



TOWN OF TEWKSBURY

1009 Main Street
TEWKSBURY, MASSACHUSETTS 01876

CONSERVATION COMMISSION

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High-Level Summary of the Proposed Tewksbury Wetland Protection Bylaw Changes:

Background

The purpose of the Tewksbury Wetland Protection Bylaw ("Bylaw") is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Tewksbury ("Town") by controlling activities deemed by the Tewksbury Conservation Commission (the "Commission") likely to have a significant or cumulative effect on Resource Area Values, including but not limited to the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention including coastal storm flowage, water quality, prevention and control of pollution, fisheries, shellfisheries, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, aquaculture, and recreation values, deemed important to the community.

This Bylaw is intended to utilize the Home Rule authority of this municipality so as to protect the resource areas under the Wetlands Protection Act (M.G.L. Ch.131 §40; the "Act") to a greater degree, to protect additional resource areas beyond the Act recognized by the Town as significant, to protect all resource areas for their additional values beyond those recognized in the Act, and to impose in local regulations and permits additional standards and procedures stricter than those of the Act and regulations thereunder (i.e., 310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant Bylaws of the Town.

The Bylaw was last amended in its entirety in 2009. Since then, smaller amendments have been made in 2012 and 2013. A record of revisions is provided below:

	Description	Town Meeting	Attorney General
1.	Add new Section 18.04.40, Exceptions (3)	Article 14-10/7/03 STM	11/7/03
2.	Amend entire Bylaw	Article 6-5/5/09 STM	9/30/09
3.	Amend Definition of Abutter	Article 33-5/7/12 ATM	8/3/12
4.	Amend 18.04.060 Notice and Hearings	Article 34-5/7/12 ATM	8/3/12
5.	Amend Definition of Structure	Article 35-5/7/12 ATM	8/3/12
6.	Amend 18.04.030 Jurisdiction (9)	Article 36-5/7/12 ATM	8/3/12
7.	Amend 18.04.030 Jurisdiction (7)	Article 39-5/6/13 ATM	8/13/13

Proposed Changes:

New amendments to the Bylaw are being proposed. The overarching goals of this effort to amend the Bylaw include:

- a. Making elements of the Bylaw more consistent with the Act and its associated regulations, 310 CMR 10.00; and
- b. Improving organization and readability.

The most notable changes include:

- (1) Requests for Determination of Applicability (RDAs) will not be public hearings. This removes the requirement of applicants to notify abutters about the project; however, placing a legal ad in a newspaper at least five business days prior to the meeting is still required. **This is consistent with the Act and 310 CMR 10.00.**

Note that RDAs are *generally* meant for smaller-scale projects occurring within the buffer zone of wetland resource areas. RDAs are most often filed by residential homeowners. By removing the requirement to hold a public hearing and notify abutters for RDAs, the application process will be more streamlined for Tewksbury residents.

- (2) In general, procedures and timeframes for (a) applicants submitting various types of applications and (b) the Commission acting upon the applications are made consistent with the Act and 310 CMR 10.00. By doing so, this reduces confusion for an application that is being filed where both the Bylaw and 310 CMR 10.00 apply.
- (3) Changing the performance standards of the 50-foot No Build Zone. Under section 18.04.030(7) of the current Bylaw, where an applicant demonstrates that partial encroachment of proposed structures into the No Build Zone is unavoidable, the Commission may allow 10% encroachment into the No Build Zone. Under the proposed Bylaw, this same allowance of a 10% encroachment is provided to applicants; however, the Commission is also given discretionary ability to allow further encroachment into the No Build Zone *if* the applicant agrees to enhance/restore at least a proportionate amount of other areas in the buffer zone. This change allows for the Commission to have built-in flexibility when reviewing projects that may slightly go over the 10% encroachment.

Note that the 25-foot No Disturb Zone performance standard is not being changed.

- (4) The terms and definitions of the Bylaw were updated. Terms that were included in the definitions that were otherwise not referenced were removed. Terms were removed that can be deferred to the Act or 310 CMR 10.00 to define. Other terms were added as needed.
- (5) Constructed stormwater management systems are proposed to be jurisdictional only under a specific set of circumstances, consistent with 310 CMR 10.02(2)(c). In general, the Bylaw proposes for stormwater management systems to *not* be considered a jurisdictional resource area or buffer zone by themselves if the system was “designed, constructed, installed, and/or improved...after November 18, 1996 (this date represents the effective date of the Stormwater Management Policy of Massachusetts).”
- (6) Language regarding waivers has been re-written to improve clarity and reduce confusion. Both the current and proposed Bylaw include waivers for the No Disturb Zone and No Build Zone at the discretion of the Conservation Commission, provided said waiver is warranted under a defined set of circumstances.
- (7) Exempt minor activities are proposed to be entirely placed in the Commission’s *regulations*. This will be a separate document that further elaborates on what activities occur within jurisdictional areas but does not necessarily require permitting and review by the Commission. Again, the theme is to keep the exempt minor activities mostly consistent with 310 CMR 10.00.