



BERLIN CONSERVATION COMMISSION

23 Linden Street, Berlin, Massachusetts 01503

Conservation@TownofBerlin.com

Notes regarding the Wetlands Bylaw

February 15, 2021

A municipal wetlands bylaw provides additional protections and additional administrative functions that are not provided for in the Wetlands Protection Act (M.G.L. Ch. 131, Sec. 40). About 60% of the communities in Massachusetts have adopted a non-zoning wetlands town bylaw or city ordinance. Our draft is based on the Massachusetts Association of Conservation Commission Model Bylaw. Below are listed the salient points:

- The Bylaw provides protection for vernal pools that are not already part of a larger wetland resource area. This bylaw does not provide protection for isolated land subject to flooding (ILSF) that does not meet criteria for a vernal pool or pond.
- Codifies as law a 25 foot No Disturb Zone. We have a 25 foot No Touch Policy, but in fact it is not enforceable. There are comments about exceptions and grandfathering.
- Allows for the consideration of wildlife habitat when a permit is submitted and permits us to order that a wildlife habitat study be done. This would probably only apply to large projects.
- Provides additional protection for intermittent streams.
- Allows the Commission to continue a hearing for just cause (such as the redesign of a site plan). Curiously, at present we must ask the applicant for a continuation.
- Allows the Commission to administer fines for violation of the Wetlands Protection Act or the Berlin Wetlands Bylaw. At present, we are unable to use fines to enforce compliance on a municipal level; instead, we need to involve the Massachusetts Department of Environmental Protection or the Federal Environmental Protection Agency (the EPA can impose enormous fines). Ideally, the Commission will never have to impose a fine, and just the threat of fines will convince people to follow the law.
- Allows for municipal filing fees that will be detailed in the subsequent Wetlands Regulations. These fees will not be high, but will allow the Commission to garner some extra money to offset the cost of our administrative and consultative work.
- Allows for the option of an appeal to be settled by a mediator (disinterested environmental expert), rather than Superior Court.

Much of the language in the Bylaw replicates language already in the Wetlands Protection Act, but has been deemed to be necessary, according to MACC legal counsel.

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