

**TOWN OF ACTON WETLAND
PROTECTION BYLAW RULES
AND REGULATIONS**

SECTION 1
GENERAL PROVISIONS

1.1 AUTHORITY

These rules and regulations are promulgated by the Town of Acton Conservation Commission under the authority of Chapter F of the Town of Acton Bylaws, the Wetland Protection Bylaw, and the Home Rule Amendment, Article LXXXIX (83), of the Constitution of the Commonwealth of Massachusetts, and shall have the force of law upon the effective date.

1.2 PURPOSE

The purpose of these regulations is to aid in the consistent and effective implementation of the Town of Acton Wetland Protection Bylaw (“the Bylaw”) by way of further definition, explanation and specification, and illustration and example of the Bylaw’s provisions. These rules and regulations set uniform standards and procedures for activities and work conducted in wetland and buffer zone resource areas and for the filing and review of applications under the Bylaw.

Wetlands and wetland buffer zones contribute to a number of public interests and values and are therefore protected by this Bylaw. These interests and values include, but are not limited to, the following: public and/or private water supply, groundwater protection, surface water protection, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, fisheries, freshwater shellfish, protection of endangered and/or threatened species, and wildlife and wildlife habitat.

1.3 JURISDICTION

In accordance with the above Purpose, no person shall remove, fill, dredge, discharge into, or otherwise alter any wetland resource area or buffer zone resource area of the Town of Acton as defined herein without an Order of Conditions or a Determination of Applicability from the Town of Acton Conservation Commission as provided by the Bylaw and these regulations.

Wetland and buffer zone resource areas protected by this Bylaw include:

- (1) Any vegetated wetland (marsh, swamp, wet meadow, bog, etc.)
- (2) Any river or stream (intermittent or perennial)
- (3) Any lake or pond
- (4) Any bank of the resource areas identified in 1.3(2) and (3)
- (5) Any vernal pool or pool of water having vernal pool properties or characteristics
- (6) All lands within 100 feet of the wetland resource areas identified in 1.3(1) through (5) (buffer zone resource areas)
- (7) Any land subject to flooding or isolated land subject to flooding

- (8) All lands within 200 feet of a perennial river or stream
- (9) Land under any of the resource areas identified in 1.3(1) through (8)

1.4 DEFINITIONS

ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION See Section F5.1 of the Bylaw.

ABUTTER See Section F3.2 of the Bylaw.

ACT shall mean the Wetlands Protection Act, Chapter 131, s. 40, as amended.

ACTIVITY See Section F3.3 of the Bylaw.

AGRICULTURE See Section F4.3 of the Bylaw.

ALTER See Section F3.4 of the Bylaw.

APPLICANT shall mean any person who files a Determination of Applicability or Notice of Intent or on whose behalf said forms are filed.

AREAS SUBJECT TO PROTECTION See Section F3.15 of the Bylaw and Section 1.3 of these regulations.

BANK See Section F3.16 of the Bylaw.

BORDERING LAND SUBJECT TO FLOODING shall mean land within the 100 year flood plain, as mapped by the Federal Emergency Management Agency. This area is presumed significant to flood control and storm damage protection. See also Section F3.17 of the Bylaw.

BUFFER ZONE shall mean that area of land extending 100 feet horizontally outward from the boundary of any area specified in Section F3.15 of the Bylaw. Per Sections F1 and F3.18 of the Bylaw the Buffer Zone is a Resource Area. See also Section F3.5 of the Bylaw and Section 1.3 of these regulations.

BYLAW shall mean the Town of Acton Wetland Protection Bylaw.

CERTIFICATE OF COMPLIANCE See Section F3.6 of the Bylaw.

COMMISSION See Section F3.7 of the Bylaw.

CONDITIONS shall mean ORDER OF CONDITIONS.

CONSERVATION COMMISSION See Section F3.7 of the Bylaw.

CREEK shall mean any small stream or any intermittent tributary to any brook, river or stream.

CUMULATIVE ADVERSE EFFECT shall mean an effect on a wetland or buffer resource area(s) that is significant when considered in combination with other activities that have occurred, are occurring simultaneously or that are reasonably likely to occur within that resource area(s), whether such other activities have occurred or are contemplated as a separate phase of the same project or activities, or as a result of unrelated projects or activities.

DATE OF RECEIPT shall mean the date of delivery to an office, Town Clerk, or usual place of business by certified mail or hand delivery.

DETERMINATION OF APPLICABILITY See Section F3.8 of the Bylaw. See also Section F5 of the Bylaw.

DREDGE See Section F3.9 of the Bylaw.

EMERGENCY PROJECT See Section F4.1 of the Bylaw.

EXTENSION PERMITS See Section F3.10 of the Bylaw. See also Section 2.3(2) of these Rules and Regulations.

FILL See Section F3.11 of the Bylaw.

FLOOD CONTROL shall mean the prevention or reduction of flooding and/or flood damage.

FLOODING shall be defined as a local and temporary inundation of water or a rise in the surface of a body of water such that it covers land not usually underwater.

FLOOD PLAIN See Section 4.1 of the Town of Acton Zoning Bylaw.

GROUNDWATER shall mean water below the earth's surface in the zone of saturation. See also Town of Acton Groundwater Protection Bylaw.

ISOLATED LAND SUBJECT TO FLOODING See Section F3.17 of the Bylaw.

LAKE shall mean any open body of fresh water with a surface area of 10 acres or more, and shall include great ponds.

LIKE ACTIVITY shall mean any activity similar in nature, purpose and extent as that activity currently occurring on the site of the proposed work.

LIKE STRUCTURE shall mean any structure similar in design or use currently located on the site of the proposed work.

MAJORITY shall mean more than half of the members of the Conservation Commission present and/or available to hear an application.

MARSH See definition in the Act Chapter 131, Section 40, as amended. See also Section F3.15 of the Bylaw.

NOTICE OF INTENT See Section F3.12 of the Bylaw.

ORDER shall mean ORDER of CONDITIONS.

ORDER OF CONDITIONS See Section F3.13 of the Bylaw.

PERSON See Section F3.1 of the Bylaw.

PLANS shall mean such data, maps, engineering drawings, calculations, specifications, schedules and other materials deemed necessary by the Commission to describe the site and/or the work, to determine the applicability of the Bylaw or to determine the impact of the proposed work upon the interests of the Bylaw.

POND shall mean any open body of water, either naturally occurring or man-made by impoundment, with a surface area of at least 10,000 square feet, and which is never without standing water due to natural causes except during periods of extended drought. See also Section F3.15 of the Bylaw.

PRIVATE WATER SUPPLY shall mean any source or volume of surface or groundwater demonstrated to be in any private use or demonstrated to have a potential for private use.

PUBLIC WATER SUPPLY shall mean any source or volume of surface or groundwater demonstrated to be in public use or approved for water supply pursuant to M.G.L. Chapter 111, Section 160 by the Division of Water Supply of the Department of Environmental Protection or shown to have a potential for public use.

QUORUM shall mean more than half of the members of the Conservation Commission then in office.

REMOVE shall mean the act or process of taking away or moving any type of materials thereby changing the land elevation or topography, either temporarily or permanently. See also Section F3.3, F3.4 and F3.9 of the Bylaw.

REPLACEMENT shall mean to put back in proper place, or to provide an equivalent to the satisfaction of the Commission. See also Sections F9.1 and F9.2 of the Bylaw.

RESOURCE AREA See Section F3.18 of the Bylaw.

RIVER shall be a natural stream of water that empties into any lake, pond or other river or stream, and has a continuous or intermittent flow. See also Section 3.15 of the Bylaw.

RIVERFRONT AREA See Section F3.19 of the Bylaw. Riverfront area includes the entire length and width to the mean annual high water line of all perennial streams and rivers including any ponds and impoundments thereupon.

SIGNIFICANT shall mean to play a role. A resource area is significant to an interest identified in the Bylaw when it plays a role in the provision or protection, as appropriate, of that interest.

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

STREAM shall mean a body of running water including brooks and creeks, whether continuous or intermittent, moving in a definite channel in the ground. See also Section 3.15 of the Bylaw.

SWAMP See definition in the Act, M.G.L. Chapter 131, Section 40, as amended. See also Section F3.15 of the Bylaw.

VERNAL POOL See Section F3.14 of the Bylaw.

WAIVER shall mean an authorization from the Conservation Commission to an applicant for a deviation from the terms of the Bylaw as described in Section 1.5 of these Rules and Regulations.

WETLAND See Section F3.15 of the Bylaw. See also definition of "Freshwater Wetland" in the Act, Chapter 131, Section 40, as amended.

WILDLIFE shall mean all mammals, birds, fish, reptiles, amphibians, and invertebrate animal species including, but not limited to, any state- or federally-listed endangered or threatened species, or species of special concern.

WILDLIFE HABITAT shall mean areas having plant community composition and structure, hydrologic regime, or other characteristics sufficient to provide shelter, nutrient sourcing, growing conditions, nesting or breeding sites conducive to the propagation and preservation of wildlife.

WORK shall mean the same as **ACTIVITY**.

1.5 WAIVERS FROM RULES AND REGULATIONS

Strict compliance with these Rules and Regulations may be waived when, in the judgment of the Commission, such action is in the public interest, and is consistent with the intent and purpose of the Bylaw. Any request for a Waiver must be submitted to the Commission in writing. The Waiver(s) shall be presented at the time of filing. (The Commission shall require the Applicant to submit a written justification stating why a Waiver is desired or needed, is in the public benefit, and is consistent with the intent and purpose of the Bylaw.)

1.6 ADVICE FROM TOWN STAFF

Any advice, opinion, or information given to an Applicant by a Commission member, or by any agency, officer, or employee of the Town, shall be considered advisory only, and not binding on the Commission.

SECTION 2

FILING REQUIREMENTS

2.1 TIME PERIODS

All time periods of ten days or less specified in the Bylaw or in these Rules and Regulations shall be considered business days only. Time periods of more than ten days shall be considered calendar days, unless the last day falls on a Saturday, Sunday or legal holiday, in which case the last day shall be the next business day to follow.

(1) Timeframes for Submission of Documentation

In order to insure adequate and proper review by the Commission, staff and the public, all permit application documentation -- including forms, narrative descriptions, plans, maps, tables, charts, reports, etc. -- must be submitted to the Conservation Commission no later than six business days prior to the scheduled public hearing, or its continuation. Documentation submitted by the Applicant five business days or less before the public hearing may be excluded from said hearing or held for discussion at a subsequently scheduled hearing. Submission of material by the Applicant five business days or less before the public hearing will constitute a constructive request by the Applicant for a continuation of the hearing if, in the opinion of the Commission, the Commission, staff or public has not had adequate or sufficient time to properly consider said material.

2.2 DETERMINATIONS OF APPLICABILITY

Any Person who is proposing to undertake an activity and desires to know what is required of them may arrange a preliminary discussion by contacting the Conservation Office and arranging a time at a Commission meeting, or may satisfy their questions during the citizens' concerns portion of any regular Commission meeting.

(1) Filing Procedures

The Request for Determination Of Applicability shall include sufficient information to enable the Commission to find and view the area and to determine whether the proposed Work will Alter an Area Subject To Protection under the Bylaw. The information shall include, at a minimum:

- (a) Form 1 (Wetland Protection Act, M.G.L. Chapter 131, s. 40);
- (b) Such Plans, prepared and stamped by a Registered Professional Engineer and Registered Professional Land Surveyor, as are needed to locate and inspect the area and to determine whether the proposed Work may Significantly Alter an Area Subject To Protection. The requirement that Plans be stamped by a registered professional engineer and registered professional land surveyor may be waived by the Commission or its agent if it is deemed unnecessary. These Plans shall show:
 - (i) All Wetlands that are within 100 feet of the edge of Activity;
 - (ii) Riverfront Areas including inner and outer riparian zones
 - (iii) Wetland Protection Setbacks (See Section 3.2)
 - (iv) The 100 foot Buffer Zone;

- (v) Erosion and sedimentation control/prevention devices and method of maintenance;
 - (vi) The edge of disturbance, if different from the erosion control/prevention devices.
 - (vii) Location of stockpiled materials, if any.
- (2) In order to clarify the review process for the Commission and/or its agent, all Wetlands within 100 feet of the edge of Activity shall be marked with numbered flagging tape which will correspond to the edge of Wetlands as shown and numbered on the Plans.
- (3) Said Request for Determination of Applicability shall be sent by certified mail or hand-delivered to the Commission. If necessary, the Commission and/or its agent may require that additional information be submitted to aid in the evaluation. If all data required by the Commission and/or its agent is not received, the filing shall not be considered complete, a public meeting shall not be scheduled and the Applicant shall be notified.

At the public meeting the Commission will determine:

- Positively: that the area or Activity is subject to the jurisdiction of the Bylaw and requires the filing of a Notice of Intent; or
- Negatively: that the area or Activity is not subject to the jurisdiction of the Bylaw, or that the interests protected by the Bylaw are fully protected by the project as proposed.

2.3 NOTICES OF INTENT

2.3 (1) FILING PROCEDURES

Written application shall be filed with the Commission to perform Activities regulated by the Bylaw affecting Resource Areas protected under the Bylaw. The Applicant shall provide the Commission with four copies of the filing, and provide the Town Clerk and the Department of Environmental Protection with one copy each. The application shall include such information and Plans as are deemed necessary by the Commission to describe proposed Activities and their effects on Areas Subject to Protection. No Activities shall commence without receiving, recording and complying with an Order of Conditions issued pursuant to the Bylaw, and receiving a file number from the Massachusetts Department of Environmental Protection.

- (A) The Commission may accept as the application and Plans under the Bylaw the Notice of Intent and Plans filed under the Act. The filing shall at a minimum include four copies of the following:
- (i) Form 3 of the Act;
 - (ii) Such Plans and specifications as are required of an Applicant under the Act as specified in the regulations of the Act;
 - (iii) A list of Abutters from the most recent tax list of the Town and certified by the Town Assessors;
 - (iv) A detailed sequence of construction;

- (v) A detailed plan of Wetland Replacement or restoration if the project proposes a Wetland Alteration;
- (B) In order to clarify the review process for the Commission and/or its agent, all Wetlands within 100 feet of the edge of Activity shall be marked with numbered flagging tape, which will correspond to the edge of Wetlands numerically indicated on the Plans.
- (C) When a Person filing an application is other than the owner, the application, the notice of the hearing and the findings themselves shall be sent by the Applicant to the owner as well, and the Applicant shall supply the Commission with the name and current address of the owner.
- (D) Any Person filing a Notice of Intent under the Bylaw shall also notify by certified mail all Abutters of the filing of such Notice of Intent. Such Notice shall clearly identify the land on which the Work is to be done and describe the general nature of the Work. Notice shall include the date, place, and time of said public hearing, and where Plans may be reviewed. A list of Persons so notified and proof of such notification shall be filed with the Commission prior to the opening of the public hearing. If proof of said notification is not presented to the Commission, the public hearing shall not be opened. Said notification of Abutters should be sent not less than eight (8) business days prior to the scheduled hearing. For example, when a hearing is scheduled for a regular Wednesday meeting, said notification shall be sent by Monday of the week before the meeting, at the latest.

SECTION 2.3 (2) EXTENSIONS

- (A) The Commission may extend an Order of Conditions once for a period of up to three years. Written requests for an Extension shall be made not less than thirty days prior to the expiration of said Order of Conditions.
- (B) The Commission may deny a request for Extension under the following circumstances:
 - (i) where no Work has begun on the project, except where such failure is due to unavoidable delay, such as appeals in obtaining other necessary permits;
 - (ii) where new information, not available at the time of original permanent filing, has become available and indicates the Order of Conditions is insufficient to protect the Areas Subject to Protection;
 - (iii) where incomplete Work is causing damage to the Areas Subject TO Protection;
 - (iv) where Work has been done in violation of the Order of Conditions;
 - (v) where an Extension has previously been granted for said project.
- (C) Said Extension shall be recorded in the Registry of Deeds or Land Court, whichever is applicable, according to the procedures set forth in Section F8.2 of the Bylaw.

SECTION 2.3 (3) CERTIFICATES OF COMPLIANCE

- (A) A request for a Certificate of Compliance shall be made in writing on the appropriate form to the Commission. The Commission will act on the request within 21 days of receipt of such a request.

- (B) Prior to issuance of the Certificate of Compliance, a site inspection shall be made by the Commission and/or its agent. The Applicant shall be notified prior to the inspection and may be present at the inspection if that is desired.
- (C) If the Commission determines after review and inspection that the Work has not been done in compliance with the Order, it shall refuse to issue said Certificate of Compliance and specify the reasons for denial in writing to the Applicant.
- (D) If the Certificate of Compliance does not apply to all Work regulated by the Order of Conditions, it shall state to what portions of the Work it applies.
- (E) The Certificate of Compliance, if issued, shall be recorded by the APPLICANT in the Land Court or Registry of Deeds, whichever is applicable, according to the procedures set forth in Section F8.2 of the Bylaw.

2.4 FEE SCHEDULE

Permit fees are payable at the time of application and are non-refundable. Fees shall be calculated by the Commission or its agent according to the schedule listed below. Town projects are exempt from fees. These fees are in addition to and separate from those fees required by the Commonwealth of Massachusetts, Department of Environmental Protection.

Filing Type	Description	DEP Fee	Town Share	Acton Fee	Total Acton Fee
RDA				\$125.00	\$125.00
Notice of Intent	Fee based on activity		50%+12.50	50% of DEP fee	50% of DEP fee
NOI: Category 1	Work on SFH, etc	\$110.00	\$67.50	\$55.00	\$122.50
NOI: Category 2	Const. of SFH, etc	\$500.00	\$262.50	\$250.00	\$512.50
NOI: Category 3	Site prep, etc.	\$1,050.00	\$537.50	\$525.00	\$1,062.50
NOI: Category 4	Roads, dam, etc	\$1,450.00	\$737.50	\$725.00	\$1,462.50
NOI: Category 5	Docks, piers, etc	\$4/linear ft	50%+12.50	50% of DEP fee	50% of DEP fee
NOI: Category 6	Max fee is \$200 for SFH and \$2000 for any other activity.	\$2/linear ft	50%+12.50	50% of DEP fee	50% of DEP fee
Req. for NOI Extension		\$0.00		\$0.00	\$0.00
Amended OoC		\$0.00		\$50.00	\$50.00
ANRAD	Max fee is \$200 for SFH and \$2000 for any other activity.	\$2/linear ft	50%+12.50	50% of DEP fee	50% of DEP fee
Post-Violation Filing	See DEP NOI fees	\$0.00		100% of DEP fee	100% of DEP fee
CERTIFICATE OF COMPLIANCE					

CoC: Category 1 & 2	SFH, etc	\$0.00		\$100.00*	\$100.00*
CoC: Category 3 & 4	Site prep, roads	\$0.00		\$200.00*	\$200.00*
CoC: Category 5 & 6	Docks, delineations	\$0.00		\$300.00*	\$300.00*

Consultant Fees

Upon receipt of a Notice of Intent, Abbreviated Notice of Resource Area Delineation, or Request for Determination of Applicability, or at any point in its deliberations, the Commission may deem it necessary to obtain expert engineering or other outside consultant services in order to reach a final decision on the application. The specific consultant services may include, but are not limited to, Resource Area survey and delineation, analysis of Resource Area values (including Wildlife Habitat evaluations), hydrogeologic and drainage analysis, and/or environmental or land use law.

In such instances the Commission shall notify the Applicant of this need and shall provide the opportunity for the application to be amended or withdrawn. Should an Applicant choose to proceed the Commission shall require the Applicant to pay the reasonable costs and expenses for these consulting services. This fee is called the consultant fee. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.

The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision.

SECTION 3

CONSTRUCTION STANDARDS AND RESTRICTIONS

3.1 SEQUENCE OF CONSTRUCTION

As required by Section 2.3(1)(A)(iv), the Applicant shall provide a detailed sequence of construction to the Commission as part of the standard filing requirements, detailing in what order the project's construction will follow. Said sequence shall be followed by the Applicant, unless amended and approved by the Commission.

3.2 WETLAND SETBACKS FOR NEW ACTIVITIES

In order to protect and preserve the public interests and values of the wetlands and waterways of the Town of Acton, activities in Wetland and Buffer Zone Resource Areas should be avoided to the full extent practicable. The following are the minimum distances (setbacks) of activity from the edge of Wetlands or Vernal Pools. No activity shall be allowed within these setbacks except as provided below, or as provided in Section 1.5 of these rules and regulations. These setbacks are the minimum and may be extended further if deemed necessary for the protection of the interests of the Bylaw by the Commission.

The setbacks shall be as follows:

- (1) 0-foot setback for wetland-dependent structures (drain outfalls, weirs, etc.), fences, and structures necessary for upland access where reasonable alternative access is unavailable.
- (2) 50-foot setback of undisturbed natural vegetation.
- (3) 75-foot no-build setback to the edge of driveways, roadways, and structures.
- (4) 50-foot chemical free area, within which no fertilizers, herbicides, pesticides or other chemical maintenance substances shall be used.
- (5) 100-foot setback for underground storage of gasoline, oil, or other fuels and hazardous materials.
- (6) 100-foot setback of undisturbed natural vegetation to the mean high water line for vernal pools.

3.3 WETLAND SETBACKS FOR EXISTING STRUCTURES

Work associated with pre-existing structures or activities not presently in compliance with Section 3.2 may not increase the degree of "non-conformance" of those structures or activities. No new activity shall be commenced and no new structure shall be located closer to the edge of a Wetland Resource Area than existing non-conforming like Activities or structures, but the Commission may permit new like Activity or structures as close to the Wetland Resource Area as the existing like Activity or structure if it finds such Activity or structure will not affect the interests provided for in the Bylaw more adversely than the existing Activity or structure.

3.4 EROSION PREVENTION

The purpose of installing a silt prevention barrier between the proposed limit of disturbance and the edge of Wetlands is to intercept sediment-laden runoff by reducing runoff velocity

and allowing suspended sediments to "settle out" before entering the Wetlands Resource Area. Such sediments shall be removed and sediment barriers monitored and replaced when deemed necessary by the Commission or its agent.

3.5 EROSION PREVENTION INSTALLATION

Proposed location of the silt prevention devices, silt fence and/or haybales, shall be shown on the Plan submitted in the Wetland filing furnished by the Applicant for Commission review and approval. Erosion prevention devices shall be installed prior to the commencement of Activities on the site. The Commission requires erosion prevention installation standards as defined in: Erosion and Sedimentation Control Standards, Middlesex Conservation District, or see Town of Acton Engineering Department for clarification or details.

3.6 STORAGE OF FILL

If any Fill is to be stored on site, it shall be stored outside of the Buffer Zone and/or it shall be surrounded by haybales to prevent erosion. The location of said Fill shall appear on any Plans submitted to the Commission pursuant to Notice of Intent requirements. If the Commission determines that the proposed location of Fill threatens the Areas Subject to Protection it may require the Applicant to store said Fill in a different location or to remove it completely from the site.

3.7 CONSTRUCTION DEBRIS

There shall be no disposal or burial of construction debris (i.e. scrap lumber, metals, concrete, asphalt, piping, logs, stumps, etc.) within 100' of a Wetland unless approved by the Commission under the filing. Illegal disposal of said debris shall result in a stop work order, fine, required removal of said debris, or all of the above. The Commission may allow the creation of a spoils area, which would be required to be designated on the project PLANS, if it is proven that it will not harm Areas Subject to Protection.

SECTION 4

WETLANDS REPLACEMENT

SECTION 4.1 WETLANDS REPLACEMENT

Wetlands that are proposed to be Altered will in all instances require, at a minimum, equal Wetlands Replacement, preferably hydrologically connected to the Wetlands proposed to be Altered. Replacement shall mean to put back in proper place, or to provide an equivalent to the satisfaction of the Commission.

SECTION 4.2 REQUIREMENTS

Projects involving Wetlands Filling and/or permanent Alterations shall meet the requirements of 310 CMR, 10:60(3) and 10.55(4) and the following Requirements of the Commission:

- (A) The proposed Replacement area design must be submitted to the Commission for approval as part of the submittal of the project Notice of Intent. Applicants are advised to appear before the Commission for preliminary discussion, comments and review prior to submittal of the Replacement Plan with the Notice of Intent.
- (B) The Replacement area must be shown to sufficiently duplicate the functions of the Wetland proposed to be Altered;
- (C) The Replacement area shall be constructed, to the extent possible, immediately after Alteration of the existing Wetland and during the same growing season;
- (D) The proposed Replacement area must be clearly flagged for Commission site inspection before the Notice of Intent filing shall be considered complete, and said flagging shall be numerically coded and correspondingly shown on the Plans, according to Section 2.3(1)(B).
- (E) The Notice of Intent submittal for a Replacement area shall include a detailed of Replacement showing:
 - (i) cross-section with indication of Groundwater level, soil profile and thickness of organic soil in the existing and proposed Wetlands;
 - (ii) plant species detail, including species found in the area to be Altered, and number, types and locations of species to be introduced into the Replacement area;
 - (iii) detail of stabilization Plans for Replacement area Banks;
 - (iv) Wildlife Habitat diversity plan.
- (F) Construction of the Replacement area shall follow all requirements as set forth in general Construction Standards and Restrictions, Section 3.
- (G) If, after three growing seasons, the Commission determines that the Replacement area has not satisfactorily developed into a Wetland the Applicant or owner may be required to submit new Plans to successfully Replace said Wetland. No Certificate of Compliance shall be issued until the Commission has determined that a satisfactory Replacement area has been completed at the end of the three year period.