

SHERBORN WETLANDS REGULATIONS

TOWN OF SHERBORN CONSERVATION COMMISSION



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APPENDIXES

Preface

Sherborn's General Wetlands By-Law (Chapter 17 of the General By-Laws; hereinafter referred to as the Sherborn By-Law or By-Law) was enacted in 1979 and subsequently amended as local legislation independent from the Commonwealth's Wetlands Protection Act, General Laws chapter 131, §40 (hereinafter referred to as the Act). The Sherborn By-Law provides the Sherborn Conservation Commission with the authority to regulate projects in and adjacent to wetlands. The Sherborn By-Law does not provide specifics as to how such regulation is to be accomplished. Specifics, including definitions, performance standards, and areas of interest, are needed to define the bounds of the authority to regulate, as well as to protect the public interest in wetland resources.

As the state Act gave the Massachusetts Department of Environmental Protection the authority to make regulations, our local Sherborn By-Law gives the Conservation Commission the power to do the same. The state regulations, contained in the Code of Massachusetts Regulations at 310 CMR 10.00, declare that "nothing contained (in the state regulations) should be construed as preempting or precluding more stringent protection of wetlands or other natural resource areas by local by-law, ordinance or regulation" (310 CMR 10.01(2)).

These regulations will be known as the Sherborn Wetlands Regulations. The fee schedule reflects the direct costs to the Town of processing applications under the Sherborn By-Law. Detailed requirements for submittals are set forth in Section 7 "Procedures". Forms for submittals, which satisfy both the state and local requirements, are available at the office of the Conservation Commission in Sherborn Town Hall. State forms are also available at the Massachusetts Department of Environmental Protection web site:

<http://www.mass.gov/eea/agencies/massdep/water/approvals/wetlands-and-waterways-forms.html#4>

The Sherborn Wetlands Regulations also provide details on the performance standards for activities proposed to take place in the Buffer Zone (100 feet horizontally outward from the upland edge of most wetland resource areas, the first 50 feet of which are a no-alteration zone). Most of the Conservation Commission's review typically concerns proposed activities in the buffer zone. The State wetlands regulations can be found the Massachusetts Office of Energy and Environmental Affairs website (at <http://www.mass.gov/dep/water/laws/regulati.htm> as of February 2014).

Section 1 Introduction and Purpose

1.1 Incorporation

These regulations are promulgated by the Town of Sherborn Conservation Commission (hereinafter referred to as the Commission) pursuant to the authority granted to it under Section 5 of the Sherborn By-Law. These regulations are intended to be read together with the Sherborn By-Law, which has many provisions that are not repeated in these regulations. These regulations will be used to implement and enforce the Sherborn By-Law. These regulations supersede all existing rules and practices previously applicable to procedures and proceedings before the Commission.

All of the procedures and requirements set forth in the Act and the Massachusetts Wetlands Protection Regulations at 310 CMR 10.00 et seq. are hereby incorporated and made a part of these regulations, except where they differ from or depart from the Sherborn By-Law or these regulations. Where the Sherborn By-Law or these regulations differ from the state regulations, the Sherborn By-Law and these regulations will be applied in addition to the Act and state regulations. The applicant should first address the Act and state regulations at 310 CMR 10.00 et seq. and then supplement the application to comply with the Sherborn By-Law and the Sherborn Wetlands Regulations.

1.2 Purpose and Protected Interests

The purpose of these Regulations is to establish definitions, presumptions, performance standards and uniform procedures by which the Commission carries out its responsibilities under the Sherborn By-Law. These regulations intend to utilize the Home Rule authority of the Town to protect Resource Areas defined in the Sherborn by-law for additional wetland interests, standards for burdens of proof, presumptions, performance standards, and procedures stricter than those of the Massachusetts Wetlands Protection Act (G.L. Ch. 131, §40) and Regulations thereunder (310 CMR 10.00).

The Sherborn By-Law establishes a public review and decision-making process by which activities affecting protected resource areas are to be regulated, in order to contribute to the protection of the following interests:

1. quality and quantity of public and private water supplies
2. quality and quantity of ground water supplies as well as recharge and storage areas
3. prevention of pollution
4. wildlife habitat and wildlife
5. wetland ecosystem health, including protecting wetland plant habitat
6. flood control
7. storm damage prevention
8. prevention of erosion and sedimentation.

Groundwater is the predominant source of drinking water in the Town of Sherborn; therefore, protection of Interests related to water quality and quantity including, but without limitation, Interests 1, 2 and 3, and the ability of jurisdictional areas defined in section 4 of these Regulations to function to protect and contribute to those Interests, is essential.

Section 2 Definitions

The definitions applicable to the Sherborn Wetlands Regulations are the same as set forth in the Act and the State regulations at 310 CMR 10.00 et seq., except for the following modifications to those definitions and additional definitions. Some of the State definitions are repeated in this section for ease when reading town regulations. People should consult both the State and Town definitions. Where the Sherborn Wetlands Regulations expand on the State definition, the Sherborn Wetlands Regulations control.

Adverse effects. A greater than negligible change to an area subject to protection of the Sherborn By-law and its Regulations, or to one of its characteristics or factors, that diminishes the value of that area to one or more of the specific interests protected by the By-law and its Regulations, as determined by the Commission. “Negligible” means small enough to be disregarded.

Agent or Administrator. Anyone appointed or assigned by the Commission to serve as its representative.

Alter. Alter means to change the conditions of any Area Subject to protection and review 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 this By-Law:

- a. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- b. Changing of pre-existing drainage characteristics, salinity distribution, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics
- c. Drainage or other disturbance of surface water level or groundwater table
- d. Dumping, discharging, or filling with any material that may degrade water quality, vegetation, or habitat in a wetland resource area
- e. Placing of fill, or removal of material, which would alter elevation.
- f. Driving of piles, erection or repair of buildings or structures of any kind, except work wholly inside a building and exterior repair of existing buildings or structures which presents no risk of alteration of land, waters, or vegetation
- g. Placing of obstructions or objects in water
- h. Destruction of plant life, including cutting of trees, within a Resource Area or within a Buffer Zone
- i. Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water
- j. Any activities, changes, or work that may cause or tend to contribute to pollution of any body of water or groundwater, including without limitation, any activity that may cause surface water runoff contaminated with sediments, chemicals, or animal wastes
- k. Changes to storage of flood waters and storm water runoff waters in wetlands
- l. Incremental activities that have or may have a cumulative adverse effect on the Interests protected by the By-Law and its regulations
- m. Application of pesticides (which includes herbicides and insecticides).

An acre or more of disturbance. The removal or relocation of soil or vegetation, either temporary or permanent, of at least an acre of land (43,560 square feet). Removal or relocation of soil or vegetation from less than an acre which is part of a plan for a larger land disturbance, ultimately adding up to an acre or more also qualifies as an acre of disturbance.

Applicant. The individual or entity filing (or on whose behalf is filed) the Sherborn Notice of Intent or Sherborn Request for Determination of Applicability.

Bank. The land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

Bordering Land Subject to Flooding. The area inundated when a statistical 100-year frequency storm causes lakes, ponds, rivers, and streams to rise from their normal courses. The “bordering land” boundary is defined in one of three ways:

1. The boundary or high water mark of the 100-year floodplain as shown on the Sherborn FEMA (Federal Emergency Management Agency) flood study map where that boundary is based on flood profile data.
2. For areas bordering other resource areas, where the boundaries of the 100-year flood plain are not based on FEMA flood profile data, historic observations of high water flood levels shall be used. Evidence includes high water marks, flood damage to structures or trees, flood debris deposition elevations, written depth measurements, photos, and other flood documentation.
3. For areas bordering other resource areas where the boundaries of the 100-year flood plain are not based on FEMA flood profile data, and where documented historic observations are not available, the floodplain boundaries may be based on hydrologic calculations.

Bordering Vegetated Wetlands. Bogs, swamps, marshes and wet meadows that border on water bodies are Bordering Vegetated Wetlands (BVWs). BVWs are areas where the soils are saturated or inundated such that they support plants that are adapted to periodically wet conditions.

Buffer Zone. Any land within 100 feet horizontally outward from the upland edge of any resource area other than the Riverfront Area resource.

Commission or Conservation Commission. The Conservation Commission of the Town of Sherborn.

Commissioner. An appointed member of the Sherborn Conservation Commission.

Edge Effect. Edge effect can occur whenever two contrasting habitat types meet. The edge effect establishes a gradient in ecological functions and values as you transition from one habitat type to the adjacent one. Transitions can be sharp or gradual. Some examples of variations in habitat characteristics that may be in evidence at an edge are fluctuations in soil moisture, humidity, seed dispersal, and exposure to sunlight.

Freshwater wetlands. Wet meadows, marshes, swamps, bogs, and areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community for at least five months of the year; emergent and submergent plant communities in inland waters; that portion of any bank which touches any inland waters.

Inner Buffer Zone. (Also referred to as the No Alteration Zone) The portion of the Buffer Zone within 50 feet horizontally outward from the upland edge of a Resource Area.

Isolated Land Subject to Flooding. An isolated depression or closed basin without an inlet or an outlet. It is an area which at least once a year confines standing water to a volume of at least 1/4 acre-feet and to an average depth of at least 4 inches.

Limit of Work. The outer edge of the area where workers and their equipment may move about while working on a project. The limit of work must be shown on project plans and noted on the site by a siltation barrier or flagging.

National Pollution Discharge Elimination System (NPDES). A program administered by the United States Environmental Protection Agency intended to minimize the impacts to water quality and wetlands from municipally owned stormwater discharge systems.

No Alteration Zone. Presumptively the Inner Buffer Zone

Outer Buffer Zone. The portion of the Buffer Zone extending from the outer edge of the Inner Buffer Zone to 100 feet horizontally from the upland edge of a Resource Area.

Passive Recreation. This term connotes recreational activities that do not conflict with or diminish the interests protected by the Sherborn General Wetlands By-Law and these Regulations. These are non-altering use of the waters and banks of resource areas and buffer zones for the purpose of personal enjoyment, such as swimming, canoeing, sailing, scuba diving, bird watching and, as appropriate, fishing and hunting. Recreational use of resource areas includes observation of its plants and wildlife.

Perennial Stream. A “perennial stream” or “perennial river” is defined in 310 CMR 10.58(2)(a)(1)(c) of the Act as one that flows throughout the year, except in periods of extended drought. It has a watershed of one-half (0.5) square mile or greater and has a predicted low rate greater than or equal to 0.01 cubic feet per second at the 99% flow rate duration using USGS stream Stats method or the stream has a watershed of one-half square mile and the surficial geology of the contributing drainage to the stream at project site contains 75% or more stratified drift.

Phase II Program. An extension of the National Pollution Discharge Elimination System (NPDES) permitting program to include, within urbanized areas, discharges from municipal separate storm sewer systems (MS4's), and to construction activities that disturb an area equal to or greater than one acre and less than five acres of land (established in 2003; applicable to municipalities with populations of 10,000 or fewer).

Prevention of Pollution. The prevention or reduction of contamination of surface water, groundwater, resource areas or buffer zones.

Private Water Supply. Any source or volume of surface or ground water demonstrated to be in any private use or shown to have potential for private use.

Protection of wildlife habitat means protection of the ability of any resource area (or buffer zone) to provide important food, shelter, migratory or overwintering areas, or breeding areas for wildlife.

Public Water Supply. Any source or volume of surface or groundwater demonstrated to be in public use or approved for water supply pursuant to M.G.L. Ch. 111, § 160 by the Division of Water Supply of the DEP or shown to have a potential for public use.

Quorum. A majority of the members then in office.

River. Any natural flowing body of water that empties into any ocean, lake or pond or other river, which flows throughout the year. See the state regulations 310 CMR 10.58(2) for further definition details.

Resource Area. Any area identified as a resource area in 4.1 "Resource Areas" of these regulations based on the Sherborn By-Law. This term is used synonymously with areas subject to review under the Sherborn By-Law and these regulations.

Significant. Significant means plays a role. "Significant" in the positive sense means plays a role in the provision or protection of Interests defined as relevant by the Commission. In a negative sense, a "significant" adverse effect means plays a role in adversely affecting the jurisdictional area's ability to contribute to the provision or protection of Interests defined as relevant by the Commission.

Structures. Any thing built in a fixed location, including but not limited to houses, tool sheds, bridges, culverts, driveways, stone walls, wooden fences, and tennis courts.

Urbanized Area. Designated by the US EPA and based on statistics from the U.S. Bureau of Census, an urbanized area has a population density of at least 1,000 people per square mile. Sherborn's Urbanized Area is approximately four square miles and is located in the center of town (see attached map in Appendix E.)

Vernal pool. A confined basin or depression which, at least in most years, holds water for a minimum of two continuous months during the spring or summer or both, and which is free of adult fish populations. A confined basin or depression occurring in an existing lawn, garden, landscaped area, driveway, cultivated field, or open grazed meadow is not considered a vernal pool.

Vernal pool habitat. A vernal pool and the area within 100 feet of the mean annual boundaries of such pool. Such an area is an essential breeding habitat for amphibian, reptile, or other vernal pool community species and provides other extremely important functions during the non-breeding season for a variety of these species as well as other wildlife.

Wetland Ecosystem Health. The state within which communities of distinct character types (ex. forested wetland, wet meadow) support a diverse inter-dependent number of organisms, where those organisms can sustain community balance and resilience, where natural processes of succession and senescence can continue unimpeded, and where the functions and values of wetland resource areas are intact.

Wetlands Protection Act (WPA). Section 40 of Chapter 131 of the Massachusetts General Laws, and as amended and the regulations promulgated thereunder at 310 CMR 10.00, et seq.

Wildlife. Any birds, mammals, reptiles, amphibians, fish, insects or invertebrates that are dependent upon wetlands for a portion of their life cycles.

Section 3 Burden of Proof

It is the applicant's responsibility to note those requirements and presumptions contained in these Regulations that are, per Home Rule authority of the Town, articulated in addition to those set forth in 310 CMR 10.03(1) and 310 CMR 10.03(2).

The applicant has the burden of proving by a *preponderance of credible evidence* that the work proposed in the application will not have significant adverse effects upon the interests protected by the Sherborn General Wetlands By-Law and these Regulations, and the Commission accepts and approves such evidence, including but not limited to overcoming the presumptions set forth in Section 5.

Failure to provide this evidence to the Commission is sufficient cause for the Commission to deny the proposed project, or, at the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

Section 4 Jurisdictional Areas (Areas Subject to Protection and Review)

4.1 Resource Areas

The following resource areas are subject to protection under Chapter 17, Sherborn General Wetlands By-Laws:

1. Banks
2. Wet meadows
3. Marshes
4. Swamps
5. Bogs
6. Fresh water wetland, beach, estuary, creek, river, stream, pond or lake
7. Land subject to flooding, both bordering and isolated
8. Land under water bodies and waterways
9. Riverfront Area

In order to protect these resource areas, *any* altering activity within 100 feet horizontally outward from the upland edge of a resource area (with the exception of Riverfront Area) shall be reviewed by the Commission.

Riverfront Area is a protected resource area (which does not have a buffer zone) that is the area of land between a river's mean annual high-water line measured horizontally outward from the river and a parallel line located 200 feet away in most cases. All work in the Riverfront Area is subject to an "alternatives analysis" and must meet various performance standards. See 310 CMR 10.58 Riverfront Area for details.

4.2 Buffer Zones

Buffer zones are any land within 100 feet horizontally outward from the upland edge of any resource area with the exception of Riverfront Area.

4.3 Activities within Resource Areas and Buffer Zones

Any alteration proposed or undertaken in a Resource Area or in a Buffer Zone is subject to regulation under the Sherborn By-Law and requires the filing of a Request for Determination of Applicability or a Notice of Intent.

Section 5 Performance Standards

When the Commission allows work to be performed in any area subject to its review, it shall require the work to meet certain performance standards. Performance standards are intended to identify the standard of care to which the applicant must adhere in order to reduce the risk of harm to the interests protected under the Sherborn General Wetlands By-Law and these Regulations.

The Commission, at its discretion, may conclude based on specifics of the proposed alteration, the existing site conditions, etc. that the project will not result in significant adverse effects to the interests protected under the Sherborn General Wetlands By-Law and these Regulations, and that the thresholds for the performance standards set out below have been met.

Performance standards vary according to the resource area affected. The Commission may employ the performance standards contained in 310 CMR 10.00, with the following amplifications

5.1 General

Any proposed work subject to these Regulations must have no significant adverse effect, immediate or cumulative, on the Interests defined in these Regulations or on the ability of Resource Areas and Buffer Zones to function to protect those Interests.

5.2 No Alteration Zone (Inner Buffer Zone)

Because of its proximity to a Resource Area, any activity within 50 feet horizontally outward from the upland edge of a Resource Area ("Inner Buffer Zone"), has a higher potential to cause adverse effects on the Interests identified in Section 1.2, particularly protection of water quality and quantity. Therefore, it is presumed that any alteration in the No Alteration Zone will result in adverse effects to the interests protected by the Sherborn General Wetlands By-Law and these Regulations. To overcome this presumption, the applicant must specifically demonstrate by a preponderance of credible evidence that the project activities will not significantly:

1. Result in erosion and sedimentation into adjacent wetlands and water bodies;
2. Alter shading to adjacent wetlands and water bodies and water temperature regimes;
3. Reduce input of leaf litter and woody debris to adjacent wetlands and water bodies;
4. Reduce the capacity of the Buffer Zone to detain, filter and infiltrate runoff;
5. Reduce the capacity of adjacent wetlands and water bodies to support wildlife (through the provision of essential upland habitat characteristics required by wildlife utilizing the adjacent wetlands or water bodies); or
6. Create barriers to movement of wildlife through the Buffer Zone or from one wetland to another;
7. Alter vegetation, plant community structure, and/or plant species composition unless as part of a permitted mitigation effort;
8. Alter surface and subsurface hydrology as measured by alterations to:
 - a. peak discharge
 - b. runoff volume
 - c. infiltration capacity
 - d. base flow levels
 - e. groundwater recharge
 - f. direction of groundwater flow

- g. pattern of groundwater flow
- h. groundwater gradient
- i. water temperature
- j. surface water levels in ponds or confined basins;

9. Alter physical and/or chemical soil properties;
10. Alter edge effects;
11. Result in increased loading or runoff of contaminants (e.g. pesticides and road run-off) or nutrients.

5.3 Fill

All fill used in connection with any project under the jurisdiction of the Commission will be clean fill, containing no garbage, refuse, rubbish, industrial or commercial or municipal fill or waste, demolition debris, or septic sludge, including, but not limited to lumber, wood, stumps, plaster, wire, rubbish, pipes, lathe, paper, cardboard, glass, metal, tires, ashes, appliances, motor vehicles or parts of any of the foregoing. No fill containing levels of oil or hazardous materials above GW-1/S-1 Method 1 Standards, as described in the Massachusetts Contingency Plan (MCP) environmental regulations as revised, will be used in connection with any project under the jurisdiction of the Commission.

The source of any fill will be made known in writing to a member of the Commission at least one week prior to placement at the site. All environmental reports and results of chemical testing of such fill will be filed with the Commission at this time. The Commission reserves the right to require specific additional chemical testing of fill by a third party, at the applicant's expense, prior to placement at the site.

Every eighteen inches of vertical fill thickness used on site will be compacted by at least five passes of a bulldozer or equivalently weighted machine.

5.4 Stumps

No stumps, trees, or branches generated during land clearing are to be buried on the site. The Commission may require that applicants submit original transport bills of lading indicating offsite transport of stumps, signed by the hauler and receiver of the material.

5.5 Discharge from Water Filtration and Softening Systems

No discharge from swimming pools, water filtration systems, water softening systems, or the pumping out of basements is permitted into abandoned wells or cisterns, or any areas protected by these regulations without a Negative Determination or an Order of Conditions specifically allowing such activity.

Section 6 General Provisions

6.1 Expert Consultant Fees

As provided by GL Ch. 44 § 53G, the Commission may impose reasonable fees for the employment of outside engineers and/or other consultants, engaged by the Conservation Commission, for specific expert services deemed necessary by the Commission to come to a final decision on an application submitted to the Conservation Commission pursuant to the requirements of the Act or the Sherborn By-Law.

Funds received by the Commission pursuant to these rules shall be deposited with the Town of Sherborn treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Commission without further appropriation as provided in GL Ch. 44 § 53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.

Specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, hydrogeologic and drainage analysis, impacts on municipal conservation lands, and environmental or land use law. The consultant shall be chosen by, and report only to, the Commission and/or its Administrator or Agent.

The Commission shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.

The fee must be received in its entirety prior to the initiation of consulting services. The Commission may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Commission within ten business days of the request for payment shall be cause for the Commission to determine that the application is administratively incomplete (except in the case of an appeal). The Commission shall state such in a letter to the applicant, copied to the DEP. No additional review or action shall be taken on the permit request until the applicant has paid the requested fee. The applicant may appeal the selection of the outside consultant to the Sherborn Board of Selectmen, who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualification shall consist of either an educational degree or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Sherborn Board of Selectmen and a copy received by the Commission. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

6.2 Reservation

These regulations will not be construed to limit the authority of the Commission under the Sherborn By-Law. The Commission reserves the right to act in a manner consistent with the Sherborn By-Law upon any matter within its jurisdiction.

6.3 Amendments

These regulations may be revised from time to time by a majority of a quorum of the Commission, provided that one advertised public hearing has been held (previous to the vote) for discussion of the proposed revisions, said hearing having been advertised at least 48 hours before.

Section 7 Procedures

The procedures described below are designed to help the applicant and the Commission through the review process as quickly and efficiently as possible. Close adherence to the procedures is advised. The following procedures apply to all filings under the Sherborn By-Law (unless otherwise specifically stated).

7.1 Exempt Activities

The following minor activities within the buffer zone and outside Resource Areas specified in the Sherborn Wetlands Regulations Section 4.1 are not subject to regulation under the Sherborn General Bylaw, Chapter 17 because they are initially presumed to not alter an area subject to protection if the proposed work meets the following criteria: (a) the existing lot where the work is proposed is for an existing single family home/residence and (b) the work is performed in a manner that has no adverse effects to resource areas and the resulting project does not create erosion and sediment run-off into wetland resource areas and any land disturbed by the project is restored to previous or improved conditions for protecting wetlands and erosion and sedimentation controls are established when needed to prevent such alterations.

1. construction of an unpaved walkway less than 30-inches wide for private pedestrian use;
2. installation and maintenance of fencing provided it will not constitute a barrier to wildlife movement and is in existing lawn and/or landscaped areas;
3. maintenance of existing stone walls;
4. stacking of cordwood;
5. vista pruning that is conducted at least 50 feet from any Resource Area, where vista pruning means the selective thinning of tree branches or understory shrubs to establish a specific “window” to improve visibility and does not include cutting of trees that would reduce the leaf canopy to less than 90% of existing crown cover and does not include the mowing or removal of understory brush;
6. pruning and normal maintenance of existing landscaped areas;
7. mowing of existing lawns;
8. planting of native species of trees, shrubs or groundcover (but excluding lawn turf/grasses);
9. installation and maintenance of patios and decks totaling less than 150 square-feet in existing lawn in outer 50-100-foot buffer zone that allow water infiltration;
10. replacement of footings or sonotubes for an existing deck provided it does not take place in unaltered buffer zone area;
11. conversion of impervious to vegetated surfaces.

7.2 Administrative Approval

For purposes of determining that a proposed project is not subject to review by the Commission either because:

1. it will take place more than 100 feet from a wetland resource, or 200 feet from a perennial stream or river or
2. it meets the criteria of section 7.1,

an applicant may request administrative approval. Such request shall be made in writing to the Commission using the form specified by the Commission. A site visit to the property by the Agent (or Administrator/Agent) may be required. The Agent shall determine whether to issue an Administrative Approval within 21 days of the request or of the date when sufficient information is provided. If an Administrative Approval is issued, it will be effective immediately. If issued, an Administrative Approval will serve as a Negative Determination of Applicability for purposes of issuing building permits or as Commission approval pursuant to Board of Health regulations. All Administrative Approval applications shall be reported to the Commission at the next scheduled meeting.

7.3 Request for Determination of Applicability

The purpose of the Request for Determination of Applicability (RDA) is to allow the Commission to determine whether the proposed project will alter an area subject to protection under the Sherborn By-Law such that the filing of a Notice of Intent will be required. After the filing of the Request for Determination in accordance with state regulations, a Commissioner(s) or Agent will visit the site and make a presentation to the Commission. The Commission will then vote to determine if a Notice of Intent is required.

7.3.1 Review Period

- Resource Area Boundary Determination

Resource area boundary delineation determination shall be reviewed at the sole discretion of the Commission or its Agent during winter conditions (snow fall and frozen ground), and shall be reviewed only when site conditions are such that the Commission or its Agent believes they can adequately review the relevant resource area indicators (e.g. soil, vegetation, topography, and hydrology).

7.3.2 Submission Requirements

It is the applicant's responsibility to provide all of the information required for this review. This information is to be included on the Request for Determination form. WPA Form 1 is available at the Sherborn Selectmen's Office at the Town Offices or from the MA Department of Environmental Protection (DEP) web site at:

<http://www.mass.gov/eea/agencies/massdep/water/approvals/wetlands-and-waterways-forms.html#4>.

Any outstanding violations, enforcement orders, remediation activities or unpaid fines applied to a property under the Act and its regulations or the Sherborn By-law and its regulations must be resolved to the satisfaction of the Commission prior to the submission of a Request for Determination of Applicability for work on that same property.

The applicant must provide all information requested on the Request for Determination and:

1. Pay the required fee (see **Section 7.6 Fee Schedule**) and return the original to:

Sherborn Conservation Commission
19 Washington St.
Sherborn, MA 01770

2. Send a copy and the plans to:

MA DEP Northeast Region
205B Lowell St.
Wilmington, MA 01887

3. Send a copy to the property owner if the applicant is not the property owner.

4. Include a plan for the Commission that shows (at a minimum):

- a. Structures on the lot
- b. North arrow on lot plan, with locus map and street name
- c. Location of proposed work, and distance to wetlands or other resource to be protected
- d. General vegetation types
- e. Drainage directions
- f. Spot elevations or contours (if available)

7.3.3 Determination by Commission

After the filing of a complete Request for Determination, the Commission shall issue a Determination of Applicability Form 2 within 21 days. During this time, a Commissioner(s) or Agent will visit the site. At a public meeting of the Commission, the Commissioner or Agent who reviewed the Request for Determination and visited the site shall present his/her findings. The Commission will then vote, and a majority vote is required for action on the Determination. The property owner will receive the signed Determination by mail.

If a Positive Determination is issued, meaning that the project will impact an area subject to protection, the applicant must file a Notice of Intent in order to possibly obtain a permit for the project. A Negative Determination means the proposed project will have a minimal impact on an area subject to protection, and the project is approved as presented or approved with written conditions. A Negative Determination is valid for three (3) years.

If the Request for Determination and/or the related information is incomplete or an accurate site assessment cannot be undertaken, a Positive Determination will be issued due to a lack of sufficient information. An applicant can waive the 21-day determination period, and a determination will be delayed until the application is complete or an accurate site visit is possible.

7.3.3.1 Replacement Septic Systems outside the No Alteration Zone

Subject to Section 7.3.2, a replacement septic system may be permitted under a Determination of Applicability if the proposed project meets the following conditions:

1. the wetland resource areas have been delineated and are shown on a plan
2. the proposed work is located outside the No Alteration Zone
3. the proposed septic system upgrade is not an expansion of the existing system
4. any area of disturbance during construction of the proposed system is not of a slope greater than 25%
5. the portion of the buffer zone affected by the proposed system has been previously altered

6. a signed, stamped engineered plan must accompany the application and must show the proposed septic system and all components associated with the system. In addition the plan must include the following information:
 - a. the wetland flags and associated buffer zones
 - b. contour lines at 2-foot intervals
 - c. the location of the erosion control barrier
 - d. the location of the access route to the project site
 - e. the location of potential stockpiles

7.4 Notice of Intent

The role of the Commission is that of a reviewing agency. It is the applicant's responsibility to provide all of the information required for review in the Notice of Intent (NOI). It is in the applicant's interest to submit as complete and accurate description of the project as possible to ensure that requests for additional information do not result in unnecessary delays. In instances where the applicant is not the owner, the Commission shall require written proof of the owner's assent to the filing.

7.4.1 Notice of Intent Form

Filing a Notice of Intent under the Sherborn By-Law and the Act is done on WPA Form 3 Notice of Intent, Appendices A, B, C, D, and the Sherborn Supplemental Notice of Intent Form 3/4A. Appendices A, B, C, D and the Sherborn Supplemental Notice of Intent Form 3/4A may be obtained from the office of the Conservation Commission at Sherborn Town Hall and can also be found on the Commission's website at:

http://www.sherbornma.org/Pages/SherbornMA_Conservation/index

and in the Sherborn Wetlands Regulations. WPA Form 3 may be obtained from the Massachusetts Department of Environmental Protection web site:

<http://www.mass.gov/eea/agencies/massdep/water/approvals/wetlands-and-waterways-forms.html#4>.

7.4.2 Abbreviated Notice of Intent

An Abbreviated Notice of Intent is provided to simplify the review of projects which are likely to result in limited impact on a resource area. This form (WPA Form 4) may be used when all of the following apply:

1. The proposed work is within the buffer zone (only) or is within Land Subject to Flooding (only), and will alter less than 1,000 square feet of surface area.
2. The proposed work will not result in any alteration to a wetland resource area other than those noted in a. above.
3. A Department of the Army permit (Corps of Engineers Section 10 or Section 404) or Division of Waterways license (M.G.L. Ch. 91) is not required.

Abbreviated Notice of Intent forms may be obtained from the Massachusetts Department of Environmental Protection website:

<http://www.mass.gov/eea/agencies/massdep/water/approvals/wetlands-and-waterways-forms.html#4>.

The Commission or their Agent may, at their discretion, require the filing of Appendix D and the Sherborn Supplemental Notice of Intent Form 3/4A. These additional forms may be obtained at the office of the Conservation Commission in Sherborn Town Hall, or on the Commission's website at:

http://www.sherbornma.org/Pages/SherbornMA_Conversation/index

and in the Sherborn Wetlands Regulations.

The filing fee for an Abbreviated Notice of Intent will follow the fee schedule for full Notices of Intent. (See Section 7.6 of these regulations.)

7.4.3 Procedure for Notice of Intent

In addition to information already required by the Commonwealth of Massachusetts, the following information is required with each Notice of Intent filed with the Commission. Omission of information deemed pertinent by the Commission will be grounds for not opening an advertised public hearing, or continuing a public hearing, or denying the order of conditions. For convenience, Appendix D contains this information in worksheet form.

7.4.4 Information to Be Shown on Site Plans

All of the following will be required unless exempted in writing by the Commission.

7.4.4.1 Existing Conditions

1. Title Box to include: The date, name and address, if available, of project; the name of the owner/applicant, the name of the preparer, a scale (at least 1 inches = 100 feet with details), a north arrow, a reference to the assessor's map and to the parcel number
2. Appropriate engineer's or land surveyor's stamp and signature (Note: The professional who stamped the original plans must also sign and date any revisions with the same date as the revision date.) At least one original signature copy of each plan must be submitted to the Commission
3. Lot size(s) and property boundaries
4. Names and property lines of abutting property owners
5. Two foot topographic contours (existing and proposed); elevation above mean sea level, if available, or assumed elevations; location of benchmark of elevations or assumed datum
6. The border of any wetland resource area on or within 100 feet of applicant's property, with flow directions labeled, if applicable
7. Limits of all wetland resource areas, including survey locations and numbers of flags/stakes; note date of flagging, and name/firm of botanist
8. Delineation of buffer zone (100-foot horizontal distance from all wetland resources areas) and of No Alteration Zone.
9. Limits of Bordering and Isolated Lands Subject to Flooding, including 100-year storm elevation
10. Department of Environmental Management (DEM) and Federal Emergency Management Agency (FEMA) wetlands and floodplain restrictions (FEMA maps are available at the Conservation Commission Office, the Selectmen's Office, and Sherborn Assessors' Office)
11. High water mark for all water bodies, from best available data (data source must be cited)
12. Top and toe of any inland bank or beach
13. Total watershed area in which site is located, all sub-watersheds on site, and on- and off-site discharge points (projects must not alter the water runoff from the site)

14. Location, date and soil summaries of all soil borings and test pits on site; location, date and readings of groundwater level measurements on site
15. Stone walls or other barriers located between the area of work and the area subject to protection under these regulations
16. Locations and types of easements on site and on other properties within 50 feet of property line

7.4.4.2 Proposed Conditions

1. Work limits and location of temporary erosion controls; delineate areas where vegetation will be altered
2. Proposed contours and amount of fill required to be added or removed (in cubic yards and maximum thickness); pre- and post- development grades on all slopes 4 to 1 or steeper; locations of stockpiles
3. Construction sequence and details, including cross-sections and elevations, of drainage structures (including but not limited to catch basins, leaching basins, dry wells, swales, retention areas, ditches, etc.) and road crossings in wetland resource areas
4. Equipment access routes and storage/parking areas during proposed work
5. All above-ground structures, roadways, access ways, stone walls, fences, and other physical alterations proposed; identify roadway or surface material proposed; location and elevation of lowest floor of all structures
6. Existing natural drainage patterns and proposed alterations
7. All on-site below-ground alterations and structures, including but not limited to utility lines, drainage structures, septic systems, cesspools, wells, and storage tanks in the buffer zone
8. Location, capacity, and design details of on-site septic system
9. Distance of proposed on-site leaching facility to wetlands, watercourses, or other resource areas
10. Calculated square footage of temporary and permanent alteration of wetland resource, if applicable
11. Calculated square footage of temporary and permanent alteration of inner and outer buffer zone
12. For new construction, location of leaching facilities on other properties within 50 feet of the lot line, or 300 feet of the proposed project
13. For new construction, location of all existing and proposed wells on property and within 200 feet of project on abutting properties, and minimum distance to all septic systems

7.4.5 Information to Be Provided in Notice of Intent Text

All of the following will be required unless exempted in writing by the Commission.

7.4.5.1 Existing Conditions

1. Topography, soils, and geology description
2. Description of vegetation types, such as upland or wetlands community types and plant species list
3. Section of a U.S.G.S. quadrangle map, with site location circled (i.e. a locus map)
4. Completed State delineation form known as “DEP Bordering Vegetated Wetland (310 CMR 10.55) Delineation Field Data Form” for wetland resource

7.4.5.2 Proposed Conditions

1. Description of activities, construction sequencing and estimated timetable. Include description of future phases
2. Description of indirect and direct impacts, both temporary and permanent, on wetland resource areas
3. Description of soil erosion, sediment control plan, and mitigation plans for impacts to resource areas
4. Details of mitigation plans for activities in the buffer zone to limit long term indirect impacts to adjacent resource areas
5. Description of storm water management plan, including existing and proposed drainage areas
6. Description of wastewater management plan
7. Hydrologic calculations shall conform to Soil Conservation Service procedures
8. Wetlands creation/restoration plan, including area, with existing and proposed topography at contours at 1-foot intervals, and plans showing proposed grading, stockpiling, planting (indicate source of plants), and timetable
9. Volume of fill required and source of fill

7.4.6 Information that May Be Requested During a Notice of Intent Hearing for Activity Proposed in the No Alteration Zone (see Section 5.2)

For a project that proposes to alter greater than or equal to 5,000 square feet of No Alteration Zone, the Commission may require the applicant to provide adequate information regarding the following so as to enable the Commission to evaluate whether the proposed activity is to be permitted:

1. Values and functions of the Resource Area and/or Buffer Zone to protect Interests.
2. Wildlife habitat and rare species present on the site. This information may include assessment of food, water, breeding space, shelter, security, movement and migration space, and connections to other habitat areas.
3. A Summary or Detailed Wildlife Habitat Evaluation as defined in Appendices A and B of the MassDEP *Massachusetts Wildlife Habitat Protection Guidance for Inland Wetlands* (March 2006) conducted by a qualified wildlife biologist.
4. Reasonably practicable alternatives to the proposed activities, including reducing the scale and scope of the project. Options that appear to be precluded only by self-imposed constraints shall be considered as reasonably practicable alternatives.

The Conservation Commission may deny a permit if the applicant fails to provide the information requested.

7.4.7 Natural Heritage Filing

The latest computer map showing Estimated Habitat of Rare and Endangered Species must be included with the Notice of Intent. A filing to the Natural Heritage Office is needed if the Estimated Habitat of Rare and Endangered Species map indicates that a proposed project lies within the boundary of the Estimated Habitat of Rare and Endangered Species. This map can be found online or requested from the Natural Heritage Office. If your property is located within a polygon on the map indicating an estimated habitat, a filing to that office will be required by the Commission.

This filing, made by the applicant, is to be made before the Notice of Intent is scheduled for a public hearing. Closing a hearing is contingent upon written response from the Natural Heritage Office.

7.4.8 Watercourse Alteration Notification

To the extent required by FEMA, if applicant is planning to alter or relocate a river system in any manner, it shall require a number of notification letters, which will be included in the Notice of Intent. Letters of notification should be submitted to the following:

1. Conservation Commissions in the adjacent communities of Dover, Natick, Ashland, Framingham, Medfield, Millis, Holliston);
2. NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
3. NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

7.4.9 Notice of Intent Submission Requirements

The applicant will submit nine complete paper copies and a complete electronic copy of the Notice of Intent with Site Plans, supporting documentation, and a check payable to the Town of Sherborn, in the amount set forth in the fee schedule (see Section 7.6 "Fee Schedule" and Appendix A "Wetlands Filing Fee Calculation Worksheets) to the Conservation Commission Office or the Selectmen's Office at the Town Offices. The applicant must also send a separate check to Massachusetts Department of Environmental Protection (DEP) Boston. One copy of the Notice of Intent with Site Plans and supporting documentation must be sent to the DEP Regional Office. The Commission must receive the completed Notice of Intent Site Plans and supporting documents at least 14 day before the next regularly scheduled public meeting.

In keeping with the requirements of Sherborn's General Permit under the Environmental Protection Agency's (EPA) National Pollutant Discharge Elimination System (NPDES), any applicant for a project proposed through a Notice of Intent for a property within Sherborn's Urbanized Area (see Appendix E), which will disturb or alter an acre or more of land, temporarily or permanently, must show proof of submitting an EPA Notice of Intent application form to the EPA by presenting, at the opening of the hearing before the Commission, a copy of the application, and either proof of mailing the application to EPA by certified mail, return receipt requested, or a copy of the email receipt from EPA for an online filing of the application. Opening the hearing is contingent upon this proof of submittal.

Any outstanding violations, enforcement orders, remediation activities or unpaid fines applied to a property under the Act and its regulations or the Sherborn By-Law and its regulations must be resolved to the satisfaction of the Commission prior to the submission of a Notice of Intent for work on that same property.

7.5 Site Visits

7.5.1 Site Visits Generally

The Commission, any Commissioner, the Conservation Agent, or any person designated by the Commission, shall have the right to enter and inspect any place, property, or area for purposes of evaluating any request or application to the Commission, or enforcing the requirements of any order or certificate issued under the Act, the Sherborn By-Law, or these regulations. In addition, the Commission, any Commissioner, the Conservation Agent, or any person designated by the Commission, may require the submittal of any pertinent data or documents deemed necessary by the Conservation Commission. Without limiting the foregoing, the submission of any Request for Determination or Notice of Intent to the Commission constitutes a grant by the Applicant of his/her/its consent to entry and inspection and provision of data and documents as set forth in this paragraph.

7.5.2 Site Visits for Review of Notice of Intent

The following markings and flagging must be in place before the field inspection, where applicable. Failure to properly stake and mark the site may result in non-review and thus a delay or denial of the project.

1. Edges of wetlands must be flagged with numbered flags, as reflected on submitted maps
2. House number must be visible if it is an existing house; if no house is on property, the lot number must be posted and visible from the street
3. Property boundaries must be staked with numbered stakes at all corners
4. All proposed structures or additions, including decks, must be staked for identification purposes at all corners; stakes must be numbered and labeled
5. Septic tank, leaching field, and well locations must be staked with labeled stakes if within the buffer zone.

7.6 Fee Schedule

7.6.1 Notice of Intent (NOI) Fees

Refer to the following table and bullets for the complete Sherborn fee schedule; for definitions of the Notice of Intent categories listed below, refer to Appendix A, Form A-1, "Wetlands Filing Fee Calculation Worksheet" on page 30 of these regulations.

Overall, NOI fees involve three separate payments covering (i) a MA State-specified fee that is divided between the State and the Town and (ii) a Sherborn By-Law fee. There are two payments (currently by check) made out to the Town of Sherborn: one for the town share of the State fee and one for the Sherborn By-Law fee. There is one payment for the state share of the State fee that is made directly to the Commonwealth of Massachusetts and sent to the MA DEP.

The following table summarizes the fees for the State-specified categories of activities for NOI filings; see Appendix A for more information. The State fee is as of 1/03/2013 and is subject to change by the MA DEP; it is presented in DEP WPA Form 3 and its instructions.

| NOI Category | 7.7 Total Fees | Sherborn By-Law Fee | MA State Fee | |
|--------------|----------------|---------------------|---------------------------------|-------------|
| | | | Town Share | State Share |
| Category 1 | \$792.50 | \$682.50 | \$67.50 | \$ 42.50 |
| Category 2 | \$2,737.50 | \$ 2,237.50 | \$ 262.50 | \$ 237.50 |
| Category 3 | \$3,562.50 | \$ 2,512.50 | \$ 537.50 | \$ 512.50 |
| Category 4 | \$5,162.50 | \$ 3,712.50 | \$ 737.50 | \$ 712.50 |
| Category 5 | | \$3,500.00 | See DEP WPA Form 3 instructions | |
| Category 6 | | See Appendix A | See DEP WPA Form 3 instructions | |

7.7.1 Other Fees

1. An Amended Order of Conditions requires a fee of \$500.00 to the Town; no State fee is required.
2. An Extension of an Order of Conditions requires a fee equal to the original filing fee for the Notice of Intent for that same project; no State fee is required.

Note: An Extension of an Order of Conditions filed when the work approved by the original Order of Conditions has not commenced will require a fee of \$50. In addition, the applicant must pay the fees associated with recording the Extension to the Order of Conditions, if granted.

3. A Request for Determination of Applicability requires a fee dependent on the scope of the project, please choose from the following tiers and submit accordingly.

Basic Fee: \$120.00 - The basic fee is applicable to all additions, renovations and modifications to an existing residence or an existing single family lot, exclusive to new subdivisions, lot reconfigurations, or establishments of an easement. Examples include: Residence additions (such as a patio or family room), septic systems and well related work, ancillary structures (such as a barn or a shed), and driveway installation/reconfigurations.

Comprehensive Fee: \$200.00 - All projects that do not fit the criteria required to qualify for the basic fee shall be charged the comprehensive fee amount. Examples include, but are not limited to, all commercial projects, subdivisions or projects establishing new property lines or limits, dedication of easement or rights-of-way, and demolition and removal of existing structures for reconstruction of new structures on an existing lot or new lot.

No State fee is required.

Additional Inspections/Site Visit Fee: \$30.00 - Additional site visits by the Agent, a Commissioner and/or a Commission designee may be required to fulfill the Commission's work. Such visits can arise due to plan modification or other filing changes. The Basic fee includes up to one site visit.

The Comprehensive fee includes up to two site visits. Additional site visits shall be charged in the amount of \$30 per visit. The additional site visits are required due to a comprehensive redesign or resubmission of and application shall be either: (a) charged as

an additional site visit or (b) at the Agent's discretion, part of a required re-application and its corresponding fee.

Distribution Box Review Fee: \$50.00 Proposals for projects consisting of only the replacement of an existing distribution box for a septic system. All other proposed projects shall follow the fee schedule above.

4. An Administrative Approval requires a fee of \$70.00 to the Town; no State fee is required. If a Request for Determination of Applicability (RDA) for the same activity or project is subsequently applied for within 60 days, the RDA fee is \$50.00 to the Town. If project is determined to be exempt and no building permit is required, then no fee shall be assessed.
5. A Request for a Certificate of Compliance requires a fee of \$200.00. No State fee is required.
6. *Note:* A Request for a Certificate of Compliance for approved alterations which never commenced will require a fee of \$50.
7. A Request for a Certificate of Compliance for an expired Order of Conditions requires a fee equal to the filing fee for the original Notice of Intent or \$200.00, whichever is greater. No State fee is required.

Certificates of Compliance shall be recorded at the Registry of Deeds by or for the property owner and the recording costs shall be paid by the property owner or his designee.

7.7.2 Filing Fee Policies

1. Fees are payable at the time of application and are nonrefundable.
2. Fees shall be calculated based on the above fee schedule and confirmed by the Commission or its Administrator and/or Agent.

7.8 Hearings

7.8.1 Public Notice

A hearing date will be scheduled within twenty-one days of the filing of a complete Notice of Intent. The applicant shall give written notice of the filing of an application for an order of conditions, Notice of Intent or Abbreviated Notice of Resource Area Delineation at the time of such filing, by certified mail, return receipt requested, or hand delivery written acknowledgement of receipt, to all abutters within one hundred feet of the property line of the land where the activity is proposed at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and in another municipality or across body of water and to such other persons as the Commission may, by regulation, determine. The notice shall state a brief description of the project and the date of the Commission hearing or meeting date if known.

At the time of the hearing and before the hearing opens, the applicant must present a list of all abutters within 100 feet of the property line of the land where the activity is proposed, along with an Affidavit of Service (Appendix C "Affidavit of Service") certifying that all abutters received

notice of the filing. The applicant should send notices by certified mail, return receipt requested, and present the return receipts at the hearing meeting. (Applicants other than the property owner must submit a statement of proof of vested interest in the property, purchase and sale agreement, and notarized statement from the owner.)

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 Sherborn. .

7.8.2 Conduct of Hearing

At the time of the hearing, the applicant or his or her representative will appear before the Commission and make a presentation relative to the Notice of Intent.

7.8.3 Continuances

Hearings may be continued at the request of the applicant or Commission. If a hearing is to be continued to allow preparation of revised plans, all field flagging and other changes must be made and all revised plans must be received ten days before the continued hearing.

7.8.4 Issuance of Order

Within twenty-one days of the close of the hearing, the Commission will issue an Order of Conditions. A majority of the Commission must approve and sign written decisions. Orders of Conditions written under the Sherborn By-Law and Regulations may be on the same form as Orders issued under the Act.

7.9 Recording in Registry of Deeds or Land Court

The following forms, issued by the Commission, are required to be recorded in the Middlesex County Registry of Deeds or the Land Court, whichever is appropriate:

1. Final Order of Conditions (recorded by the Conservation Commission)
2. Amended Order of Conditions (recorded by the Conservation Commission)
3. Extension Permit (recorded by the Conservation Commission)
4. Certificate of Compliance (recorded by the applicant)

Recording is done at the applicant's expense. The Agent will inform the applicant of the amount of the recording fee.

If the applicant desires to delay the recording of the Final or Amended Order, he or she must state in writing to the Commission the reasons for the delay, and the estimated date of recording. The Commission may, but is not required to, comply with the applicant's request.

7.10 Orders of Conditions

7.10.1 Decisions

Decisions will be made by the Commission simultaneously under the Act and the Sherborn By-Law. An Order of Conditions is designed to permit the proposed construction activity while, at the same time, ensuring that valuable wetland resources are protected from either deliberate or

accidental damage. Wetlands protection is achieved by a combination of design elements within the approved plan and by additional conditions imposed by the Commission. The applicant must receive the Order of Conditions, allow the mandated appeal period to elapse, and allow the Commission's Agent to record the Order of Conditions with the Registry of Deeds before proceeding with any work conditioned under the Order. All construction activities must be completed in compliance with the existing valid Order of Conditions.

7.10.2 Compliance with an Order of Conditions

Compliance with an Order of Conditions may be monitored by periodic visits by members of the Commission or its Agent. All wetlands flags are to stay in place until the Commission issues a Certificate of Compliance. In addition, at the time it issues the Order, the Commission may strictly control construction activities by outlining stages of the work and by requiring periodic inspections and proof of compliance of each separate stage. A partial Certificate of Compliance may be required at discrete points of the project. The Commission holds the applicant to strict accountability for complying with the conditions contained in the Order. Orders of Conditions are valid for three years from date of issue, unless otherwise extended by the Commission. The applicant will be charged a fee according to the Fee Schedule in Section 7.6 for an Extension to an Order of Conditions.

7.10.3 General Requirements

The following apply to all Orders of Conditions:

1. The Order of Conditions reflects decisions made at the hearing and all information gathered during the hearing, at the on-site inspection, and from relevant laws and regulations.
2. Orders of Conditions are issued under both the Act and the Sherborn By-Law.
3. The Order of Conditions refers to specific wetlands values being protected.
4. The Order of Conditions will include Findings of Fact made at the hearing.
5. The Order of Conditions may include mitigation conditions.
6. Conditions may be for the construction period (e.g. hay bales for erosion control) or may be in perpetuity (e.g. no alteration zones for erosion control and wildlife habitat). Conditions may be structural (e.g. hay bale barrier for erosion control) or may require a specified standard of performance (e.g. prevention of erosion).
7. Conditions may refer both to the Act and to the Sherborn By-Law or may refer only to the Sherborn By-Law. These separate conditions shall be explicitly identified in the Order of Conditions.

7.11 Amended Orders of Conditions

Quite often, modifications must be made to projects during construction. The Commission recognizes the need for such changes and sets forth the following procedures for assessing them. Because each modification is unique, it is impossible to determine in advance how any particular change will be addressed by the Commission. With any proposed modification, the applicant will first contact the Commission and explain the modification in writing. The Commission has the authority to determine the appropriate category for the modification. The applicant will be charged a fee according to the Fee Schedule in Section 7.6 for an Amended Order of Conditions.

7.11.1 Minor Changes

These changes are modifications that the Commission determines have no likelihood of an impact on any wetland resource and need only the authorization of the Commission. Applicants will contact the Commission to request a change. If the Commission finds the change requested is a minor modification it will record that determination in the applicant's file and mail a copy to the applicant and the Massachusetts Department of Environmental Protection regional office. The Commission will consider the following criteria in making this determination:

1. extent of modification
2. proximity to wetland
3. type of equipment required for construction

7.11.2 Moderate Changes

These changes are modifications that the Commission determines have some likelihood of an impact on a wetland resource. These changes require an Amended Order of Conditions, which requires a request for a public hearing, payment of a separate filing fee of \$500, and abutters' notices sent by the applicant or their agent. Following receipt of the separate filing fee, the Commission will schedule a public hearing to be held within 21 days of the receipt of such fee and will publish a notice thereof in a local publication in the same general manner as for a Notice of Intent. The Commission will make a decision on the request for an Amended Order of Conditions following a public hearing. An Amended Order of Conditions must be filed by the Commission at the Registry of Deeds with a marginal reference to the original Order of Conditions.

The following may require an Amended Order of Conditions:

1. Decrease in the distance from resource area
2. Increase in potential for erosion
3. Decrease in the size of no alteration zone
4. Alteration of land form
5. Change in size and location of structure and appurtenances
6. Increase in amount of vegetation removed
7. Activity beyond the limit of work

7.11.3 Significant Changes

Changes that are not related to the originally permitted activity may require a new Notice of Intent rather than an Amended Order of Conditions (that is, a deck appurtenant to a permitted dwelling would require a separate filing). Any modification that will change or increase the impact of the project on any wetland resource is considered a Significant Change. The applicant will follow the procedures set forth in Section 5 "Procedures".

7.12 Denials

7.12.1 Procedural Denials

When a Notice of Intent and supporting plans are reviewed and found incomplete, or if the on-site requirements (Sherborn Wetlands Regulations, Section 7 "Procedures") are not met, the Commission will contact the applicant and advise him or her to address the inadequacies with an amended Notice of Intent and/or revised plan or corrected on-site preparation before the scheduled hearing date. The Commission may follow this recommendation with a letter

describing the inadequacies of the filing. The hearing may be rescheduled due to lack of information.

If the applicant at the time of the hearing has not addressed the inadequacies of the Notice of Intent filing, the Commission may deny the project for lack of information.

If the Commission finds that the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Act and the Sherborn By-Law, it may issue an Order of Conditions denying the work. The denial will specify the information that is lacking and why it is necessary.

In writing the procedural denial, the Commission will:

1. State that the denial is specifically based on lack of information describing the site, the work and/or the effect of the work on the interests of the Sherborn By-Law and the Wetlands Protection Act Regulations (310 CMR 10.00).
2. List specific information needed citing appropriate sections of the Wetlands Protection Act Regulations (310 CMR 10.00) and/or Sherborn Wetlands Regulations.

A procedural denial is without prejudice (i.e., a new Notice of Intent can be filed).

7.12.2 Substantive Denials

The Commission may deny permission for any activity within areas under its jurisdiction if, in its judgment, such denial is necessary to protect resource areas and interests, as cited in Section 1.2 "Purpose and Protected Interests". Due consideration is given to all possible effects of the proposal on all values protected under the Sherborn By-Law. The applicant is given opportunity to present competent and relevant oral and written arguments to refute presumptions made in the Sherborn By-Law and these regulations. Substantive denials are based on a reasoned analysis of the proposed activity and the possible effects of this activity on the listed area and environmental interests (see Section 4 "Jurisdictional Areas"). In most cases, neither the assumption of protection nor the assumption of damage can be proven with certainty. The Commission bases its judgment on the best scientific information available to it at the time, and in all cases the Commission acts to protect the public interests, as defined in the Sherborn By-Law.

The Commission will give consideration to demonstrated hardship on the applicant caused by the denial. A denial will be based upon a decision specifically to do so. A denial will be voted by majority of those present at the hearing. The written decision will include the reasons for the denial, citing interests protected, and relevant regulations. The written decision will be signed by a majority of the Commission.

7.13 Appeal Procedure

An appeal may be taken from a decision under the Sherborn By-Law in accordance with the provision of Massachusetts General Laws, Chapter 249.

7.14 Certificate of Compliance

7.14.1 Criteria

Upon completion of the project and after two growing seasons have passed (when applicable) the applicant shall submit a Request for a Certificate of Compliance (WPA Form 8A). The Commission will issue the Certificate of Compliance when a project is completed within the constraints of an Order of Conditions. The Certificate may be used to continue permanently certain conditions from the original Order that are deemed appropriate by the Commission. The applicant will be charged a fee according to the Fee Schedule in Section 7.6 for a Certificate of Compliance.

Any outstanding violations, enforcement orders, remediation activities or unpaid fines applied to a property under the Act and its regulations or the Sherborn By-Law and its regulations must be resolved to the satisfaction of the Commission prior to the submission of a Request for a Certificate of Compliance for work on that same property.

If the project is not completed in accordance with Order of Conditions, the Commission has the authority to withhold the Certificate of Compliance.

7.14.2 Procedures

1. Upon completion of the work permitted, the applicant requests, in writing, that the Commission issue a Certificate of Compliance stating that the work has been satisfactorily completed.
2. The Commission may require as-built plans stamped by a registered professional engineer, architect, landscape architect or land surveyor, including a written statement by such a professional certifying substantial compliance with the plans, or setting forth what deviation, if any, exists from the plans approved in the applicable Order of Conditions.
3. Prior to the issuance of a Certificate of Compliance, an Agent or Commission member will make a site inspection. All wetlands flags must be in place at the time of the site inspection.
4. If the Commission determines, after review and inspection, that the work has been done in compliance with the Order, a Certificate of Compliance will be issued within twenty-one days of receipt of a written request therefore, and will certify on Form 8 that the activity or portions thereof described in the Notice of Intent and submitted plans have been completed in compliance with the Order. The Certificate of Compliance must be signed by a majority of the Commission. A copy of the Certificate of Compliance is sent to the Massachusetts Department of Environmental Protection by the Commission.
5. If the Commission determines, after review and inspection, that the work has not been done in compliance with the Order, it may refuse to issue a Certificate of Compliance. Such refusal must be issued within twenty-one days of receipt of a request for a Certificate of Compliance, must be in writing, and must specify the reasons for denial.
6. If the final Order contains conditions that continue past the completion of the work, such as maintenance or monitoring, the Order will specify which conditions remain. These conditions will also be specified in the Certificate of Compliance.
7. The Certificate of Compliance (together with any continuing conditions) must be recorded by the applicant in the Land Court or Registry of Deeds, whichever is appropriate. Certification of recording will be sent to the Commission on the form at the end of WPA Form 8B, or its replacement.

8. If the approved project was never undertaken, a Certificate of Compliance may be issued if the applicant no longer intends to go forward with the project.

7.15 Performance Guarantee

The performance guarantee is a tool available to the Commission to insure that proposed work is done in compliance with the Order of Conditions. The performance guarantee may be used in large, complex projects, or where the threat to particular resource areas warrants additional security.

7.15.1 Procedures

At the discretion of the Commission, the performance guarantee will be either in the form of a cashier's check or a performance bond. The Commission has the authority to use any such funds held under this section for the purposes stated by a vote of the Commission. If the performance guarantee is in the form of a bond, the form and amount must be approved by the Commission and the original shall be filed with the Town Clerk. If the performance guarantee is a certified check, the Commission and applicant shall enter into an agreement as to the terms for the disposition and use of the funds. The check shall be deposited with the Town Treasurer in a separate account.

Section 8 Emergencies

8.1 Definition

Emergency work is that which is necessary for the protection of public health, or for the safety, repair, or restoration of property, or for the protection of the environmental interests set forth in the Sherborn Wetlands Regulations.

8.2 Procedures

- a. If immediate action is required, the Agent or a Commission member may arrange for an immediate site visit.
- b. The Agent or a Commission member will determine the nature of the emergency and the work required to abate the problem.
- c. No work beyond that necessary to abate the emergency will be allowed without the permission of the Commission. Work necessary to carry out subsequent repairs will be done in accordance with the requirements of the Sherborn By-Law and Regulations. The Agent or a Commissioner will be informed of the emergency work as soon as possible.
- d. In no case will any removal, filling, dredging, or alteration authorized by such certification extend beyond the time necessary to abate the emergency.

Section 9 Enforcement

9.1 Definition

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter any area subject to review under the Sherborn By-law without the required authorization, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order (WPA Form 9) issued pursuant to the Sherborn By-Law.

The Commission shall have authority to enforce the Sherborn By-Law, its regulations, and Orders of Conditions and determinations issued thereunder by violation notices, enforcement orders, and civil and criminal court actions.

Section 10 Severability and Invalidity

If any provision or section of these regulations is determined by a court of competent jurisdiction to be invalid, the invalidity of such provision or section will not affect the validity of any other section or provision, nor will it invalidate any Order of Conditions or determination which previously has been issued.

Section 11 Effective Date

The effective date of these regulations will be the date on which these regulations are approved by vote of the Sherborn Conservation Commission. These regulations will apply to all Notices of Intent, Requests for Determination of Applicability or requests for Certificates of Compliance filed after that date.

Appendix A: Wetlands Filing Fee Calculation Worksheets

Form A-1: Project Categories and Fees for Notice of Intent (NOI) filed under the Sherborn General Wetlands By-Law & Regulations

The By-Law filing fees are in addition to State filing fees outlined by MA DEP in WPA Form 3 - Notice of Intent and its instructions. Two separate checks must be made payable to the Town of Sherborn: (1) the town share of the State fee and (2) the By-Law fee charged by the Town. As in DEP WPA Form 3, a separate check for the state share of the State filing fee is made payable to the Commonwealth of MA and sent to the MA DEP.

NOTE: At both the State and Town levels, a separate fee is charged for each proposed activity (and such activities are defined by the State regulations). For example, an NOI seeking an Order of Conditions for an addition to a single family dwelling and for a swimming pool, both in jurisdictional areas and Category 1 activities would have a By-Law fee to Sherborn of \$1,365.00 for two Category 1 activities.

Category 1

*For each activity, By-Law fee is \$682.50
plus State fee as per WPA Form 3 (\$110)*

- a. Work on single family lot; addition, pool, etc.
- b. Site work without a house
- c. Control vegetation
- d. Resource improvement
- e. Work on septic system separate from house
- f. Monitoring well activities minus roadway
- g. New agricultural or aquaculture projects

Category 2

*For each activity, By-Law fee is \$2,237.50
plus State fee as per WPA Form 3 (\$500)*

- a. Construction of single family house
- b. Parking lot
- c. Beach nourishment
- d. Electric generating facility activities
- e. Inland limited projects minus road crossings and agriculture
- f. Each crossing for driveway to single family house
- g. Each project source (storm drain) discharge
- h. Control vegetation in development
- i. Water level variations
- j. Any other activity not in Category 1, 3, 4, 5 or 6
- k. Water supply exploration

Category 3

*For each activity, By-Law Fee is \$2,512.50
plus State fee as per WPA Form 3 (\$1,050)*

- a. Site preparation (for development) beyond Notice of Intent scope
- b. Each building (for development) including site
- c. Road construction, not crossing or driveway
- d. Hazardous cleanup
- e. Water supply development

Category 4

*For each activity, By-Law fee is \$3,712.50
plus State fee as per WPA Form 3 (\$1,450)*

- a. Each crossing for development or commercial road
- b. Dam, sluiceway, tidegate (safety) work
- c. Landfills, operations/closures
- d. Sand and gravel operations
- e. Railroad line construction
- f. Bridge
- g. Hazardous waste alterations to resource areas
- h. Dredging
- i. Package treatment plant and discharge
- j. Airport tree clearing
- k. Oil and/or hazardous material release response actions

Category 5

*By-Law Fee for each activity is \$3,500.00
plus State fee as per WPA Form 3*

- a. Docks, piers, revetments, dikes, etc. (costal or inland)

Category 6

*By-Law Fee is \$3.00 per linear foot for a single family house project (no maximum) and a minimum of \$2,000.00 for any other activity
plus State fee as per WPA Form 3*

- a. Boundary delineations for wetlands resources

Complete calculations on next page.

Revised March 20, 2014 for By-Law fees and 1/3/2013 for State fees (check for later State revisions).

Form A-2
Sherborn Conservation Commission
Wetlands Filing Fee Calculation Worksheet

For Notices of Intent filed under the Massachusetts Wetlands Protection Act and
The Sherborn Wetlands Bylaw and Regulations

Abbreviated Notice of Intent (Form 4) or Notice of Intent (Form 3):

The fee should be calculated using the following 5-step process and worksheet below:

Step 1 / Type of Activity: Describe each type of activity (see previous page for list of activities) that will occur in wetland resource area and buffer zone.

Step 2 / Number of Activities: Enter the number of activities of each type in column labeled Step 2.

Step 3 / Individual Sherborn and State Activity Fees: Using the six project categories on the previous page, enter the individual Sherborn activity fee in column labeled Step 3a and the individual State activity fee in column labeled Step 3b.

Step 4 / Subtotal Sherborn and State Activity Fees: Multiply the number of activities (Step 2) times the individual Sherborn activity fee (Step 3a) and enter the Sherborn fee subtotal in column labeled Step 4a. Multiply the number of activities (Step 2) times the individual State activity fee (Step 3b) and enter the State fee subtotal in the column labeled 4b. **Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the standard fees per activity must be multiplied by 1.5 to get base Riverfront fee amounts.**

Step 5 / Total Sherborn Project Fee: Determine the total project fee payable to the Town of Sherborn by adding the Sherborn Fee Subtotal column. Enter the total Sherborn fee in box labeled Step 5a. Determine the total project fee payable to the Commonwealth of Massachusetts by adding the State Fee Subtotal column. Enter the total State fee in the box labeled Step 5b.

| Step 1 Type of Activity | Step 2 No. of Activities | Step 3a Individual Sherborn Activity Fee | Step 4a Sherborn Fee Subtotal | Step 3b Individual State Activity Fee | Step 4b State Fee Subtotal |
|------------------------------------|-------------------------------------|---|--|--|---------------------------------------|
| | | | | | |
| | | | | | |
| | | | | | |

Total Filing Fees

| |
|----------------|
| Step 5a |
| |

| |
|----------------|
| Step 5b |
| |

NOTE: The Total State Fee is to be divided between the State and the Town based on MA DEP "WPA Form 3 – Notice of Intent Instructions and Supporting Materials". Based on "rev. 1/03/13", the state share of the Total State Fee is 50% of the State Fee in excess of \$25, and the remaining portion is the town share. Check for later State revisions.

Form A-3
Sherborn Conservation Commission
Wetlands Filing Transmittal Form

(use in place of DEP Appendix B, Wetland Fee Transmittal Form)
For Notices of Intent filed under the Massachusetts Wetlands Protection Act and
The Sherborn Wetlands Bylaw and Regulations

Complete pages 1 and 2 of Sherborn Wetlands Filing Fee Calculation Worksheet and send them along with a check for the state share of the filing fee, payable to *the Commonwealth of Massachusetts*, to DEP, Box 4062, Boston, MA 02211. Review of the Notice of Intent cannot begin until the fee is received.

A. Applicant Information

1. Applicant:

Name _____

Mailing Address

City / Town

State

Zip Code

Phone Number

2. Property Owner (if different):

Name

Mailing Address

City / Town

State

Zip Code

Phone Number

3. Project Location:

Street Address

City / Town

B. Fees

Use Sherborn Wetland Filing Fee Calculation Worksheet attached.

Appendix B

Notification to Abutters Under The Massachusetts Wetlands Protection Act and The Sherborn General Wetlands By-Law

In accordance with the second paragraph of the Massachusetts General Laws Chapter 131, Section 40, and the Town of Sherborn General Wetlands Bylaw, Chapter 17, you are hereby notified of the following:

An abutter to your property has filed a Notice of Intent with the Sherborn Conservation Commission seeking permission to remove, fill, dredge or alter an area subject to protection under the Wetlands Protection Act (General Laws Chapter 131, Section 40) and the Sherborn General Wetlands Bylaw.

Applicant: _____

Street address and map and lot numbers where the activity is proposed:

Notice of the public hearing, including its date, time and place will be published at least five (5) days in advance in a local newspaper of general circulation. The hearing will be on:

date: _____

time: _____

Notice of the Public Hearing will be posted in the entrance hallway of the Sherborn Town Office not less than forty-eight (48) hours in advance. Information about the hearing may also be obtained by calling the Sherborn Conservation Commission at 651-7863.

A copy of the Notice of Intent may be examined at the Selectmen's Office or the Conservation Commission at the Sherborn Town Hall.

Copies of the Notice of Intent may be obtained from (check only one):

- The Town Office (fee charged for copies)
- The applicant
- The applicant's representative, by calling (____) ____-_____

between the hours of _____ on the following days of
the week _____.

Appendix C
Affidavit of Service
under the Massachusetts Wetlands Protection Act and
the Sherborn General Wetlands By-Law

(to be submitted to the Massachusetts Department of Environmental Protection and
the Conservation Commission when filing a Notice of Intent)

I, _____, hereby certify under the
pains and penalties of perjury that on _____ I gave notification to property
owners within 100 feet of the property line of the lot where the proposed work is to take
place, in compliance with the second paragraph of Massachusetts General Laws Chapter
131, Section 40, and the Sherborn General Wetlands By-Law, in connection with the
following matter:

A Notice of Intent filed under the Massachusetts Wetlands Protection Act and
the Sherborn General Wetlands By-Law by

with the Sherborn Conservation Commission on _____ for property
located at _____.

The form of the notification, and a list of the abutters to whom it was given and their
addresses, are attached to this Affidavit of Service.

Name

Date

Appendix D

Worksheets of Information to Be Shown on Site Plans and in Notice of Intent Text

Table D-1. Information to Be Shown on Site Plans

P= Provided; N=Not Provided; NA=Not Applicable

| P | N | NA | Conditions |
|----------------------------|---|----|--|
| Existing Conditions | | | |
| | | | <p>a. Title Box to include: The date, name and address, if available, of project: the name of the owner/applicant, the name of the preparer, a scale (at least 1 inch = 100 feet with details), a north arrow, a reference to the assessor's map, and parcel number</p> |
| | | | <p>b. Appropriate engineer's stamp and signature (Note: The professional who stamped the original plans must also sign and date any revisions with the same date as the revision date.) At least one original signature copy of each plan must be submitted to the Commission.</p> |
| | | | <p>c. Lot size(s) and property boundaries</p> |
| | | | <p>d. Names of property lines of abutting property owners</p> |
| | | | <p>e. Two foot topographic contours (existing and proposed); elevation above mean sea level, if available, or assumed elevations; location of benchmark of elevations or assumed datum</p> |
| | | | <p>f. The border of any resource area on or within 100 feet of applicant's property, with flow directions labeled, if applicable</p> |
| | | | <p>g. Limits of all wetland resource areas, including survey locations and numbers of flags/stakes; note date of flagging, and name/firm of botanist/soil scientist</p> |
| | | | <p>h. Delineation of buffer zone (100-foot radius from all wetland resource areas) and no-alteration zone</p> |
| | | | <p>i. Limits of Bordering and Isolated Lands Subject to Flooding, including 100-year storm elevation</p> |
| | | | <p>j. Department of Environmental Management (DEM) and Federal Emergency Management Agency (FEMA) wetlands and floodplain restrictions (FEMA maps are available at the Conservation Commission's Office, the Selectmen's Office, and Assessor's Office)</p> |
| | | | <p>k. High water mark for all water bodies, from best available data (data source must be cited)</p> |
| | | | <p>l. Top and toe of any inland bank or beach</p> |
| | | | <p>m. Projects must not alter the water runoff from the site: identify total watershed area in which site is located, all sub-watersheds on site, and on- and off- site discharge points</p> |
| | | | <p>n. Location, date and soil summaries of all soil borings and test pots on site; location, date and readings of groundwater level measurements on site</p> |

P= Provided; N=Not Provided; NA=Not Applicable

| P | N | NA | Conditions, Continued |
|---|---|----|--|
| | | | o. Stone walls or other barriers located between the area of work and the area subject to protection under these regulations |
| | | | p. Locations and types of easements on site and on other properties within 50 feet of property line |
| | | | Proposed Conditions |
| | | | a. Work limits and location of temporary erosion controls; delineate areas where vegetation will be altered |
| | | | b. Proposed contours and amount of fill required to be added or removed (in cubic yards and maximum thickness); pre- and post development grades on all slopes 4 to 1 or steeper; locations of stockpiles |
| | | | c. Construction details, including cross-section and elevations, of drainage structures (including but not limited to catch basins, leaching basins, dry wells, swales, retention areas, ditches, etc.) and road crossings in wetland resource areas |
| | | | d. Equipment access routes and storage/parking area during proposed work |
| | | | e. All above-ground structures, roadways, access ways, stone walls, fences, and other physical alterations proposed; identify roadway or surface material proposed; location and elevation of lowest floor of all structures |
| | | | f. Existing natural drainage patterns and proposed alterations |
| | | | g. All below-ground alterations and structures, including but not limited to utility lines, drainage structures, on-site septic systems, cesspools, wells and storage tanks |
| | | | h. Location, capacity, and design details of on-site septic system |
| | | | i. Distance of proposed on-site leaching facility to wetlands, watercourses, or other resource areas |
| | | | j. For new construction, location of leaching facilities on other properties within 50 feet of the lot line, or 300 feet of the proposed project |
| | | | k. For new construction, location of all existing and proposed wells on property and within 200 feet of project on abutting properties, and minimum distance to all septic systems |

Table D-2. Information to Be Shown in Notice of Intent Text

P= Provided; N=Not Provided; NA=Not Applicable

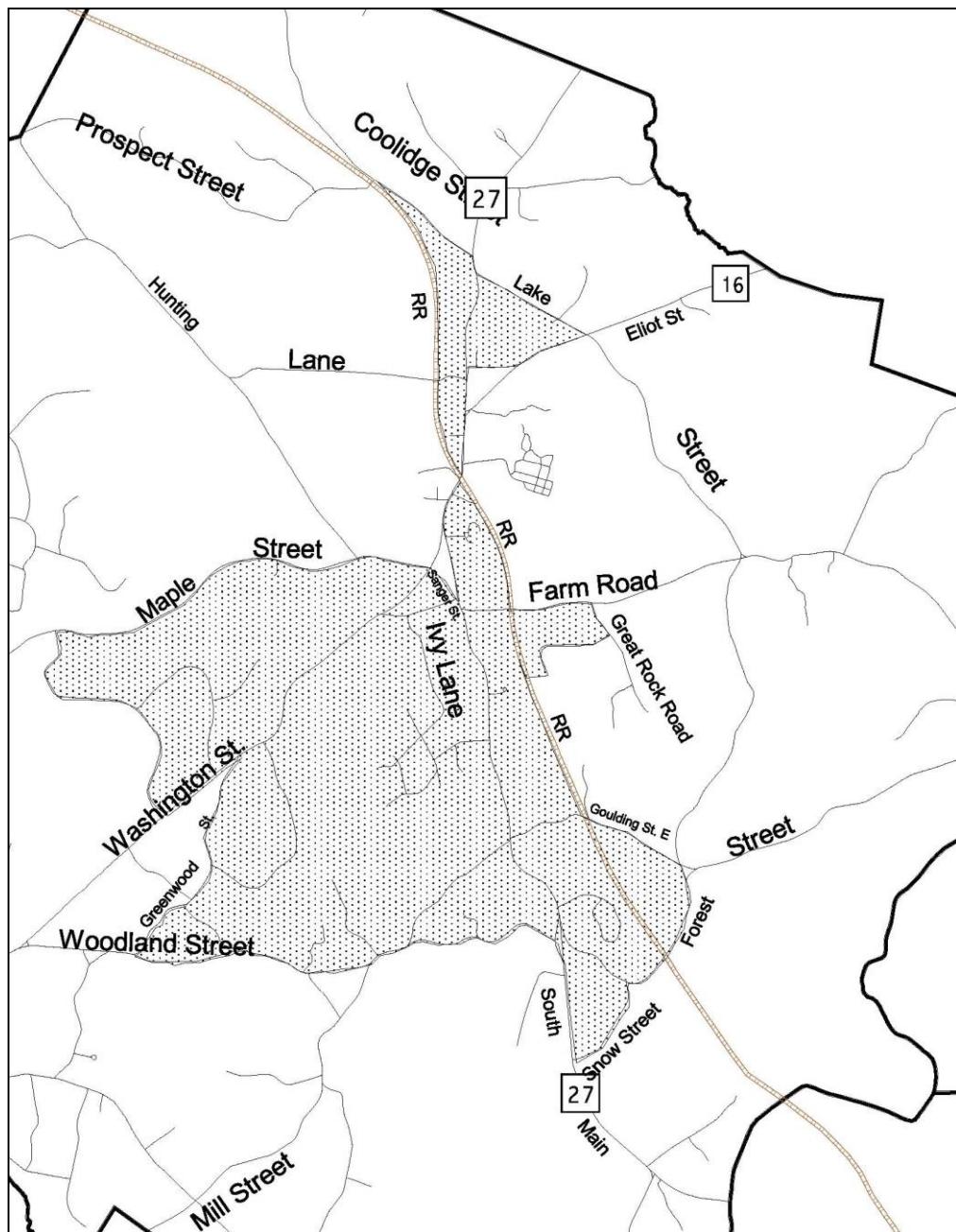
| P | N | NA | Conditions |
|----------------------------|---|----|---|
| Existing Conditions | | | |
| | | | Topography, soils, and geology description |
| | | | Description of vegetation types, such as upland or wetland community types and plant species list |
| | | | Other relevant information |
| | | | Section of a U.S.G.S. quadrangle map, with site location circled (i.e. a locus map) |
| Proposed Conditions | | | |
| | | | Description of activities, construction sequencing and estimated timetable. Include description of future phases |
| | | | Description of indirect and direct impacts, both temporary and permanent, on wetland resource areas |
| | | | Description of soil erosion, sediment control plan, and mitigation plans for impacts for resource areas |
| | | | Details of mitigation plans for activities in the buffer zone to limit long term indirect impacts for adjacent resource areas |
| | | | Description of storm water management plan, including existing and proposed drainage areas |
| | | | Description of wastewater management plan |
| | | | Hydrologic calculations will conform to Soil Conservation Services procedures |
| | | | Wetlands creation/restoration plan, including area, with existing and proposed topography at contours at 1-foot intervals, and plans showing proposed grading, stockpiling, planting (indicate source of plants), and timetable |
| | | | Volume of fill required and source of fill |

Table D-3. Marking and Flagging Required Before Field Inspection

P= Provided; N=Not Provided; NA=Not Applicable

| P | N | NA | Marking and Flagging |
|---|---|----|---|
| | | | Edges of wetlands must be flagged with numbered flags, as reflected on submitted maps |
| | | | House number must be visible if it is an existing house; if no house is on property, the lot number must be posted and visible from the street |
| | | | Property boundaries must be staked at all corners |
| | | | All proposed structures or additions, including decks, must be staked for identification purposes at all corners; stakes must be numbered and labeled |
| | | | Septic tank, leaching field, and well locations must be staked with labeled stakes if within the buffer zone |

Appendix E – Map of Sherborn’s Urbanized Area (shaded area)



Sherborn’s urbanized area is bordered southerly by Woodland and Snow Streets, westerly by Greenwood Street and Old Orchard Road, northwesterly by Maple Street, extends east of South Main Street to Farm Road, Great Rock Road, Peckham Hill Road, and southerly to the intersection of Forest and Snow Streets. A smaller section of urbanized area extends along North Main Street and is bordered northerly by Coolidge Street, Everett Street, southeasterly along Indian Brook to Lake Street to Eliot Street, westerly on Butler Street back to North Main Street.

Sherborn Form 3/4A – Notice of Intent

provided in section 5.2 of the Sherborn Wetlands Regulations.

Omission of information deemed pertinent by the Commission will be grounds for not opening an advertised public hearing, or continuing a public hearing, or denying the permit.

The purpose of this form is to ensure that the applicant strictly complies to the greatest extent possible with the duty to submit to the Commission all information required under section 5.2 of the Sherborn Wetlands Regulations in advance of an advertised public hearing.

Required Information Worksheets

Applicants shall submit together with this Form completed Sherborn Wetlands Regulations “Appendix D Worksheets of Information to Be Shown on Site Plans and in Notice of Intent Text” (copy attached). Each box shall be checked by the Applicant to indicate whether information has been “Provided,” “Not Provided,” or “Not Applicable.” For any box checked “Not Provided” or “Not Applicable,” Applicant shall explain briefly why information is not provided or not applicable (attach additional sheets).

Burden of Proof

The Applicant has the burden of proving by a preponderance of credible evidence that the work proposed in the application does not have significant adverse effects upon wetlands interests protected by the Sherborn By-Law. At its discretion, the Commission may deny a proposed project or continue the hearing to another date to enable the Applicant or others to present additional evidence.

The Applicant shall summarize briefly all evidence that the applicant submits supports a finding that the work proposed in the application does not have significant adverse effects upon wetlands interests protected by the Sherborn By-Law (attach additional sheets).

In preparing this summary, the Applicant shall note that it is presumed that significant adverse effects on the interests protected by the Sherborn By-Law result from any work or alteration within a *resource area* or within a

minimum of 50 feet horizontally outward from the upland edge of a resource area other than the riverfront area (the No Alteration Zone), unless the Applicant demonstrates by credible evidence that such significant adverse effect *will not occur*, and the Commission accepts and approves such evidence.

The Applicant shall also note and address in the summary required in this section that buffer zones to resource areas are subject to protection under the Sherborn By-Law to maintain a continuous cover of locally indigenous vegetation that shall:

- Reduce water pollution
- Slow surface water runoff to reduce soil erosion and siltation of surface waters
- Maintain ambient shade conditions to preserve natural water temperature regimes to protect indigenous aquatic amphibian and reptilian life
- Provide wildlife habitat and corridors for wildlife movement
- Act as a filter zone to protect water supplies and prevent pollution.

Requests for Exemption in Writing

If Applicant seeks an exemption in writing from the Commission for any required information by this form and under section 5.2 of the Sherborn Wetlands Regulations, Applicant shall explain briefly why exemption is requested (attach additional sheets).

Hardship

The Commission will give consideration to demonstrated hardship on the applicant caused by a denial. If pertinent, Applicant shall explain briefly all factors demonstrating hardship that applicant submits the Commission ought to consider (attach additional sheets).

Sherborn Form 3/4A – Notice of Intent

Signatures and Submittal Requirements

I hereby certify under penalties of perjury that the information provided in response to the foregoing is true and complete to the best of my knowledge.

Signature of applicant *Date*

Signature of property owner *Date*

Signature of representative *Date*

Two copies of this completed form, including all supporting information, must be sent to the Sherborn Conservation Commission by certified mail or hand delivery.