

14 WEST STREET • E. DOUGLAS, MA 01516
HIC# 103793



PHONE: 508.476.1500 • FAX: 508.476.1392
www.gbiavis.com

Town of Ashland
Conservation Commission
101 Main Street Ashland, MA 01721

RE: Conservation Narrative
4 Loring Drive
Zone: RA

To whom it may concern,

We are filing a Notice of Intent for proposed work at 4 Loring Drive. Our client has proposed the construction of a detached 30'x35' residential garage along with associated site work within the 100' buffer zone. Foundation is proposed with a 4' frost wall and 4" cement slab. Soil from digging will be hauled off site. Currently, the existing lot is a flat area of mowed grass. Erosion control such as 8" compost sock will be installed in the construction area to prevent run off towards the wetlands. The structure will be built outside of the 25' no disturb zone. The proposed garage is 34.2' from the edge of the wetlands. The existing residential lot is 30,002 square feet and existing building coverage is 6.1% and proposed is 9.7%. Once work is completed the area will be stabilized with loam and seed.

Respectfully,

Mandy Hicks – GBI Representative



Conservation Commission
NOTIFICATION TO ABUTTERS- Letter

A/An Notice of Intent
has been filed with the **Ashland Conservation Commission** pursuant to the *Wetlands Protection Act (M.G.L. c. 131 §40)*, *Wetlands Protection Act Regulations 310 C.M.R. 10.05 (4)(a)* and the *Wetlands Protection Bylaw Chapter 280 Section 9*, and/or the *Stormwater Management Regulations Chapter 343*.

The applicant is Leonardo Fiorello

The proposed project is located at 4 Loring Drive
in Ashland, Massachusetts. The proposed project is:
Excavation, foundation and erect a detached 30x35 garage. Within the 100' buffer zone.

The filing may be examined by electronic means only. For more information, or to request a pdf filing submittal, please call 508-532-7924, and ask for the Conservation Agent.

The public hearing is scheduled for Monday, August 12, 2024
, at 7:05 p.m. (Note that all hearings are posted for 7:05 unless otherwise specified on the agenda. Hearings are taken in order of the posted agenda.). The hearing will be held using Zoom meetings, and the link for the meeting can be found on the posted agenda 48 hours before the hearing is scheduled to meet. Otherwise, further information of the public hearing can be obtained from the Ashland Conservation Commission, by calling 508-532-7924.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ROBERT OBRIEN
 9 LORING DRIVE
 ASHLAND, MA 01721



9590 9402 8954 4064 4128 81

2. Article Number (Transfer from service label)

7022 0410 0001 6207 5728

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) **ROBERT OBRIEN** C. Date of Delivery **7/31/24**

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Insured Mail
 - Insured Mail Restricted Delivery (over \$500)
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

DE P
 BOX 4062
 BOSTON MA 02211



9590 9402 8954 4064 4128 50

2. Article Number (Transfer from service label)

7022 0410 0001 6208 4218

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Insured Mail
 - Insured Mail Restricted Delivery (over \$500)
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

Domestic Return Receipt

Town of Ashland Conservation Commission

LOCAL FILING FEE CALCULATION WORKSHEET

1. NOTICE OF INTENT (NOI)

C1: Work on Existing Single Family Lot This includes pools, additions, etc.	\$110.00	<u>110</u>
C2: Construction of Single Family House, Crossings for Driveways, etc.	\$500.00	_____
C3: Commercial Building, Road Construction, etc.	\$1050.00	_____
C4: Crossings for Development or Commercial Road, Bridge, etc.	\$1450.00	_____
C5: Work on Docks, Piers, Dikes, or other Engineering Structures in inland resource areas	_____ *\$4=	_____
	<small>Linear Feet</small>	
C6: Resource Area Delineation Review Includes boundary delineations for vegetated wetlands as part of a permit application (ANRAD/ RDA with delineations/ NOI with delineations)	_____ *\$2=	<u>250</u>
	<small>Linear Feet</small>	
*single family lots limited to \$200; \$2000 limit for all others		
All NOIs add 50% of the fee for work in Riverfront Area	_____ *\$0.5=	_____
	<small>Above Fee</small>	

2. STORMWATER MANAGEMENT PERMIT

Basic Residential Application	\$100.00	_____
Application for Residential Subdivision or Multifamily Development	\$500.00	_____
Commercial Application	\$750.00	_____
Notice of Completion for Non-Basic Residential	\$150.00	_____
Permit Extension	\$150.00	_____



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 3 – Notice of Intent
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Ashland

City/Town

C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Limited Project Checklists – Required Actions (310 CMR 10.11).

Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

- 1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm.

- a. Yes No

If yes, include proof of mailing or hand delivery of NOI to:

Natural Heritage and Endangered Species Program
Division of Fisheries and Wildlife
 1 Rabbit Hill Road
 Westborough, MA 01581

7/23/24

b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); OR complete Section C.2.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review*

- 1. Percentage/acreage of property to be altered:

(a) within wetland Resource Area

percentage/acreage

(b) outside Resource Area

percentage/acreage

- 2. Assessor's Map or right-of-way plan of site

- 2. Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work **

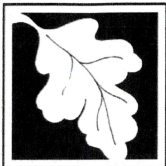
(a) Project description (including description of impacts outside of wetland resource area & buffer zone)

(b) Photographs representative of the site

* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <https://www.mass.gov/endangered-species-act-mesa-regulatory-review>).

Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

** MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Provided by MassDEP:

WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number _____

Document Transaction Number _____

Ashland _____

City/Town _____

C. Other Applicable Standards and Requirements (cont'd)

- (c) MESA filing fee (fee information available at <https://www.mass.gov/how-to/how-to-file-for-a-mesa-project-review>).

Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

Projects altering 10 or more acres of land, also submit:

- (d) Vegetation cover type map of site
- (e) Project plans showing Priority & Estimated Habitat boundaries
- (f) OR Check One of the Following

1. Project is exempt from MESA review.
Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, <https://www.mass.gov/service-details/exemptions-from-review-for-projectsactivities-in-priority-habitat>; the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2. Separate MESA review ongoing. a. NHESP Tracking # _____ b. Date submitted to NHESP _____

3. Separate MESA review completed.
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

- a. Not applicable – project is in inland resource area only b. Yes No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Bourne to Rhode Island border, and the Cape & Islands:

Division of Marine Fisheries -
Southeast Marine Fisheries Station
Attn: Environmental Reviewer
836 South Rodney French Blvd.
New Bedford, MA 02744
Email: dmf.envreview-south@mass.gov

North Shore - Plymouth to New Hampshire border:

Division of Marine Fisheries -
North Shore Office
Attn: Environmental Reviewer
30 Emerson Avenue
Gloucester, MA 01930
Email: dmf.envreview-north@mass.gov

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.

- c. Is this an aquaculture project? d. Yes No

If yes, include a copy of the Division of Marine Fisheries Certification Letter (M.G.L. c. 130, § 57).



August 13, 2024

Jim Tusino
Guaranteed Builders & Developers, Inc.
140 West Street
Douglas, MA 01516

Subject: Wetland Delineation for 4 Loring Drive
Ashland, Massachusetts

Dear Mr. Tusino:

This letter presents my findings regarding wetlands investigation on property located on the west side of Loring Drive, immediately north of West Street, at house number 4, in Ashland, Massachusetts (Figures 1 and 2). The wetland delineation was done in accordance with the Massachusetts Wetlands Protection Act (WPA) (MGL Chapter 131, Section 40) and regulations pertaining to vegetated wetlands contained in 310 CMR 10.55. Field delineation procedures follow the Massachusetts Handbook for Delineation of Bordering Vegetated Wetlands, by the Massachusetts Department of Environmental Protection, Bureau of Water Resources Wetlands Program, Second Edition, September 2022. The Ashland Conservation Commission has an additional Wetland Protection By-law and Wetlands Protection Regulations that must be followed; this document is attached. My qualifications include over 28 years' experience in the practice of wetland science, is a Professional Soil Scientist with the Society of Soil Scientists of Southern New England (SSSSNE) and a Professional Wetland Scientist (PWS #2010) certified by the Society of Wetland Scientists (SWS).

I conducted the site reconnaissance and delineation for wetlands on August 7, 2024. On this day, I delineated a single freshwater wetland on the subject property.

The delineated wetland, represented by flag series WF100 – WF108, identifies the edge of a Bordering Vegetated Wetland (BVW). This wetland occurs in the westernmost portion of the property, and may even be just offsite in some locations. Vegetation observed within the BVW includes red maple (*Acer rubrum*), silky dogwood (*Cornus amomum*), winterberry (*Ilex verticillata*), spicebush (*Lindera benzoin*), highbush blueberry (*Vaccinium corymbosum*), multiflora rose (*Rosa multiflora*), cinnamon fern (*Osmundastrum cinnamomeum*), sensitive fern (*Onoclea sensibilis*), Asiatic bittersweet (*Celastrus orbiculatus*), fox grape (*Vitis labrusca*) and skunk cabbage (*Symplocarpus foetidus*). Although a 100-foot Buffer Zone is applied to the edge of the BVW, much of the Buffer Zone is historically maintained lawn. There is, however, a 25-foot No Disturb Zone that should be avoided. One set of Wetland Edge Delineation Data forms are prepared and included in this report.

As noted, the area of upland consists primarily of maintained lawn; a review of the MassGIS 'MassMapper' indicates that lawn has been in existence here since at least the early 1990's.

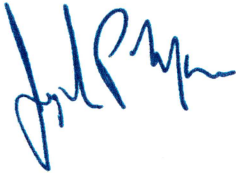
Finally, there are no MADEP ('MassGIS 'MassMapper' accessed August 13, 2024) mapped Estimated or Priority Habitats of Rare Wildlife, Potential or Certified Vernal Pools, or Areas of

J. Tusino
August 2024

Critical Environmental Concern (ACEC) within the delineated area of the BVW. It is noted that a potential vernal is mapped south of West Street, well outside of the property limits.

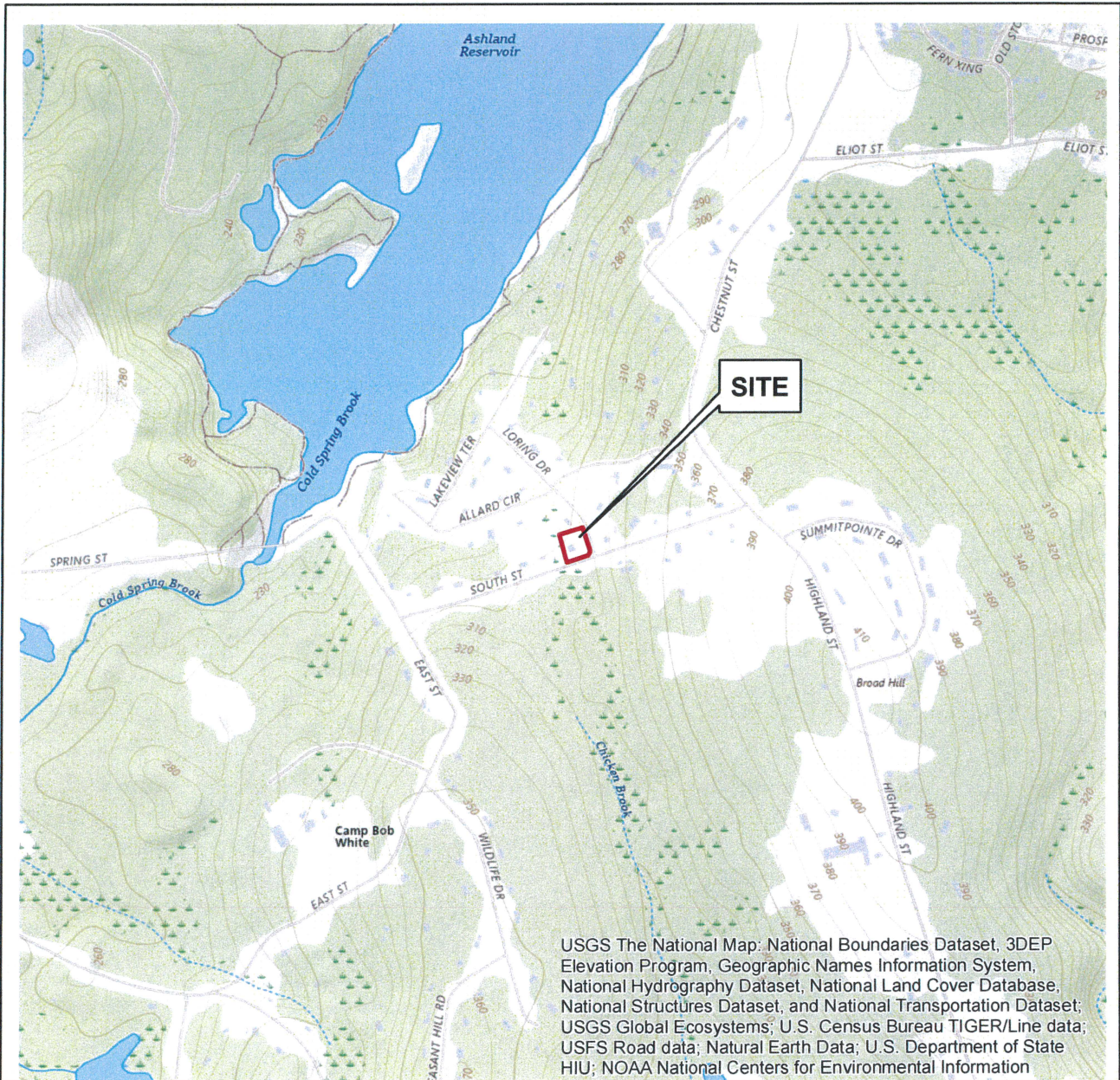
Thank you for the opportunity to work with you on this project. Please contact me at (401) 595-4276 if you have any questions regarding this work, or if you require additional information.

Sincerely yours,
MCCUE ENVIRONMENTAL, LLC



Joseph P. McCue, PWS
President
Principal Environmental Scientist

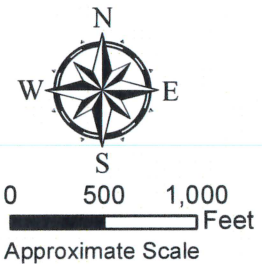
Attachments - Figure 1: Site Location (USGS Topographic Map)
Figure 2: Approximate Location of Wetlands
Wetland Edge Delineation Data Forms
Ashland Wetland Protection By-law and Wetland Protection Regulations



Source: USGS National Topographic Map

Approximate Location of:

 Project Area



4 Loring Drive
Ashland, Massachusetts

SITE LOCATION



MCCUE ENVIRONMENTAL, LLC
CONSULTING & WETLAND PERMITTING SERVICES
(401) 595-4276

Project No. 240706

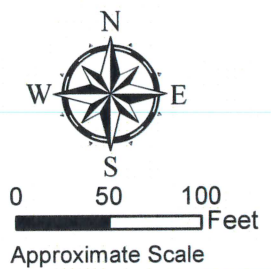
Figure 1



Sources: 2023 MassDEP Digital Color Imagery; MassGIS NHESP

Approximate Location of:

- Property Boundaries
- Wetland Edge
- MassGIS Potential Vernal Pool



There are no MassNHESP certified or potential vernal pools, or estimated or priority habitats on the subject property.

<p>4 Loring Drive Ashland, Massachusetts</p>	<p>APPROXIMATE LOCATION OF WETLANDS</p>	
<p>MCCUE ENVIRONMENTAL, LLC CONSULTING & WETLAND PERMITTING SERVICES (401) 595-4276</p>	<p>Project No. 240706</p>	<p>Figure 2</p>

BORDERING VEGETATED WETLAND DETERMINATION FORM

Project/Site: 4 Loring Drive City/Town: Ashland Sampling Date: 8/7/2024
 Applicant/Owner: _____ Sampling Point or Zone: WF102/103 Wetland
 Investigator(s): Joe McCue (McCue Environmental, LLC) Latitude / Longitude: 42.2317 / -71.4633
 Soil Map Unit Name: Whitman fine sandy loam (73B) NWI or DEP Classification: wooded swamp deciduous

Are climatic/hydrologic conditions on the site typical for this time of year? Yes No (If no, explain in Remarks)
 Are Vegetation , Soil , or Hydrology significantly disturbed? (If yes, explain in Remarks)
 Are Vegetation , Soil , or Hydrology naturally problematic? (If yes, explain in Remarks)

SUMMARY OF FINDINGS – Attach site map and photograph log showing sampling locations, transects, etc.

Wetland vegetation criterion met?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Is the Sampled Area within a Wetland? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Hydric Soils criterion met?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	
Wetlands hydrology present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	
Remarks, Photo Details, Flagging, etc.: This wetland edge occurs at the base of a steep slope.			

HYDROLOGY

Field Observations:		
Surface Water Present?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/> Depth (inches) _____
Water Table Present?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/> Depth (inches) _____
Saturation Present (including capillary fringe)?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/> Depth (inches) _____
Wetland Hydrology Indicators		
Reliable Indicators of Wetlands Hydrology <input checked="" type="checkbox"/> Water-stained leaves <input type="checkbox"/> Evidence of aquatic fauna <input type="checkbox"/> Iron deposits <input type="checkbox"/> Algal mats or crusts <input type="checkbox"/> Oxidized rhizospheres/pore linings <input type="checkbox"/> Thin muck surfaces <input type="checkbox"/> Plants with air-filled tissue (aerenchyma) <input type="checkbox"/> Plants with polymorphic leaves <input type="checkbox"/> Plants with floating leaves <input type="checkbox"/> Hydrogen sulfide odor	Indicators that can be Reliable with Proper Interpretation <input type="checkbox"/> Hydrological records <input type="checkbox"/> Free water in a soil test hole <input type="checkbox"/> Saturated soil <input checked="" type="checkbox"/> Water marks <input type="checkbox"/> Moss trim lines <input type="checkbox"/> Presence of reduced iron <input type="checkbox"/> Woody plants with adventitious roots <input type="checkbox"/> Trees with shallow root systems <input type="checkbox"/> Woody plants with enlarged lenticels	Indicators of the Influence of Water <input type="checkbox"/> Direct observation of inundation <input checked="" type="checkbox"/> Drainage patterns <input type="checkbox"/> Drift lines <input checked="" type="checkbox"/> Scoured areas <input type="checkbox"/> Sediment deposits <input type="checkbox"/> Surface soil cracks <input type="checkbox"/> Sparsely vegetated concave surface <input type="checkbox"/> Microtopographic relief <input type="checkbox"/> Geographic position (depression, toe of slope, fringing lowland)
Remarks (describe recorded data from stream gauge, monitoring well, aerial photos, previous inspections, if available):		

This form is only for BVW delineations. Other wetland resource areas may be present and should be delineated according to the applicable regulatory provisions.

VEGETATION – Use both common and scientific names of plants.

<u>Tree Stratum</u>		Plot size <u>30 ft.</u>					
		Indicator Status	Absolute % Cover	Dominant? (yes/no)	Wetland Indicator? (yes/no)		
Common name		Scientific name					
1.	red maple	Acer rubrum	FAC	98.0	Yes	Yes	
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
				<u>98.0</u>	= Total Cover		
<u>Shrub/Sapling Stratum</u>		Plot size <u>15 ft.</u>					
		Indicator Status	Absolute % Cover	Dominant? (yes/no)	Wetland Indicator? (yes/no)		
Common name		Scientific name					
1.	highbush blueberry	Vaccinium corymbosum	FACW	10.5	Yes	Yes	
2.	winterberry	Ilex verticillata	FACW	10.5	Yes	Yes	
3.	green ash	Fraxinus pennsylvanica	FACW	3.0	No	Yes	
4.	spicebush	Lindera benzoin	FACW	3.0	No	Yes	
5.							
6.							
7.							
8.							
9.							
				<u>27.0</u>	= Total Cover		
<u>Herb Stratum</u>		Plot size <u>5 ft.</u>					
		Indicator Status	Absolute % Cover	Dominant? (yes/no)	Wetland Indicator? (yes/no)		
Common name		Scientific name					
1.	skunk cabbage	Symplocarpus foetidus	OBL	10.5	Yes	Yes	
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
11.							
12.							
				<u>10.5</u>	= Total Cover		

VEGETATION – continued.

<u>Woody Vine Stratum</u>		Plot size <u>30 ft.</u>		Indicator Status	Absolute % Cover	Dominant? (yes/no)	Wetland Indicator? (yes/no)
Common name		Scientific name					
1.	Asiatic bittersweet	Celastrus orbiculatus		FACU	10.5	Yes	No
2.	Virginia creeper	Parthenocissus quinquefolia		FACU	3.0	No	No
3.							
4.							
				<u>13.5</u> = Total Cover			

Rapid Test: Do all dominant species have an indicator status of OBL or FACW?			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Dominance Test:	Number of dominant species	Number of dominant species that are wetland indicator plants		Do wetland indicator plants make up ≥ 50% of dominant plant species?
	5	4		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Prevalence Index:		Total % Cover (all strata)	Multiply by:	Result
	OBL species	11	X 1	= 10.50
	FACW species	27	X 2	= 54.00
	FAC species	98	X 3	= 294.00
	FACU species	14	X 4	= 54.00
	UPL species	0	X 5	= 0.00
	Column Totals	(A) 149		(B) 412.5
Prevalence Index		B/A = <u>2.77</u>		Is the Prevalence Index ≤ 3.0?
				Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Wetland vegetation criterion met?			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Definitions of Vegetation Strata

- Tree - Woody plants 3 in. (7.62 cm) or more in diameter at breast height (DBH), regardless of height
- Shrub / Sapling - Woody plants less than 3 in. (7.62 cm) DBH and greater than or equal to 3.3 ft. (1 m) tall
- Herb - All herbaceous (non-woody plants, regardless of size, and woody plants less than 3.3 ft. (1 m) tall
- Woody vines - All woody vines greater than 3.3 ft. (1 m) in height

Cover Ranges	
Range	Midpoint
1-5 %	3.0 %
6-15 %	10.5 %
15-25 %	20.5 %
26-50 %	38.0 %
51-75 %	63.0 %
76-95 %	85.5 %
96-100 %	98.0 %

BORDERING VEGETATED WETLAND DETERMINATION FORM

Project/Site: 4 Loring Drive City/Town: Ashland Sampling Date: 8/7/2024

Applicant/Owner: _____ Sampling Point or Zone: WF102/103 Upland

Investigator(s): Joe McCue (McCue Environmental, LLC) Latitude / Longitude: 42.2317 / -71.4632

Soil Map Unit Name: Rainbow silt loam (335B) NWI or DEP Classification: _____

Are climatic/hydrologic conditions on the site typical for this time of year? Yes No (If no, explain in Remarks)

Are Vegetation , Soil , or Hydrology significantly disturbed? (If yes, explain in Remarks)

Are Vegetation , Soil , or Hydrology naturally problematic? (If yes, explain in Remarks)

SUMMARY OF FINDINGS – Attach site map and photograph log showing sampling locations, transects, etc.

Wetland vegetation criterion met?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the Sampled Area within a Wetland?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Hydric Soils criterion met?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Wetlands hydrology present?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Remarks, Photo Details, Flagging, etc.:					

HYDROLOGY

Field Observations:			
Surface Water Present?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Depth (inches) _____
Water Table Present?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Depth (inches) _____
Saturation Present (including capillary fringe)?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Depth (inches) _____
Wetland Hydrology Indicators			
Reliable Indicators of Wetlands Hydrology <input type="checkbox"/> Water-stained leaves <input type="checkbox"/> Evidence of aquatic fauna <input type="checkbox"/> Iron deposits <input type="checkbox"/> Algal mats or crusts <input type="checkbox"/> Oxidized rhizospheres/pore linings <input type="checkbox"/> Thin muck surfaces <input type="checkbox"/> Plants with air-filled tissue (aerenchyma) <input type="checkbox"/> Plants with polymorphic leaves <input type="checkbox"/> Plants with floating leaves <input type="checkbox"/> Hydrogen sulfide odor	Indicators that can be Reliable with Proper Interpretation <input type="checkbox"/> Hydrological records <input type="checkbox"/> Free water in a soil test hole <input type="checkbox"/> Saturated soil <input type="checkbox"/> Water marks <input type="checkbox"/> Moss trim lines <input type="checkbox"/> Presence of reduced iron <input type="checkbox"/> Woody plants with adventitious roots <input type="checkbox"/> Trees with shallow root systems <input type="checkbox"/> Woody plants with enlarged lenticels	Indicators of the Influence of Water <input type="checkbox"/> Direct observation of inundation <input type="checkbox"/> Drainage patterns <input type="checkbox"/> Drift lines <input type="checkbox"/> Scoured areas <input type="checkbox"/> Sediment deposits <input type="checkbox"/> Surface soil cracks <input type="checkbox"/> Sparsely vegetated concave surface <input type="checkbox"/> Microtopographic relief <input type="checkbox"/> Geographic position (depression, toe of slope, fringing lowland)	
Remarks (describe recorded data from stream gauge, monitoring well, aerial photos, previous inspections, if available):			

This form is only for BVW delineations. Other wetland resource areas may be present and should be delineated according to the applicable regulatory provisions.

VEGETATION – Use both common and scientific names of plants.

<u>Tree Stratum</u>		Plot size <u>30 ft.</u>			
Common name	Scientific name	Indicator Status	Absolute % Cover	Dominant? (yes/no)	Wetland Indicator? (yes/no)
1. red maple	Acer rubrum	FAC	63.0	Yes	Yes
2. black walnut	Juglans nigra	FACU	63.0	Yes	No
3.					
4.					
5.					
6.					
7.					
8.					
9.					
			<u>126.0</u> = Total Cover		
<u>Shrub/Sapling Stratum</u>		Plot size <u>15 ft.</u>			
Common name	Scientific name	Indicator Status	Absolute % Cover	Dominant? (yes/no)	Wetland Indicator? (yes/no)
1. multiflora rose	Rosa multiflora	FACU	20.5	Yes	No
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
			<u>20.5</u> = Total Cover		
<u>Herb Stratum</u>		Plot size <u>5 ft.</u>			
Common name	Scientific name	Indicator Status	Absolute % Cover	Dominant? (yes/no)	Wetland Indicator? (yes/no)
1. jewelweed	Impatiens capensis	FACW	98.0	Yes	Yes
2. broad-leaf enchanters nightshade	Circaea canadensis	FACU	38.0	Yes	No
3. multiflora rose	Rosa multiflora	FACU	10.5	No	No
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
			<u>146.5</u> = Total Cover		

VEGETATION – continued.

<u>Woody Vine Stratum</u>		Plot size <u>30 ft.</u>		Indicator Status	Absolute % Cover	Dominant? (yes/no)	Wetland Indicator? (yes/no)
Common name		Scientific name					
1.	fox grape	Vitis labrusca		FACU	38.0	Yes	No
2.	Virginia creeper	Parthenocissus quinquefolia		FACU	38.0	Yes	No
3.							
4.							
				<u>76.0</u> = Total Cover			

Rapid Test: Do all dominant species have an indicator status of OBL or FACW?			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Dominance Test:	Number of dominant species	Number of dominant species that are wetland indicator plants	Do wetland indicator plants make up ≥ 50% of dominant plant species?	
	7	2	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Prevalence Index:		Total % Cover (all strata)	Multiply by:	Result
	OBL species	0	X 1	= 0.00
	FACW species	98	X 2	= 196.00
	FAC species	63	X 3	= 189.00
	FACU species	208	X 4	= 832.00
	UPL species	0	X 5	= 0.00
	Column Totals	(A) 369		(B) 1217
Prevalence Index		B/A = 3.30		Is the Prevalence Index ≤ 3.0?
				Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Wetland vegetation criterion met?			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Definitions of Vegetation Strata

- Tree - Woody plants 3 in. (7.62 cm) or more in diameter at breast height (DBH), regardless of height
- Shrub / Sapling - Woody plants less than 3 in. (7.62 cm) DBH and greater than or equal to 3.3 ft. (1 m) tall
- Herb - All herbaceous (non-woody plants, regardless of size, and woody plants less than 3.3 ft. (1 m) tall
- Woody vines - All woody vines greater than 3.3 ft. (1 m) in height

Cover Ranges	
Range	Midpoint
1-5 %	3.0 %
6-15 %	10.5 %
15-25 %	20.5 %
26-50 %	38.0 %
51-75 %	63.0 %
76-95 %	85.5 %
96-100 %	98.0 %

Chapter 280

WETLANDS PROTECTION

§ 280-1.	Purpose.	§ 280-10.	Regulations.
§ 280-2.	Statutory authority.	§ 280-11.	Fees.
§ 280-3.	Effect on other bylaws.	§ 280-12.	Surety.
§ 280-4.	Objective.	§ 280-13.	Permits and Conditions.
§ 280-5.	Definitions.	§ 280-14.	Burden of Proof.
§ 280-6.	Applicability and Jurisdiction.	§ 280-15.	Appeals.
§ 280-7.	Prohibitions.	§ 280-16.	Enforcement; violations and penalties.
§ 280-8.	Exemptions.	§ 280-17.	Severability.
§ 280-9.	Administration.		

[HISTORY: Adopted by the Town of Ashland Annual Town Meeting 5-6-2009, Art. 23.¹
Amendments noted where applicable.]

GENERAL REFERENCES

Stormwater management — See Ch. 247.

Subdivision of land — See Ch. 344.

Zoning — See Ch. 280.

§ 280-1. Purpose.

The purpose of this bylaw is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Ashland by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect on resource area values, including but not limited to the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of pollution, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, and aquaculture, deemed important to the community (collectively, the "resource area values protected by this bylaw").

§ 280-2. Statutory authority.

This bylaw is intended to utilize the Home Rule authority of this municipality so as to protect the resource areas under the Wetlands Protection Act (G.L. Ch. 131 § 40; the Act) to a greater degree, to protect additional resource areas beyond the Act recognized by the Town as significant, to protect all resource areas for their additional values beyond those recognized in the Act, and to impose in local regulations and permits additional standards and procedures stricter than those of the Act and regulations thereunder (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Ashland.

1. Editor's Note: This article also repealed former Ch. 280, Wetlands Protection, adopted 10-20-1999 ATM by Art. 12.

§ 280-3. Effect on other bylaws.

Nothing in this bylaw is intended to replace the requirements of either the Town of Ashland Stormwater Management Bylaw,² or any other bylaw that has been or may be adopted by the Town of Ashland. Any activity subject to the provisions of the above-cited bylaws must comply with the specifications of each applicable bylaw.

§ 280-4. Objective.

The objectives of this bylaw are to:

- A. Create consistency with the Ashland Stormwater Management Bylaw and streamline the permitting process for work within jurisdictional areas;
- B. Maintain a twenty-five (25) foot No Disturb Zone around protected wetland resources;
- C. Accommodate expedited permitting of Priority Development Sites designated under MGL Chapter 43D;
- D. Enable enforcement of violations of the provisions of this bylaw.

§ 280-5. Definitions.

The following definitions shall apply in the interpretation and implementation of this bylaw.

AGRICULTURE — The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act (MGL c. 131 § 40) and its implementing regulations (310 CMR 10.00).

ALTER — Any of the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting 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, including yard waste
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including cutting or trimming of trees and shrubs
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body

2. Editor's Note: See Ch. 247, Stormwater Management.

of water or groundwater

- K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

BANK — The land area which normally abuts and confines a water body or waterway; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

BORDERING VEGETATED WETLAND — Freshwater wetlands which border on creeks, rivers, streams, ponds and lakes. The types of freshwater wetlands are wet meadows, marshes, swamps and bogs. Bordering Vegetated Wetlands are areas where the soils are saturated and/or inundated such that they support a predominance of wetland indicator plants. The ground and surface water regime and vegetational community which occur in each type of freshwater wetland are specified in M.G.L. c. 131 § 40.

ISOLATED LAND SUBJECT TO FLOODING — An isolated depression or closed basin without an inlet or an outlet. It is an area which at least once a year confines standing water to an average depth of at least six inches and occupies a minimum surface area of 5,000 square feet.

PERSON — 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 bylaws, administrative agency, public or quasi-public corporation or body, the Town of Ashland, and any other legal entity, its legal representatives, agents, or assigns.

POND — Any open body of fresh water with a surface area observed or recorded within the last ten years of at least 5,000 square feet. Ponds may either be naturally occurring or man-made impoundment, excavation, or otherwise. Ponds shall contain standing water except for periods of extended drought (those periods, in those specifically identified geographic locations, determined to be at the "Advisory" or more severe drought level by the Massachusetts Drought Management Task Force, as established by the Executive Office of Environmental Affairs and the Massachusetts Emergency Management Agency in 2001, in accordance with the Massachusetts Drought Management Plan). Notwithstanding the above, the following man-made bodies of open water shall not be considered ponds:

- A. Basins or lagoons created for stormwater management or drinking water or wastewater treatment plants;
- B. Swimming pools or other impervious man-made basins; and
- C. Individual gravel pits or quarries excavated from upland areas unless inactive for five or more consecutive years.

RARE SPECIES — Without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.

RIVER — Any natural flowing body of water that empties to any ocean, lake, pond, or other river and which flows throughout the year. River is defined further at 310 CMR 10.58(2).

RIVERFRONT AREA — Area adjacent to a river or perennial stream as defined in 310 CMR 10.58(2).

STREAM — A body of running water, including brooks and creeks, which moves in a definite channel in the ground due to a hydraulic gradient, and which flows within, into or out of an Area Subject to Protection Under M.G.L. c. 131, § 40. A portion of a stream may flow through a culvert or beneath a bridge. Such a body of running water which does not flow throughout the year (i.e., which is intermittent) is a stream except for that portion upgradient of all bogs, swamps, wet meadows and marshes.

VERNAL POOL — Any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be the mean annual high-water line defining the depression.

Except as otherwise provided in this bylaw or in associated regulations of the Conservation Commission, the definitions of terms and the procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 § 40) and regulations (310 CMR 10.00).

§ 280-6. Applicability and Jurisdiction.

Except as permitted by the Conservation Commission no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any bordering vegetated wetlands, vernal pools, springs, banks, reservoirs, lakes, ponds, beaches, and lands under water bodies; intermittent streams, brooks and creeks; lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone; perennial rivers, streams, brooks and creeks; lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area; lands subject to flooding or inundation by groundwater or surface water; (collectively the "resource areas protected by this bylaw").

The jurisdiction of this bylaw shall not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aquacultural uses as defined by the Wetlands Protection Act regulations, found at 310 CMR 10.04.

Any project which has a validly issued and existing Order of Conditions at the time of passage of this bylaw shall be exempt from the provisions hereof unless any amendments or changes which increase the scope of the project, as determined by the Commission, are requested under the Order of Conditions in which case the provisions hereof shall govern.

§ 280-7. Prohibitions.

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

No work or disturbance, including but not limited to grading and vegetation removal, shall be permitted within twenty-five (25) feet of any resource area unless the applicant provides information and evidence deemed satisfactory by the Commission that the work to be performed sufficiently protects or enhances wetland interests.

§ 280-8. Exemptions.

The applications and permits required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural and aquacultural use as defined by the Wetlands Protection Act regulations at 310 CMR 10.04.

The applications and permits required by this bylaw 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 written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

The applications and permits required by this bylaw shall not be required for emergency projects necessary for the protection of the health and 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 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 Commission for the limited purposes necessary to abate the emergency. Upon failure to meet these and other requirements of the Commission, the Commission may revoke or modify an emergency project approval and order restoration and mitigation measures.

§ 280-9. Administration.

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

The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 § 40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination of Applicability (RDA) filed under the Act shall include information and plans as are deemed necessary by the Commission.

Any person filing a permit or other application or Abbreviated Notice of Resource Area Delineation (ANRAD) with the Conservation Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. All applications shall be signed by the property owner.

The Commission shall conduct a public meeting for any RDA or a public hearing on any permit application or ANRAD with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission shall commence the public meeting or hearing within 21 days from receipt of a completed permit application, RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the meeting or hearing to a specific date announced at the meeting or hearing, for reasons stated at

the meeting or hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion, based on comments and recommendations from other town boards and officials.

The Commission shall issue its permit, other order or determination in writing within 21 days of the close of the public meeting or hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its meeting or hearing under this bylaw with the meeting or hearing conducted under the Wetlands Protection Act (G.L. Ch. 131 § 40) and regulations (310 CMR 10.00). In the case of activity being proposed on a designation M.G.L. Chapter 43D Priority Development Site the Commission shall issue its permit, other order or determination within 180 days of its receipt of a complete application. In order for an application to be considered complete, the Commission must have approved the delineation of resource areas affecting the proposed project within three years of the submittal date through the issuance of an Order of Resource Area Delineation.

§ 280-10. Regulations.

After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw, which shall be effective when voted and filed with the town clerk. 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 bylaw. At a minimum these regulations may reiterate the terms defined in this bylaw, define additional terms not inconsistent with the bylaw, prescribe requirements for applications, provide more specific terms and conditions in furtherance of this bylaw and not inconsistent herewith and impose filing and consultant fees.

§ 280-11. Fees.

At the time of an application, the applicant shall pay a filing fee specified in regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act and regulations. Pursuant to G.L. Ch. 44 § 53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists, attorneys or other experts in order to aid in the review of proposed projects.

§ 280-12. Surety.

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Conservation Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:

- A. By a proper bond, deposit of money or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a COC for work performed pursuant to the permit.
- B. By accepting a Conservation Restriction in accordance with G.L. c. 184 § 31, 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. This method shall be used only with the consent of the applicant.

§ 280-13. Permits and Conditions.

The Conservation Commission, after a public hearing, shall consider the individual or cumulative effects on the resource area values protected by this bylaw and, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect.

If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect said resource area values, and all activities shall be conducted in accordance with those conditions.

A permit, Determination of Applicability (DOA), or Order of Resource Area Delineation (ORAD) shall expire three years from the date of issuance. 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 once for an additional period up to three years, provided that a request for a renewal is received in writing by the Commission at least thirty (30) days prior to expiration of the permit. A permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

For good cause the Commission may revoke any permit, DOA, or ORAD or any other order, determination or other decision issued under this bylaw after notice to the holder, the public, abutters, and town boards, pursuant to § 280-8 and after a public hearing.

Amendments to permits, DOAs, or ORADs shall be handled in the manner set out in the Wetlands Protection Act regulations and policies thereunder.

The Commission in an appropriate case may combine the decision issued under this bylaw with the permit, DOA, ORAD, or Certificate of Compliance (COC) issued under the Wetlands Protection Act and regulations.

No work proposed in any application shall be undertaken until the permit, or ORAD issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish recording and administration fees therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

§ 280-14. 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 permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

§ 280-15. Appeals.

A decision of the Conservation Commission shall be reviewable in the superior court in accordance with MGL c. 249, § 4.

§ 280-16. Enforcement; violations and penalties.

The Commission or its authorized agent shall have the power and duty to enforce this bylaw, its regulations, orders, violations notices and enforcement orders, and may pursue civil and criminal remedies for such violations.

- A. Penalties. Any person who violates any provision of this bylaw, regulation, or permit issued hereunder, may be subject to fines, civil action, criminal prosecution, tax liens, and may be required to restore the property to its original condition, as appropriate and as lawfully established by the Town of Ashland.
- B. Liens. The Town of Ashland shall require reimbursement to the town for the cost of work undertaken by the town that the responsible party was obligated to perform but failed to perform as set forth in the Order of Conditions. If reimbursement is not made within (30) days of written notice from the town to the responsible party, the Town may impose an assessment and municipal lien on the property of the responsible party or parties and interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, Section 57.
- C. Noncriminal disposition. As an alternative to or in addition to criminal prosecution or civil action, the Town may utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D.
 - i. The Conservation Agent or other appointment made by the Town Manager shall be the enforcement authority hereunder.
 - ii. Any person who violates the provisions hereof or violates the Regulations promulgated pursuant hereto shall be subject to the following fines:
 - a. First Offense: \$100.00
 - b. Second Offense: \$200.00
 - c. Third Offense and every offense thereafter: \$300.00
 - d. Each day or portion thereof during which a violation continues, shall constitute a separate offense, and violation of each provision of the bylaw, regulations and permits or administrative orders violated shall constitute a separate offense hereunder.

§ 280-17. Severability.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued.

Chapter 348

WETLANDS PROTECTION REGULATIONS

§ 348-1.	General Provisions.	§ 348-4.	Rules for hiring outside consultants.
§ 348-2.	Filing fees.	§ 348-5.	Open meeting requirements.
§ 348-3.	Protection of Buffer Zones and Vernal Pools.		

[HISTORY: Adopted by the Conservation Commission of the Town of Ashland 1-24-2011. Amendments noted where applicable.]

GENERAL REFERENCES

Stormwater management — See Ch. 247.

Zoning — See Ch. 282.

Wetlands protection — See Ch. 280.

Subdivision of land — See Ch. 344.

§ 348-1. General Provisions.

These regulations are promulgated by the Ashland Conservation Commission ("Commission") under the authority of the Code of the Town of Ashland, Chapter 280, Wetlands Protection.

The purpose of these regulations is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Ashland by controlling activities deemed by the Commission likely to have a significant or cumulative effect on resource area values, including but not limited to the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of pollution, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, and aquaculture, deemed important to the community. The failure of these regulations to address all aspects of the bylaw, or a legal declaration of their invalidity in part or in whole, shall not act to suspend or invalidate the effect of the bylaw.

§ 348-2. Filing fees.

Bylaw filing fees are payable at the time of application and are not refundable. Fees are calculated by the Commission or its agent according to the schedule below. These fees are in addition to any fee(s) set forth under the Massachusetts Wetlands Protection Act and 310 CMR 10.00 and as required by the Application Process set out by the Commonwealth of Massachusetts pursuant thereto.

Notice of Intent (Permit Application). The bylaw filing fee for a permit application shall be calculated using the following schedule. Categories are those used in determining fees under the state Wetlands Protection Act. A full explanation of these categories can be found in the instructions for filing a Notice of Intent from the Massachusetts Department of Environmental Protection (BRP WPA Form 3 as amended).

Category	Type of Activity (see BRP WPA Form 3 for complete list)	Town Bylaw Fee
Category 1	Work on existing single-family lot (pool, addition, etc)	\$110
Category 2	Construction of single-family house, crossing for driveway, etc.	\$500
Category 3	Commercial building, road construction, etc.	\$1050
Category 4	Crossing for development or commercial road, bridge, etc.	\$1450
Category 5	Work on docks, piers, dikes, or other engineering structures in inland resource areas	\$4/linear foot (not less than \$100, not more than \$2,000)
Category 6*	Resource area delineation review	\$2/linear foot (with limit of \$200 for single-family lot, \$2000 all others)

* Category 6 includes boundary delineations for vegetated wetlands as part of a permit application (Notice of Intent), or a Notice of Resource Area Delineation, or a Request for Determination of Applicability.

Other application fees:

Request for Determination of Applicability (without boundary delineation)	\$125
Request for Permit Extension	\$100
Amended Notice of Intent (significant revision)	See NOI
Certificate of Compliance (includes partial)	
single family lot	\$100
all other projects	\$250
Reissuance of any Order, Determination or Certificate (includes true copy attest)	\$50
If there is an enforcement order or there is proposed activity for which a building permit is not required, then the Applicant may be required to pay the Commission for the Recording of an Order of Conditions at the Registry of Deeds	\$150

§ 348-3. Protection of Buffer Zones and Vernal Pools.

A. Definitions.

BUFFER ZONE — Shall have the same meaning as set forth in § 280-6 which states: "any bordering vegetated wetlands, Vernal Pools, springs, banks, reservoirs, lakes, ponds, beaches, and lands under water bodies; intermittent streams, brooks and creeks; lands adjoining these resource areas out to a distance of 100 feet, known as the Buffer Zone."

VERNAL POOL — As defined in § 280-5 where in the bylaw provides that the Vernal Pool need not be certified and the Vernal Pool need not be within another resource area to be protected by the

bylaw.

B. Buffer Zone protection.

- (1) Preamble. Buffer Zones are likely to be significant to the wetland interests and values identified in § 280-1, the Act and 310 CMR 10.00 et seq.
- (2) Presumption of Significance. When a proposed activity involves the removing, filling, dredging, building upon, or altering of a Buffer Zone, the Commission shall presume that protection of the Buffer Zone is significant to the interests in the bylaw and may impose conditions as to how and to what extent the work can be conducted therein. This presumption is rebuttable and may be overcome upon a clear showing that the Buffer Zone does not play a role in the protection of those interests or that the proposed work protects the intent of the bylaw. In the event that the Commission finds that the presumption has been overcome, it shall make a written determination including the Commission's basis therefore and/or impose conditions which protect the interest as set forth in the bylaw.
- (3) Performance Standards. The portion of a Buffer Zone extending 25 feet from the wetland, bank, or waterbody defining the Buffer Zone's inner edge, is designated a No Disturb Zone.
 - (a) No Disturb Zone:
 - [1] Alterations, including but not limited to grading, landscaping, mowing, removing of vegetation, filling, excavating, operation of vehicles or machinery, and paving, shall not be permitted in a No Disturb Zone.
 - [2] Structures, including but not limited to porches, decks, pools, and sheds, shall not be constructed or placed within a No Disturb Zone.
 - [3] Notwithstanding any of the foregoing prohibitions, the Commission may allow disturbances, such as crossings, through a No Disturb Zone by waiver, as provided in § 348-3D of these regulations, when no other practicable alternative exists. Petitions for a waiver shall be included in writing in the Notice of Intent filed under the bylaw. The applicant shall provide information and evidence deemed satisfactory by the Commission that the work to be performed sufficiently protects or enhances wetland interests.
 - (b) The rest of the Buffer Zone: No activity shall be permitted in the Buffer Zone that has the potential to harm resource areas, including No Disturb Zones, with respect to the interests of the bylaw.

C. Protection of Vernal Pools.

- (1) Preamble. Vernal Pools and their surrounding areas provide important wildlife habitat. They are increasingly rare and are inhabited by many species of wildlife, some of which are totally dependent on Vernal Pools for their survival. The wood frog (*Rana sylvatica*) and all species of mole salamander (*Ambystoma* spp.) that occur in Massachusetts breed only in Vernal Pools, and use the surrounding upland habitat for their other habitat needs, such as feeding, shelter, and over-wintering.
- (2) Presumption of Significance.
 - (a) Any confined depression which, at least in most years, holds some water for at least two

continuous months during the spring or summer will be presumed to be essential breeding habitat and provide other extremely important habitat functions during the non-breeding season for a variety of wildlife, particularly amphibian species.

Pools occurring in lawns, landscaped area, or driveways are presumed not significant as wildlife habitat.

- (b) This presumption may be overcome by a clear showing that the presumed Vernal Pool does not and cannot meet the defining criteria set forth by the Massachusetts Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP), in March 2009, for Vernal Pool certification, or the most recent criteria set forth by NHESP.

Certification of a Vernal Pool under the state program is not required for protection under the bylaw or these regulations.

- (c) Because of the seasonal nature of Vernal Pools, the Commission may require that evidence presented to overcome this presumption be gathered during the spring or summer during a year in which the level and duration of water in the pool is at or above average.

(3) Performance Standards

Within a Vernal Pool and its Buffer Zone, no activity or alteration is permitted unless it is shown to the Commission's satisfaction that a proposed activity will have no detrimental effect on the habitat value of the Vernal Pool.

Activities and alterations include, but are not limited to removal or alteration of vegetation; removal or alteration of natural ground cover including leaves, logs, and other vegetative litter; grading; landscaping; filling; construction or placement of structures or pavement of any sort.

The Commission may allow limited alterations to areas that, in their existing condition and use, do not serve a significant habitat function.

D. Waivers and Mitigation.

(1) Waivers.

The performance standards for wetland resource areas have been adopted to ensure that the interests protected by the bylaw are adequately protected.

Waivers may be granted by the Commission when the applicant demonstrates that the requested waiver is consistent with the intent and purpose of the bylaw and regulations.

The applicant shall have the burden of demonstrating that the granting of the waiver is consistent with the intent and purpose of the bylaw and these regulations.

The Commission shall act on all waiver requests and shall provide to the applicant a written decision on said request.

A request for a waiver must include sufficient and reliable information which demonstrates:

- that sufficient wetland resource area function and value and adjacent upland habitat will remain such that the interests of the Act and bylaw are protected,
- that likely use and maintenance of the altered area will have no detrimental effect on water quality of the adjacent resource area or quality of the remaining habitat area, and
- that the work to be performed sufficiently protects or enhances wetland interests.

(2) Mitigation.

In cases where a waiver is granted, the Commission may require mitigation measures to be implemented to offset potential impacts to the wetland resource areas.

The mitigation must maintain or improve the natural capacity of a resource area to achieve the interests protected by the bylaw.

In its discretion, the Commission may require that mitigation be implemented and demonstrated to be functioning before alterations permitted by the waiver may begin.

§ 348-4. Rules for hiring outside consultants. [Amended 11-20-2019STM, Art. 13]

As provided by MGL c. 44 § 53G, the Ashland Conservation Commission ("Commission") may impose upon the applicant reasonable fees for the employment of outside consultants, engaged by the Commission, for specific expert services deemed necessary by the Commission to come to a decision on an application submitted to the Commission pursuant to the requirements of the Wetlands Protection Act (MGL c. 131, § 40), the Ashland Wetlands Protection Bylaw (§ 280-1), the Commission Act (MGL c. 40, § 8C), or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time.

Funds received by the Commission pursuant to these rules shall be deposited with the town treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Commission without further appropriation as provided in MGL c. 44, § 53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.

Specific consultant services may include but are not limited to:

- resource area survey and delineation,
- analysis of resource area values,
- hydrogeologic and drainage analysis,
- impacts on municipal conservation lands, and
- environmental or land use law.

The consultant shall be chosen by the Commission in accordance with the parameters set forth in MGL c. 44, § 53G, and report only to the Commission or its Agent. The Commission shall give written notice to the applicant of the selection of an outside consultant, which notice shall state:

- the identity of the consultant,
- the amount of the fee to be charged to the applicant, and

- a request for payment of said fee in its entirety.

Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five business days of the date notice is given.

The fee must be received in its entirety prior to the initiation of consulting services. The Commission may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment may be a basis for the Commission to deny the permit application for lack of information.

The applicant may appeal the selection of the outside consultant to the Select Board, who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Ashland Select Board and a copy received by the Commission, so as to be received within ten (10) business days of the date consultant fees were requested by the Commission. The required time limits for action upon the application shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Select Board within one month following the filing of the appeal, the selection made by the Commission shall stand.

§ 348-5. Open meeting requirements.

- A. Purpose. The purpose of this Regulation is to ensure that all actions of the Commission are in accordance with the requirements of the new Open Meeting Law effective July 1, 2010, Massachusetts General Laws, Chapter 30A, §§ 18-25, as amended. Under that statute, all "materials" filed with or presented to the Commission become part of the Commission's record. Pursuant to the Open Meeting Law, the Commission hereby adopts this Regulation to handle the burden the new Law imposes with regard to the storage of submitted "materials."
- B. Definitions. The term "Materials" shall include all items in any format including but not limited to hardcopy and electronic formats, regardless of whether they are formally filed with the Commission or simply presented at a public meeting.
- C. General provisions.
 - (1) In accordance with the Open Meeting Law, copies of all Materials must be submitted to the Commission.
 - (2) All Materials submitted to the Commission that are larger than 8 1/2 x 11 inches must be accompanied by an 8 1/2 x 11 inch version unbound and in an electronic version that is readable either in Word or Adobe Acrobat.
- D. Enforcement. The Commission shall require that all Materials be properly submitted prior to taking any action on the application before it.