CITY OF LYNN, MASSACHUSETTS

General Wetlands Protection By-Law

Rules and Regulations

LYNN CONSERVATION COMMISSION

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Table of Contents

I. PURPOSE

II. JURISDICTION

III. CONDITIONAL EXCEPTIONS

IV APPLICATIONS FOR NOTICE OF INTENTS AND REQUESTS FOR DETERMINATIONS – FEE SCHEDULES

V COORDINATION WITH OTHER BOARDS

VI NOTIFICATION TO ABUTTERS

VII NOTICE OF INTENT – ORDER OF CONDITIONS

VIII RECORDING OF DOCUMENTS

IX CERTIFICATE OF COMPLIANCE

X REGULATIONS

XI DEFINITIONS

XII SECURITY

XIII ENFORCEMENT

XIV BURDEN OF PROOF

XV APPEALS

XVI RELATION TO WETLANDS PROTECTION ACT

XVII SEVERABILITY

XVIII REVISIONS

XIX APPLICATION PROCEDURES

XX DESIGN CRITERIA

XXI PERFORMANCE STANDARDS

XXII ENFORCEMENT

APPENDIXES
A DEFINITIONS
B CHECKLIST – DETERMINATION OF APPLICABILITY
C CHECKLIST – NOTICE OF INTENT
D COPY OF GENERAL CONDITIONS

LYNN CONSERVATION COMMISSION
WETLANDS PROTECTION BY-LAWS

I. PURPOSE

The purpose of these By-Laws is to protect the wetlands, related water resources, and adjoining land areas in Lynn, Massachusetts by regulating or prohibiting activities deemed by the Lynn Conservation Commission (L.C.C.) likely to have a significant or cumulative effect upon resource area values, including, but not limited to, the following: public or private water supply, ground water, flood control, erosion and sedimentation control, storm damage prevention including coastal storm flowage, water quality, water pollution control, fisheries, shellfish, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the "resource area values protected by these By-Laws"). These By-Laws are intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act, G.L. Ch. 131, S.40, and Regulations thereunder, 310 CMR 10.00.

II. JURISDICTION - AREAS SUBJECT TO PROTECTION

Except as permitted by the Conservation Commission or as provided in these By-Laws, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following (Areas Subject to Protection); any freshwater or coastal wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; rivers; streams; creeks; beaches; dunes; estuaries; oceans; lands under waterbodies; lands subject to flooding or inundation by ground water or surface water; lands subject to tidal action, coastal storm flowage, or flooding; and lands within 100 feet of any of the aforesaid resource areas (collectively the "resource areas protected by these By-Laws"). Said resource areas shall be protected whether or not they border surface waters.

III. CONDITIONAL EXCEPTIONS

The application and order of conditions required by this By-Law shall not be required for 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 to provide electric, gas, water, sewerage, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

The application and permit required by this By-Law shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement, provided that the Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this By-Law. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this section, the exceptions provided in the Wetlands Protection Act, G.L. Ch. 131, S. 40, and Regulations, 310 CMR 10.00 shall not apply under this By-Law.

IV. APPLICATIONS FOR NOTICE OF INTENTS AND REQUESTS FOR DETERMINATION

Written application shall be filed with the Commission to perform activities affecting resource areas protected by these By-Laws. The application shall include such information and plans as deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by these By-Laws. No activities shall commence without receiving and complying with a permit issued pursuant to these By-Laws.

The Commission will accept as the permit application and plans under these By-Laws the Notice of Intent (N.O.I.) and plans filed under the Wetlands Protection Act, G.L., Ch. 131, S.40, and Regulations, 310 CMR 10.00.

Applicants shall use the latest form entitled "Notice of Intent" or "Abbreviated Notice of Intent" as provided in 310 CMR 10.99.

Any person desiring to know whether or not a proposed activity or an area is subject to this By-Law, may in writing, request a determination from the Commission. Such a Request for Determination (R.F.D.) shall include information and plans as are deemed necessary by the Commission.

Applicants shall use the latest form entitled "Request for Determination of Applicability" as provided in 310 CMR 10.99.

At the time of a N.O.I. application or RFD, or application for Certificate of Compliance, the applicant shall pay a filing fee as specified below. The fee is in addition to that required by the Wetlands Protection Act, G.L. Ch. 131, S.40, and Regulations, 310 CMR 10.00.

	Filing Fees
Notice of Intent	
Minor Residential Project (such as, but not limited to: house addition, pool deck or utility work within buffer zone resource areas)	$ 55.00
Single Family Dwelling (within wetlands or buffer zone resource areas)	$250.00
Subdivisions (road and utility work within wetlands or buffer one resource)	$500.00+ $2/l.f. of roadway
Multiple Dwelling Structures (within wetlands or buffer zone resource areas)	$250.00/unit
Commercial or Industrial Projects (within wetlands or buffer zone resource areas)	$500.00+ $.50/s.f.of resource area altered
Extension Permits	

Minor Residential Projects as defined above	$ 10.00
Single Family Dwellings	$ 25.00
Subdivisions (as defined above)	$100.00
Multiple Dwelling Structures	$100.00
Commercial or Industrial Projects	$100.00

NOTE: These fees are in addition to those required under MGL CH. 131 s. 40 and 310 CMR 10.00. They do not include any additional costs or expenses mentioned in the Lynn Conservation Commission's Wetland Protection By-Laws and do not include costs of placing notices in the Daily Evening Item (or other local paper) as required by the Wetland Protection Act and/or By-Laws.

Upon receipt of a N.O.I. application or RFD, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the "Consultant Fee". The specific consultant services may include, but are not limited to, resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydro-geologic and drainage analysis, and environmental or land use law.

The Commission may waive the filing fee, Consultant Fee, and expenses other than expenses for advertising for a N.O.I. application or R.F.D. filed by a government agency.

The Commission may require the payment of the Consultant Fee at any point in the deliberations prior to a final decision. The applicant shall pay the fee to be put into a consultant services account of the Commission which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public meetings.

The exercise of discretion by the Commission in making its determination to require the payment of a Consultant Fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.

The Commission shall return any unused portion of the Consultant Fee to the applicant unless the Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the Consultant Fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

The maximum Consultant Fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following schedule:

CONSULTANT FEE SCHEDULE

PROJECT COST	MAXIMUM FEE
UP TO - $ 100,000	$ 1,000
$100,001 - $ 500,000	$ 2,500
$500,001 - $ 1,000,000	$ 5,000
$1,000,001 - $ 1,500,000	$ 7,500
$1,500,001 - $ 2,000,000	$ 10,000

Each additional $500,000 project cost increment (over $2,000,000) shall be charged at an additional $2,500 maximum fee per increment.

The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The Consultant Fee shall be paid pro rata for that portion of the project cost applicable to those activities within resource areas protected by this By-Law. The project shall not be segmented to avoid being subject to the Consultant Fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the Consultant Fee.

The City hereby accepts the provisions of G.L. Ch. 44, S.53E (or G.L. Ch. 44, S.53E1/2)) for purposes of administering jointly the filing fee and the Consultant Fee provisions of this By-Law.

The Commission shall conduct a public hearing on any N.O I. application or R.F.D. with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality. In order to accomplish this, applications must be received at the Commission's office twelve (12) days prior to the meeting. The Commission meets the third Tuesday of each month.

The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant, or if the action is tabled by a motion of the L.C.C.

The Commission in an appropriate case may combine its hearing under this By-Law with the hearing conducted under the Wetlands Protection Act, G.L. Ch. 131, S.40, and Regulations, 310 CMR 10.00.

The Commission shall have authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in S.VI.

V. COORDINATION WITH OTHER BOARDS

Any person filing a N.O.I. or R.F.D. with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the Conservation Commissions of the adjoining municipality, if the application or R.F.D. pertains to property within 100 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission may not take final action until the boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account, but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

VI. NOTIFICATION TO ABUTTERS

Any person filing a Notice of Intent with a conservation commission shall at the same time give written notification thereof, by delivery in hand or certified mail, return receipt requested, to all abutters within one-hundred feet of the property line of the land where the activity is proposed, at the mailing addresses shown on the most recent applicable tax list of the assessors, including, but not limited to, owners of land directly opposite said proposed activity on any public or private street or way, and in another municipality or across a body of water. Said notification shall be at the applicant's expense, and shall state where copies of the notice of intention may be examined and obtained and where information regarding the date, time, and place of the public hearing maybe obtained. Proof of such notification, with a copy of the notice mailed or delivered, shall be filed with the Conservation Commission

The LCC will not deem a N.O.I. to be complete and entitled to a public hearing unless an Affidavit of Service is included.

VII. NOTICE OF INTENT AND CONDITIONS

If the Commission, after a public hearing, determines that the activities which are subject to the application or the land and water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the

resource area values protected by these By-Laws, the Commission, within 21 days of the close of the hearing, shall issue or deny a N.O.I. for the activities requested. If it issues a N.O.I., the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse affects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

The Commission is empowered to deny a N.O.I. for failure to meet the requirements of this By-Law; for failure to submit necessary information and plans requested by the Commission; for failure to meet design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this By-Law; and where no conditions are adequate to protect those values, due consideration shall be given to any demonstrated hardship on the applicant by reason or denial, as presented at the public hearing.

Lands within 100 feet of specific resource areas are presumed important to the protection of these resources because activities undertaken in close proximity to wetlands and other resources have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within the 100-foot area, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the By-Law.

To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success because of the high likelihood of failure of replication.

An Order of Conditions shall expire three years from the date of issuance. Notwithstanding the above, the Commission, in its discretion, may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work

is given to the Commission. Any Order of Conditions may be renewed once for an additional one-year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, an Order of Conditions may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

For good cause, the Commission may revoke or modify an Order of Conditions or determination issued under this By-Law after notice to the holder of the Notice of Intent determination and notice to the public.

The Commission, in most cases, will combine the N.O.I. or Determination issued under this By-Law with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act, G.L. Ch. 131, S.40, and Regulations, 310 CMR 10.00.

VIII. RECORDING OF DOCUMENT

No work proposed in any N.O.I. application shall be undertaken until the Order of Conditions issued by the Commission with respect to such work has been recorded in the Registry of Deeds. If the land affected is registered land in the Registry Section of the Land Court for the district wherein the land lies, and until the holder certifies in writing to the Commission that the Notice of Intent and Conditions have been recorded, work shall not commence. **This recording number (Book and Page) and receipt of payment must be provided to the Commission within 14 days.**

IX. CERTIFICATE OF COMPLIANCE

A request for a Certificate of Compliance must be received at the L.C.C. office fourteen (14) days prior to a regularly scheduled meeting and must, at a minimum, include:

1. A letter from a professional Registered Engineer stating that the work performed is in accordance with the Order of Conditions issued, and plans submitted to the L.C.C.

2. A site inspection by the L.C.C. along with the site inspection fee

A site inspection is required under this By-Law to verify that the work conforms to performance standards and design specifications as permitted by the Commission.

FEE: A FEE OF $25.00 WILL BE CHARGED BY THE COMMISSION FOR A SITE INSPECTION.

Upon request by the applicant for a site inspection and the $25.00 inspection fee, the Commission will, within 14 days, schedule and conduct a site inspection. **All work must be completed prior to the inspection.**

In the event that the work is not in compliance with the Order of Conditions issued, and the site will have to be reinspected, there will be a fee of $10.00 charged for **each** and **every** inspection.

X REGULATIONS

After public notice and public hearings, the Commission shall 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 in invalidate the effect of this By-Law.

At a minimum, these regulations shall define key terms in this By-Law not inconsistent with this By-Law and procedures governing the amount and filing fees.

XI DEFINITIONS

Definitions which apply to this By-Law are defined in **Appendix A.**

Except as otherwise provided in this By-Law or in regulations of the Commission, the definitions of terms in this By-Law shall be as set forth in the Wetlands Protection Act, G.L. Ch. 131, S. 40, and Regulations 310 CMR 10.00

XII SECURITY

As part of an Order of Conditions issued under these By-Laws, in addition to any security required by any other municipal or State board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

A. By a proper bond or deposit of money or negotiable securities or undertaking of financial responsibility sufficient in the opinion of

the Commission, to be released whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the Order of Conditions.

B. By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the Order of Conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This methods shall be used only with the consent of the applicant.

XIII. ENFORCEMENT

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this By-Law, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original conditions, or fail to comply with an Order of Conditions or an enforcement order issued pursuant to these By-Laws.

The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have authority to enforce this By-Law, its regulations, and conditions issued thereunder by violation notices, administrative orders (if the community has accepted G.L. Ch. 40, S. 21D), and civil and criminal court actions. Any person who violates provisions of this By-Law may be ordered to restore this property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Mayor and City Solicitor may take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this By-Law, or regulations, permits, or administrative orders issued this By-Law under, shall be punished by a fine of not more than $300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the By-Law, regulations, permits, or administrative orders violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in G.L. Ch. 40,. S. 21D, if adopted by the City as a general By-Law.

XIV. BURDEN OF PROOF

The applicant for a N.O.I. shall have the burden of proving by a preponderance of the credible evidence that the work proposed in this application will not have unacceptable significant or cumulative effect upon the resource area values protected by these By-Laws. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny or grant a N.O.I. with conditions.

XV. APPEALS

A decision of the Commission shall be reviewable in the Superior Court in accordance with G.L. Ch. 249, S.4.

XVI. RELATION TO THE WETLANDS PROTECTION ACT

This By-Law is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, G.L. Ch. 131, S.40., and Regulations, 310 CMR 10.00, thereunder.

XVII SEVERABILITY

The invalidity of any section or provisions of this By-Law shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

XVIII REVISIONS

These rules and regulations may be revised from time to time by a majority vote of a quorum of the Lynn Conservation Commission provided that after public notice and a public hearing has been held in accordance with Massachusetts General Laws, Ch. 39, S. 23 A-C (The Open Meeting Law).

XIX APPLICATION PROCEDURES

Plans and information shall be submitted which completely and accurately describe the proposed activity and its affect on the areas subject to protection and values protected by the Lynn Conservation Commission's Wetlands Protection By-Law.

Each plan, drawing, sketch or set of calculations shall be titled, dated and signed by the person responsible for their preparation. Plans or information involving the practice of professional engineering or surveying shall be stamped-and signed by the appropriate design professional who shall be registered in the Commonwealth of Massachusetts.

The following provides a general guideline of the minimum-information necessary to present a proposal to the Commission.

Plans and information which are required by the Commission include, but are not limited to:

(a) An 8-1/2 x 11 excerpt of the USGS Quadrangle Map at its original scale showing the location of the proposed activity.

All other plans shall be drawn at a scale no smaller than 1" = 40' scale and shall include:

(a) All areas subject to protection (as defined in Section II) on the property or within 100' of the property;

(b) The location, names and present widths of all streets, private ways, easements, covenants or restrictions on, bounding, approaching or within 50 feet of the parcel on which the project is located;

(c) All property lines;

(d) Location, extent and area of all existing and proposed structures, paved areas and utilities including, but not limited to, facilities for sewage including expansion areas, refuse and waste disposal facilities, facilities for storm water drainage (both temporary and permanent) and facilities for water supply, electricity conduction, and telecommunications;

(e) Boundaries of Areas Subject to Protection within which work is proposed and within 100' of the property lines;

(f) Delineation of a limit of work activity line (a minimum of thirty (30) feet from any vegetated wetland.

Additional plans and information which may be required by the Commission include, but are not limited to:

(a) Drainage calculations shall be based on the USDA Soil Conservation Service TR-55 or TR-20 method. The Cornell Atlas of Precipitation Extremes for the North Shore data shall be used for the 2, 10, 25, and 100-year/24 hour storm events. Drainage calculations for each sub watershed area shall include the hydraulic length drawn on the watershed plan, time of concentration calculation, pre-and post-development CN calculation, average watershed slope calculation, peak rate of runoff and volume of runoff;

(b) Reservoir routing calculations shall be based on the data in XIX (a) above and shall include a stage-storage graph;

(c) Existing and Proposed Topography at 2 foot contour intervals for the subject parcel;

(d) Locations and basement floor elevations of all building structures;

(e) Wildlife habitat analysis prepared in accordance with 310 CMR 10.60;

(f) A single sheet plan detailing all resource areas within the project boundaries. This plan may be prepared at a scale of less than 1"= 40', if necessary;

(g) Identification of all required federal, state and local permits and copies of all applicable federal, state and local environmental permits obtained;

(h) Replication Plans as may be required;

(i) A written description of the methodology used to delineate the wetlands and a botanical inventory of species used in the delineation.

(j) Soil borings (to determine existing groundwater levels shall be located on plans as required by the Lynn Conservation Commission.

XX DESIGN CRITERIA AND CONSTRUCTION METHODS

1. CALCULATING IMPACTED RESOURCE AREAS

Adequate provision shall be made for the physical construction of proposed structures, embankments, grading and other proposed activities as shown on the proposed plans. Sufficient work space shall be considered as part of the altered area when calculating the amount of resource area impacted. The area required for work space will vary on a site by site basis, but in no case shall it be less than thirty (30) feet. Any work within thirty (30) feet of a wetland or vernal pool will be presumed to alter that resource area. No buildings or structures will be allowed within this resource area, but landscaping proposals for buffering purposes will be considered by the Lynn Conservation Commission.

2. DETENTION/RETENTION BASINS

Detention and retention basins shall meet the minimum requirements set forth in the U.S. Bureau of Reclamation Design of Small Dams and the U.S. Department of Agriculture Soil Conservation Service Guidelines. The inlet to detention basins shall be at or above the 25-year design storm level of the basin. The inlet to retention basins shall be at or above the mean annual water elevation. In no case shall the outlet from either basin be above the inlet elevation except for the emergency spillway. Embankment side slopes shall not be steeper than 2 feet horizontal to 1 foot vertical on either side of the embankment and shall be a minimum of 10 feet wide at the 100 year design storm capacity. An emergency spillway capable of protecting the embankment should the normal outlet fail to work during the 100-year storm event shall be provided. The embankment shall consist of a homogeneous mixture of clay, sand and silt. In no case is loam or any other organic material to be used in the embankment construction. If a core design is used instead of a homogeneous embankment, the design shall meet the minimum

requirements set forth in the US Bureau of Reclamation Design of Small Dams. The surface of the embankment shall be protected from erosion by looming and seeding, rip-rap or other method acceptable to the Commission. Detention/Retention Pond design and construction must be reviewed, approved, and accepted by the Lynn Water and Sewer Commission.

3. RIP-RAP

Rip-rap shall be sized such that the stones will be able to resist movement due to water velocity. Smaller stones may be used to fill the gaps between the larger stones in order to form a more stable structure.

XXI. PERFORMANCE STANDARDS

1. INTRODUCTION

The introduction, purpose, and performance standards stated in 310 CMR 10.51 - 10.60 shall apply except as stated below.

2. LIMITED PROJECTS

The "limited projects" status granted under 310 CMR 10.53 (3) is not recognized under the Lynn Conservation Commission's Wetlands By-Laws. Each application shall be handled on a case-by-case basis.

3. FRESHWATER WETLANDS

The definition of "freshwater wetlands" shall include both Bordering and Isolated Vegetated Wetlands. Isolated Vegetated Wetlands are those wetland areas which meet the definition and critical characteristics of Bordering Vegetated Wetlands, but do not border on creeks, rivers, streams, ponds or lakes. (See 310 CMR 10.53 (1) & (2). They exist as "pockets" of wetland vegetation which, are supported by soil and/or hydrologic conditions. No work will be permitted within thirty (30) feet of freshwater wetlands unless it is deemed unavoidable by the Commission.

The following areas are subject to protection under the By-Laws:

(a) Any freshwater wetland, including marsh, wet meadows, bog or swamp;

(b) any lake, pond, reservoir, river, stream, creek, or other watercourse and their banks and beaches;

(c) any land subject to flooding or inundation by groundwater or surface water;

(d) any vernal pool; and

(e) any land within l00 feet of the area set forth in (a) – (d) as preceding.

In order to provide protection to the resource area (i.e. by shading, filtering stormwater runoff; reducing pollutants such as salts, pesticides, herbicides, and fertilizers; providing food and shelter for wildlife; to allow beneficial wetland vegetation; and to add aesthetic value), the Commission shall require a 30-foot strip of undisturbed vegetation along the margin of any wetland resource area (bordering or isolated). This will be required even in the absence of unusual site topography or rare species or other protected resource. Landscaping proposals for this strip, for buffering purposes will be considered on a case by case basis.

Bordering vegetation is presumed to be significant to wildlife protection.

4. REPLICATION AREAS

In situations where wetlands loss is unavoidable, a compensatory wetland area shall be provided which is at least 1.5 times the size of the lost area; is at or below the same elevation, has the same hydrology and surface water elevation; has the same hydrologic connection to a water body; and within two growing seasons is vegetated with a plant community of at least 75 percent cover consisting of the same plant community type and similar species composition to the lost area; and within two growing seasons demonstrates a hydrologic regime similar to the lost area.

5. LAND SUBJECT TO FLOODING

The engineering calculations referred to in 310 CMR 10.57 (2) (a) 3. shall be based on a design storm of 7.0 inches of precipitation in twenty-four hours (i.e. a Type III Rainfall, as defined by the U.S. Soil Conservation Service). The remaining basis (b and c) outlined 310CMR 10.57 (2) (a) 3. shall also apply.

The term "land subject to flooding or inundation" shall mean an isolated area or closed basin which at least once a year confines standing water to an average of six (6) inches with a surface area of 2,000 square feet.

6. VERNAL POOLS

Vernal pools and vernal pool habitat as defined in this By-Law shall be determined by the Lynn Conservation Commission. The Commission need not identify vernal pool and vernal pool habitat locations prior to application with the Commission. The applicant may request a determination of applicability prior to application for a permit under the By-Laws, if he/she is unsure as to whether a vernal pool exists on the subject site. A vernal pool need not be identified or certified (with the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program) prior to application or Notice of Intent with the Commission. It shall be the applicant's responsibility to indicate the location of possible vernal pools and vernal pool habitat on the subject property during the application process.

A vernal pool, as can be further defined by the Division of Fisheries and Wildlife (Natural Heritage and Endangered Species Program), in part, is a temporary body of freshwater that provides critical habitat for many vertebrate and invertebrate species. Most vernal pools are filled by the spring rains and snowmelt, only to dry up during the hot, dry months of summer. Many vernal pools, though, are filled by the rains of autumn and may persist throughout the winter. Vernal pools are often small and shallow and may measure only a few yards across. A vernal pool provides breeding habitat to obligate vernal pool species such as wood frogs (rana sylvatica), spotted salamanders (ambystoma maculatum), or fair shrimp (eubranchipu's spp) and also provides breeding habitat for faculative species such as spring peepers (hyla crucifers), damsel fly larvae (odonata zygoptera) or painted turtles (chrysemyspicta).

There shall be no alteration of any vernal pool or its buffer zone. The Buffer Zone is critical to the continued function of a vernal pool, and any work in this area should be avoided. The protectable area is the vernal pool itself and up to 100 feet beyond the pool's margin. Specific buffers to vernal pools and vernal pool habitat will be assessed on a case by case basis.

7. LANDS WITHIN 100 FEET

The land area within 100 feet of any freshwater wetland; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds;

rivers; streams; creeks; beaches; land under waterbodies; lands subject to flooding or inundation by groundwater, or surface water is considered that this area is a protectable resource area; and that this resource area under the Wetlands Protection By-Laws and as such, is subject to protection. This is different from 310 CMR 10.00 in that this area is a protectable resource area; and that this resource area encompasses more than the buffer zone designated in 310 CMR 10.00, e.g. it surrounds land subject to flooding and isolated vegetated wetlands in addition to bordering vegetated wetlands, banks, and land under waterways and waterbodies. The function of this protectable resource area is 1) to protect the resource areas it surrounds, i.e. by shading, filtering stormwater runoff (as in reducing turbidity), reducing noise and wind, and reducing pollutants (such as salts, pesticides, herbicides, and fertilizers); 2) to provide wildlife habitat (food and shelter); 3) to provide traversable recreation areas; 4) to improve or add to the esthetics of the area, and 5) to allow for wetland plant growth and wetland expansion.

In order to provide for the protection of the above-protected resource area, the following activities are prohibited on the land within 100':

a) Any activity within twenty-five (25) feet of the a wetland resource area;

b) Installation of underground fuel oil storage tanks;

c) Rendering twenty-two percent (22%) or more of the protected 'lands within 100' feet resource area impervious (CN greater than 89) on any lot;

d) Altering more than seventy-five percent (75%) of the protected "lands within 100 feet" resource area on any lot:

e) Altering the protected resources around vernal pools (review may be made on a case by case basis).

The preceding restrictions are intended to represent the limits beyond which the ability of the resource area to function is presumed to be impaired. The presumption may be overcome by a clear showing that the ability of the resource area to function will not be impaired. All work proposed in a protected resource area will be reviewed on a case by case basis.

8. WETLAND COMPENSATION

In the event that wetland loss is unavoidable and wetland replication/ compensation is required. An area of compensatory wetland shall be provided which is at least 1.5 times the size of the area lost and said area(s) shall be consistent with the requirements for wetland replication expressed in the Wetlands Protection Act.

9. DRAINAGE

Peak rates and/or volumes of runoff to resource areas shall not be increased or decreased beyond the resource area's ability to function in the same manner as existing during pre-development conditions. It is presumed that a change of more than fifteen percent (15%) in either the peak rate or volume of runoff for the 2, 10, 25 or 100-year design storm events will impair the resource area's ability to function. The hydrologic calculations shall be based on the SCS TR-55 or TR-20 methods with rainfall data for the respective storms from the Cornell Atlas of Precipitation Extremes for the North Shore. A 24-hour, Type III Storm with an antecedent moisture condition II shall be used in the calculations. curve numbers shall conform to the SCS Guidelines. The presumption in the above paragraph may be overcome by a clear showing that the resource area's ability to function will not be impaired.

10. ALTERATION LIMIT

In order to further provide protection to the resource area, there shall not be an alteration of more than seventy-five (75%) percent of the protected buffer land within the 100 feet resource area (vernal pool as described above).

11. STRUCTURES OF HISTORICAL SIGNIFICANCE OR ARCHAEOLOGICAL INTEREST

When man-made structures of historical significance or archaeological interest are located within a resource area or the buffer zone (pasture or colonial stonewalls, etc.), the Commission may require adequate measures to protect these structures. The Commission may consult with the Lynn Museum/Historical Society.

12. OBJECTS OF GEOLOGICAL SIGNIFICANCE

When natural objects of geological significance are located within a resource are or the buffer zone (erratic boulders, cliffs, etc.), the Commission may require adequate measures to protect these objects).

13. WILDLIFE PROTECTION:

In order to limit the impacts of wildlife in the area, the Lynn Conservation Commission requires that the entire site be preliminarily examined for any active bird sites. There is to be no disturbance to the cycle of nesting, breeding, and fledging. To support this requirement, the L.C.C. relies on Massachusetts Generals Laws, Chapter 131, Section 74. Work in the immediate area must be delayed until the birds have fledged.

XXII. ENFORCEMENT

It is the intention of these regulations to clarify the provisions set forth under the General Wetlands Protection By-Laws. Unfortunately, there may be instances where violations occur. In recognition of this fact, the Commission has devised a procedure whereby violations may be handled fairly:

a. Upon the Commission's finding that a violation has occurred, the violator will be informed in writing of the violation and be requested to attend as meeting of the Commission to resolve the matter. The meeting date shall be agreed to by both parties, but in no case shall be more than one (1) month after the original date of the Commission's notice of the violation to the violator.

b. Upon failure of the violator to appear at the meeting referred to above or upon failure of the violator to remedy the violation within the time frame set by the Commission, the Commission may levy a fine of $25.00 for the first offense, $100.00 after the second notification, and $300.00 for each subsequent offense. Each day or portion thereof during which a violation continues shall constitute a separate offense.

APPENDIX A DEFINITIONS

The following definitions shall apply in the interpretation and implementation of these By-Laws.

ACTIVITY: Any form of draining, dumping, dredging, damming, discharging, excavation, filling or grading; the erection, reconstruction, or expansion of buildings or structures; the driving of pilings; the construction or improvement of roads and other ways; the changing of runoff characteristics; the intercepting or diverting of ground surface water; the installation of drainage, sewage and water systems; the discharging of pollutants; the destruction of plant life; and any other changing of the physical characteristics of land, or of the physical, biological or chemical characteristics of water.

AESTHETICS: That quality which exists in the general aspect landscape which adds to the array of impressive natural prospects and imposing features of a particular place. For the purposes of the General Wetlands Protection By-Laws, the natural prospects and imposing features referred to above are those which are not man-made.

ALTER: To change the condition of any Area Subject to Protection Under the By-law. The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within or affecting the resource areas protected by these By-Laws:

(a) Removal, excavation or dredging of soil, gravel or aggregate material of any kind;

(b) Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;

(c) Drainage or other disturbance of water level or water table;

(d) Dumping, discharging, or filling with any material;

(e) Placing of fill, or removal of material;

(f) Driving of piles, erection of buildings, or structures of any kind;

(g) Placing of obstructions of objects in water;

(h) Destruction of plant life, including cutting of trees and replacement of existing plant life with lawns and other landscaping;

(i) Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water.

(j) Any activities, changes, or work which may cause of tend to contribute to pollution of any body of water or groundwater.

(k) Application of herbicides and pesticides.

AQUACULTURE: The growing of aquatic organisms under controlled conditions, including but not limited to finfish, shellfish, amphibians, reptiles, and seaweeds.

BANK: that portion of the land surface which normally abuts and confines a stream, river, pond, or lake. The upper boundary of a Bank is the first observable break in the slope or the mean annual high water level, whichever is lower. The lower boundary of a Bank is the mean annual low water level.

BOG: Any area where standing or slowly running water is near or at the surface during a normal growing season, and where the vegetational community has a significant portion of the water or surface covered with sphagnum moss, and where the vegetational community is made up of a significant portion of one or more of, but not limited to nor necessarily all of, the following plants or groups of plants: azaleas (Rhododendron canadense and R. viscosum), black spruce (Picea mariana), bog cotton (Eriophorum), cranberry (Vaccinium macrocarpon), Highbush blueberry (vaccinium corymbosum), larch (Larix laricina), laurel (Kalmia polifolia), leatherleaf (Chamaedaphne calyculata), orchids (Pogonia, Calopogon), pitcher plant (Sarracenia purpurea), sundews (Drosera rotundifolia, D. intermedia), sweet gale (Myrica gale), white cedar (Chamaecyparis thyoides), sedges (Dulichium arundinaceum, Carex canescens, Cares spp., Rychospora spp., Cladium mariscoides).

BORDERING: touching

BOUNDARY: The boundary of the Area Subject to Protection Under the By-Laws.

BY-LAWS: Refers to the City of Lynn General Wetlands By-Laws

CERTIFICATE OF COMPLIANCE: A written determination by the Conservation Commission that the proposed work or a portion thereof has been completed in accordance with a pertinent Permit.

COMMISSION: Lynn Conservation Commission

CONDITIONS: Those requirements set forth in a written Permit issued by the Conservation Commission for the purpose of permitting, regulating, or prohibiting any

activity that removes, fills, dredges, builds upon, or alters an Area Subject to Protection Under the By-laws.

CONSERVATION COMMISSION: The body comprised of members lawfully appointed pursuant to M.G.L. c. 40, s. 8C.

CREEK: the same as a stream.

DATE OF ISSUANCE: The date a Permit, Determination, or Certificate of Compliance is mailed, as evidenced by a postmark or the date it is hand delivered.

DATE OF RECEIPT: The date of delivery to an office, home, or usual place of business by mail or hand delivery.

DEPARTMENT: Massachusetts Department of Environmental Protection (DEP).

DETERMINATION (of Applicability): A written finding by the Commission as to whether a site or the activity proposed thereon is subject to the jurisdiction of the By-Laws.

DREDGE: To deepen, widen, or excavate, whether temporarily or permanently.

EROSION CONTROL: The prevention or reduction of the detachment or movement of soil or rock fragments by water, wind, ice, and/or gravity.

EXTENSION PERMIT: A written extension of time within which the authorized activity shall be completed.

FILL: To deposit any material so as to raise an elevation, either temporarily or permanently.

FLOOD CONTROL: The prevention or reduction of flooding and flood damage.

FOR GOOD CAUSE: Discovery by the Commission of new information related to the application and/or discovery by the Commission of information supplied by the applicant which in the opinion of a majority of a quorum of the Commission does not reflect actual site conditions.

FRESHWATER WETLANDS: Any area where the topography is low and flat, where soils are annually saturated as demonstrated by the presence of hydric soils, or where the vegetation community is composed of species adapted to or characteristic of saturated soil conditions. Freshwater wetlands includes both Bordering & Isolated Vegetated Wetlands.

GROUND WATER SUPPLY: Water below the earth's surface in the zone of saturation.

HYDRIC SOIL: Any soil which displays characteristics normally associated with annual saturation or inundation, including (a) the presence of a dark organic layer at least 6 inches thick; (b) the layer below the a horizon has a chroma less than or equal to 2, and/or (c) the layer under the a horizon contains prominent high-chroma mottles.

ISSUING AUTHORITY: The Conservation Commission.

LAKE: Any open body of fresh water with a surface area of 10 acres or more, and shall include Great Ponds.

LAND SUBJECT TO FLOODING OR INUNDATION: (by groundwater or surface water) - Areas inundated by flood waters rising from creeks, rivers, streams, ponds, lakes, or water courses; and isolated or closed basins which at least once a year confine standing water to an average depth of six (6) inches and surface area of 2,000 square feet.

LAND UNDER WATER BODIES: The land under the surface of any lake, ocean, river, pond, stream, estuary, or watercourse. The boundary of Land Under Water Bodies is the mean annual low water level.

MAJORITY: More than half the members of the Conservation Commission then present.

MARSH: An area where water is at or above the surface of the ground during the growing season, and where a significant part of the vegetational community is composed of, but not limited to nor necessarily including all of, the following plants or groups of plants: bladder worts (Utricularia), burreed (Sparganium), button bush (Cephalanthus occidentalis), cattails (Typha), duck weeds (Lemma), hydrophilic grasses (Calamagrostis canadensis, Phalaris arundinacea, Phragmites australis, Glyceria), pickerel week (Pontederia), pipwort (Eriocaulon), rushes (juncus effusus, Juncus spp.), hydrophilic sedges (Scirpus cyperinus, Carex stricta, Carex lacustris, Carex crinita, Carex lurida, Eleocharis spp., Rhynchospora spp.), hydrophilic smartweeds (Polygonum spp.), water will (Decodon verticillatus), arrow head (Sagittaria), sweet flag (Acorus calamus).

NOTICE OF INTENT: The written notice filed by any person intending to remove, fill, dredge, or alter an Area Subject to Protection Under the Massachusetts Wetland Protection Act, M.G.L. c. 131, s. 40, or the By-Laws. See Lynn Conservation Commission Guidelines for Filing.

OBSTRUCTION: (or objects in water) Means, but is not limited to dams, weirs, sluicegates, docks, bulkheads, pilings, slips, floats, or cofferdams.

ORDER: An Order of Conditions, Superseding Order, or Final Order, whichever is applicable, issued pursuant to M.G.L. c. 131, s. 40, or the By-law.

ORDER OF CONDITIONS: The document issued by the Conservation Commission containing conditions which regulate or prohibit an activity under M.G.L. c. 131, s. 40.

PERMIT: The document issued by the Commission containing conditions that regulate or prohibit an activity under the City of Lynn Wetlands Protection By-law. The Commission is an appropriate case may combine the permit or other action on an application issued under the By-laws with the Order of Conditions issued under the Wetlands Act, M.G.L. c. 131, s. 40.

PLANS: Such data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the Conservation Commission to describe the site and activity; to determine the applicability of the By-laws; or to determine the impact of the proposal upon the interests identified in the By-laws.

POND: Any open body of fresh water, either naturally occurring or man-made, which is (for not more than six months of the year) not without water due to natural causes, except during periods of extended drought. For purposes of this definition, extended drought shall mean any period of four or more months during which the average rainfall for each month is 50% or less of the ten-year average for that same month. Basins or lagoons which are part of waste-water treatment plants shall not be considered ponds, nor shall swimming pools or other impervious man-made retention basins. A pond must have a minimum surface water area of at least 5,000 squire feet, determined based on the annual high water elevation.

PREVENTION OF POLLUTION: The prevention or reduction of contamination of surface or ground water.

PRIVATE WATER SUPPLY: Any source or volume of surface or ground water demonstrated to be in any private use, or demonstrated to have a potential for private use.

PROTECTION OF FISHERIES: Protection of the capacity of an Area Subject to Protection Under the By-Laws to;

a) prevent or reduce contamination or damage to fish or shell fish, and

b) to serve as the habitat and nutrient source of fish or shell fish.

PUBLIC WATER SUPPLY: Any source of volume of surface or ground water demonstrated to be in public use or approved for water supply pursuant to M.G.L. c. 111, s. 160 by the Division of Water Supply of the DEP or shown to have a potential for public use.

RARE SPECIES: The term "rare species" shall include, without limitation, all vertebrae and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

QUORUM: The majority of the duly appointed members of the Conservation Commission that when duly assembled is legally empowered to transact business.

REMOVE: To take away any type of material, thereby changing a resource area, either temporarily or permanently.

REQUEST FOR DETERMINATION OF APPLICABILITY: A written request made by any person to the Conservation Commission for a determination as to whether a site or a proposed activity thereon is subject to the By-Laws and M.G.L. Ch.131, s. 40.

RESOURCE AREA: Is synonymous with Area Subject to Protection Under By-Laws, each one of which is enumerated in Section 1.3 of these regulations.

RIVER: A naturally flowing body of water than empties to any ocean, lake, or other river, and which flows throughout the year.

SEDIMENTATION CONTROL: The prevention or reduction of the collection or concentration of sand, soil or rock fragments by the action of water, wind, ice or gravity.

SIGNIFICANT: Means play role. A resource area is significant to an interest identified in the By-laws when it plays a role in the provision or protection, as appropriate, of that interest.

STORM DAMAGE PREVENTION: The prevention of damage caused by water from storms, including but not limited to; erosion and sedimentation; damage to vegetation, property, or buildings; or damage caused by flooding, waterborne debris, or waterborne ice.

STREAM: A body of running water, including brooks, creeks and other watercourses, which moves in a definite channel in the ground due to a hydraulic gradient. A portion

of a stream may flow through a culvert or beneath a bridge. A stream flow may be intermittent (i.e., does not flow throughout the year), or perennial.

STRUCTURE: A combination of materials...including a sign, fence, wall, terrace, walk or driveway. A structure is a human artifact – a thing made or combined. A combination of rocks (a wall) would be considered a structure.

SWAMP: An area where ground water is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface, and where a significant part of the vegetational community is made up of, but not limited to nor necessarily includes all the following plants or groups of plants: alders (Alnus), ashes (Fraxinus), azalea (Rhododendron canadense or R. viscosum), winterberry (Ilex verticillata), highbush blueberry (Vaccinium corymbosum), red maple (Acer rubrum), poison sumac (Toxicodendron vernix), spicebush (Lindera benzoin), sweet pepperbush (Clethra alnifolia), black gum (Nyssa sylvatica), swamp white oak (Quercus bicolor), willow (Salix), skunk cabbage (Symplocarpus foetidus), sphagnum moss (Sphagnum), cinnamon fern (Osmunda cinnamonea) or royal fern (Osmunda regales).

VEGETATED WETLANDS: Any area where the soils are annually saturated (hydric) and where at least 50 percent of the plant community consists of wetland plant species. Vegetated Wetlands include bogs, marshes, wet meadows, and swamps.

VERNAL POOL: The term "vernal pool" shall include a confined basin depression which, at least, in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries.

WATERCOURSE: A stream wholly or partially man-made.

WET MEADOW: An area where ground water is at or near the surface of the ground for a significant part of the growing season, and where a significant part of the vegetational community is made up of, but not limited to, nor necessarily includes all of the following plants or groups of plants; marsh fern (Theylpteris palustris), sensitive fern (onoclea sensibilis), sedges (Scirpus cyperinus, Carex stricta, C. lanuginosa Eleocharis spp.), hydrophilic grasses (Calamagrostis canadensis, Glyceria spp., Alopecurus pratensis), rushes (juncus effusus, J. canadensis), blue flag (Iris versicolor), vervain (Verbena hastata), joe-pyeweed (Eupatorium maculatum), boneset (Eupatorium perfoliatum), and meadowsweet (Spiraea latifolia, Stomentosa).

WETLAND PLANT SPECIES: Those species listed as occurring in bogs, marshes, swamps, or wet meadows, as well as any other plant species known to occur primarily in wetlands, and including all species classified as Obligate, Faculative Wetland, or Facultative according to the most recent edition of the National List of Wetland Indicators published by the United States Fish and Wildlife Service.

WILDLIFE HABITAT: Areas having a plant community composition and structure, hydrologic regime, or other characteristics sufficient to provide shelter, nutrients, growing conditions, nesting or breeding sites conductive to the propagation and preservation of wildlife.

WILDLIFE: Any non-domesticated native mammal, bird, reptile, amphibian, fish, mollusk, arthropod, or other invertebrate other than a species of the Class Insects, and/or nuisance rodents which has been determined by the Commission to constitute a pest whose protection under the By-laws would be a risk to man.

WORK: The same as Activity.

APPENDIX B: CHECKLIST FOR REQUEST FOR DETERMINATION OF APPLICABILITY

The proponent shall submit **eight (8) copies** of the completed Request for Determination of Applicability form to the Conservation Commission. This application shall include the following information:

1. Name and street address of proponent, and the proponent's representative, if any. If the proponent's mailing address is a post office box, then the proponent's street address shall also be furnished;

2. Street address of proposed project. In the event that there is no street address, the Assessors map and lot number shall be used for identification;

3. The telephone numbers, day and evening, where the proponent and any representatives may be contacted;

4. General locus map;

5. Plan of land showing 1) buildings (existing and proposed), 2) topography with maximum contour intervals of two feet (existing and proposed), and 3) resource areas as defined in MGL 131, s.40 and any amendments thereof and the City of Lynn By-Laws and any amendments thereof with, at a minimum, delineation according to the City of Lynn Wetlands Maps being indicated.

6. Check for $65.00 made out to Lynn Conservation Commission; and

7. Filing fee, if appropriate.

In addition to the above, the Commission may require the following information:

1. Any other information which the Lynn Conservation Commission deems necessary to reach a determination.

APPENDIX C: CHECKLIST FOR NOTICE OF INTENT

The proponent shall submit **eight (8) copies** of the completed Notice of Intent form to the Lynn Conservation Commission. This submission shall include the following information:

1. Name and street address of proponent, and the proponent's representative, if any. If the proponent's mailing address is a post office box, then the proponent's street address shall also be furnished;

2. Street address of proposed project. In the event that there is no street address, the Assessors map and lot number shall be used for identification;

3. The telephone numbers, day and evening, where the proponent and any representative may be contacted;

4. General locus map from a USGS topographic map;

5. Plan of land showing 1) buildings (existing and proposed), 2) topography with maximum contour intervals of two feet (existing and proposed), and 3) resource areas as defined in MGL 31, s.40 and any amendments thereof and the City of Lynn By-Laws and any amendments thereof with, at a minimum, delineation according to the City of Lynn Wetlands Maps being indicated; and

6. Check(s) made payable to the City of Lynn for filing fee(s) under both M.G.L. C. 131, s. 40 and the Lynn General Wetlands By-Laws, Chapter 16 of the Lynn Conservation Commission General By-Laws.

7. List of abutters and proof that they have been notified of the hearing.

8. Check for $65.00 made out to Lynn Conservation Commission

In addition to the above, the Commission may require the following information:

1. Certification of compliance with Title 5, Massachusetts Sanitary Code, where applicable;

2. Soils information (S. C. S. soils maps, soil logs, soil classification);

3. Drainage calculations: to include pre and post construction, method used, assumption, and worksheets;

4. Erosion control specifications and details;

5. Description of how work will comply with 310 CMR 10-00 and any amendments thereof and City of Lynn Wetland Protection By-Laws and any amendments thereof;

6. Work-completion schedule;

7. Depth to water table;

8. Water quality analysis (pre and post construction) of surface and groundwater;

9. Analysis of wetland soils including depth, organic content, etc.;

10. Vegetation maps showing types of vegetation, impervious cover, etc.;

11. Landscaping plans;

12. Potential sources of pollution such as fertilizer, pesticides, petroleum products, heavy metals, etc.;

13. Aquifers and groundwater resources in vicinity of site;

14. Dates when all field work was conducted;

15. Headwall and riprap specifications;

16. Maintenance plans;

    Detention and/or retention ponds
    Replication resource areas
    Oil and grease traps
    Conservation and pedestrian easements or rights of way
    Culverts; and

17. Any other information which the Commission deems necessary to reach a determination.

Plans should show the following:

1. Professional Engineer's and/or Registered Land Surveyor's stamp and date;
2. North arrow;
3. Legend;
4. Property boundaries;
5. Contours with two foot intervals, maximum (pre and post construction); drainage divides (pre and post construction);
6. Location of erosion control measures;
7. Limit of work lines;
8. Drainage divide (pre and post construction)
9. Location of resource areas;
10. Location of soil borings, test pits;
11. Location of stockpile areas, including temporary storage of equipment, fill, supplies;
12. Contours of water table;
13. Location of existing and proposed structures;
14. Storm drainage system;
15. Location of site in watershed;
16. Direction of groundwater flow;
17. Location of any conservation lands within 100 yards of the project.

APPENDIX D

GENERAL CONDITIONS

1. Failure to comply with all conditions stated herein and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.

2. This Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.

3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable Federal, State, or local statutes, ordinances, by-laws, or regulations.

4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:

   (a) the work is a maintenance dredging project as provided for in the Act; or

   (b) the time for completion has been extended to a specified date more than three years, but less than five years from the date of issuance and both that date and the special circumstances warranting the extended time period are set forth in this Order.

5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.

6. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.

7. No work shall be undertaken until all administrative appeal period from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department has been completed.

8. No work shall be undertaken until the Final Order has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In

the case of registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done. The recording information shall be submitted to the Lynn Conservation Commission prior to commencement of the work.

9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words, "Massachusetts Department of Environmental Protection and the File Number".

10. Where the Department of Environmental Protection is requested to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.

11. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.

12. The work shall conform to the following plans and special conditions:

Plans:

Title	Dated	Signed and Stamped by	On File with:
_____	____	_____	_____
_____	____	_____	_____
_____	____	_____	_____

13. The Order of Conditions must be registered in the Registry of Deeds, Essex County, within four (4) weeks or prior to commencement of work and prior to obtaining a building permit, if necessary, whichever comes first. The recording information shall be submitted to the Lynn Conservation Commission. Failure to comply shall be deemed cause to revoke this Order of Conditions.

14. All work shall conform to the Notice of Intent and above- referenced plans and supporting documents unless otherwise specified in this Order. In case of a conflict, the conditions of this Order shall prevail.

15. If necessary, in advance of any work on this project, the applicant shall notify the LCC and at the request of the LCC, shall arrange an on-site conference among the LCC, the contractor, the engineer, and the applicant to ensure that all of the conditions of this order are understood. This Order shall be included in all construction contracts and shall supersede any conflicting contract requirements.

16. The LCC shall be notified at least forty-eight (48) hours in advance of the date upon which construction activities on the site are to proceed. All site mitigation measures must be in place prior to initiation of construction.

17. Prior to construction, the applicant shall inform the LCC in writing of the name(s), address(es), and business and home telephone numbers of the project supervisor(s) who will be responsible for insuring performance of all sedimentation and erosion control measures, wetlands alteration, and replication aspects of the project.

18. A copy of this Order of Conditions, including all referenced documents and plans, and all other subsequent approvals and directives issued by the LCC, shall be available on-site for inspection or reference while activities regulated by the Order are being performed. Copies of said documents shall be provided to all contractors and subcontractors who shall also be held responsible for compliance with this Order.

19. Issuance of these Conditions does not in any way imply or certify that the site or down-stream areas will not be subject to flooding, storm damage or any other form of damage due to wetness.

20. This Order of Conditions does not relieve the permittee or any other person of the necessity of complying with all other applicable Federal, State, or Local statutes ordinances, By- Laws, or regulations.

21. The applicant assumes all liability arising from his/her construction activities and project performance.

22. The LCC shall be notified in writing prior to start, at mid- point, and completion of work.

23. Prior to the start of work, the edge of bordering vegetated wetland (or the top of bank in areas where there is no BVW) shall be clearly marked in the field by stakes or flags placed at no greater than twenty-five (25) foot intervals. These markers shall be maintained in place throughout construction.

24. A continuous limit of construction barrier shall be established between all construction areas, including proposed replication areas and wetland resource areas. Said barrier shall consist of a staked hay bale dike, siltation fence, and/or orange construction fence.

25. Prior to the start of work, filter fabric fencing (or a double row of staked hay bales), shall be installed up gradient of all resource areas along the limit of activity between areas to be disturbed and down gradient streams and wetlands. The location of this barrier shall be shown on the approved plan. This barrier shall define the limit of disturbance and shall be maintained in good repair until all disturbed areas have been stabilized with vegetation or other means. This barrier shall be inspected and approved by the LCC or its agent prior to start of work and be maintained until the LCC or its agent determines that control measures are no longer necessary.

26. Prior to start of work, filter fabric shall be placed under the grate of all catch basins within the 100 foot buffer to prevent sediments from entering the wetland (or stream, river, marsh, etc.). All newly constructed catch basins also shall be covered with filter fabric. Basins shall be maintained in this manner until parking areas and roadways have been permanently stabilized.

27. The applicant shall have on hand at the start of soil disturbance removal or stockpiling, a minimum of hay bales and sufficient stakes for staking these bales. Said bales shall be used only for the control of emergency erosion problems and shall not be used for the normal control of erosion, as described in the Erosion Control Plan submitted with the Notice of Intent or the hay bale barrier described.

28. During all phases of construction, all disturbed or exposed soil surfaces shall be brought to final finished grade and stabilized bare ground that cannot be permanently stabilized within thirty (30) days shall be stabilized with mulch or any other protective covering and/or method approved by the USDA Soil Conservation Service and the LCC. Areas to be seeded shall be loamed with not less than four (4) inches of good quality loam. Before seeding, ground limestone shall be applied at a rate sufficient to bring the soil test to pH 6.5. In addition, 10-6-4 fertilizer, or its equivalent, shall be applied at a rate of fifteen (15) pounds per one thousand (1,000) square feet, in accordance with Soil Conservation Service guidelines.

29. No earthen embankment in the buffer zone shall have a slope steeper than 3:1.

30. All erosion control devices shall be maintained to ensure their effectiveness. At no time shall any sediment be deposited in any resource area. The Applicant shall immediately control any erosion problems that occur on-site and also shall immediately notify the LCC. Any debris which falls into a wetland or waterway shall be removed immediately by hand, and the area restored to the satisfaction of the LCC. The LCC reserves the right to require additional erosion and/or damage prevention controls it may deem necessary.

31. Stripping of vegetation, clearing and grubbing of trees, grading or other solid disturbance shall be done in a manner that will minimize soil erosion. To the extent practical, limited portions of the area should be cleared at one time to allow construction to proceed and the area to stabilize.

32. All debris or excavated material shall be disposed of in a legal manner. No fill, construction materials, or brush shall be stockpiled on-site once construction is completed.

33. All retaining walls (concrete, rip-rap, etc.) over ten (10) feet in height shall be designed by a structural engineer and a letter from the structural engineer stating the wall has been built according to the designed plan shall be presented to the LCC before a Certificate of Compliance is issued.

34. Slope stabilization and sequencing of excavation and fill shall follow the specifications set forth in the above- referenced plans.

35. Whether from on-site or off-site sources, any fill used in connection with this project shall be clean fill as described below:

> Clean Acceptable Fill: Must be earthen, permeable material; exclusive of peat; clay; tight till; hardpan; metals; boulders larger than twelve (12) inches in diameter; wood; tree branches; potential leachable hazardous materials (petroleum by-product); or construction debris. These materials must be compactable to 65% of original profile.

36. Hay bales shall be placed down-gradient of work to be performed.

37. Pruning shall be performed only as necessary and slash shall be removed off-site.

38. Trees and debris left from previous work over the years shall be cleaned up in the areas covered under this Order.

39. Where stone or rock fill has been used in areas that are to be seeded, minimum coverage of this fill shall be twelve (12) inches of compacted clear borrow, gravel, or soil, and it shall be topped after grading with not less than four (4) inches of good quality loam.

40. There shall be no stockpiling of soil or other materials within twenty-five (25) feet of any resource area.

41. All demolition debris will be disposed off-site.

42. The applicant, owner, successor, or assignee(s) shall be responsible for maintaining all on-site drainage structures and outfalls, assuring the lasting integrity of vegetative cover on the site and the site activities so as to prevent erosion, sedimentation, chemical contamination or other detrimental impact to the on-site wetland and/or off site resource areas.

43. All underground utilities, etc. that are located within a resource area shall have a clay barrier every one hundred (100) feet so as to prevent the resource area from being artificially drained. A plan showing the locations of the clay barriers shall be submitted to the LCC prior to commencement of any work.

44. Pavement must be sloped as necessary to collect run-off water into catch basins.

45. A stone rip-rap apron shall be installed at the outfalls of all discharge pipes immediately after installation of the pipe. Velocity breakers, as approved by the LCC, shall be used in all places where directed run-off enters the brook, compensatory area or grassed areas. Rip-rap and dissipaters shall not be placed within the wetland or waterway.

46. All headwalls with pipes ten (10) inches in diameter and larger are to be fitted with trash racks and/or child-proof grates of a type approved by the LCC. The applicant and/or owner shall be responsible for removing trash or other obstructions from the trash racks or grate on a regular basis. This Condition shall remain in perpetuity and be recorded as such in the Certificate of Compliance.

47. All temporary and/or permanent waterways and water holding areas must be in place and substantially protected from erosion before any road, parking area, or roof water can be discharged into these areas. Approval of the LCC also must be obtained before discharging water into the above areas.

48. During and upon completion of this project, there shall be no increase in the rate of surface water run-off from this project for the ten (10) and/or one hundred (100) year storms.

49. Any work below the one hundred (100) year flood plain requires full one hundred (100) percent compensation for any lost flood storage.

50. Oil\gasoline traps shall be installed in all catch basins. The owner shall be responsible for ensuring that the catch basins and the traps are cleaned at least two times per year. Records of this maintenance shall be made available to the

LCC upon request. This Condition shall remain in force permanently and shall be recorded as such on the Certificate of Compliance.

51. Used petroleum products from the maintenance of construction equipment and construction debris shall be collected and disposed off-site. No on-site disposal of these items is allowed.

52. No underground fuel tanks shall be allowed in any of the areas referenced in this Order of Conditions. This Condition shall remain in perpetuity and be recorded in the Certificate of Compliance.

53. During and after work on this project, there shall be no discharge or spillage of fuel, oil, or other pollutant into any area of statutory interest.

54. Dust control shall be limited to water -- no salts or other wetting agents shall be used.

55. No sodium based product shall be used during or after construction for the control of ice and snow on paving areas and driveways, and any arrangement for snow removed shall so stipulate. This Condition shall remain in perpetuity and be recorded as such in the Certificate of Compliance.

56. Fertilizers utilized for landscaping and lawn care shall be of the low-nitrogen content variety and shall be used in moderation. Pesticides and herbicides shall not be used on any of the areas referenced in this Order of Conditions within one hundred (100) feet of a wetland resource area.

57. Any changes in the submitted plans, Notice of Intent, or resulting from the aforementioned Conditions must be submitted to the LCC for approval prior to implementation. If, by majority vote, the LCC finds said changes to be significant and/or deviate from the original plans, Notice of Intent or this Order of Conditions to such an extent that the interests of the Wetland Protection Act and By-Law cannot be protected by the Order and would best be served by the issuance of additional Conditions, then the LCC will call for another public hearing within twenty-one (21) days -- at the EXPENSE of the APPLICANT - in order to take testimony from all interested parties. Within twenty-one (21) days of the close of said public hearing, the LCC will issue an amended or new Order of Conditions.

58. Any errors found in the plans or information submitted by the applicant shall be considered as changes, and procedures outlined above for changes shall be followed.

59. Members and agents of the LCC shall have the right to enter and inspect the premises to evaluate compliance with the Order of Conditions and the LCC may require submittal of any data deemed necessary by the LCC for that evaluation.

60. Prior to issuance of a Certificate of Compliance, the applicant shall submit a letter to the LCC from a registered professional engineer certifying that the work is in compliance with the plans referenced, and all of the Conditions herein. Said letter will certified, but not be limited to, the following:

A. "As-Built" elevations of all drainage ways constructed within one-hundred (100) feet of any wetland resource area.

B. "AS-Built" elevations and grades of all filled or altered and resource areas.

C. Distances to all structures and alterations within one-hundred feet (100) of any wetland resource areas.

Nine (9) "As-Built" topographic plans of all areas within jurisdiction of the Wetlands Protection Act and By-Law shall be submitted when a Certificate of Compliance is requested.

61. The provisions of this Order shall apply to and be binding upon the applicant, its employees, and all successors and assigns in interest or control

62. Pruning and clearing: The protection of vegetation is important to slow percolation of rain water into the ground and to reduce erosion.