

Why the Newbury Conservation Commission is proposing a Wetlands By-Law Amendment

Background

As residents of Newbury, we are fortunate to have such a variety of quality wetlands within our Town. These places are appreciated for their scenic beauty, recreational opportunity value, and wildlife habitat functions - from our vast and beautiful coastal salt marshes and seashore to our rivers and streams, wooded swamps, and wet meadows. Just as significant to our quality of life, and often poorly understood, are the other important practical public functions provided by wetland resources, including their ability to recharge our groundwater supplies, filter pollutants from the stormwater runoff of developed areas, absorb



and mitigate effects of floodwaters, and protect properties from damage due to coastal storms. Because these wetlands stretch across the landscape, throughout our Town, and beyond, we have a shared responsibility for their continued maintenance and protection. Loss or damage to these wetland systems could be felt by a neighbor whose basement may flood due to a loss of flood storage capacity after a wetland area is filled in, or whose well has gone dry due to lack of groundwater recharge. Those losses may also be experienced by the entire community whose water quality has been compromised, shellfish beds contaminated, recreational opportunities lost, or property damaged from coastal storm impacts worsened by the loss of adequate buffer zones.

Massachusetts was a pioneer in recognizing the importance of protecting wetland resources from the steady, incremental loss occurring primarily from development pressure. In 1972, it was the first state to enact a Wetlands Protection Act. Currently, all 351 cities and towns in the Commonwealth have local Conservation Commissions who are tasked with administering most of the duties of the Wetlands Protection Act. This legislation creates a process for reviewing development activities proposed within one hundred feet of vegetated wetlands and two hundred feet of rivers. It has been instrumental in curtailing the widespread destruction of wetlands that was occurring before its inception. However, like most legislation, it was the product of compromise, and there are some types of wetlands that do not benefit from its protection. These include smaller, isolated wetlands that do not directly border on a water body or waterway. Also, some wetlands are protected for only limited functions. More than half of all communities, including many of our neighboring towns, have adopted some form of local wetland by-law to help fill in some of the gaps in resource protection left out of the state rules.

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Existing By-Law

In 2005, the Town of Newbury adopted its current wetland by-law specifically for the protection of its coastal wetlands, beaches, and dunes on the Plum Island barrier beach. Preservation of the sand system that forms the island was found to be critical, not only to protecting properties on the Island, but also for the inland areas that rely on the barrier island to provide protection from coastal storms. In the 16 years since it has been adopted, the incremental impact from the many projects and properties that have been subject to these rules contributed to a more resilient barrier island. However, Newbury is unique in that its by-law only extends to a portion of the community. Wetland resources extending along the Parker River, Little River, and other small, unnamed streams and creeks scattered across our Town are not covered by this by-law.



Proposed By-Law Changes & Benefits

The Newbury Conservation Commission is currently proposing to amend its Wetlands By-Law to extend protection to wetland resources and their buffer zones throughout the entire Town in order to provide additional protection to inland freshwater wetlands, rivers, streams, and ponds. The current wetlands by-law with respect to Plum Island would remain unchanged. The amendments proposed largely mirror the existing state regulations (310 CMR 10.00), but add protections for some resources not currently regulated or inadequately protected. These include isolated wetlands at least 2500 square feet in size, vernal pools that support declining amphibian populations wherever they occur on the landscape, and the Great Marsh Area of Critical Environmental Concern (ACEC). It also recognizes the importance of wetlands in mitigating impacts associated with climate change, including sea-level rise and carbon sequestration.

Adopting a new by-law also provides an opportunity for the Conservation Commission to adopt regulations in support of the by-law. This will help clarify requirements for projects and foster consistency in evaluating applications. For example, current state rules contain vague guidance regarding how close construction may occur adjacent to wetlands without affecting them. Clearing of vegetation and construction of structures in close proximity to wetlands has the potential to affect wetland function both during and after construction. While the protections necessary will vary depending on the scope and nature of the project, clarifying some of these rules will provide applicants with more certainty when designing projects. One

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regulation that may be considered by the Conservation Commission, should this by-law amendment be approved by the Town at the annual Town Meeting, is the adoption of enhanced buffer zone protection by establishing minimum setbacks to the wetland edge. As required by state law, a provision for waiving these requirements would be included for special circumstances. Factors that might be considered in waiving setback requirements may include whether the buffer zone has been previously developed, whether the site contains relatively flat, non-erodible soils, or whether the project is in the public interest.



Another benefit of adopting this by-law amendment is that it gives the Town more autonomy in its review of projects. This may be particularly important during the review of very large or time-sensitive projects that might have significant impacts, but which might not otherwise be permissible under state regulations.

The Conservation Commission's role in the community is to guide development so that it avoids the most sensitive resources and, where unavoidable, mitigates those impacts so that there is no net loss of wetlands within the community. Together with the other Town departments and boards, the Commission strives to work with property owners to ensure their projects can be completed without impacting important public resources and the functions they provide. Adoption of an amendment to the current wetland by-law will improve the Commission's ability to fulfill that responsibility.

If you have any questions regarding the proposed amendments to the Wetlands By-Law, please reach out to the Conservation Agent, or [visit the town website](#) for amendment drafts and links to recorded Conservation Commission meetings where the by-law was discussed.



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