

WATER USE RESTRICTIONS

Section 1 Authority

This By-law is adopted by the Town under its home rule powers, its police powers to protect public health and welfare and its powers under M.G.L. ch. 40, §21 et seq. This By-law implements the Town's authority to regulate water use pursuant to ch. 41, §69B.

Section 2 Purpose

The purpose of this By-law is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a state of water supply conservation or state of water supply emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

Section 3 Definitions

Enforcement Authority shall mean the Town Board of Public Works or other Department or Board having responsibility for the operation and maintenance of the water supply, the Health Department, the Town Police, Special Police, and any other local designated body having police powers.

Water Supply Emergency shall mean a state of water supply emergency declared by the Department of Environmental Protection under M.G.L. ch. 21G, §§15 through 17.

State of Water Supply Conservation shall mean a state of conservation declared by the Town pursuant to section 4 of this By-law.

Water Users or Water Consumers shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

Person shall mean any individual, corporation, trust, partnership, association or other entity.

Section 4 Declaration of a State of Water Conservation

The Town through its Board of Public Works may declare a State of Water Conservation upon a determination by a majority vote of that Board that a shortage of water exists, and that conservation of water is necessary to insure adequate supply to all consumers under all conditions.

Public Notice of State of Water Conservation shall be given under section 6 of this By-law before it may be enforced.

WATER USE RESTRICTIONS (cont'd)

Section 5 Restricted Water Uses

A declaration of a State of Water Conservation issued by the Board of Public Works may include one or more of the following restrictions, conditions, or requirements restraining the use of water for non-essential purposes as necessary to protect the water supply, which shall be included in the public notice required under section 4.

- a.) Odd/Even Lawn Watering Lawn Watering at facilities with odd numbered addresses is permitted only on odd numbered days. Lawn watering at facilities with even numbered addresses is permitted only on even numbered days.
- b.) Outdoor Watering Ban Lawn watering, and all other forms of non-essential outdoor water use are prohibited.
- c.) Outdoor Watering Hours Outdoor watering is permitted only during off-peak hours, to be specified in the declaration of a State of Water Conservation and public notice thereof.
- d.) Filling Swimming Pools Filling of swimming pools is prohibited.
- e.) Automatic Sprinkler Use The use of automatic sprinkler systems for watering purposes is prohibited.

Section 6 Public Notification of a State of Water Supply Conservation

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a state of water conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Conservation. Any restriction imposed under section 5 shall not be effective until such notification is provided.

Section 7 Termination of a State of Water Supply Conservation; Notice

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Public Works upon a determination that the water supply shortage no longer exists. Notification of the termination of a State of Water Conservation shall be given in the same manner as notice of the State of Water Conservation is given.

Section 8 State of Water Emergency; Restricted Water Use

Upon notification of the public that a declaration of a State of Water Emergency has been declared by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition or order approved or issued by the Department intended to bring about an end to the emergency.

Section 9 Penalties

Any person violating this By-law shall be liable to the Town in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation which shall inure to the Town for such uses as the Board of Public Works may direct. Fines shall be recovered by indictment, or on

WATER USE RESTRICTIONS (cont'd)

complaint before the District Court, or by non-criminal disposition in accordance with §21D of ch. 40 of the General Laws. Each separate issuance of a citation pursuant to this section shall constitute a separate violation.

Section 10 Right of Entry

Agents of the enforcement authority may enter any property for the purpose of inspecting and investigating any violation of this By-law or enforcing the same.

Section 11 Severability

The invalidity of any portion or provision of this By-law shall not invalidate any other portion of provisions thereof.

10-22-92	12-21-92	12-29-92
5-28-96	6-17-96	7-1-96

WATERWAYS MANAGEMENT

SECTION 1. WATERWAYS MANAGEMENT

Sub-section 1. WATERWAYS MANAGEMENT ENTERPRISE FUND

All owners of moorings in the waters of the Town of Dartmouth shall register such mooring with the Harbor Master by July 1st of each year. The Harbor Master shall have the authority to remove moorings not registered with his office after due notice by posting in the legal notice section of a newspaper of general circulation, notice of such action of the Harbor Master to remove such abandoned moorings.

The following permit fees, fines or receipts shall be dedicated to the funding of the Waterways Management Enterprise Fund:

- Waterways Use Fees
- Launch Permits
- Fifty Percent of Boat Excise Tax Receipts
- Waterways Use Violation Fines
- Shellfish License Fees Resident and Non-Resident
- Shellfish Dredge License Fees
- Shellfish Violation Fines

Such receipts shall be solely for the funding of salaries, operating expenses including but not limited to the employment of legal counsel to enforce these regulations and capital improvements to water-related infrastructure.

5-7-91	7-2-91	7-9-91
3-29-94	6-7-94	6-10-94
10-26-94	12-1-94	12-9-94

Sub-section 2. WATERWAYS USE FEES.

Waterways Use Fees

Resident	\$26.00 for boats 12 feet up to and including 16 feet in length \$55.00 for boats 17 feet to 30 feet Over 30 feet, \$55.00 plus \$1.50 per foot over 30 feet.	
Non-Resident	\$61.00 for boats 12 feet up to and including 16 feet in length \$135.00 for boats 17 feet to 30 feet Over 30 feet, \$135.00 plus \$2.00 per foot over 30 feet.	
Residents and Non-Residents	Mooring Registration Fee	\$20.00
	Annual Mooring Waiting List Fee	\$15.00
	New Mooring Establishment Fee	\$50.00
	Late Payment of the Mooring Fee	\$50.00

WATERWAYS MANAGEMENT (cont'd)

A resident is one or more of the following:

- A registered voter in the Town.
- A person who is domiciled in the Town.
- A person who pays Real Estate Taxes to the Town.
- A spouse or dependent of any of the above.

A vessel is defined in Massachusetts General Laws, Chapter 60B, Section 1, as follows:

Every watercraft, including documented boats and ships, used or capable of being used as a means of transportation on water, and includes all equipment, including mode of power, and furnishings that are normally required aboard the vessel during accomplishment of the functions for which the vessel is being utilized.

5-7-91	7-2-91	7-9-91
10-26-94	12-1-94	12-9-94
11-18-03	12-30-03	01-05-04

Sub-Section 3. FAILURE TO PAY BOAT EXCISE TAX

No vessel shall be moored or docked or otherwise anchored in Town of Dartmouth waters unless and until applicable waterways user fees, and all fines attributable to non-payment thereof, and all excise taxes due pursuant to Massachusetts General Laws Chapter 60 B and pertaining to said vessel, are first paid.

No owner or person in possession of a mooring, dock, slip or anchorage in Town of Dartmouth waters shall permit the use of or use such dock, mooring, slip or anchorage to contain or affix a vessel following notice that the user fee applicable to the vessel attached thereto is not paid. No mooring shall be placed until the location and tackle and maximum vessel capacity are approved by the Harbor Master. No vessel shall be affixed to a mooring of less capacity than required for that vessel. All moorings shall be inspected prior to placement, and every three years thereafter, by a qualified person and certification made to the Harbor Master that the mooring is in good working order and suited to the rated capacity. No vessel shall be attached to a mooring until such certification is made. All mooring owners shall pay a user fee equal to one-half of the user fee which would be due if a vessel of maximum rated capacity were attached for more than fourteen (14) days cumulative in a calendar year provided, however, this fee shall not be due if a user fee is paid on account of a vessel attached to said mooring.

The owner or other person using or in control of a vessel for which a user fee is applicable, and who moors or docks or otherwise anchors such vessel in the waterways of the Town of Dartmouth for more than fourteen (14) days cumulative in a calendar year, shall pay the applicable user fee to the Town of Dartmouth for deposit in the Waterways Management Enterprise Fund not later than the beginning of the fourteenth day of such use.

Failure to pay the applicable use fee shall be punishable by a fine of twenty (20) percent of the user fee due per day for each day commencing the fifteenth day of use and continuing each day that such vessel or mooring remains in Dartmouth waters.

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WATERWAYS MANAGEMENT (cont'd)

The Harbor Master may remove any mooring set without permit, or for which said three-year certification is not made. Whoever shall place a mooring without permission, or who attaches a vessel to a mooring without first certifying the condition thereof to the Harbor Master, or who attaches or permits to be attached to a mooring a vessel greater than the permitted capacity of the mooring shall be fined ten (10) dollars for each day the violation continues.

The Harbor Master and his officers and assistants shall enforce this by-law. Notice of violation hereof may be made by affixing securely to the said vessel a ticket containing thereon the following information: name of boat and hailing port, the make, if determinable, color, document number or registration number of the vessel, if any, state of issuance of said registration number of the vessel involved, expiration date, if any, and the date, time and place of the violation, the specific violation charged and whether, at mooring or slip, any apparent information to identify said mooring or slip, the name and badge number of the officer affixing said notice, a schedule of established fines, instructions for the return of the notice and a notice which reads as follows: "This notice may be returned by mail, personally or by an authorized person. A hearing may be obtained upon written request of the registered owner. Failure to obey this notice within twenty-one days after the date of violation may result in removal of the vessel and its mooring tackle and non-renewal of the license to use Dartmouth waters for the mooring or docking of a vessel".

The Harbor Master shall retain a copy of said notice in his records and shall deliver another such copy to the parking clerk of the Town of Dartmouth appointed pursuant to Massachusetts General Laws, Chapter 90, Section 20A, before whom the offender has been notified to appear. The parking clerk shall maintain a docket of all such notices to appear.

Any person notified to appear before the parking clerk, as provided herein, may appear before such parking clerk or his designee and confess the offense charged, either personally or through an agent duly authorized in writing or by mailing to such parking clerk, the notice and user fee due and the fine provided herein, such payment to be made only by postal note, money order or check, made out to the parking clerk, who shall deposit the funds received in the Waterways Management Enterprise Fund.

Notice affixed to a vessel, as provided in this section, shall be deemed a sufficient notice to the owner and person using or in control of said vessel and the person owning the mooring or slip to which the vessel is affixed, who has permitted attachment of said vessel thereto and a certificate of the officer affixing such notice that it has been affixed thereto, in accordance with this section, shall be deemed prima facie evidence thereof and shall be admissible in any judicial or administrative proceeding as to the facts contained therein.

Should any person notified to appear hereunder fail to appear, and if a fee or fine is provided hereunder to pay the same, or having appeared desire not to avail himself of the benefits of the procedure established by this section, the parking clerk shall forthwith schedule the matter before a person hereafter referred to as a hearing officer, said hearing officer to be the parking clerk of the Town of Dartmouth or his or her designee. Written notice of the date, time and place of said

hearing shall be sent by first-class mail to the owner and to the person believed to be the owner of the mooring, dock or slip at which the violation occurred and the Harbor Master. Said hearing shall be informal, the rules of evidence shall not apply and the decision of the hearing officer shall be final, subject to judicial review.

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WATERWAYS MANAGEMENT (cont'd)

If any person fails to appear in accordance with said notice and to pay the user fee and fine due, the parking clerk shall notify the Harbor Master, who shall place the matter on record, and the Harbor Master shall not issue or renew license to use Dartmouth waters for the keeping of a boat or to use the slip or mooring at which the violation occurred until such fee and fine is paid in full as determined by the parking clerk. An additional twenty dollar charge, payable to the parking clerk, shall be assessed following failure to appear at a hearing. If any person shall have failed to appear in accordance with five or more said notices, the parking clerk may notify the Harbor Master that the vessel involved in said multiple violations shall be removed and stored or otherwise immobilized by a mechanical device, at the expense of the owner of said vessel, until such time as the matter has been disposed of in accordance with law.

Any person notified to appear before the parking clerk, as provided herein, may, without waiving his right to a hearing before the parking clerk or hearing officer as provided by this section and also without waiving judicial review, challenge the validity of the violation notice and receive a review and disposition of the violation from the parking clerk or a hearing officer, by mail. The alleged violator may, upon receipt of the notice to appear, send a signed statement explaining his objections to the violation notice as well as signed statements from witnesses. Photographs, diagrams, maps and other documents may also be sent with the statements. Any such statements or materials sent to the parking clerk for review shall have attached the person's name and address as well as the ticket number and date of violation. The parking clerk or hearing officer shall, within twenty-one days of receipt of said material, review the material and dismiss or uphold the violation and notify, by mail, the alleged violator of the disposition of the hearing. If the outcome of the hearing is against the alleged violator, the parking clerk or hearing officer shall explain the reasons for the outcome on the notice. Such review and disposition handled by mail shall be informal, the rules of evidence shall not apply and the decision of the parking clerk shall be final subject to any hearing provisions provided by this section or to judicial review. Each parking violation issued shall carry a statement explaining the procedure to adjudicate the violation by mail.

Whoever damages or removes without authority any mechanical device used to immobilize a vessel shall be fined \$300.00 plus the cost of repair or replacement of said device.

Nothing in the foregoing shall be construed to abridge the authority of the Harbor Master under Massachusetts General Laws, Chapter 102 or the authority or procedures for the assessment of excise taxes by the Town under Massachusetts General Laws, Chapter 60B, or the requirement that the Harbor Master refuse to allow a vessel for which the excise tax has not been paid to moor, dock or otherwise be situated in the waterways of the Town pursuant to Section 4 of Chapter 60B of the Massachusetts General Laws, or to abridge the authority of the Harbor Master as to any other statute, by-law or regulation without limitation.

WATERWAYS MANAGEMENT (cont'd)

Sub-Section 4. WATERWAYS MANAGEMENT DEPARTMENT

The Town of Dartmouth shall have a Waterways Management Department comprised of Harbor Master. The Department shall be under the administration of the Board of Selectmen through the Executive Administrator.

Further, to fund said Division through the General Fund.

Each year the Waterways Management Department shall present to the Director of Budget and Finance a projection of Revenues and Expenditures for the ensuing Fiscal Year. The Director of Budget and Finance shall review and give his approval or disapproval to the projections.

5-7-91	7-2-91	7-9-91
10-24-95	12-14-95	12-27-95

Sub-Section 5. DISCHARGE OF SEWERAGE-PADANARAM HARBOR

No vessel shall discharge any sewerage into the Apponagansett River, known as Padanaram Harbor, North of a line bearing 249 degrees TRUE based upon chart #13230, 37th Edition, January 13, 1990, annual variation 15 degrees 30' West annual increase 03' West, which line commences at the Southwesterly end of the Padanaram Breakwater and continues to the shore to the West. Any owner and/or the person in control of the vessel violating this section shall be subject to a fine of \$100.00 per discharge.

5-7-91	7-2-91	7-9-91
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Sub-Section 6. ELIGIBILITY FOR SHELLFISH LICENSE

No person shall be eligible for a Dartmouth Commercial Shellfisherman's License, Scallop Fisherman's License, Special Commercial License or a Quahog Dredging License unless they have been a resident of the Town of Dartmouth for at least twelve months.

A Dartmouth resident for the purpose of this sub-section is defined as:

A person who is listed in the Street List and Voter Manual at least twelve months immediately preceding the time of application.

A person who is domiciled in the Town at least twelve months immediately preceding the time of application.

A person who pays real estate taxes to the Town at least twelve months immediately preceding the time of application.

11-19-91 2-10-92 2-24-92

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WATERWAYS MANAGEMENT (cont'd)

Sub-section 7. STARFISH REGULATIONS

Starfish brought aboard boats shall not be thrown back into the water, but must be taken ashore and deposited above the high water mark. Any person found violating this by-law shall, in addition to penalties imposed by law, have all shellfish permits revoked, and shall be considered ineligible for such permits until reinstated by the Selectmen or the Board issuing same.

3-14-44 5-24-44 5-26-44

SECTION 2: WATERWAYS MANAGEMENT COMMISSION

A. Composition, Terms of Office. There shall be established a Waterways Management Commission (hereinafter referred to as 'Commission') that shall consist of seven members, who are residents of the Town of Dartmouth, appointed at large by the Select Board as provided by the General By-Laws of the Town with initial transitional terms of two years. Commencing on June 1, 2005, the regular terms of office shall be increased to a maximum of three years, and all subsequent appointments to be made hereunder shall be staggered and so arranged that the term of office of two members shall expire each successive year thereafter. To accomplish this purpose, the Select Board shall, upon the expiration of successive terms of office, appoint 1-year, 2-year and/or 3-year terms of office from a slate of qualified nominees submitted to the Select Board by the Commission; provided, however, that no person shall serve more than two consecutive terms. In addition to the at-large appointments, the Commission may nominate non-voting ex officio members on an ad hoc basis to serve for such terms as may be desirable.

B. Powers and Duties. The Commission shall have the power, authority and jurisdiction to establish such policies, and to promulgate, after public hearing with published notice thereof, in a newspaper of general circulation at least fourteen days prior thereto, such rules, consistent with Federal and State Statutes and codes, to develop, administer, manage and regulate the tidal waterways and related public facilities within the Town of Dartmouth, including, without limitation, all marine ramps, docks, wharves, piers and moorings, and the Commission shall with respect to moorings, promulgate regulations for application procedures, waiting lists, transfer requirements and procedures, mooring tackle, maintenance and inspection requirements, and related requirements as to the strength capacity and placement of the cleat or other device on the vessel by which the vessel is affixed to the mooring tackle. The rules of the Commission shall be effective upon filing of an attested copy with the Clerk.

The Commission shall have all of the other powers and duties which are given to Waterways Commissioners by General Law, by the Charter, through By-Law or by other vote of the Town Meeting, subject to the overall administrative supervision of the Executive Administrator, the

Harbormaster or other person designated by the Commission, shall implement and enforce the duly adopted rules, regulations, directives and policies of the Commission. The Commission shall also designate and maintain its oversight operation as an "Enterprise" as that term is defined in Section 39K of Chapter 40 of the Massachusetts General Laws, and shall comply with the statutory provisions therein. On an annual basis, the Commission shall prepare and submit a provisional budget to the Select Board and Finance Committee.

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WATERWAYS MANAGEMENT (cont'd)

Annually, or as requested, the Commission shall report to the Select Board and make its report, giving information regarding the status and condition of the Town's tidal waterways and related public facilities, and any plans, proposals and costs for the development, management and regulation thereof.

05/27/03	09/04/03	09/09/03
11-18-03	12-30-03	01-05-04

C. Dartmouth Harbor Master Term. The Select Board shall appoint a Harbor Master for a term of three years in accordance with Town By-Laws, and the Harbor Master so appointed shall be subject to removal in term only for cause. The Harbor Master shall carry out the duties of that office as provided in Massachusetts General Laws, Chapter 102, and other Federal and Massachusetts General Laws, codes and regulation and Town By-Laws, rules and regulations.

11-18-03	12-30-03	01-05-04
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SECTION 3. NAVIGABLE WATERS - RULES & REGULATIONS - MOORINGS

	10-29-96	04-14-97	04-24-97
Deleted entire Section	11-18-03	12-30-03	01-05-04

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WETLANDS

SECTION 1. PURPOSE

The purpose of this by-law is to protect the wetlands, related water resources, and adjoining land areas in this municipality by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, fisheries, shellfish, wildlife habitat, recreation, and aesthetics (collectively, the "wetland values protected by this by-Law").

SECTION 2. JURISDICTION

Except as permitted by the Conservation Commission or as provided for in this by-law, no person shall remove, fill, dredge, build upon, or alter land in or within a 100-foot buffer zone of the following resource areas: any freshwater wetland, coastal wetland, marsh, wet meadow, bog, swamp, or vernal pond; any bank, beach, dune, or flat; any lake, river, pond, stream, estuary, or the ocean; or any land under said waters. Included in this jurisdiction is any land subject to flooding or inundation by groundwater, surface water, tidal action, or coastal storm flowage.

SECTION 3. EXCEPTIONS

A. Public Services

The permit and application required by this by-law shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, provided that the structure or facility is not substantially changed or enlarged, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

B. Emergencies

The permit and application required by this by-law shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement, provided that the

Conservation Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency, and provided that within 21 days of commencement of any emergency project a permit application shall be filed with the Commission for review as provided in this by-law. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this section the exceptions provided in the Wetlands Protection act shall not apply.

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WETLANDS (cont'd)

SECTION 4. APPLICATIONS FOR PERMITS AND REQUESTS FOR DETERMINATION

Written application shall be filed with the Commission to perform activities regulated by this by-law affecting resource areas protected by this by-law. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this by-law.

The Commission in an appropriate case may accept as the application and plans under this by-law the Notice of Intent and plans filed under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40.

Any person desiring to know whether or not proposed activity or an area is subject to this by-law may in writing request a determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission.

At the time of an application or request the applicant shall pay a filing fee specified in regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, M.G.L. Chapter 131, Section 40. In addition, the Commission is authorized to require the applicant to pay costs and expenses of any expert consultant deemed necessary by the Commission to review the application or request up to a maximum of \$2,500.00. The Commission may waive the filing fee and costs and expenses for an application or request filed by a government agency. A Revolving Consultant Fee Account shall be established in which the expert consultants fee shall be deposited to by the applicant and the Conservation Commission will draw upon to pay for the services of the expert consultants hired by the Conservation Commission.

SECTION 5. PUBLIC HEARINGS

The Commission shall conduct a public hearing on any application or request for determination within 21 days from receipt of a completed application or request for determination. Written notice shall be given at the expense of the applicant, five working days prior to the hearing, in a newspaper of general circulation in the municipality.

The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon.

The Commission in an appropriate case may combine its hearing under this by-law with the hearing conducted under the Wetlands Protection Act, G.L., Chapter 131, Section 40.

The Commission shall have 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 or others, information and plans required of the applicant, deemed necessary by the Commission in its discretion, or comments and

recommendations of boards and officials listed in Section 6. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

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WETLANDS (cont'd)

SECTION 6. COORDINATION WITH OTHER BOARDS

Any person filing a permit application or a request for determination with the Commission shall provide a copy thereof at the same time, by certified mail or hand delivery, to the Planning Board, Board of Appeals, Board of Health, Building Department, and Department of Public Works. The Commission shall not take final action until such boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any such comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

SECTION 7. DETERMINATIONS, PERMITS, AND CERTIFICATES OF COMPLIANCE

A. Determination and Permit

If the Commission after a public hearing determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetland values protected by this by-law, the Commission within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions.

The Commission is empowered to deny a permit for failure to meet the requirements of this by-law; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this by-law; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed for additional one year periods, provided that a request for renewal is received in writing by the Commission prior to expiration.

For good cause the Commission may revoke or modify a permit issued under this by-law after public notice and public hearing, and notice to the holder of the permit.

The Commission in an appropriate case may combine the permit or other action on an application issued under this by-law with the Order of Conditions issued under the Wetlands Protection Act.

B. Dartmouth Certificate of Compliance

Upon completion of the work described in the Permit and shown on the final Plan of Record, the applicant may request in writing that a Certificate of Compliance be issued. A request for a Certificate of Compliance shall be reviewed by the Commission within 21 days of receipt thereof.

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WETLANDS (cont'd)

SECTION 8. REGULATIONS

After public notice and public hearing the Commission shall promulgate rules and regulations to effectuate the purposes of this by-law. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this by-law.

At a minimum these regulations shall define key terms in this by-law not inconsistent with this by-law.

SECTION 9. DEFINITIONS

The following definitions shall apply in the interpretation and implementation of this by-law.

The term "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.

The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by the by-law:

- a. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
- b. Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
- c. Drainage or other disturbance of water level or water table;
- d. Dumping, discharging or filling with any material which may degrade water quality;
- e. Placing of fill, or removal of material, which would alter elevation;

- f. Driving of piles, erection or repair of buildings, or structures of any kind;
- g. Placing of obstructions or objects in water;
- h. Destruction of plant life including cutting of trees;
- i. Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- j. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater.

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WETLANDS (cont'd)

SECTION 10. SECURITY

As part of a Permit issued under this by-law, in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder be in secured wholly or in part by one or more of the methods described below:

- a. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission;
- b. By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

SECTION 11. ENFORCEMENT

The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this by-law and may take or cause to be made such examinations, surveys or sampling as the Commission deems necessary.

The Commission shall have authority to enforce this by-law, its regulations, and Permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.

Upon request of the Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission the chief of police shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this by-law, regulations thereunder, or permits issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the by-law, regulations, or permit violated shall constitute a separate offense.

In the alternative to criminal prosecution the Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L., Chapter 40, Section 21D.

SECTION 12. BURDEN OF PROOF

The applicant for a Permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effects upon the wetland values protected by this by-law. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a Permit or grant a Permit with conditions.

W-3-(D)

WETLANDS (cont'd)

SECTION 13. RELATION TO THE WETLANDS PROTECTION ACT

This by-law is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and regulations thereunder.

SECTION 14. 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 which previously has been issued.

SECTION 15. NUMBER OF CONSERVATION COMMISSION MEMBERS

The Dartmouth Board of Selectmen may appoint up to four individuals to serve as Associate Members on the Dartmouth Conservation Commission. Each appointed Associate Member is required to attend all of the regularly scheduled Conservation Commission meetings. In the absence of one or more of the seven regular members of the Dartmouth Conservation Commission, an Associate Member shall be asked to sit in for that absentee during a public hearing and so vote as a regular member would.

11-18-86	1-6-87	1-16-87
6-2-87	9-24-87	10-2-87
12-1-87	1-21-88	2-16-88
4-24-90	7-24-90	7-31-90
1-15-91	3-22-91	4-29-91

W-3-(E)
WIRING

SECTION 1. WIRING

The Dartmouth Wire Department shall be a division of the Dartmouth Building Department supervised by the Dartmouth Building Commissioner. The Annual Budget of the Wire Department shall be included in the Annual Budget of the Building Department.

10-24-89 2-16-90 2-27-90

Sub-Section 1. APPOINTMENT OF WIRE INSPECTORS

The Board of Selectmen shall during the month of April in each year appoint one or more Inspectors of Wires who shall serve at the pleasure of the said Board. The Inspector of Wires shall be a Master Electrician or Journeyman Electrician as defined by the provisions of Chapter 141 Section 1 of the General Laws.

4-4-61 5-11-61 5-19-61

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