Determination of Applicability

Any person may request the Commission to determine whether an activity is subject to regulation under the Bylaw by submitting to the Commission a request for Determination of Applicability. The request shall be made on form 1 and shall include sufficient information to describe the location of the proposed activity and a general description of the proposed activity.

(B) Filing Procedure

- 1 Any request for Determination of Applicability shall be submitted to the Secretary of the Conservation Commission or an agent of the Commission designated to receive filings. Said request shall be sent by certified mail to the Commission. (Five (5) copies of the submission shall be included for distribution to the Town of Stow Conservation Commission, Planning Board, Board of Selectmen, Board of Health and Building Inspector. Any submission shall be accompanied by a certified list of abutters and the appropriate filing fee specified in section 4.4(B) of these regulations. A submission will not be complete unless the certified list of abutters and the filing fee are included.
- 2 Office hours of the Secretary of the Commission shall be posted at the Town Hall. If the Secretary of the Commission will be unavailable for a period longer than two working days, a specific individual shall be designated by the Secretary, or by the Chairman of the Commission, as an agent empowered to receive filings. The name of this agent shall be filed with the Town Clerk and the Administrative Assistant.

- 3 Time requirements defined by receipt of a filing shall start with the receipt of a complete request by the Secretary of the Commission or an agent of the Commission designated to receive filings.

(C) **Public Hearing on the Determination of Applicability**

- 1 The Commission shall, within twenty-one (21) calendar days after receipt of a request for Determination of Applicability, hold a public hearing regarding the circumstances of the activity and any materials, techniques, procedures or processes to be used to protect the interests of the Bylaw.
- 2 Notice of the time and date of this hearing shall be sent by first class mail to abutters of the site of the proposed activity. The Commission shall place notice of the location, time and date of the hearing in the newspaper. The costs of legal notices shall be borne by the applicant.
- 3 The applicant shall present at this hearing a complete description of the proposed activity, including plans, schedules, and other materials or data deemed necessary by the Commission. The Commission may suggest modifications and adjustments of the proposed activity but the responsibility for any engineering lies with the applicant.
- 4 Upon conclusion of presentation of all required facts by the applicant, the Commission shall conclude the hearing. However, if the Commission feels that further data are needed, then the Commission may continue the hearing to a later date and time:
 - (a) without the consent of the applicant if the continuation will remain within twenty-one days from receipt of the request; or
 - (b) to any later date and time with the consent of the applicant. The date and time for the continuation shall be announced at the time of continuation during the public hearing.
- 5 Upon conclusion of the hearing, the Commission shall issue a written determination of the applicability of the Bylaw to the proposed activity. Said determination shall be sent to the applicant within twenty-one (21) days of the conclusion of the hearing unless the applicant agrees to any extension of this time period.

(D) **Determination**

- 1 The Commission may issue either a positive or negative determination of the applicability of the Bylaw to the proposed activity.
- 2 If the determination is positive, the applicant shall file a Notice of Intent to the Commission before proceeding with the activity.

- 3 If the determination is negative, the applicant may proceed with the work without further notice to the Commission, provided however that the Commission may at its discretion place conditions on the negative determination to ensure that the work will not have an impact upon the interests of the Bylaw. If the applicant does not meet the conditions of the negative determination, the Commission may issue an Enforcement Order requiring the applicant to fulfill the requirements of the Determination or to file a Notice of Intent immediately. The Commission may require that the applicant cease work until the issue is resolved.

(E) Appeal

The decision of the Commission may be appealed according to the provisions of the Massachusetts General Laws.

6.2 Notice of Intent

(A) Any person who:

- 1 Performs or plans to perform any activity within an area subject to protection under the Bylaw; or
- 2 Performs or plans to perform any activity subject to regulation under the Bylaw where such activity will have an impact on the interests of the Bylaw; or
- 3 Performs or plans to perform any activity which is shown to have an impact on the interests of the Bylaw;

shall file a Notice of Intent with the Commission.

(B) Filing Procedure

- 1 The Notice of Intent shall be submitted on form 3 except that form 4 (Abbreviated Notice of Intent) may be used for certain projects as provided for in section 6.2(B) 7 of these regulations.
- 2 The Notice of Intent shall be sent to the Secretary of the Conservation Commission. Said request shall be sent by certified mail and shall be accompanied by a certified list of abutters and the appropriate filing fee specified in section 4.4(B) of these regulations.
- 3 Five copies of the Notice of Intent shall be sent by certified mail to the Town of Stow Conservation Commission for distribution to the

Conservation Commission, Planning Board, Board of Selectmen, Board of Health and the Building Inspector.

- 4 All other required notifications shall be submitted and all other required permits shall be applied for at the time of filing with the Commission. Failure to submit all notices or to apply for all permits shall be sufficient cause for denial of the project. This includes but is not limited to applications for permits from all local boards, submission of a copy of the Notice of Intent to DEQE, or any required notification or application to the Army Corps of Engineers.
- 5 Time requirements defined by receipt of a filing shall start with the receipt of a complete filing by the Secretary of the Commission. If the Secretary will be unavailable for a period longer than five working days, a specific individual shall be designated by the Secretary, or by the Chairman of the Commission, to receive filings. The name of this agent shall be filed with the Town Clerk and the Administrative Assistant.
- 6 The Notice of Intent shall include:
 - (a) A complete description of the activity performed or proposed including plans, schedules, and other materials or data deemed necessary by the Commission; and
 - (b) A complete description of the location of the activity including site photographs showing at least the specific site of proposed work and surrounding property, wetland and wetland boundary.
 - (c) A complete description of materials, procedures, measures, techniques, etc., which will be used to mitigate and control the impact of the activity upon the Area Subject to Protection.
- 7 An Abbreviated Notice of Intent (Form 4) may be submitted for any project which fulfills both of the following conditions:
 - (a) The proposed activity is within the Buffer Zone or within Land Subject to Flooding.
 - (b) The proposed activity will disturb less than one thousand (1,000) square feet within the Buffer Zone or Land subject to Flooding, but not within any wetland, swamp, marsh, floodplain, water body, or water course.

- 8 The Notice of Intent for any project that alters more than 500 square feet of an area subject to regulation, or any area subject to protection, shall include a plan which shall be certified by a Registered Professional Civil Engineer.
- 9 The Notice of Intent shall include a plan containing at least the following information:
 - (a) Property boundaries.
 - (b) Contours of the existing site topography at two-foot intervals.
 - (c) Contours of the proposed site topography at two-foot intervals.
 - (c) All statutory wetlands (by botanical criteria).
 - (d) All Land Subject to Flooding.
 - (e) All Banks adjacent to water bodies or watercourses.
 - (f) All surface water, temporary or permanent, and all existing watercourses, natural or man made, including springs, and any proposed alterations of existing waterbodies or watercourses.
 - (g) All areas where vegetation will be altered.
 - (h) Elevations of inverts, slopes and capacities of all drainage ditches, culverts, or water conductors that will be constructed or impacted by the activity.
 - (i) Location and elevation of lowest habitable floor of all structures.
 - (j) Location of existing and proposed wells on the site and within two hundred (200) feet of the site.
 - (k) Location and date of soil borings.
 - (l) Location and date of deep hole test and groundwater level determinations.
 - (m) Location and date of deep hole test and groundwater level determinations.
 - (n) Location of all existing and proposed rights of way, easements, and restrictions.

- (o) Cuts and fills indicating the amount of soil or gravel to be removed or added.
- (p) Limits of construction.
- (q) Location of all houses, buildings, roads, and other structures including paved or graveled areas and areas where vehicles or petroleum products will customarily be stored.
- (r) All below ground alterations and structures, including utility lines, drainage structures and storage tanks.
- (s) Location of all temporary erosion and sedimentation controls.
- (t) Location of all zoning district lines including the Flood Plain/Wetland overlay zone.
- (u) List of all abutters as defined in these regulations.
- (v) The depth, type and location of all material to be removed in any excavation and the storage location of the material removed.
- (w) The location, volume and type of material to be used for fill.
- (x) Methods to be used to stabilize fill.
- (y) Methods to be used in the disposal of stumps and boulders.
- (aa) All elevations shall be referred to sea level.
- (ab) The Book and Page in which the title to all parcels included in the project have been recorded.

The Commission may waive any of the requirements of 6.2(B)9 of these regulations if the applicant can demonstrate that the information is not necessary to the protection of the interest of the Bylaw. Application for waive shall be made in accordance with section 4.5 of these regulations.

10 Storm Damage Prevention and Flood Controls

Complete plans and data shall be provided to show no increase in the peak rate or volume of runoff from the site into any watershed area and no decrease of water quality of runoff from the site. Calculations based on existing conditions and proposed conditions, in each watershed impacted by the site, for the 25-year and 100-year storm shall be provided for:

- (a) Through-site drainage.
- (b) On-site drainage.
- (c) Changes in flood storage characteristics.
- (d) Flood routing through detention ponds (inflow/outflow hydrograph).
- (e) Time of concentration for each watershed.
- (f) All groundwater discharge.

11 Additional Data Requirements

The Commission may require any additional information, plans, materials, or data it deems necessary for a full and complete evaluation of the impact of the proposed plan on the interests of the Bylaw. These requirements may include, but are not limited to:

- (a) A complete description of adjacent impacted areas including those wetlands which are within 500 feet of the site of the propose activity and which are hydrological or topologically connected to an Area Subject to Protection on the site; or
- (b) Contours at two foot intervals in an area up to 500 feet from the site where necessary to assess impacts of the work; or
- (c) A complete description of the drainage basin in which the site is located, together with the location of the route taken by water flowing off the site to a major water body or watercourse; or
- (d) A complete description of any alteration of surface watercourses, ponds, springs, wells and aquifer recharge areas. This description shall be accompanied by engineering data demonstrating that the alteration will not damage the importance of said area to private or public water supply or groundwater supply.
- (e) Any alteration of surface watercourses or water bodies shall provide information on downstream impact within 1,000 feet of the site.
- (f) A complete description of the botanical basis of a wetland area. The Commission may require that an agent of the Commission observe the site to confirm the extent of wetland areas shown on the plan. In he case of a Notice of Intent filed with the Commission outside the normal growing season (May through November), the Commission may require than such observations be postponed until the emergence of sufficient

vegetation to make a wetland determination, but not later than May 15th of any year.

(C) Public Hearing on the Notice of Intent

- 1 The Commission shall, within twenty-one (21) calendar days after receipt of a Notice of Intent, hold a public hearing regarding the circumstances of the activity and any materials, techniques, procedures or processes to be used to protect the interests of the Bylaw.
- 2 Notice of the time and date of this hearing shall be sent by first class mail to abutters of the site of the proposed activity. The Commission shall place notice of the location, time and date of the hearing in the newspaper. The costs of legal notices shall be borne by the applicant.
- 3 The applicant shall present at this discussion a complete description of the proposed activity, including plans, schedules, or other materials or data deemed necessary by the Commission. The Commission may suggest modifications and adjustments of the proposed activity but the responsibility for any engineering lies with the applicant.
- 4 Upon conclusion of presentation of facts by the applicant, the Commission shall close the hearing. However, if the Commission feels that further data are needed, then the Commission may continue the discussion to a later date and time as provided for in section 6.2(D) of these regulations.
- 5 Upon conclusion of the discussion, the Commission shall issue a written Order of Conditions for the proposed activity. Said Orders shall be sent to the applicant within twenty-one (21) days of the conclusion of the hearing unless the applicant agrees to any extension of this time period.

(D) Continuations of the Public Hearing

The Commission may continue a public hearing:

- 1 without the consent of the applicant if the date and time of the continuation will remain within twenty-one days from receipt of the request; or to any later date and time with the consent of the applicant.
- 2 The date and time for the continuation shall be announced at the time of continuation during the public hearing.

(E) Orders Issued by the Commission

- 1 The Commission shall permit the proposed activity if it feels that the interests of the Bylaw can be protected. The Commission shall issue a written Order of Conditions specifying those conditions, which must be met in the performance of the activity to protect the interests of the

Bylaw and to meet the requirements of these regulations. This Order of Conditions shall be valid for not more than three years. An Order of Conditions may be extended by the Commission in accordance with the procedures of section 6.3 of these regulations.

2 The Commission may at its discretion deny approval of the proposed activity if in the opinion of the Commission:

- (a) The applicant did not demonstrate that the interests of the Bylaw could be protected in a manner consistent with these regulations; or
- (b) The applicant did not present sufficient information for the Commission to make an evaluation of the proposed activity; or
- (c) The proposed safeguards are inadequate to protect the interests of the Bylaw; or
- (d) The filing of the Notice of Intent is incomplete.

(E) Registration of Orders of Conditions

All Orders of Conditions issued by the Commission shall be registered with the deed of the land on which the proposed activity is to take place before any work is started. The Commission shall notify the applicant when the registration has been effected.

(F) Appeal

The decision of the Commission may be appealed according to the provisions of the Massachusetts General Laws.

6.3 Extension of Orders of Conditions

(A) Application for Extension

No extension of Orders of Conditions shall be granted without a written request for such extension by the applicant or his agent. Application shall be made on form E attached hereto, and the Commission may require further information in support of the application.

(B) Grounds for Extension

1 The Commission shall grant an extension (or a conditional extension as provided for in section 6.3(C) of these regulations) of an Order of Conditions, not to exceed the limits provided for in section 6.3(D) of these regulations, provided that the following conditions are met:

- (a) Work has started on the project.
- (b) The activity up to the time of application has met all the requirements of the Orders of Conditions.

- (c) The applicant expresses intent to complete the work within the requested period of extension. The expression of intent shall include a propose schedule which may at the discretion of the Commission become a part of the extension of the Orders of Conditions.
 - (d) The expiration of the order of Conditions or current extension is not more than 180 days prior to date of application for extension.
- 2 The Commission may grant an extension (or a conditional extension as provided for in section 6.3(C) of these regulations) of an Order of Conditions, not to exceed the limits provided for in section 6.3(D) of these regulations, provided:
- (a) The applicant satisfied the Commission that the current activity is permissible within the Order of Conditions.
 - (b) The applicant satisfied the Commission that any alterations to the planned activity covered by the original Notice of Intent will not require a new Notice of Intent filing.
 - (c) The applicant satisfied the Commission that all applicable schedules which was a part of the original Notice of Intent filing can be revised without harm to the interests of the Bylaw and that the revised schedules will fit within the extension period.

(C) Conditional Extension

- 1 The Commission may place additional conditions on extensions of Orders of Conditions if any modification is made of the original Notice of Intent either by past activity or inactivity or by planned future activity or inactivity.
- 2 The Commission may place a proposed schedule on an extension as an additional condition if the applicant agrees to the schedule at the time of extension.

(D) Limits to the Length of An Extension

- 1 An extension maybe granted by the Commission for a period not to exceed one (1) year from the current expiration date.
- 2 Additional extensions may be granted upon expiration of the current extension but the total duration of the Orders of Conditions and all extensions shall not exceed five (5) years.

- 3 Any project, which extends beyond this five-year period, will require the filing of a new Notice of Intent.
- 4 Any project on which work is not started before the expiration of the Orders of Conditions will require the filing of a new Notice of Intent.

6.4 Enforcement Orders

(A) The Commission may issue an Enforcement Order when it determines that an activity is in violation of the Bylaw, these regulations or an Order of Conditions. An Enforcement Order may require the person responsible for the activity to:

- 1 Cease and desist; or
- 2 File a Notice of Intent; or
- 3 Restore the affected area to its previous condition; or
- 4 Take immediate temporary measures to stabilize the affected area against erosion or to protect the interests of the Bylaw; or
- 5 Any combination of the above requirements.

(B) Violations include but are not limited to:

- 1 Failure to obtain a valid permit or extension for an activity subject to regulation under the Bylaw.
- 2 Failure to comply with all requirements of an Order of Conditions or requirements of a Determination of Applicability.
- 3 Failure to complete work required by an order of Conditions, or by a Determination of Applicability, when such failure causes damage to the interests by the Bylaw.

6.5 Certificate of Compliance

The Commission shall issue a Certificate of Compliance when:

- (A) The work is completed; and
- (B) The applicant demonstrates that he has complied with all provisions of the Order of Conditions; and
- (C) The applicant has submitted an as-built plan, with a Registered Professional Civil Engineer's certification as to the accuracy of the plan if required by the Orders of Conditions; and

- (D) The applicant has submitted site photographs showing at least the specific site of completed work and surrounding property, wetland and wetland boundary.

6.6 Citations

- (A) Authority to issue citations is granted to the Commission by Article 6, section 24 of the General Bylaws of the Town of Stow.
- (B) Citations may be issued by the Commission when in the judgement of the Commission:
 - 1 A violation of the Bylaw has occurred.
 - 2 the Commission has issued an Enforcement Order on the violation.
 - 3 Actions prohibited by the Enforcement Order have occurred subsequently, or actions demanded by the Enforcement Order have not occurred within a reasonable period of time.
- (C) Citations may be issued for each day a violation exists.
- (D) The issuance of citations will stop when the Commission is satisfied that actions are being taken to remove the violation and satisfy the demands of the Enforcement Order.

7 Severability

If any provision of any part of these regulations or the application hereof is held to be invalid, such invalidity shall not affect any other provision of these regulations.

8 Effective Date of These Regulations

These regulations shall take effect at 11:00 p.m. Eastern Daylight Time on September 15, 1987.