

**FINAL VERSION OF BYLAW ARTICLE 17 9.2.1.2 WETLANDS BYLAW
AS AMENDED**

9.2. WETLANDS PROTECTION

9.2.1 GENERAL PROVISIONS

9.2.1.1 Introduction

These regulations are promulgated by the Carver Conservation Commission pursuant to the authority granted to the Commission under Massachusetts General Law Chapter 40, Section 8C.

9.2.1.2 Purpose

The purpose of this By-law is to protect the wetlands, related water resources, and adjoining land areas in the Town of Carver by controlling activities deemed by the Carver Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following:

- a. Public or private water supply,
- b. Groundwater and groundwater quality,
- c. Surface water and surface water quality,
- d. Flood control,
- e. Erosion and sedimentation control,
- f. Prevention of water pollution,
- g. Storm drainage,
- h. Fisheries,
- i. Wildlife habitat,
- j. Recreation,
- k. Agriculture,
- l. Aesthetics,
- m. Fish/shellfish habitat,
- n. Rare plant and animal species,
- o. Riverfront areas.
- p. **Prevention of invasive species (as specified in the Annotated Species List for Massachusetts prepared by the Massachusetts Invasive Plant Advisory Group, which may be amended from time to time.**

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In addition, the Commission shall provide clear guidance to applicants regarding the policies that the Commission has determined are necessary to protect wetland Resource Areas based upon Carver's particular topography and hydrology, by the unique and special value these resource areas have to the Carver residential and agricultural community, and the significant past experience of the Commission with wetlands protection.

Carver

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A handwritten signature in black ink, appearing to read "Carol Quinn", written over the printed name.

Town Clerk

FINAL VERSION OF BYLAW ARTICLE 18 9.2.1.3 (3) WETLANDS BYLAW AS AMENDED

9.2. WETLANDS PROTECTION

9.2.1 GENERAL PROVISIONS

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- m. Fish/shellfish habitat,
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- o. Riverfront areas.

In addition, the Commission shall provide clear guidance to applicants regarding the policies that the Commission has determined are necessary to protect wetland Resource Areas based upon Carver's particular topography and hydrology, by the unique and special value these resource areas have to the Carver residential and agricultural community, and the significant past experience of the Commission with wetlands protection.

9.2.1.3 Statement of Jurisdiction

- (1) Except as permitted by the Commission as provided by this By-law, no person shall remove, fill, dredge, alter or build upon or within 100 feet of: any

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bank, wetland, marsh, swamp, bog, beach, or wet meadow, pond or lake; any land under said waters; any land subject to flooding or inundation by groundwater or surface water; or the 100 year flood plain.

- (2) Except as permitted by the Commission as provided by this By-law, no person shall remove, fill, dredge, alter, or build upon or within 200 feet on each side of perennial rivers and streams.
- (3) Except as permitted by the Commission through the issuance of a variance as defined in Section 9.2.5 of this By-law and the issuance of a permit/**order of conditions**, no person shall **remove, fill, dredge, alter, build upon, disturb or make any changes to the natural characteristics of the landscape, by human activity**, upon or within 65 feet of: any wetland, marsh, meadow, bog or swamp; any bank; any lands bordering on any lake, river, pond, stream or creek; or any land under said waters; or any land subject to flooding or inundation by groundwater or surface water.
- (4) Except as permitted by the Commission through the issuance of a variance as defined by Section V of this By-law and the issuance of a permit as defined by Section II of this By-law, no person shall build any residential dwelling within 100 feet of a cranberry bog.

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FINAL VERSION OF BYLAW ARTICLE 19 9.2.2.1 (4) WETLANDS BYLAW AS AMENDED

9.2. WETLANDS PROTECTION

9.2.1 FILING PROCEDURES

9.2.1.1 Request for Determination of Applicability

- a. A Request for Determination of Applicability shall be submitted to the Commission by certified mail or hand delivery to the Commission office located at the Town Hall.
- b. The Request for Determination of Applicability shall be in the form shown in the Appendix marked "Form A".
- c. The Request for Determination of Applicability shall be accompanied by 4 complete copies the applicant's plan which should include sufficient information to enable the Conservation Commission to determine the applicable scope of the project. The Commission may request up to 4 more copies of plans for each project.
- d. (4)The Request for Determination of Applicability shall be accompanied by a check or money order made payable to the Town of Carver for \$125.00 to cover administrative costs.
- e. The Request for Determination of Applicability shall be accompanied by a check or money order made payable to the local newspaper designated by the Commission to cover the publication costs required in accordance with the open meeting law, M.G.L. c. 39, sec.23B.
- f. The Request for Determination of Applicability shall be accompanied by a certification in the form of an affidavit of service shown in the Appendix marked "Form B" informing the Department of Environmental Protection and the owner, if the owner is not the applicant, that a determination is being requested under M.G. L. c. 131, sec. 40.

The Conservation Commission shall hold a public hearing within 21 days of its determination that the applicant's filing is complete. Prior to making such determination, the Conservation Commission may request additional information pertinent to the application

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FINAL VERSION OF BYLAW ARTICLE 20 9.2.2.5 (5) WETLANDS BYLAW AS AMENDED

9.2. WETLANDS PROTECTION

9.2.1.1 Notice of Intent

- a. A Notice of Intent shall be submitted to the Commission by certified mail or by hand delivery to the Commission office located at the Town Hall.
- b. A Notice of Intent shall be in the form shown in the Appendix as "Form C".
- c. The Notice of Intent shall be accompanied by 8 complete copies of the applicant's plan, which should include sufficient information to enable the Commission to determine the applicable scope of the project.
- d. The Commission at all times reserves the right to require that applicant's Notice of Intent be submitted by a professional person such as a land surveyor or civil engineer.
- e. **(5)**The Notice of Intent shall be accompanied by a filing fee the amount of which shall be determined by 801 CMR 4.02(310) (Executive Office for Administration and Finance)**based on the MA DEP fees as listed on their website, as may be amended from time- to- time**, plus an additional cost of **\$125.00** to cover administrative expenses. Payment shall be in the form of a check or money order.
- f. The Notice of Intent shall be accompanied by a check or money order made payable to the local newspaper designated by the Commission to cover the publication costs required in accordance with the open meeting law, M.G.L. c. 39, sec. 23B.
- g. The Commission shall have the authority to deny any project in which it determines that the application is incomplete or requires additional information not provided by the applicant.
- h. Any person filing a Notice of Intent with the Commission shall provide the Commission with an affidavit confirming that all appropriate town officials, committees, or boards having joint jurisdiction over the proposed project have been provided with a copy thereof by certified mail or hand delivery.
- i. The Commission shall not take final action pursuant to a Notice of Intent until all officials and boards having joint jurisdiction over the proposed project have had at least 14 days from receipt of notice to file written comments and recommendations with the Commission.
- j. The Commission shall have the authority to continue the hearing to a date

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certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant and deemed necessary by the Commission in its discretion or by other town boards and officials, as appropriate.

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A handwritten signature in black ink, appearing to read "Cassie Hill", written in a cursive style.

Town Clerk

FINAL VERSION OF BYLAW ARTICLE 21 9.2.2.2 (6) WETLANDS BYLAW AS AMENDED

9.2. WETLANDS PROTECTION

9.2.1 FILING PROCEDURES

9.2.1.1 Request for Determination of Applicability

- a. A Request for Determination of Applicability shall be submitted to the Commission by certified mail or hand delivery to the Commission office located at the Town Hall.
- b. The Request for Determination of Applicability shall be in the form shown in the Appendix marked "Form A".
- c. The Request for Determination of Applicability shall be accompanied by 4 complete copies the applicant's plan which should include sufficient information to enable the Conservation Commission to determine the applicable scope of the project. The Commission may request up to 4 more copies of plans for each project.
- d. The Request for Determination of Applicability shall be accompanied by a check or money order made payable to the Town of Carver for \$35.00 to cover administrative costs.
- e. The Request for Determination of Applicability shall be accompanied by a check or money order made payable to the local newspaper designated by the Commission to cover the publication costs required in accordance with the open meeting law, M.G.L. c. 39, sec.23B.
- f. The Request for Determination of Applicability shall be accompanied by a certification in the form of an affidavit of service shown in the Appendix marked "Form B" informing the Department of Environmental Protection and the owner, if the owner is not the applicant, that a determination is being requested under M.G. L. c. 131, sec. 40.
- g. The Conservation Commission shall hold a public hearing within 21 days of its determination that the applicant's filing is complete. Prior to making such determination, the Conservation Commission may request additional information pertinent to the application.

9.2.1.2 Notice of Intent

- a. A Notice of Intent shall be submitted to the Commission by certified mail or by hand delivery to the Commission office located at the Town Hall.

- b. A Notice of Intent shall be in the form shown in the Appendix as "Form C".
- c. The Notice of Intent shall be accompanied by 8 complete copies of the applicant's plan, which should include sufficient information to enable the Commission to determine the applicable scope of the project.
- d. The Commission at all times reserves the right to require that applicant's Notice of Intent be submitted by a professional person such as a land surveyor or civil engineer.
- e. The Notice of Intent shall be accompanied by a filing fee the amount of which shall be determined by 801 CMR 4.02(310) (Executive Office for Administration and Finance) plus an additional cost of \$70.00 to cover administrative expenses. Payment shall be in the form of a check or money order.
- f. **(6)The Notice of Intent shall be accompanied by an authorization form to authorize the newspaper to bill the publication costs required in accordance with the Wetland Protections Act, M.G.L.c.131,s40.The applicant will be billed directly by the newspaper**
- g. The Commission shall have the authority to deny any project in which it determines that the application is incomplete or requires additional information not provided by the applicant.
- h. Any person filing a Notice of Intent with the Commission shall provide the Commission with an affidavit confirming that all appropriate town officials, committees, or boards having joint jurisdiction over the proposed project have been provided with a copy thereof by certified mail or hand delivery.
- i. The Commission shall not take final action pursuant to a Notice of Intent until all officials and boards having joint jurisdiction over the proposed project have had at least 14 days from receipt of notice to file written comments and recommendations with the Commission.
- j. The Commission shall have the authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant and deemed necessary by the Commission in its discretion or by other town boards and officials, as appropriate.

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FINAL VERSION OF BYLAW ARTICLE 22 9.2.5 WETLANDS BYLAW AS AMENDED

9.2. WETLANDS PROTECTION

9.2.4 DEFINITIONS

The definitions applicable to the Carver Wetlands By-law shall be the same as set forth in 310 CMR 10.00 except for the following modifications to those definitions and additional definitions.

Aesthetics -

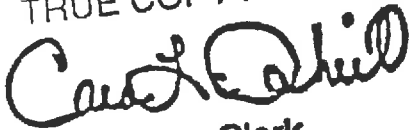
The relevant qualities to be protected under the Carver Wetlands By-law are those natural and natively scenic impressions of our ponds, lakes, streams, rivers, and the lands bordering them. The aesthetic trust of the Commission shall be the preservation of a perception of the land, which is most conducive to a continued wildlife habitat, a natural aquatic system, and a protective buffer between our wetland resources and human development activities.

Alter-

Alter means to change the condition of any area subject to protection by this By law. Examples of alterations include, but are not limited to, the following:

- Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
- Changing of pre-existing drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
- Drainage or other disturbance of water level or water table;
- Placing of fill, or removal of materials, which would alter elevations;
- Driving of piles, erection or repair of buildings, **walls**, or structures of any kind;
- Placing of obstructions or **permanent** objects or **structures** in water;
- Destruction of plant life, including the cutting of trees, **shrubs, flowers or wild grasses**;
- **Introduction of non-native grasses, shrubs, trees or other plantings**;
- Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- Use of chemicals for plant or pest control.

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FINAL VERSION OF BYLAW ARTICLE 23 9.2.5 DEFINITIONS WETLANDS BYLAW AS AMENDED

9.2. WETLANDS PROTECTION

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Aesthetics -

The relevant qualities to be protected under the Carver Wetlands By-law are those natural and natively scenic impressions of our ponds, lakes, streams, rivers, and the lands bordering them. The aesthetic trust of the Commission shall be the preservation of a perception of the land, which is most conducive to a continued wildlife habitat, a natural aquatic system, and a protective buffer between our wetland resources and human development activities.

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Alter means to change the condition of any area subject to protection by this Bylaw. Examples of alterations include, but are not limited to, the following:

- Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
- Changing of pre-existing drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
- Drainage or other disturbance of water level or water table;
- Placing of fill, or removal of materials, which would alter elevations;
- Driving of piles, erection or repair of buildings, or structures of any kind;
- Placing of obstructions or objects in water;
- Destruction of plant life, including the cutting of trees;
- Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- Use of chemicals for plant or pest control.

Applicant-

Any person who files a permit application or request for determination or applicability, or on whose behalf such an application or request is filed, is an applicant.

Conservation Commission Agent-

The Agent shall be the duly authorized representative of the Commission, with the authority to carry out certain of the Commission's functions. These shall include, but not be limited to, executing the administrative duties of the Commission, site visits, determination of filing requirement for applicants, determination of filing

requirements of all property under the jurisdiction of this By-law, determination of application completeness and filing requirements.

Issuing Authority-

In the Town of Carver, both under the state wetland regulations and under the local By-laws, the issuing authority is the Conservation Commission.

Recreation-

Recreation under the Carver Wetlands By-law is defined as the use and enjoyment of our natural surroundings in a manner consistent with their preservation. Activities shall not hinder access to wetlands and related water resources, **adversely affect wildlife habitat, and/or introduce invasive species.**

Variance-

The Commission shall have the power, after the filing of a Notice of Intent and the conduct of a public hearing, to issue a variance to an applicant requesting to perform activities as described in Section I (C)(3) or Section I(C)(4) of this By-law. Such variance shall be set forth by the issuance of an Order of Conditions by the Commission. In order for the Commission to issue a variance with respect

to a particular project, it must specifically find, based on clear and convincing evidence set forth by the applicant, that owing to circumstances relating to the soil conditions, hydrological conditions, topography of such land and especially affecting such land but not generally affecting wetlands within the Town, a literal enforcement of the provisions of this By-law would involve substantial hardship, financial or otherwise, to the applicant, and that desirable relief may be granted without material detriment to the values protected by this By-law and without substantially derogating from the extent or purpose of this By-law. The Commission may impose conditions, safeguards and limitations in a variance to protect or further the interests protected by this By-law. Variances are intended to be granted only in rare and unusual cases.

Person-

Person shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town by-laws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

9.2.5 SEVERABILITY

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

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