



## FREQUENTLY ASKED QUESTIONS

### **What is the Boston Wetlands Ordinance?**

The Boston Wetlands Ordinance gives the City, through its Conservation Commission, greater authority to protect its wetlands, which are crucial to controlling flooding and protecting Boston's neighborhoods and green space. It is stricter than statewide standards.

### **When did the Ordinance take effect?**

The Ordinance took effect on Monday, December 23, 2019.

### **What does this mean for projects?**

The Ordinance adds new requirements for projects as well as extends the Conservation Commission's jurisdiction. This also means projects must receive approval under both the Massachusetts Wetlands Protection Act and the Ordinance.

### **Which abutters need to be notified?**

The Ordinance requires abutters within 300 feet of the property be notified, including abutters in neighboring municipalities and neighboring Conservation Commissions.

### **What values does the Ordinance protect?**

The Ordinance protects the following resource area values, including, but not limited to: protection of the public or private water supply and quality; protection of the public and private groundwater supply and quality; short term and long term coastal and stormwater flood control, erosion and sedimentation control; storm damage prevention, including coastal storm flowage; protection of surface water supply and quality, including water pollution control; flood conveyance and storage; protection of fisheries, land containing shellfish, wildlife habitat, rare and endangered plant and animal species and habitat, wetland plant habitat, and recreation, and to protect the health, safety, and welfare of the public and to mitigate impacts from climate change.

### **Are there new areas under the Commission's jurisdiction?**

Yes. The Commission now has jurisdiction over Isolated Vegetated Wetlands, Vernal Pools and Vernal Pool Habitat, Ponds 5,000 square feet or greater, lands adjoining Salt Marsh out to 100 feet, and the Waterfront Area. Additionally, Intermittent Streams now have Riverfront Area associated with them.

### **What is the Waterfront Area?**

The Waterfront Area is the area that extends 25 feet horizontally from the edge of any coastal beach, dune, bank, tidal flat, rocky intertidal shore, salt marsh or land containing shellfish; or any inland bank, lake, pond, intermittent stream, brook, creek or riverfront area. The Commission can require applicants to restore or maintain a strip of continuous, undisturbed or restored vegetative cover, or waterfront public access throughout the Waterfront Area.



#### **What is the extent of the Riverfront Area?**

The Riverfront Area is the area that extends 25 feet horizontally from the mean high water line along any stream or river within the city. However, the Ordinance allows the Commission to extend the Riverfront Area up to 200 feet. The Commission will conduct a review of the city's waterways to determine where it might be appropriate to extend the Riverfront Area. The Commission will hold public hearings as part of the regulatory process if it chooses to extend the Riverfront Area.

#### **What are the Coastal and Inland Flood Resilience Zones?**

The Ordinance allows the Commission to protect areas that could be subject to flooding in the future as a result of climate change. The Commission will develop maps and standards to establish these zones and review projects within them. At present, these zones do not exist. The Commission will hold public hearings as part of the regulatory process when it creates such zones and standards.

#### **Are there provisions about climate change?**

Yes. The Ordinance requires applications to consider the effect that projected sea level rise, changes in storm intensity and frequency, and other consequences of climate change may have on resource areas and the proposed activities. Additionally, applicants must also integrate climate resilience and adaptation considerations into their project.



## **Requirements of the Commission Under the Ordinance**

- In evaluating the project and prior to issuing any permit, the Commission shall consider cumulative loss, degradation, isolation, and replacement or replication of such protected resource areas at the project site, resulting from past activities, whether by the applicant or any prior property owner and whether permitted, unpermitted, or exempt. The Commission shall also consider individual and cumulative adverse impacts on protected resources arising from reasonably foreseeable future activities when evaluating a project application.
- The Commission shall explicitly consider climate change resilience and impacts in the issuance or denial of any permit through measurement of potential adverse impacts to resource areas for the protection of resource areas both as they currently exist and as are reasonably expected to exist based on the best available data on the projected impacts of climate change.
- To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide mitigation as determined by the Commission.
- The highest standards of scrutiny as to the impact of any proposal are required and shall be exercised by the Commission. Close scrutiny shall be given by the Commission to any proposals involving an application of new pavement or newly installed other impervious materials within any area less than one hundred (100) feet from bordering vegetated wetland, bank, beach, and meadow.

## **Things the Commission Can Require**

- The Commission may require an Applicant restore or maintain a strip of continuous, undisturbed or restored vegetative cover or waterfront public access throughout the Waterfront Area, unless the Commission determines, based on adequate evidence, that the area or part of it may be altered without harm to the values of the resource areas protected by the Ordinance. Such disturbed areas must be minimized to the greatest extent possible.
- The Commission may require information in addition to the plans and specifications required to be filed by an applicant under M.G.L. c. 131, § 40, in order to fulfill the requirements of this Ordinance. Such information shall take into consideration the effect that projected sea level rise, changes in storm intensity and frequency, and other consequences of climate change may have on resource areas and the activities proposed in the permit application. The Applicant shall, to the extent applicable as determined solely by the Commission, integrate climate resilience and adaptation considerations into their project.
- The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the statistical high



probability of failure of such replication. The Commission may require an inventory and analysis of hydrology, vegetation, wildlife, and wildlife habitat of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's determination of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife corridors in the area, the resource significance of the project area or actual or expected presence of rare and/or unique plant or animal species in the area. The work shall be performed by an individual who meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act Regulations (310 CMR 10.60).

- The Commission may require that an applicant submit a Resources Management Plan to the Commission if the Commission determines such a plan is required to meet the goals and standards of this Ordinance and the Order of Conditions of the permit. A Resources Management Plan shall adequately describe measures at the site intended to protect and enhance site resources and to eliminate, mitigate, or minimize project impacts. The Commission may require that the Resources Management Plan include a detailed budget and identify the entity legally responsible for implementing the Plan.
- The Applicant shall, to the extent applicable as determined by the Commission, integrate climate change and adaptation planning considerations into their project to promote climate resilience to protect and promote Resource Area Values and functions into the future. These considerations include but are not limited to: sea level rise, increased heat waves, extreme precipitation events, stormwater runoff, changing precipitation patterns and changes in coastal and stormwater flooding.
- The Commission may require feasible stormwater measures consistent with the resource protection, climate change resiliency and all other applicable provisions of the Ordinance and as specified in regulations and performance standards.