

CITY OF REVERE

WETLANDS BY-LAW

SECTION I: APPLICATION

The purpose of this by-law is to protect the wetlands of the City of Revere by controlling activities deemed to have a significant effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution, fisheries, shellfish, wildlife, recreation and aesthetics (collectively, the "interest protected by this By-Law").

No person shall remove, fill, dredge, alter or build upon or within one hundred feet of any bank, fresh water wetland, coastal wetland, beach, dune, flat, marsh, meadow, bog, swamp or upon or within one hundred feet of lands bordering on the ocean or upon or within one hundred feet of any estuary, creek, river, stream, pond or lake, or upon or within one hundred feet of any land under said waters or upon or within one hundred feet of any land subject to tidal action, coastal storm flowage, flooding or inundation, or within one hundred feet of the 100 year storm line, other than in the course of maintaining, repairing or replacing but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph and other telecommunication services, without filing written application for a permit so to remove, fill, dredge, alter or build upon, including such plans as may be necessary to describe such proposed activity and its effect on the environment, and receiving and complying with a permit issued pursuant to this By-law.

The provisions of this section shall not apply to work performed for normal maintenance or improvement of land in agricultural use.

Such application may be identical in form to a Notice of Intention filed pursuant to Mass. Gen. Laws C. 131, §.40; shall be sent by certified mail to the Revere Conservation Commission (the Commission). The Commission shall set a filing fee by regulation, but no filing fee is required when the City of Revere files an application for a permit. Copies of the application shall be sent at the same time, by certified mail, to the City Council, the Planning Board and the Board of Health. Upon written request of any person, the Commission shall, within twenty-one days, make a written determination as to whether this By-law is applicable to any land or work thereon. When the person requesting a determination is other than the owner, notice of the determination shall be sent to the owner as well as to the requesting person.

SECTION 2: HEARING

The Commission shall hold a public hearing on the application within twenty-one days of its receipt. Notice of the time and place of the hearing shall be given by the commission at the expense of the applicant, not less than five days prior to the hearing, by publication in a newspaper of general circulation in the City of Revere, and by mailing a notice to the applicant, the Board of Health, City Council, Planning Board and to such other persons as the Commission may by regulation determine. The Commission, its agents, officers and employees may enter upon privately owned land for the purpose of performing their duties under this By-law.

SECTION 2.1: - PERMIT AND CONDITIONS

If, after the public hearing, the Commission determines that the area which is the subject of the application is significant to the interests protected by this By-law, the Commission shall, within twenty-one days of such hearing, issue or deny a permit for the work requested. If it issues a permit after making such determination, the Commission shall impose such conditions as it determines are necessary or desirable for protection of those interests, and all work shall be done in accordance with those conditions. If the Commission determines that the area which is the subject of the application is not significant to the interests protected by this By-law, or that the proposed activity does not require the imposition of conditions, it shall issue a permit without conditions within twenty-one days of the public hearing. Permits shall expire one year from the date of issuance, unless renewed prior to expiration, and all work shall be completed prior to expiration.

SECTION 2.2: RELATIONSHIP TO MASS. G.L. C. 131, §. 40

The Commission shall not impose additional or more stringent conditions pursuant to MGL, C. 131, §.40, than it imposes pursuant to this By-law, nor shall it require a Notice of Intention pursuant to §. 40 to provide materials or data in addition to those required pursuant to, this By-law.

SECTION 3: EMERGENCY PROJECTS

This By-law shall not apply to any emergency project as defined in MGL, C. 131, §. 40.

SECTION 4: PRE-ACQUISITION VIOLATION

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this By-law or in violation of any permit issued pursuant to this By-law shall forthwith comply with any such order or restore such land to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such person unless commenced within three years following the date of acquisition of the real estate by such person.

SECTION 5: REGULATIONS

After due notice and public hearing, the Commission' may promulgate rules and regulations to effectuate the purposes of this By-law. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this By-law.

SECTION 6: BURDEN OF PROOF

The applicant shall have the burden-of proving by a preponderance of the credible evidence that the work proposed in the application will not harm the interests protected by this By-law. Failure to provide adequate evidence to the Commission supporting a determination that the proposed work will not harm the interests protected by this By-law shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions, or, in the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

SECTION 7: - DEFINITIONS

The following definitions shall apply in the interpretation and implementation of this By-law.

SECTION 7.1

The term, "person" shall include any individual, group of individuals, association, partnership, corporation-, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agencies, public or quasi public corporations or bodies, the City of Revere, and any other legal entity, its legal representatives, agents or assigns.

SECTION 7.2

The term "alter" shall include, without limitation, the following actions when undertaken in areas subject to this By-law:

- (a) Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;
- (b) Changing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood retention characteristics;
- (c) Drainage or other disturbance of water level or water table;
- (d) Dumping, discharging or filling with any material which may degrade water quality;

- (e) Driving of piles, erection of buildings or structures of any kind;
- (f) Placing of obstructions whether or not they interfere with the flow of water;
- (g) Destruction of plant life, including cutting of trees;
- (h) Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water.

SECTION 7.3

The term "banks" shall mean that part of land adjoining any body of water, which confines the water.

SECTION 7.4: AGRICULTURAL PRACTICES

(a) The term "land in agricultural use" shall mean any qualifying wetland within a farm, which is qualified or eligible to be qualified under the Farmland Assessment Act, Mass. Gen. Laws, C. 61A, §§1-5.

(b) The term "qualifying wetland" shall mean only inland fresh water areas which are seasonally flooded basins or flats or inland fresh meadows.

(c) The term "normal maintenance or improvement" of land in agricultural use shall mean only:

1. Tilling practices customarily employed in raising of crops;
2. Pasturing of animals, including such fences and protective structures as may be required;
3. Use of fertilizers, pesticides, herbicides, and similar materials subject to state and federal regulations covering their use;
4. Constructing, grading or restoring of field ditches, sub-surface drains, grass waterways, culverts, access roads, and similar practices to improve drainage, prevent erosion, provide more effective use of rainfall, improve equipment operation and efficiency, in order to improve conditions for the growing of crops.

(d) "Improvement" of land in agricultural use may also include more extensive practice such as the building of ponds, dams, structures for water control, water and sediment basins, and related activities, but only where a plan for such activity approved by the Conservation District of the Soil Conservation Service is furnished to the Conservation Commission prior to the commencement of work. All such activity shall subsequently be carried out in accord with said plan. In the event that the work is not carried out in accordance with the required

plan, the Conservation Commission may place a stop order on said work and have recourse to such measures as if the plan were an order of conditions.

SECTION 7.5

The Commission may adopt additional definitions not inconsistent with this Section 7 in its regulations promulgated pursuant to Section 5 of this By-law.

SECTION 8: - SECURITY

The Commission may require, as a permit condition, that the performance and observance of other conditions be secured by one or both of the following methods:

- (a) By a bond or deposit of money or negotiable securities in an amount determined by the Commission to be sufficient and payable to the City of Revere;
- (b) By a conservation restriction, easement or other covenant running with the land, executed and properly recorded (or registered, in the case of registered land).

SECTION 9: - ENFORCEMENT

Any person who violates any provision of this By-law or of any condition or a permit issued pursuant to it shall be punished by a fine of not more than \$300-00. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offense. This By-law may be enforced pursuant to Mass. Gen. Laws, C. 40, § 21D, by a city police officer or other officer having police powers.

Upon request of the Commission, the City Council and City Solicitor shall take such legal action as may be necessary to enforce this By-law and permits issued pursuant to it.