

TOWN OF FRANKLIN CONSERVATION COMMISSION

REGULATIONS

The Franklin Conservation Commission voted to accept these Regulations as they apply to the Massachusetts Wetlands Protection Act and the Wetlands Protection Bylaw, Franklin Code at Chapters 181 and 271. These rules and regulations are required under the by-law and are to assist applicants and/or their consultants in the dealings with the conservation commission.

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1. DEFINITION OF KEY TERMS

1.1. Significant Adverse Effect: Any activity which is determined by a vote of the commission to likely to result in a significant adverse effect of the functions and characteristics of a resource area.

1.2. Alter: Test pits for the purpose of preparing an application to the Commission are excluded from the definition of "Alter" set forth in the Town Wetlands Protection By-Law. Normal landscaping maintenance activities are excluded from the definition of "alter" set forth in the Town Wetlands Protection By-Law. Cutting of any woody plant greater than 1" at breast height, cutting any herbaceous plant greater than 1' height at maturity, and spreading pesticide, herbicide, or lawn fertilizer closer than 50' to a wetland shall not be considered normal landscaping maintenance. Changing the elevation of any area greater than 10 square feet by more than 1 foot shall be considered to satisfy the definition of "Alter" set forth in the Town Wetlands Protection By-Law.

1.3. Disturbed Area: An area may be determined by the Commission to be a Disturbed Area where natural vegetation has been removed or otherwise legally modified and the soil has been removed, altered or legally modified such as in a mining or gravel removal operation.

1.3.1. Modifications made to an area prior to July 18, 1972 (Enactment of Wetlands Protection Act) or after July 18, 1972 with a permit from the Conservation Commission are considered legally modified. An area that has not been legally modified shall not be considered Disturbed Area for the purposes of the Town of Franklin Wetlands Bylaw and Wetland Bylaw Regulations.

1.3.2. Modified areas can include, but are not limited to areas such as parking lots, established lawn areas, non-native landscaped areas, patios and areas with active agricultural uses. Modified areas do not include areas where brush has been removed or limbs trimmed without any other modifications to the soil or the site.

1.3.3. The burden of proof is on the applicant to show by a preponderance of evidence that the area meets the Commission's definition of a disturbed Area.

1.3.4. For the purposes of the Town of Franklin Wetlands Bylaw and Wetland Bylaw Regulations, a Disturbed Area considered legally modified will cease to be A legally modified Disturbed Area after three years of non-use or abandonment and will be considered non-disturbed area.

1.4. Floodplain: Any area which satisfies the definitions of floodplain as set out in MassDEP regulations 310 CMR 10.00. The resource area of a floodplain is limited to the area of the floodplain and does not include land within 100' of the floodplain.

1.5. Information and plans:- Plans shall be scaled 40 feet/inch, or larger (e.g. 20'/in), indicating the location and extent of a resource area, and shall have initial and revision dates, and be plainly labeled to indicate the location and nature of proposed activities. Plans for new construction (i.e. not additions) shall include topographic contours of at least 2' intervals. This definition does not preclude the Commission from requiring other information such as drainage calculations, replication schedules, etc.

1.6. Vernal Pool: Any isolated wetland subject to flooding or which is determined by a vote of the commission to be capable of satisfying the definition of a vernal pool as set forth in the MassDEP Regulations 310, CMR 10.00, or is already designated as such by the state.

1.7. Vegetative Debris: leaves, grass, or other plant material that is no longer growing and has been placed in a particular area by a means other than a natural process.

2. PERFORMANCE STANDARDS

2.1. These are the requirements for a Minor Buffer Zone Activity (MBZA)

2.1.1. The Conservation Commission (The Commission) shall presume that activity proposed to occur:

- Exclusively within a previously disturbed or clearly delineated buffer zone; and
- The alteration is less than 1,000 Square Feet or 5% of the buffer zone on the lot, whichever is less; and
- At a minimum, a 25 foot wide area is preserved between the activity and the resource area boundary; and
- The buffer zone does not contain estimated wildlife habitat which is indicated on the most recent Estimated Habitat Map of State listed Rare Wetlands Wildlife; and
- Erosion and sedimentation controls, if required, are provided at the limit of work to protect the resource areas, and
- Shall constitute activities within the buffer zone that would be eligible for a Negative Determination of Applicability with conditions.

2.2. The Commission may determine that this presumption should not apply based on unusual circumstances such as steep slopes, the potential for negative impacts over time or because the proposed project would require oversight through continuing conditions. The Commission may waive any or all of the above requirements if they find that there is an emergency situation. In order for the site to be declared an emergency, a vote of the Commission shall be required.

2.3. In order for a property owner to apply for an MBZA they must meet all of the above requirements and provide a plan of the activity, a detailed project narrative and photographs of the project area. The distance between the proposed project and the wetlands must be noted on the plan and may require delineation if requested by the Commission or Agent. Additional items detailed on the MBZA form or requested by the Commission, or its Agent, may be required. The applicant is required to prove by a preponderance of the evidence that their proposed MBZA will not result in a negative impact to the wetlands.

2.4. The minor nature of these projects will not require the Commission to hold an advertised public hearing on the matter. The Agent shall review the application and may perform a site visit to confirm information provided in the plan, project narrative and photographs. The Agent may request additional information if s/he deems necessary. Upon review of the MBZA application, the commission may issue an approval, with or without conditions, a denial, or require the applicant to provide further information. If the commission issues a denial, the applicant shall be required to file a Notice of Intent if they wish to pursue the activity.

2.5. The work must conform to the plans submitted in the Minor Buffer Zone Activity application and all applicable conditions or modifications imposed by the Commission in the approval. If the applicant fails to perform the work according to the approved plan or in conformance with the applicable conditions of the approval, the permit will be revoked. Failure to conform to the plans and specifications shall constitute grounds for requiring a Notice of Intent and/or an Enforcement Action, including fines, by the Commission.

2.6. Upon completion of the project the applicant shall notify the Agent. The Agent shall inspect the work for and inform the Commission of the results.

2.7 Minor activities within Riverfront Zone, the 100' buffer zone, but not within the 25' "no touch" zone, and not within 25' of a perennial stream, may be authorized by the Conservation Agent under the following conditions:

2.7.1. The proposed activity will not run counter to the interests of the Wetlands Protection Act;

2.7.2. The proposed activity shall collectively not encompass more than 150 ft² of land area;

2.7.3. The proposed activity shall be only those activities permitted under 310 CMR 10.02 (2) (b) as well as the removal of vegetative debris and trees;

2.7.4. These activities shall be outlined on a MBZA application providing all required information and accompanied by the required filing fee;

2.7.5. All decisions of the Conservation Agent may be appealed to the Conservation Commission following the procedures outlined in section 8 of these regulations;

2.7.6. The agent shall prepare and submit a report, at least monthly, to the Commission on all permits approved under this section.

3. RULES FOR HIRING OUTSIDE CONSULTANTS UNDER MGL C. 44 § 53G

3.1. As provided by MGL C. 44 § 53G, the Franklin Conservation Commission may impose reasonable fees for the employment of outside 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 Wetlands Protection Act (MGL C. 131 § 40), the Franklin non-zoning wetlands bylaw, Conservation Commission Act (MGL C. 40 § 8C), or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time.

3.2. Funds received by the Conservation Commission pursuant to these rules shall be deposited with the town treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Conservation Commission without further appropriation as provided in MGL C. 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.

3.3. 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 Agent(s).

3.4. The Conservation 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 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.

3.5. 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.

3.5.1. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) 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 MassDEP. No additional review or action shall be taken on the permit request until the applicant has paid the requested fee. OR

3.5.2. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment shall be cause for the Commission to deny the permit application.

3.6. The applicant may appeal the selection of the outside consultant to the Town Council, 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 qualifications 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 Town Council and a copy received by the Conservation Commission, within ten (10) days of the date on which the commission requested the consultant fees. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

4. BUFFER ZONE PROTECTIONS

4.1. Preamble:

4.1.1. The Town of Franklin considers 100 feet from a defined/delineated resource area as the buffer zone and consequently an additional protected resource. Floodplains, lands within 100 feet of other resource areas and within 200 feet of rivers and perennial streams, and the resources areas, are presumed significant to the protection of functions and characteristics of these areas because activities undertaken in close proximity have a high likelihood of adverse impact upon them, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality and loss of wildlife habitat. Any person in Franklin that proposes a project that is within the 100 foot buffer zone resource area is required to submit a Notice of Intent or

other applicable application such as a Request for Determination of Applicability to the Franklin Conservation Commission. (the Commission) If at all possible, an applicant may site all construction activities including grading beyond the 100 foot buffer zone resource area and not have to go through a public hearing and a possible permitting process.

4.1.2. Currently as established by precedent, the Commission has instituted a no disturb buffer zone that extends 25 feet from the defined/delineated resource area. These proposed regulations will codify this requirement. Extensive work in this zone, particularly clearing of natural vegetation and soil disturbance is likely to alter the physical characteristics of resource areas by changing their soil composition, topography, hydrology, temperature, and the amount of light received. Soil and water chemistry within resource areas may be adversely affected by work in the buffer zone. As a result of the buffer zone alterations, biological conditions in adjacent resource areas may include changes in plant community composition and structure, invertebrate and vertebrate biomass and species composition, and nutrient cycling. The affects from work in the buffer zone will most likely result in the disruption and erosion of soil, loss of shading, reduction in nutrient inputs, and changes in litter and soil composition that filters runoff, and serves to attenuate pollutants and sustain wildlife habitat within resource areas. For these stated reasons, the Commission is codifying the requirement not to disturb the 0-25 foot buffer zone around the defined/delineated resource area.

4.1.3. These regulations will also characterize and provide regulatory guidance as to the type of projects that would most likely be acceptable to the commission in the zone that extends from 25-50 feet from the defined/delineated resource area ("25-50 foot buffer zone" as well as the foot buffer zone that extends 50-100 feet from the defined/delineated resource area ("50-100 foot buffer zone"). in order to be consistent with the amendments to the Massachusetts Wetland Protection Act found in 310 CMR 10.00 relative to a simplified review process, as well as protect the 50 foot buffer zone resource area where the functions and characteristics of the resource area are most critical.

4.1.4. The Commission has in place regulatory criteria and a process for reviewing minor buffer zone projects that are less than 1,000 square feet of disturbance and avoid the 25 foot buffer zone resource area, if not previously disturbed. The intent of this regulatory amendment is to dovetail the minor buffer zone historical reviews with a new evaluation process that looks at these three buffer zones: 1) 0-25 foot buffer zone resource area; 2) 25-50 foot buffer zone resource area; and 3) 50-100 foot outer buffer zone resource area.

4.2. 0 TO 25 FOOT BUFFER ZONE RESOURCE AREA

4.2.1. An applicant shall demonstrate that no work/disturbance including grading activities is proposed within the 0-25 foot buffer zone resource area. Any applicant proposing a project within the 0-25 foot buffer zone resource area will have an irrefutable presumption of significant adverse impact to the functions and characteristics of the resource area, unless otherwise determined by the Commission under the minor buffer zone activity criteria set forth in Section 2 of these regulations, or as approved by the Commission by the variance procedures set forth in Section 5 of these regulations.

4.3. 25 TO 50 FOOT BUFFER ZONE RESOURCE AREA

4.3.1. Any applicant proposing a project within the 25-50 foot buffer zone resource area shall indicate that there are no structures including but not limited to, concrete, stone, or other impervious foundations and/or slabs for construction purposes that for all intents and purposes would significantly increase runoff. Alteration in the 25-50 foot buffer zone resource area is limited to grading, tree clearing. Stormwater management system components, lawns, gardens, and other low impact uses as determined by the Commission or as otherwise approved by the Commission by the variance procedures set forth in Section XVII of these regulations. Footings for building structures, such as a deck, as opposed to slabs or foundations, shall be used when technically feasible. The Commission may condition the applicant to use Best Management Practices (BMP's) for stormwater management consistent with the most recent version of the Town of Franklin Best Development Practice Guidebook. Stormwater management systems or individual components including drainage piping, and construction of detention/retention ponds shall be allowed by the Commission based on an alternative analysis and review of design and space limitations as indicated in the final approved plans.

4.3.2. Areas Disturbed Prior to June 29, 2006: When there is a pre-existing disturbance (disturbed as part of a previously recorded Certificate of Compliance or disturbed prior to the enactment of the Wetlands Protection Act and the Franklin Wetlands Protection Bylaw), and the work proposed is entirely within this previously disturbed area, an applicant may propose impervious surfaces or other uses such as pools, buildings, porches, and sheds within the 25-50 foot buffer zone resource area. The Commission shall evaluate the proposed uses based on the demonstration by the applicant that the functions and characteristics of the resource area will not be adversely impacted.

4.4. 50 TO 100 FOOT BUFFER ZONE RESOURCE AREA

4.4.1. Alterations including structures are allowed in the 50-100 foot buffer zone resource area. The Commission may require additional mitigation offsets when the slope within the buffer zone is steeper than 10%. Additionally, mitigation offsets may be required by the Commission when the applicant proposes that

more than 30% of the 50-100 foot buffer zone resource area is proposed to be impervious surface.

4.4.2. Mitigation offsets may include but are not limited to plantings, conversion of impervious to pervious surfaces, and other practices consistent with the most recent version of the Town of Franklin Best Development Practice Guidebook.

5. VARIANCE PROCEDURE

5.1. The Commission may grant a variance from these regulations upon a showing by the applicant that any proposed work, or its natural and consequential impacts and effects, will not have any adverse affect upon any of the interests protected in Chapter 181 of the Town of Franklin Wetlands Protection Bylaw. It shall be the responsibility of the applicant to provide the Commission, in writing, with any and all information, which the Commission may request, in order to enable the Commission to ascertain such adverse effects. The failure of the applicant to furnish any information, which has been requested, shall result in the denial of a request for a variance pursuant to the applicable subsection of this regulation.

5.2. The Commission may grant a variance from these regulations when it is necessary to avoid so restricting the use of the property as to constitute an unconstitutional taking without compensation. If the Commission receives an application for a variance pursuant to an applicable subsection of the regulation, the Commission may request an opinion from the Town Counsel as to whether the application of these regulations to a particular project will result in such a taking without compensation.

5.3. Variance process: To request a variance, the applicant shall submit a variance request in writing at the time of the application for the Notice of Intent or Request for Determination of Applicability. The request shall explain why the variance is needed and shall describe in detail how the project can be completed without significant adverse impacts on the functions and characteristics of the resource area. Such detail must include, but is not limited to, an alternatives analysis.

6. SEPTIC SYSTEM EMERGENCY REPAIR

6.1. In the event that a septic system is located within the 25-50 foot buffer zone resource area or the 50-100 foot buffer zone resource area, emergency repair of the septic system shall be allowed if the applicant demonstrates to the Commission by a preponderance of evidence, that an emergency condition exists or as applicable to the Emergency provisions set forth in the Town of Franklin Wetland Protection Bylaw, Chapter 181 Section 2 D. Emergency repairs may need to be undertaken before the Commission meets if absolutely necessary to prevent immediate degradation of a wetlands an "after the fact" permit must be applied for within 3 days.

7. INSTRUCTIONS FOR FILING A NOTICE OF INTENT (NOI) or ABBREVIATED NOTICE OF RESOURCE AREA DELINIATION (ANRAD) WETLANDS PERMIT IN

FRANKLIN. AN NOI/ANRAD PACKET IS AVAILABLE FROM THE CONSERVATION DEPARTMENT. (NOTE: The term NOI in this section, should be interpreted to include an ANRAD.)

7.1. Recent changes in the Massachusetts Wetland Protection Act Regulations (310 CMR 10.00) require the use of revised forms for a permit application. In addition, under the Franklin Wetlands Protection By-law, Franklin Town Code Chapter 181 the following procedures and documentation are also required upon submission of permit applications.

7.2. PRE-FILING MEETING AND DISTRIBUTION

7.2.1. Applicants are STRONGLY ENCOURAGED to contact the Conservation Agent prior to submitting a NOI. Failure to do so may compromise the applicant's interests and result in an unnecessary denial of a permit, extra cost and time.

7.2.2. A NOI/ANRAD is composed of a cover letter (Section 7.3.) and other sections described herein, all of which must be submitted for a complete NOI filing. The applicant shall provide the Town with an original and 8 copies of the NOI, each separately bound. The applicant shall deliver a copy of the NOI to the Dept. of Public Works as shown in the Notice of Distribution. The department representative accepting the NOI shall indicate receipt by signing and dating the original copy of a Notice of Distribution. The applicant shall deliver the completed original Notice of Distribution, the original NOI and the remaining copies of the NOI to the Conservation Department for processing. A public hearing shall be scheduled by the Conservation Commission within 21 days of receipt of the complete NOI and completed Notice of Distribution, unless an extension of time is granted by the applicant.

7.3. – COVER LETTER

7.3.1. The Cover Letter shall contain the following information

- Application Type
- Applicant's Name
- Representative's Name
- Date Prepared
- A description of the project

7.4. THE NOTICE OF INTENT SHALL CONTAIN THE FOLLOWING INFORMATION:

7.4.1. Resource Area Impact Summary – A numerical description of the proposed impacts to each of the resource areas on the property. Impact may be measured and reported in square feet (SF).

7.4.2 Application Form (BRP WPA Form 3)

7.4.3. State Filing Fee Calculation Worksheet

7.4.4. Local Filing Fee Worksheet– A separate check made payable to the Town of Franklin.

7.4.5. Advertising Fee - \$110.00 – A separate check made payable to the Town of Franklin.

7.4.6. Copies of Checks to MassDEP and Town

7.4.7. Stormwater Management Forms (if Applicable)

7.4.8. No NOI, abbreviated NOI, or ANRAD shall be considered complete unless all requirements of this section have been addressed and submitted with the application. If a particular section is not applicable to an application, this shall be noted and the reasons for the non-applicability shall be enumerated.

7.4.9. An original and eight (8) copies of all permit applications, maps and supporting materials shall be submitted in order for a permit application to be considered complete. **The original application MUST be signed by the property owner.**

7.5. - ABUTTER NOTIFICATION

7.5.1. This section is not required to be part of the packets delivered to the town administrator, the board of health agent, town planner, the town engineer in care of the DPW director and the building commissioner; however, these documents must be included in the packets that are delivered to the conservation department.

7.5.2. The NOI shall contain the following concerning abutter notification:

- Notification to Abutters
- Affidavit of Service
- Certified Abutters List from the Assessor's Office (do not recopy or rewrite the list)

7.5.3. The process of notifying the abutters to any proposed project requires that the applicant take the following steps:

7.5.4. - Certified Abutters List - Obtain a Certified Abutters List from the owners within 300 feet of their property lines. The original certified copy must be submitted with the Notice of Intent Application.

7.5.5. Notification to Abutters - Complete the Notification to Abutters - The Applicant may copy and fill out the Form modify it as depicted on the example provided in the application packet. A copy of this notification must be sent either by Certified Mail, Return Receipt Requested (white receipts and green cards) or by hand delivery to each landowner on the Certified Abutters List.

7.5.6. - Affidavit of Service - The Affidavit of Service is a required document under the Wetlands Protection Act. The Applicant may copy and fill out the Form or modify it as depicted in the NOI packets. The Affidavit evidences that the Applicant, in accordance with the law, has notified the abutters to the proposed project site.

7.5.6. - MassDEP FIELD DATA FORMS - The Field Data Forms appear in the most recent revision of the Wetlands Delineation Manual published by MassDEP. Completed forms as well as a written report prepared by the wetlands scientist must be submitted with the Notice of Intent application. A copy of the recorded Order of Resource Area Delineation (ORAD) may be substituted for the MassDEP Field Data Sheets if a determination has been issued by the Commission within the last three (3) years.

7.7. - SECTION 5 - VERNAL POOL STATEMENT

7.7.1. An affirmation by the applicant regarding the presence, or absence, on the subject parcel, or abutter parcels, of any registered or potential vernal pools that is based on the most recent version of the MassDEP/Mass GIS Potential Vernal Pool Sites. This information is available at the MassGIS website (www.massgis.ma.us) or in the Franklin Conservation Department, located at 355 East Central Street, Franklin, MA.

7.8. Please note that the next seven (7) sections may be incorporated into one (1) section in the application.

7.9 – PROJECT NARRATIVE

7.9.1. The Project Narrative is a written statement of the existing site conditions and of_all that the project entails. This includes, but is not limited to, a description of existing conditions, who is performing the work

(contractor, pool company, tree service etc.), a detailed description of all of the activity within Conservation jurisdiction, how the activity will or will not affect the Functions and Characteristics of the resource area (see section 7), what the project site will look like after completion, when the proposed activity will be done and what measures will be used to mitigate any impacts to the functions and characteristics of the resource area. As noted above, the Project Narrative shall be incorporated into the same document with the Functions and Characteristics Statement, the Erosion and Sedimentation Plan and, if required, the Mitigation Plan, the Alternatives Analysis and the Replication Plan and Protocol.

7.10. - FUNCTIONS & CHARACTERISTICS STATEMENT

7.10.1. The purpose of the Franklin Wetland Protection bylaw is to regulate and control activities deemed to have a significant or cumulative effect on the functions and characteristics of floodplains and wetlands. In order to make this determination the Commission requires that the Applicant prepare a statement that describes whether the project will have an adverse effect on these functions and characteristics. It is the applicant's burden of proof to demonstrate that their proposed project/activity will not result in any significant individual or cumulative adverse effect to the functions and characteristics of resource areas, and the functions and characteristics statement is the applicant's opportunity to do so. If the proposed project will have an effect on one or more functions or characteristics, then a mitigation plan must be prepared and submitted as Section 8 of the Notice of Intent. The functions and characteristics to address include but are not limited to the following:

- Public Water Supplies – Distance from proposed project to nearest public well.
- Private Water Supplies – Distance to nearest private wells.
- Groundwater – Depth to groundwater as well as impacts associated with construction (i.e. digging or blasting) and operations (water use, use of toxic or hazardous materials and stormwater management).
- Flood Control – Work within the 100-year flood plain must address compensatory storage.
- Erosion and Sedimentation – This item must be addressed for both the construction and post construction conditions at the property.

- Storm Damage Prevention – Address whether the project will have an adverse effect on the way that the wetland or flood plain will be able to minimize water and wind related impacts during large-scale storm events.
- Water Quality - This item must be addressed for both the construction and post construction conditions at the property. This item will address the quality of the surface waters associated with the resource area being impacted by the project.
- Water Pollution Control - This item must be addressed for both the construction and post construction conditions at the property.
- Fisheries – Reserved for work taking place adjacent to ponds and perennial streams. The response must address both the construction and post construction conditions at the property.
- Shellfish – Not Applicable in Franklin
- Wildlife Habitat - This item must be addressed for both the construction and post construction conditions at the property.
- Rare Species Habitat (including rare plant species) - This item must be addressed for both the construction and post construction conditions at the property.
- Agriculture – This item must be addressed for both the construction and post construction conditions at the property.
- Aquaculture – To date there are no aquaculture operations in Franklin
- Recreation – This item must be addressed for both the construction and post construction conditions at the property and include both passive and active recreational uses.

7.11. - MITIGATION PLAN

7.11.1. This narrative shall be included in the NOI and will describe the application of the “avoid, minimize and mitigate calculus” during project planning. That is, the applicants must demonstrate that efforts have been made to avoid wetland impacts wherever possible, minimize the impacts when impacts are unavoidable, and mitigate these unavoidable impacts by employing replication or restoration components in the proposed project plans.

7.11.2. When undisturbed areas within the Buffer Zone Resource Area are proposed for alteration, a separate narrative must be prepared describing the steps taken to mitigate for unavoidable the impacts. This may include the use of plantings from the Franklin Best Development Practices Guidebook (available from the Conservation Department or from the website (www.franklin.ma.us)) for wildlife habitat enhancement or other physical components that will compensate for the loss of resource area functions and characteristics.

7.12. - EROSION & SEDIMENTATION CONTROL PLAN

7.12.1. This is a plan that describes the measures that will be taken to properly install and maintain the erosion control devices used during the project. The plan must include the names and phone numbers of all individuals that will be responsible for erosion control as well as the requirement that the erosion control be inspected weekly and after significant rain events. The individual responsible for inspection and maintenance shall keep a log of the inspections and maintenance and the report shall be submitted to the conservation office on a weekly basis detailing the state of the erosion control and any steps taken to address any issues with failure of the barriers. The text from the erosion & sedimentation control plan will also appear in the plan set, preferably on the sheet that depicts the erosion control location and detail. All erosion control barriers must be bio-degradable.

7.12.2. There may also be a special condition in the orders, if issued, requiring that there be additional erosion control devices stored under cover on site in the event of an emergency. The commission prefers the use of wattles whenever possible or practicable.

7.13. - ALTERNATIVES ANALYSIS

7.13.1. The following project types shall require the submission of an alternatives analysis narrative:

- Riverfront resource area
- Alteration of riparian zone
- Septic system components within the 100-foot buffer zone resource area
- Wetland filling up to 5,000 square feet

- Structures proposed within the 50 foot buffer zone resource area
- Variance requests

7.13.2. The alternatives analysis shall comply with the requirements as presented in 310 CMR 10.58 (4).

7.14. - REPLICATION PLAN & PROTOCOL

7.14.1. When wetland alteration is necessary, the commission shall require that the applicant replicate the altered wetland at a minimum 2:1 ratio (the replication area must be at least twice the square footage of the natural wetland area impacted). the plan submitted shall comply with the requirements as presented in the most recent revision of the MassDEP wetland replication manual. The replication plan, protocol and schedule shall also appear in the approved plan set along with cross sections of altered and proposed replicated areas, ground water elevation data and planting lists and details.

7.14.2. Wetland functions & values shall be used in the evaluation of the existing wetland with respect to functions and values for the wetland and wildlife habitat. The form shall be completed and included in this section of the NOI if filling is proposed. It is the expectation of the commission that applicants will not only propose the replication of the wetland type impacted by the project, but also the functions & values of that resource area. This requirement does not apply to Buffer Zone Resource Areas.

7.15. - CONSTRUCTION SEQUENCE AND SCHEDULE

7.15.1. A detailed sequence of proposed activities shall be depicted in the approved plan set and in the NOI application.

7.16. - DRAINAGE CALCULATIONS

7.16.1. If drainage calculations are required they must be submitted as a separate document from the NOI Application. Two (2) copies must be submitted to the Conservation Department and one to the Town Engineer in care of the Director of the Department of Public Works (DPW). Other departments listed on the Notice of Distribution Form need not receive drainage calculations as part of their submittal.

7.17. – MAPS

7.17.1. A copy of the most recent revisions of the following maps must be submitted with the project locus depicted:

- USGS Topographic Map
- Natural Heritage Priority Habitats and Estimated Habitats Maps
- FEMA Flood Plain Map

7.18. - PLANS

7.18.1. See the State's General Instructions for completing a Notice of Intent which are issued by MassDEP. In addition, the Franklin Conservation Commission requires the following and all information must be shown on the plans:

7.18.1.1. All plans shall be drawn at a scale equal to or larger than 40'=1" (e.g. 20'=1")

7.18.1.2. An Index of sheets on the cover page if submitting more than one sheet

7.18.1.3. The North arrow must have a reference

7.18.1.4. Existing and Proposed topography

7.18.1.5. Existing vegetation, including turf lawn areas, cultivated herbaceous and woody plant areas, un-cultivated field, scrub and woodland areas and woody plants larger than 1" diameter at the base proposed to be removed.

7.18.1.6. Proposed vegetation, including any changes to the existing vegetation and any mitigation

7.18.1.7. Existing structures, improvements and limits of disturbance

7.18.1.8. Each Resource Area identified and labeled (including 25', 50' and 100' Buffer Zones and 100' and 200' Riparian Zones)

7.18.1.9. Locations of erosion controls

7.18.1.10. Cross sections of impacted Bordering Vegetated Wetlands, including ground water elevation information

7.18.1.11. Cross sections of proposed replication area(s)

7.18.1.12. Details of all permanent or temporary structures or items either built or placed on the site with the exception of buildings, additions, porches, decks, sheds or swimming pools.

7.18.1.13. Planting list(s) with species recommended in the most recent revision of the Franklin Best Development Practices Guidebook. Species shall be listed with both their common, as well as, their Latin names.

7.18.1.14. Construction Sequence and Schedule

7.19. – ADDITIONAL INFORMATION

7.19.1. Any other supplementary information that the Applicant determines to be relevant to the Commission reaching a decision on the proposed project may be included in this section of the application package.

7.19.2. If you need further assistance, please contact the Conservation Department at (508) 520-4929 or via our web site www.franklin.ma.us.

8. APPEALS TO THE COMMISSION

8.1. Any individual or business who wishes to discuss a matter with the Conservation Commission, including disagreements with a decision of the Conservation Agent, shall submit a written request to the Commission. Said request shall outline the specific reason(s) to address the Commission and shall any include specific documentation to be used in a presentation to the Commission. Nine (9) copies of all correspondence and documentation shall be submitted.

8.2. If the individual or business making the request to address the Commission is not the property owner of the area in question, a copy of said request shall be sent via certified mail, return receipt requested, to the property owner currently listed with the town assessor's office at the mailing address listed with the Assessor. Failure to mail the request, or to present the required proof of certified mailing, shall preclude the Commission from proceeding. Said mailing must take place at least 10 calendar days before any Commission discussion.

8.3. The Commission shall hear any request as expeditiously as possible without compromising any time frames outlined in this section or any other section of the Rules and Regulations or the Local Wetlands By-law.

8.4. Nothing in section 8 shall be construed to replace and statutory appeals nor and appeals process outlined in 310 CMR 10.00 or the Franklin Wetlands By-law C. 181.

9. Amendments

| SECTION | DATE | COMMENTS |
|----------------|-------------|--|
| 6 | 10/2/14 | Deleted requirement for annual election of chair |
| Preface | 10/2/14 | Former member names |
| 2 | 10/2/14 | Meetings |
| 3 | 10/2/14 | Quorums |
| 4 | 10/2/14 | Legal postings |
| 6 | 10/2/14 | Chairman duties |
| 8 | 10/2/14 | Voting on initiating enforcement |
| 10 | 10/2/14 | Conduct of hearings and advertising |
| 2 | 10/2/14 | Delete items 2 and 6 for MBZAs |
| 3 | 10/2/14 | Time frame for consultant services to start |
| 4 | 10/2/14 | More clearly defining buffer locations |
| 17 | 10/2/14 | Title change, define complete application |
| 18 | 10/2/14 | Reduce applications from 13 to 11 |
| 7 | 10/2/14 | Reporting requirements for Erosion control |
| 21 | 3/5/15 | Appearing before the Commission |
| 20 | 10/2/14 | Applicant notification requirements |
| 1-12, 20 | 5/14/15 | Deleted due to conflict with C 271 |
| 7 | 5/14/15 | Added NOI/ANRAD |
| 7.2.2 | 5/2/15 | Number of copies/distribution |
| 4.1.3 | 8/13/15 | Delete last sentence |
| 7.18.1 | 8/13/15 | Require information on plans |
| 7.18.13.1 | 8/13/15 | Require Latin names |
| 7.2.2. | 5/1/17 | Department sign off |
| 7.4.2 | 5/1/17 | Delete date |
| 7.4.5 | 5/1/17 | New Advertising fee |
| 1.7 | 7/26/18 | Define vegetative debris |
| 2.7 | 7/26/18 | Delegation of authority to agent |

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|---|---------|---|
| 2 | 10/3/19 | MBZA performance standards-remove RDA language |
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10/3/19