

Sample Special Conditions for Wetlands Orders

The following list of sample special conditions is extensive and only a fraction would be appropriate in any single Order of Conditions. Conservation Commissions are encouraged to copy and use special conditions from the following list on a case-by-case basis. Commissions should also edit conditions to meet their needs.

The question of which conditions to include in an Order should be carefully considered. A Commission should not include a condition that it is not prepared to enforce. Also, an excessive number of conditions, especially if some are not relevant to the project at hand, can frustrate or confuse an applicant, leading to poor compliance. All Orders should be tailored as much as possible to the specific project they are intended to regulate. Appropriate conditions and the number of conditions will vary with the size, nature, and complexity of the project.

Conditions preceded by "(Bylaw)" are ones that are probably more appropriate, and enforceable, when included in a local wetlands bylaw Order than with a Wetlands Protection Act Order.

A note about terminology: The terms wetland "bylaw" and "town" are used throughout this list of conditions. In a city, these terms should be changed to wetland "ordinance" and "city." Also, certain conditions are preceded by "(Bylaw)." These are conditions better suited to a wetlands bylaw Order of Conditions than one issued solely under the Massachusetts Wetlands Protection Act.

The list of conditions is categorized into the following sections:

- General Conditions
- Prior to Construction
- During Construction
- After Construction / In Perpetuity
- Stormwater Management
- Wetland Replication

There are also various sub-categories under the above headings. The list is somewhat arbitrary and is designed merely to help the reader locate different types of conditions. Each Conservation Commission should choose a set of categories that it feels comfortable with. It is recommended practice to organize conditions in each Order of Conditions under headings such as those above to make it easier to read and use the Order.

MACC recommends that Conservation Commissions spend some time reviewing the following conditions and determine which to include in an electronic boilerplate Order of Conditions. Commission members could choose desired conditions, ignoring for the moment whether some editing or modification will be necessary. Next, the text of each condition could be modified as desired. Finally, the selected conditions could be inserted into an electronic boilerplate Order of Conditions. When actual Orders are written using the boilerplate, inappropriate conditions could be culled, leaving only those conditions appropriate for the project. Commissions that already have a boilerplate Order could review the following list of conditions with an eye toward supplementing or editing their boilerplate. Those without a boilerplate could use the list to create a boilerplate.

This document is available in electronic format on MACC's website at: <https://www.maccweb.org/page/ElecResLibrary>. You may also e-mail a request for an electronic copy of this document to staff@maccweb.org or call 617-489-3930.

A. General Conditions

1. A member of the Conservation Commission or its agent may enter and inspect the property and the activity that are the subjects of this Order at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance is issued, for the limited purpose of evaluating compliance with this Order (and Town Bylaw and Bylaw Regulations).
2. The term "Applicant" as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this Order of Conditions. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to the issuance of the Certificate of Compliance.

3. With respect to all conditions except _____, the Conservation Commission designates the Conservation Administrator, or _____, as consultant to the Commission, as its agent with full powers to act on its behalf in administering and enforcing this Order.
4. This document shall be included by reference in all contracts, plans and specifications dealing with the activity that is the subject of this Order, and that are created or modified after the issuance date of this Order, along with a statement that this Order shall supersede any conflicting contractual arrangements, plans or specifications.
5. The applicant shall provide a copy of this Order to the person or persons supervising the activity that is the subject of this Order, and will be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this Order.
6. Any person performing work on the activity that is the subject of this Order is individually responsible for understanding and complying with the requirements of this Order, the Act, 310 CMR 10.00 (and Town Wetland Bylaw and Wetland Bylaw Regulations).
7. If any change is made in the above-described plan(s) which may or will alter an area subject to protection under the Wetlands Protection Act, 310 CMR 10.00 (and the Town Wetland Bylaw and Wetland Bylaw Regulations), the applicant shall inquire from this Commission or its agent, prior to implementing the change in the field, whether the change is significant enough to require the filing of a new Notice of Intent. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed.
8. It is the responsibility of the applicant to complete any review required by all agencies with jurisdiction over the activity that is the subject of this Order, and to procure all required permits or approvals. These reviews, permits and approvals may include but are not limited to the following:
 - Review by the U.S. Army Corps of Engineers for any Category 2 or Individual Permit Activity, and procurement of any permits or approvals identified by the Corps.
 - Review by the DEP and procurement of any permits or approvals identified by the DEP.
 - Review by the Massachusetts Natural Heritage and Endangered Species Program for any projects within estimated and/or priority habitat and any permits or approvals identified by the Program.
 - Review by local planning boards, boards of health, zoning boards, and building inspectors, and procurement of any permits or approvals required by these boards or agencies.
9. All construction materials, earth stockpiles, landscaping materials, slurry pits, waste products, refuse, debris, stumps, slash, or excavate may only be stockpiled or collected in areas as shown and labeled on the approved plan(s), or if no such areas are shown must be placed or stored outside all resource areas and associated buffer zones under cover and surrounded by a double-staked row of hay bales to prevent contact with rain water.
10. No material of any kind may be buried, placed or dispersed in areas within the jurisdiction of the Commission by activities that are the subject of this Order, except as are expressly permitted by this Order or the plans approved herein.
11. There shall be no pumping of water from wetland resource areas.
12. All waste products, grubbed stumps, slash, construction materials, etc. shall be deposited at least 100 feet from wetland resource areas and 200 feet from rivers, unless specified in this Order.
13. No fuel, oil, or other pollutants shall be stored in any resource area or the buffer zone thereto, unless specified in this Order.
14. Any material placed in wetland resource areas by the applicant without express authorization under this Order shall be removed by the applicant upon demand by the Conservation Commission or its agent.
15. There shall be no underground storage of fuel or other hazardous substance in areas within the jurisdiction of the Conservation Commission.
16. Removal and storage of hazardous waste, if in an area subject to protection under Massachusetts Wetlands Protection Act and Town Bylaw:
 - a. Shall be conducted only when approved and directed by the Department of Environmental Protection, Environmental Protection Agency or other applicable state or federal agency under which remedial activities are directed and shall be conducted in the manner specified in the Notice

of Intent and appropriate agency directives.

- b. All hazardous materials, products and waste produced, stored or removed must be handled, treated and disposed of in accordance with local, state and federal law regulating such materials and must be located outside of the buffer zone to wetland resource areas, unless specifically authorized by the Order of Conditions and appropriate state and federal licensing and permitting agencies.
 - c. No hazardous waste shall be introduced or discharged into or toward wetland resource areas.
 - d. No hazardous waste shall be introduced or discharged into the sanitary or sewage systems in such a manner which will result in an impact to wetland resource areas unless approved by the Conservation Commission, Board of Health, Massachusetts Department of Environmental Protection and/or the United States Environmental Protection Agency.
 - e. Identification of all types of hazardous materials used, produced or stored shall be submitted to the Conservation Commission in writing.
17. No trash dumpsters will be allowed within 100 feet of areas subject to protection under the Massachusetts Wetlands Protection Act or the Town's Bylaw.
 18. This Order shall pertain to the roadways, utilities within the roadway layout, and associated drainage facilities. Individual lot construction, including driveways, lot utilities, sewage and water, if under the Commission's jurisdiction, shall require individual Notices of Intent and/or Requests for Determination.
 19. This Order authorizes only the activity described on the approved plan(s) and approved documents referenced in this Order. Any other or additional activity in areas within the jurisdiction of the Commission will require separate review and approval by the Commission or its agent.

B. Prior to Construction

1. Prior to the Pre-Activity Meeting and any work commencing on the site, the applicant shall display the DEP file number for this Order on a sign with minimum dimensions of two feet by two feet at a location clearly visible from the street. The sign shall remain in place and visible until a Certificate of Compliance is issued for the activity.
2. Prior to the Pre-Activity Meeting and commencement of any activity on this site, the approved erosion control shall be installed as indicated on the approved plan.
3. At any time before, during or after construction, and until the issuance of a Certificate of Compliance, the Commission or its agent may require the applicant to modify, augment, restore or maintain erosion control measures associated with the activity that is the subject of this Order.
4. No clearing of vegetation, including trees, or disturbance of soil shall occur prior to the Pre-Activity Meeting. Minimal disturbance of shrubs and herbaceous plants may be allowed prior to the Pre-Activity Meeting if absolutely necessary in order to place erosion control marker stakes where required.
5. Prior to the commencement of any activity on this site other than the placement of erosion control marker stakes, the applicant shall arrange with the Commission or its agent to conduct a Pre-Activity Meeting between the applicant or the applicant's representative, the persons or supervisor responsible for the work, and a member of the Conservation Commission or its agent.
6. (Bylaw). At the Pre-Activity Meeting, the Conservation Commission's representative shall install conservation markers along the approved limit of work within areas subject to the jurisdiction of the Commission. Conservation markers consist of a four-inch diameter white metal disk with green lettering which reads: "[MUNICIPALITY] Conservation Commission Protected Area." Said conservation markers shall remain in place during and after construction, in perpetuity, and this requirement shall be noted as a continuing condition on the Certificate of Compliance.
7. Immediately after the Pre-Activity Meeting, all erosion controls shall be installed along the approved and staked line. Erosion controls shall be installed with minimal disturbance to vegetation. Where possible, erosion controls should go *around* trees, shrubs, and other vegetation, on the uphill side.
8. Immediately after installation of erosion controls, the Conservation Commission shall be contacted in order to conduct a follow-up inspection to ensure that erosion controls have been properly installed.

9. *[If your Commission cannot regularly attend a site visit to first inspect a marked line where erosion controls will be installed, and then a second, follow-up site visit to ensure erosion controls were properly installed, the following condition could be used. Use of this condition would require the editing of conditions 4, 5, 7 and 8.]* Prior to the Pre-Activity Meeting, all erosion controls shall be installed, by survey, along the line approved by the Commission. The location and installation of erosion controls shall be inspected by the Commission or its agent during the Pre-Activity Meeting.
10. Prior to any activity on site, the limit of work shall be clearly marked with erosion control, construction fencing, stakes or flags, and shall be confirmed by the Commission or its agent. Such markers shall be checked and replaced as necessary and shall be maintained until all construction is complete. Workers shall be informed that no use of machinery, storage of machinery or materials, stockpiling of soil, or construction activity is to occur beyond this line at any time.
11. Prior to any activity on site, the limits of wetland resource areas closest to construction activities shall be flagged with surveyor's tape and the flags shall remain in place during construction.
12. The applicant shall notify the Conservation Commission at least 48 hours prior to any activity on the site and shall provide the name(s) and telephone number(s) of all person(s) responsible for compliance with this Order.
13. The applicant shall engage a Professional Engineer to act as a clerk of the works. The Engineer will supervise the contractor and will inspect the site regularly whenever construction within jurisdictional area is in progress. The Engineer will immediately notify the Conservation agent of any matter that requires attention by the Commission or the agent. The Engineer will maintain records of the activity and provide weekly written reports to the Commission.

Or

- Prior to any activity on the site, the applicant shall hire an independent Environmental Professional who shall be responsible for monitoring all activity within wetland resource areas and buffer zones to ensure compliance with this Order of Conditions. The Environmental Professional shall inspect and direct the maintenance of all erosion and sedimentation control measures on site and shall submit regular progress/monitoring reports to the Conservation Commission per Condition *[specify]* of this Order. The Environmental Professional will immediately notify the Conservation agent of any matter that requires attention by the Commission or the agent.
14. (Bylaw). Prior to the Pre-Activity Meeting and commencement of any activity on this site, a check payable to the Town/City of [MUNICIPALITY] shall be provided in the amount of **\$XXX** which shall be in all respects satisfactory to Town Counsel, Town Treasurer, and the Conservation Commission, and shall be posted with the Town/City Treasurer before commencement of work. Said bond or deposit of money shall be conditioned on the completion of all conditions stated herein, shall be signed by a party or parties satisfactory to the Conservation Commission, and Town Counsel, and shall be released after completion of the project, provided that provision, satisfactory to the Conservation Commission, has been made for performance of any conditions which are of a continuing nature. The Applicant may propose a bond or deposit release schedule keyed to completion of specific portions of the project for the Conservation Commission's review and approval.
 15. (Bylaw). Notwithstanding the previous Condition, the Commission may withhold for two calendar years ten percent of the performance surety after the Certificate of Compliance has been issued, to ensure and apply toward compliance with any continuing Conditions or restorations of affected lands or properties.
 16. (Bylaw). Prior to the Pre-Activity Meeting and commencement of any activity on this site, the applicant must also submit to the Conservation Commission a notarized letter signed by the property owner granting permission for the Commission, the Town, or its agents to enter the property referenced in this Order and to conduct work necessary to bring the property into compliance with the conditions stated in this Order. Said entry and work would only occur in the event that the property owner is unable or unwilling to perform the necessary work himself within a reasonable time period after a request by the Commission.
 17. A well slurry containment pit shall be constructed prior to well installation.
 18. Prior to commencing any activity on the site, the applicant shall submit the following to the Conservation Commission:
 - A set of **photographs** depicting the project site in pre-activity condition.
 - A **clearing plan** showing areas to be cleared and left in a natural state
 - A **project/construction-sequencing plan**

A **statement** signed by the applicant, owner of the property and the person responsible for the construction of the project that such individuals understand the terms and conditions as specified in the Order and that such persons agree to comply with the provisions of the Wetlands Protection Act, local Bylaw and this Order.

19. (Bylaw). Prior to any activity on the site, the owner shall prepare and execute a recordable Grant of Conservation Restriction to the Commission in a form acceptable to the Commission, Town Counsel and the Executive Office of Environmental Affairs for the area of the Conservation Restriction shown on the approved plan, and shall provide original, recordable copies of the Grant to the Commission prior to the Pre-Activity Meeting. The applicant shall submit the Conservation Restriction to the Executive Office of Environmental Affairs for approval prior to commencing any activity on the site, and shall provide evidence of this submission at the Pre-Activity Meeting. Commencement of the approved activity under this Order is not contingent upon EOEA approval of the Grant. The Commission may record the Grant of Conservation Restriction regardless of whether the EOEA confers its approval upon the Grant.

Special Conditions for Additional Information

[The following conditions may be necessary in unusual circumstances. However, it is highly recommended that these issues be resolved prior to the close of the public hearing or issuance of an Order of Conditions].

1. Prior to any work on site the applicant shall submit for the Commission's approval a sequencing plan for construction and implementation of erosion and sedimentation controls, with supporting plans and details as appropriate.
2. Prior to any work commencing on site, the applicant shall submit for the Commission's approval a detailed, written sequence of construction

C. During Construction

1. The applicant and any person involved in the activity that is the subject of this Order shall notify the Commission or its agent immediately upon discovery of any matter related to this Order that may affect any area within the jurisdiction of the Commission.
2. All equipment shall be inspected regularly for leaks. Any leaking hydraulic lines, cylinders or any other components shall be fixed immediately.
3. Upon beginning of work, the Project Supervisor or Environmental Professional shall submit to the Conservation Commission written progress reports (~~XXX~~) a month. Progress reports shall indicate what work has been done in wetland resource areas and associated buffer zones, and what work is anticipated to be done over the next reporting period. The reports shall also address the current condition of erosion and sedimentation controls; describe any erosion and sedimentation control repair and/or replacement; and describe any erosion or sedimentation problems and mitigation measures implemented.

Or

4. At least once during each week in which construction activity occurs on site and for as long thereafter as ground remains unstabilized, the applicant shall submit a report from a registered professional engineer, registered professional land surveyor or professional wetland scientist, to the Conservation Commission certifying that, to the best of his knowledge and belief based on a careful site inspection, all work is being performed in compliance with this Order of Conditions.
5. A copy of this Order of Conditions, construction plans, and copies of the documents and reports cited in Condition __, shall be on the site upon commencement and during any site work for contractors to view and adhere to.
6. All equipment shall be operated, parked, and maintained so as to limit alterations of wetlands and buffer zones to those areas clearly identified on the plans and demarcated in the field by the flagging and construction barriers installed pursuant to Condition __. No equipment is to enter or cross wetland resource areas at any time unless the location of disturbance is marked on the plans referenced in this Order and flagged in the field.
7. The storm drainage system, detention basins, and compensatory storage areas shall be constructed and functioning as part of the initial project phase.
8. (Bylaw). Immediately upon completion of the dwelling foundation and prior to further construction activities, the applicant shall engage a Professional Engineer or Surveyor to prepare an as-built plan which accurately

depicts the foundation location and its proximity to wetland resource areas as approved under this Order of Conditions. Said plan shall immediately be submitted to the Conservation agent for review.

9. In case of emergencies, problems, or the need to discuss site conditions with the Conservation Commission, please contact the Commission or its agent during business hours at (XXX) XXX-XXXX or after hours / weekends at (XXX) XXX-XXXX.
10. Equipment for fuel storage and refueling operations shall be located outside all areas within the jurisdiction of the Commission unless indicated otherwise on the approved plan.
11. The burial of stumps and any other type of construction refuse or other waste material is prohibited in the buffer zone.
12. Compensatory flood storage shall be constructed prior to any filling of land subject to flooding.
13. If the completed work differs from that in the original plans and/or conditions listed in this Order, a report must be submitted to the Commission thirty (30) days prior to completion specifying how the work differs, at which time the applicant shall first request a modification to the Order. Upon review and approval by the Commission, the applicant may request in writing a Certificate of Compliance as described above.

Erosion Control

1. Appropriate erosion control devices shall be in place prior to the beginning of any phases of construction, and shall be maintained during construction in the wetland areas and buffer zone. The erosion control specifications provided in the Notice of Intent and the erosion control provision in the Order will be the minimum standards for this project. Additional or modified erosion control measures may be required by the Commission at any time before, during and after construction. These will be maintained until the engineer and a member or agent of the Conservation Commission agree that they are not longer needed, at which time they will be removed, using mutually satisfactory removal procedures.
2. Under no conditions shall operation of equipment, storage of materials, stockpiling of soil, or other site disturbance take place on the wetland side of the limit of work line, nor shall stockpiling of storage of fill or materials take place within ___ feet of the limit of work line (to be determined on a case by case basis).

Or

All debris, fill and excavated material shall be stockpiled far enough away from wetland resource areas to prevent sediment from entering wetland resource areas.

3. Placement of erosion controls shall be directed at the site by the project engineer in order to ensure that the erosion and sedimentation controls perform as specified as part of the Notice of Intent and this Order. Note: Specific installation conditions for this condition could include the following, but should be specific to the project:
 - A row of filter fabric fencing, backed by one row of staked haybales placed end to end, shall be placed upgradient of all resource areas along the limit of activity between all disturbed areas and the wetland.
 - Filter fabric fencing shall be set and staked every 18–36 inches at the upland side of the excavated compensation area. Filter fabric shall be no less than 15 inches high.
 - Snow fencing shall be installed as shown on the plans referenced in this Order of Conditions. No disturbance of soils or vegetation shall take place down-gradient of the fencing.
4. Dewatering activities shall be conducted as shown on the approved plans and shall be monitored daily to ensure that sediment-laden water is appropriately settled prior to discharge toward the wetland resource areas. No discharge of water is allowed directly into an area subject to jurisdiction of the Wetlands Protection Act or the City/Town bylaw or ordinance.
5. The applicant shall submit a contingency plan to the Commission for approval, which provides in an emergency for pumped water to be contained in a settling basin prior to discharge into a resource area.
6. The applicant shall designate an erosion control monitor to oversee the placement of supplemental erosion controls in an event of an emergency, and to conduct regular inspection, maintenance or replacement of erosion and sedimentation control devices. The erosion control monitor must be accessible to the Commission and its agent by phone any time including evenings and weekends. This person shall be given authority by the

applicant to stop construction for erosion control purposes.

7. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair or replace silt fences, hay bales, erosion control blankets, stone riprap, filter berms or any other devices planned for use during construction.
8. The Commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, or any noticeable degradation of surface water quality discharging from the site.
9. The area of construction shall remain in a stable condition at the close of each construction day. Erosion controls should be inspected at this time, and repaired, reinforced or replaced as necessary.
10. Erosion control devices may be modified based upon experience at the site. All such devices shall be inspected, cleaned or replaced during construction and shall remain in place until such time as stabilization of all areas that may impact resource areas is permanent.
11. Within thirty days of completion of construction on any given portion of the project, all disturbed areas in the completed portion of the site shall be permanently stabilized with vegetative cover, using sufficient top soil to assure long-term vegetative growth. Continued maintenance of this area, in a manner which assures permanent stabilization and precludes any soil erosion, shall be the responsibility of the applicant.
12. Subsequent to seeding, disturbed areas will be covered with a salt hay mulch, erosion control blanket or netting, or other suitable material in order to provide an adequate surface protection until seed germination. Preference should be given to erosion control netting with biodegradable stitching.
13. If soils are to be disturbed for longer than two months, a temporary cover of rye or other grass should be established to prevent erosion and sedimentation. If the season is not appropriate for plant growth, exposed surfaces shall be stabilized by other appropriate erosion control measures, firmly anchored, to prevent soils from being washed by rain or flooding. *[This condition should be specific to an erosion control and construction sequence established during the public hearing and submitted as part of the approved plans submitted and approved by the Commission.]*
14. All existing and proposed catch basins and oil traps on the site or on the streets adjacent to the project shall be protected by Silt Sacks to prevent sediment from entering the drainage system. Silt Sacks shall be maintained and regularly cleaned of sediments until all areas associated with the work permitted by this Order have been permanently stabilized and the Commission and/or Staff has formally approved their removal.
15. Cement trucks shall not be washed out in any wetland resource or buffer zone area, or into any drainage system. Any deposit of cement or concrete products into a buffer zone or wetland resource area shall be immediately removed.
16. Erosion and sedimentation control devices shall be inspected after each storm event and repaired or replaced as necessary. Any accumulated silt adjacent to the barriers shall be removed.
17. All stockpiles of soils existing for more than one day shall be surrounded by a row of entrenched silt fence, and shall be covered.
18. All exposed soil finish grade surfaces shall be immediately landscaped and stabilized, or loamed, seeded and mulched with a layer of mulch hay. Where necessary, the loam and seeding shall be held in place with jute netting. Outside of the growing season, exposed soil finish grade surfaces shall be stabilized with a layer of mulch hay until climate conditions allow for seeding. During construction, any area of exposed soils that will be left idle for more than 30 days shall be stabilized with a layer of mulch hay or other means approved by the Conservation Commission. Temporary stabilization methods may include, but not be limited to, hydro-seeding, straw mats, jute netting, sod, or other Commission approved method.
19. Erosion control devices shall remain in place and properly functioning until all exposed soils have been stabilized with final vegetative cover and the Conservation Commission and/or its Administrator has authorized their removal.

Grading/Landscaping/Slope

1. Site grading and construction shall be scheduled to avoid periods of high surface water. Once begun, grading and construction shall continue in an expeditious manner to minimize the opportunity for erosion.
2. Grading shall be accomplished so that runoff shall not be directed to the property of others, except as indicated

on the approved plan.

3. All disturbed areas, slopes and proposed landscape areas shall be loamed and seeded or stabilized through the use of erosion control blankets or other approved means. All disturbed areas will be graded, loamed and seeded prior to November 1 of each year, if possible. No disturbed areas or stockpiled material will be left unprotected or without erosion controls during the winter.
4. Loaming and seeding will occur within (5 - 30) days of final grading. Barren areas should be stabilized by seeding if work on the project is interrupted for more than 90 days, unless the 90 days are in the winter. If this condition should occur, the applicant shall request a determination from the Commission as to whether seeding or an alternative measure should be conducted.
5. The seed stock to be used to restore disturbed areas shall complement or contain native flora and be of proven value to local wildlife.

Dredging

1. All dredging shall be conducted in accordance with seasonal limitation imposed by the U.S. Army Corps of Engineers in accordance with Section 404 of the Clean Water Act and provisions of the Programmatic General Permit. This restriction may include, but not be limited to, spawning periods between March 15 and June 15.

The following conditions should be issued based on case-by-case requirements, ideally discussed during Public Hearing. The following are included as examples only.

2. Only mechanical dredging with the use of [equipment type] is authorized by this Order. No hydraulic or pneumatic equipment shall be used for the removal of dredged material.
3. All dredging operations shall be conducted from upland areas or from water borne equipment.
4. The removal of dredged material shall be accomplished through the use of a large size dredging rig in order to minimize the number of bucket trips required to complete the project.
5. All dredge spoils shall be dewatered and disposed of at an upland location, or as indicated on the approved plan.
6. A siltation fence and drainage ditch system shall be installed at the dewatering area to ensure that no materials from the dewatering area will enter adjacent wetland resource areas.
7. The removal of material from the river bottom shall be done in such a manner as to ensure that the reconfigured bottom area will not impede or obstruct fish migration, or interfere with the natural flow of the river.
8. No vehicular traffic shall enter into the intertidal area or other wetland resource areas.
9. (For small ditches and streams) Work shall be done using hand shovels (or small backhoes). No (other) machinery shall enter the resource area.

Placement of Riprap Embankments

The following conditions should be issued based on case-by-case requirements, ideally discussed during Public Hearing. The following are included as examples only.

1. Riprap material shall be clean and free of trash, tree stumps, roots, and other deleterious material.
2. An engineering plan, showing size, location and method of installing riprap must be approved by the Commission prior to any work.
3. No vehicular traffic shall enter into the intertidal areas seaward of the work area or other wetland resource areas.
4. Only crushed stone of uniform size or erosion control mats shall be used for temporary construction roadways.

Wildlife

1. A wildlife study of ___ areas shall be conducted by a qualified wildlife biologist and the report delivered to the Commission. Such study and report shall include: _____.
2. The proposed wildlife impoundment shall be designed by a consultant with relevant expertise.
3. Erosion control devices shall not block passage between uplands and vernal pools between the dates of March 1 and June 1, nor between September 1 and October 15. If soils will not be stabilized during these periods,

temporary stabilization measure shall be designed to provide a gradual slope or berm over which amphibians may pass. *[This condition should be specific to an erosion control and construction sequence established during the public hearing and submitted as part of the approved plans submitted and approved by the Commission.]*

D. After Construction / In Perpetuity

1. Upon completion of construction and final soil stabilization, the applicant shall submit the following to the Conservation Commission to request a Certificate of Compliance (COC):
 - (1) A Completed Request for a Certificate of Compliance form (WPA Form 8A or other form if required by the Conservation Commission at the time of request).
 - (2) A letter from a Registered Professional Engineer certifying compliance of the property with this Order of Conditions, and detailing any deviations that exist, and their potential effect on the project. A statement that the work is in "substantial compliance" with no detailing of the deviations shall not be accepted.
 - (3) An "As-Built" plan signed and stamped by a Registered Professional Engineer or Land Surveyor showing post-construction conditions within all areas under the jurisdiction of the Massachusetts Wetlands Protection Act and the [name of municipality] Wetlands Protection Bylaw. This plan shall include at a minimum:
 - (a) All wetland resource area boundaries with associated buffer zones and regulatory setback areas taken from the plan(s) approved in this Order of Conditions;
 - (b) Locations and elevations of all stormwater management conveyances, structures and best management designs, including foundation drains, constructed under this Order within any wetland resource area or buffer zone;
 - (c) Distances from any structures constructed under this Order to wetland resource areas - "structures" include, but are not limited to, all buildings, septic system components, wells, utility lines, fences, retaining walls, and roads/driveways;
 - (d) A line delineating the limit of work - "work" includes any filling, excavating and/or disturbance of soils or vegetation approved under this Order;
 - (e) Wetland resource replication areas constructed under this Order.
 - (4) Post-construction photographs demonstrating compliance with this Order, including established vegetation where required.

Perpetual Conditions

[Certain conditions must be on-going. The OOC should state that they do not expire upon the completion of the project and the Certificate of Compliance should also list them. These conditions include]:

1. The maintenance, by the property owner of record or designee, of culverts to ensure serviceability during operation as designed.
2. The maintenance or repair, by the property owner of record or designee, of detention basins, supporting drainage systems, stormwater management best management practices, other than those in the public way shall be the responsibility of the applicant/property owner. The design capacity, storm water management treatment capacity and structural integrity of these facilities must be maintained.
3. The maintenance, by the property owner of record or designee, of obstruction-free flowage easements.
4. Stabilized slopes shall be maintained as designed and constructed by the property owner of record, whether "bioengineered" or mechanically-stabilized slopes.
5. Subject to the submission by the applicant, and approval by the Commission, of a maintenance plan for stormwater management systems, including Best Management Practices, no additional filings will be required to conduct maintenance of the above referenced structures.
6. After completion of work and prior to the issuance of a Certificate of Compliance, the applicant shall permanently mark the limit of work approved in this Order as well as (optional) the edge of wetland areas or buffer zone to ensure no inadvertent encroachment into the wetland or buffer zone. The markers to be used shall be approved by the Conservation Commission. The applicant shall instruct all agents to explain these

markers to buyers/lessees/landscapers and all persons taking over the property from the applicant. These markers shall remain in place in perpetuity.

Or

(Bylaw). Prior to the issuance of a Certificate of Compliance permanent boundary markers shall be installed to mark the XX-foot no disturbance buffer zone. The type of permanent markers shall be approved by the Conservation Commission or its agent. These shall be shown on the as-built plan and clearly marked on the plan with a note indicating no work shall be performed beyond this point without permission from the Conservation Commission. A copy of the as-built plan shall be provided with the written request for a Certificate of Compliance. It shall be attached to and made part of the Certificate of Compliance and shall be recorded. Over the years the wetland boundary line may move, however, these permanent markers shall provide a guideline to future homeowners as to the limit of work.

7. As the proposed project utilizes the maximum limit of Riverfront Area permitted under the Massachusetts Wetland Protection Regulations, no further activities will be permitted on the balance of the subject parcel with the exception of maintenance of this area, unless they are filed as a Limited Project under 310 CMR 10.53(3), or are exempt under 310 CMR 10.58. This Condition will be noted on the Certificate of Compliance.
8. Pesticides, herbicides, fungicides, and fertilizers **shall not be used** within 100 feet of the wetlands, within the riverfront area, and within bordering land subject to flooding. Organic pesticides, herbicides, fungicides and fertilizers may be used subject to the review and approval of the Conservation Commission. This shall be noted in the Certificate of Compliance and shall be an ongoing condition.
9. De-icing chemicals (e.g. sodium, potassium, and calcium chloride) are prohibited on driveways located in wetland resource areas and buffer zones. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
10. Only slow-release organic granular type fertilizers shall be used within the wetland buffer zone. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
11. Dumping Prohibited: There shall be no dumping of leaves, grass clippings, brush, or other debris into the wetland or stream/body of water. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
12. Additional Alteration Prohibited: There shall be no additional alterations of areas under Conservation Commission jurisdiction without the required review and permit(s). This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
13. Prior to the issuance of a Certificate of Compliance and upon the sale of the property to subsequent owners, the new owner shall provide a letter to the Conservation Commission acknowledging that he/she understands the wetland restrictions bound to this property. A copy of this letter shall accompany the written request for a Certificate of Compliance. This shall be an ongoing condition and shall be recorded in the deed and on subsequent deeds.

E. Stormwater Management

1. All construction and post-construction stormwater management shall be conducted in accordance with supporting documents submitted with the Notice of Intent, the Department of Environmental Protection Stormwater Management Policy and as approved by the Commission in this Order of Conditions (N.B. Please review DEP's Stormwater Management Policy). Specific conditions should describe the stormwater management system and could include *[add those that apply to your project]*:
 - a. Runoff shall be directed through vegetated swales before discharging into stormwater control structures.
 - b. All roof runoff except that from metal roofs shall discharge into drywells. Drywells shall be sized to accept the first 0.5 inch of runoff (except where prohibited due to ground water conditions, etc. (See Stormwater Management Policy).
 - c. A naturally vegetated buffer or filter strip shall be maintained between the (developed area) and the wetland resource area.
 - d. Catch basins shall be equipped with sumps, oil and gas traps, and shall be inspected and cleaned on a semi-annual basis. After each inspection and cleaning, the inspector shall provide to the

Commission written confirmation that the inspection and cleaning were conducted.

- e. All catch basin discharge points, or other point source discharge points, shall be ripped to disperse stormwater energy.
2. All stormwater best management practices shall be maintained as specified in the Operation and Maintenance Plan submitted with the Notice of Intent and incorporated in the Order of Conditions. Evidence of maintenance of the Stormwater Management system shall be provided to the Commission on a semi-annual basis. This condition shall be noted on the Certificate of Compliance and shall continue in perpetuity.
3. Catch basins shall be inspected and cleaned on a semi-annual basis. After each inspection and cleaning, the inspector shall provide to the Commission written confirmation that the inspection and cleaning were conducted. This condition shall be noted on the Certificate of Compliance and shall continue in perpetuity.
4. An annual maintenance report shall be provided to the DPW / City Engineer and the Conservation Commission by June 1st of each year reporting on the maintenance and operation procedures, outlined in condition #XX above, which have been met for that year. This reporting requirement will follow the issuance of a Certificate of Compliance.
5. During construction, all drainage structures shall be inspected regularly and cleaned as necessary.
6. (Bylaw). The installation of all drainage structures shall be witnessed by a Registered Professional Engineer (Civil). The engineer shall submit documentation to the Conservation Commission stating that he witnessed the installation of the drainage components and that each was installed correctly and in accordance with the manufacturer's specifications. Failure to fully comply with this condition will result in the forfeiture of not less than 20% of any performance bond.
7. In the event that groundwater is encountered during the installation of the infiltration structures, the applicant shall contact the Conservation Commission immediately to discuss alternative designs/solutions.
8. There shall be no increase in the post-development discharges from the storm drainage system or any other changes in post-development conditions that alter the post-development watershed boundaries as currently depicted in the notice of Intent and approved by this Order of Conditions, unless specifically approved in writing by the Commission.
9. All earthen berms to be constructed as part of a stormwater management system shall be constructed as shown on the plan(s) to achieve the water quantity and water quality requirements approved by this Order of Conditions.
10. Pre-development water quality shall be determined by analysis of (number) samples collected at (location(s)), on (season) for (list constituents to be analyzed). The results of the analyses shall be submitted to the Commission, together with a written report detailing the sampling conditions, methods of analyses, detection limit, sensitivity and analytical results.
11. Following completion of construction, and before a Certificate of Compliance may be issued, water samples shall be again collected and analyzed for comparison with the original samples, and the results shall be reported to the Commission in writing. No Certificate of Compliance will be issued until post-development monitoring shows that water quality does not differ significantly from pre-development water quality.
12. If the water quality in the post-development samples differs significantly from the pre-development quality, the applicant shall meet with the Conservation Commission to determine what additional measures should be implemented to restore water quality to its pre-development condition.
13. Water quality shall continue to be analyzed at the expense of the applicant or any future owner of the land on an annual (or other) basis according to the same procedures followed prior to and immediately following project construction. A report shall be submitted to the Commission (time frame). This condition shall continue in effect following the issuance of a Certificate of Compliance for (specify time period).
14. If, over time, the water quality in the post-development samples differs significantly from the pre-development quality beyond what may be expected as a result of overall changes in the watershed, the property owner shall meet with the Commission to determine what additional measures should be implemented to restore water quality to its pre-development condition.
15. There shall be no sedimentation into wetlands or water bodies from discharge pipes or surface runoff leaving the site.
16. Immediately upon the construction of all catch basins and oil traps, haybales shall be set around the inlet to

prevent sediment from entering the drainage system. Immediately upon the installation of the headwalls and riprap, haybales shall be set and staked around the inlet to prevent sediments from entering the drainage system.

17. The Conservation Commission shall be notified in writing when any maintenance functions that may impact the wetlands, such as, but not limited to, placing backfill and repairing drains and terraces, removing accumulated sediments at the outfall pipe, are to be performed.
18. The applicants, owners, and their successors and assignees shall maintain all culverts, collection basins, traps, retention and detention ponds, outlet structures, and other elements of drainage systems, unless put into an easement to the City/Town, in order to avoid blockages and siltation which might cause failure of the system and/or detrimental impacts to on-site or off-site resource areas, and shall maintain the integrity of vegetative cover on the site.
19. (Bylaw). Beginning with the construction of the drainage system, and continuing in perpetuity thereafter, the owner(s) of the roadway parcel shall maintain the roadway and drainage system in accordance with the following schedule:
 - a. Street sweeping and snow plowing – Roadway and sidewalks shall be swept, preferably with a vacuum sweeper, in the early spring immediately after snow melt and at least three other times annually. Snow shall be plowed onto vegetated areas to encourage infiltration during subsequent thawing periods. Sediments shall be removed from snow storage areas in the early spring. *[Note: in sensitive areas 3X annually might be realistic, in other areas, 1x -2x annually should suffice].*
 - b. Roadway surface and right-of-way surface – Paving and curbing shall be maintained in good condition to channel surface runoff into the storm water treatment system. Vegetation within the roadway right-of-way shall be maintained in healthy condition to prevent erosion and sedimentation in the drainage system and wetland resource areas. These areas shall be inspected in the spring and fall, and repaired or replaced as needed.
 - c. Catch basins - Accumulated sediments shall be removed from sumps and floatable wastes shall be removed from the surface of every catch basin at least four times per year. Sediments and wastes shall be disposed of in accordance with all applicable federal, state, and local laws. Any component of a catch basin that becomes damaged shall be repaired or replaced immediately upon discovery.
 - d. Drain pipes – All drain pipes shall be inspected at least four times per year. Sediments and debris shall be removed and disposed of in accordance with all applicable federal, state, and local laws. Any pipe which becomes damaged shall be repaired or replaced immediately upon discovery.
 - e. Forebay – Forebays shall be inspected and cleaned at least four times annually, beginning in the early spring after snow melt. Accumulated sediments, leaves, branches, and other debris shall be removed and disposed of in accordance with all applicable federal, state, and local laws. Vegetated and rip-rapped surfaces and flared end sections shall be repaired or replaced as needed to prevent erosion and sedimentation and slumping of berms. Vegetation shall be mowed at least once a year to prevent the growth of woody species.
 - f. Detention basin – The detention basin shall be inspected and cleaned at least twice annually, in the early spring after snow melt and in the fall. Accumulated sediments, leaves, branches, and other debris shall be removed and disposed of in accordance with all applicable federal, state, and local laws. Vegetated and rip-rapped surfaces and flared end sections shall be repaired or replaced as needed to prevent erosion and sedimentation and slumping of berms. Vegetation shall be mowed at least once a year to prevent the growth of woody species. At least once a year, the basin shall be monitored during a heavy rain storm to determine whether it is meeting the intended detention times, sediment removal, and infiltration functions.
 - g. Outlet control structure and spillway – The outlet structures for the detention basin shall be inspected at least twice annually for evidence of clogging, scouring, slumping, erosion or other problems and shall be cleaned and repaired as needed to maintain proper functioning. The outlet shall also be inspected at least annually during a heavy rain storm to detect any problems in function. Any problems shall be corrected.

- h. The Conservation Commission and the Conservation agent shall have the right to enter the roadway parcel and drainage easement area to inspect for compliance with these conditions.
20. The detention basin for the project will be constructed as soon as possible in the construction sequence so as to allow for the capture and control of site runoff and treatment of stormwater discharges during the construction period. The basins will be constructed with temporary vertical riser pipes or other devices approved by the Conservation Commission, which will allow for separation of suspended material from the stormwater prior to its release from the detention basin.
 21. An annual maintenance report shall be provided to the DPW / City Engineer and the Conservation Commission by June 1st of each year reporting on the maintenance and operation procedures, outlined in condition #XX above, which have been met for that year. This reporting requirement will follow the issuance of a Certificate of Compliance.

F. Wetland Replication

1. The wetland replication shall be performed in accordance with the Plans referenced above, including the Planting Plan dated ___, unless specified otherwise in this Order. The Commission reserves the right to require additional plantings to ensure achievement of 75% cover of wetland plant species within two full growing seasons, as specified in 310 CMR 10.55 (4) (b) and (section of local bylaw and regulations).
2. *[To the extent practical, based on case by case review, the following may be appropriate. Ideally, this should be discussed as part of the Notice of Intent hearing.]* The wetland resource areas to be altered shall not be altered until development of the replication area is in progress and the proposed replication area is excavated to the proposed base grade. The wetland replication area shall be brought to the approximate surface elevation of the existing adjacent wetland area with ___ inches of organic soil removed from the area of filling or a clean A Horizon loam.
3. Replication of vegetation shall be 'in kind', i.e. generally similar to the area lost in terms of species composition, and cover and structure of dominant species, unless modified by the Commission. Only native plant species found on the site may be placed in the replacement area.
4. The Commission shall be given 48 hours notice prior to the beginning of construction of the replacement area. The Commission must meet with the construction engineer and the wetland specialists to discuss the requirement and to ensure compliance with all special conditions.
5. The replication area shall be constructed in the following manner:
 - a. Prior to excavation of the proposed replication area, proposed grades shall be staked by licensed land surveyors, indicating cuts necessary to achieve grades as shown on the plans. The extent of cut should include necessary over-excavation to allow for backfill of organic or clean loam materials.
 - b. Plants from the altered wetland areas shall be transplanted in their original organic material to the replacement area. Wetland plants shall be carefully dug with attention given to the root system, balled and/or burlapped in a professional manner, and temporarily stored in a shady area and watered on a daily basis.
 - c. The topsoil from the replication area shall be stockpiled separately from other soils for reuse in the replication area.
 - d. The area shall be excavated and graded to a depth of at least ___ inches below the proposed contours shown on the site plan.
 - e. The adjacent slopes shall be graded as shown on the plan with the topsoil again stockpiled.
 - f. All stockpiled soils shall be isolated from wetland resource areas and protected with plastic or canvas from erosion or drying.
 - g. Stockpiled organic soils shall then be placed on the replication site. (Ideally, wetland soils shall be placed in the replication area in such a way as to reproduce the original soil horizons.)
 - h. Prior to planting or seeding, final grades shall be surveyed by licensed land surveyors to ensure that grades have been achieved as shown on the plan.

- i. The upper layer of the replacement area shall consist of soil, plants, plant propagules removed from the wetland to be filled, and other approved plant materials as described on a re-vegetation plan.
6. Replication construction activities must be supervised by a wetland specialist who shall be a professional with experience in wetland replication, wetland hydrology and a working knowledge of botany. Such a person shall be retained to supervise and monitor construction of the wetland replication areas until the replication area meets the requirements of this Order of Conditions.
7. Siltation barriers shall be placed at the perimeter of the replication area and at the top of any unstabilized adjacent slope. These will remain in place and be maintained until all areas are completely stabilized.
8. The siltation barriers shall serve as a limit of work delineation for project activities. No disturbance to adjacent wetland resource areas resulting from work on the project shall occur during or after construction of the replication area.
9. Following construction of the replication area and prior to other work on the site, the wetland specialist shall certify to the Commission that the area has been constructed in compliance with the Order of Condition. Such certification shall be accompanied by a plan showing the limits of the replication area and final grades as surveyed by a licensed land surveyor, which meet grades shown on the plans approved in this Order of Conditions.
10. Quantitative data indicating the status of the project with respect to the performance standards and pertinent conditions of the Order of Conditions, shall be submitted to the Commission at 3 month intervals until a Certificate of Compliance is issued. The initial report shall also include: excavation date and process, wetland soil depth, any planting and replanting dates. (3 months allows for repair or replanting if needed during the process, so that the final approved replication area is not delayed)

Or

11. Seasonal monitoring reports shall be prepared for each wetland replication area. Monitoring reports shall describe, using narratives, plans, and color photographs, the physical characteristics of the wetland replication areas with respect to stability, soil characteristics, survival of vegetation and plant mortality, aerial extent and distribution, species diversity and vertical stratification (i.e. herb, shrub and tree layers). A total of four monitoring reports for each replication area shall be submitted over a two year period. The monitoring reports shall be submitted for the growing season.

Or

12. Written reports shall be submitted to the Conservation Commission one week following the construction of the replacement wetland and restoration area and at regular intervals of at least every three months until a Certificate of Compliance is issued. The reports shall describe the hydrologic conditions of the restoration area, wetland vegetation (species, coverage, and vigor) and any remedial work that may be necessary.
13. Any damage caused as a direct result of this project to any wetland resource areas shall be the responsibility of the applicant to repair, restore and/or replace. Sedimentation or erosion into these areas shall be considered damage to wetland resource areas. If sediment reaches these areas the Commission shall be contacted and a plan for abatement of the problem and proposed restoration/mitigation measures shall be submitted for approval and implementation.
14. Wetland regulation (310 CMR 10.55 (4) (b) (6) and local regulation ____, requires that at least 75% of the surface area of the replacement area be re-established with indigenous wetland plant species within two growing seasons. If monitoring data indicates that this objective cannot be met, a corrective plan of action shall be submitted to the Commission for approval, and implemented under the supervision of a wetland specialist.
15. The Commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from wetland alteration or replication activities.
16. Under this Order of Conditions XXX sq. ft. of wetland will be altered and XXX sq. ft. of wetland is to be created and replanted with wetlands vegetation upon completion.
17. If the growing season when the wetland restoration is to be done has passed, the area shall be heavily mulched. In the event that the seed base within the soil does not readily germinate (within one month during the growing season), the area must be seeded with a wetland plant seed mix, which must contain native plant seeds and be approved by the Conservation Commission or its agent.