

**WETLANDS PROTECTION RULES AND REGULATIONS  
FOR THE NAS SOUTH WEYMOUTH MIXED USE DEVELOPMENT DISTRICT AND  
OPEN SPACE DISTRICT**

**TABLE OF CONTENTS**

<b>ARTICLE I GENERAL .....</b>	<b>1</b>
1.1 Purpose.....	1
1.2 Authority.....	1
1.3 Jurisdiction and Definitions .....	2
<b>ARTICLE II ADOPTION OF THE STATE ACT AND STATE REGULATIONS .....</b>	<b>2</b>
<b>ARTICLE III 25-FOOT SETBACK.....</b>	<b>2</b>
<b>ARTICLE IV FILING REQUIREMENTS.....</b>	<b>3</b>
<b>ARTICLE V FEES .....</b>	<b>3</b>
5.1 Filing Fees.....	3
5.2 Advertising and Notification Fees .....	4
5.3 Consultant Fees.....	4
<b>ARTICLE VI SECURITY .....</b>	<b>5</b>
<b>ARTICLE VII ENFORCEMENT .....</b>	<b>5</b>
<b>ARTICLE VII EMERGENCIES .....</b>	<b>5</b>
<b>ARTICLE VIII APPEALS.....</b>	<b>6</b>
<b>ARTICLE IX SEVERABILITY .....</b>	<b>6</b>

# **WETLANDS PROTECTION RULES AND REGULATIONS FOR THE NAS SOUTH WEYMOUTH MIXED USE DEVELOPMENT DISTRICT AND OPEN SPACE DISTRICT**

## **ARTICLE I GENERAL**

### **1.1 Purpose**

The purpose of these Wetlands Protection Rules and Regulations for the Naval Air Station (“NAS”) South Weymouth Mixed Use Development District (“MUDD”) and Open Space District (the “Regulations”) is to set forth the administrative procedure for filings under the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, Section 40) (the “State Act”) and implementing regulations (310 CMR 10.00) (the “State Regulations”).

It is deemed in the public interest that activities determined by a Conservation Commission likely to have a significant or cumulative effect upon the resource areas subject to protection and the interests protected by the State Act and State Regulations be controlled.

### **1.2 Authority**

- A. These Regulations shall be known and may be cited as the Wetlands Protection Rules and Regulations for the Mixed Use Development District and Open Space District.
- B. Under the authority vested in the Southfield Redevelopment Authority (the “Authority”) under Chapter 291, Sections 6(t) and 14(h) of the Acts of 2014 (as amended from time to time, the “Enabling Legislation”), the Authority hereby adopts these Regulations.
- C. The provisions of these Regulations shall apply to the Mixed Use Development District and Open Space District as shown on the South Weymouth Naval Air Station Zoning District Map, Exhibit A, dated May 23, 2023. The Authority, acting in the capacity of a Conservation Commission (“Commission”), shall administer and enforce these Regulations.
- D. For the purposes of these Regulations, the term “Commission” shall mean the Authority.
- E. These Regulations shall also be enforced by the Conservation Agent employed or designated by the Authority.
- F. The Authority shall specify the duties of the Conservation Agent.
- G. The Authority shall maintain full authority to administer these Regulations until that authority is transferred to another board established in accordance with the Enabling Legislation.

### **1.3 Jurisdiction and Definitions**

The jurisdiction of the Commission shall be in accordance with the State Act and State Regulations. Definitions set forth in the State Act and State Regulations shall have the same meaning under these Regulations.

## **ARTICLE II ADOPTION OF THE STATE ACT AND STATE REGULATIONS**

Except as otherwise set forth herein, the State Act and State Regulations are hereby adopted by the Authority and all provisions, performance standards and requirements set forth under the State Act and State Regulations (as may be amended from time to time) shall be enforceable under these Regulations.

## **ARTICLE III 25-FOOT SETBACK**

- A. In order to protect wetland resource areas and their ability to contribute to the protection of the public and private interests they provide, there shall be a strip of continuous, undisturbed (or restored) vegetative cover within 25 feet (referred to herein as the “25-foot setback”) between any proposed project and any wetland resource areas. Notwithstanding the foregoing, the 25-foot setback shall not apply to (i) “minor activities” as described in 310 CMR 10.02(2)(b), (ii) “limited projects” as described in 310 CMR 10.53(3), (iii) “ecological restoration projects” as described in 310 CMR 10.53(4), (iv) Riverfront Areas as described in 310 CMR 10.58(2), or (v) Bordering Land Subject to Flooding as described in 310 CMR 10.57(1)(a). Subject to Section III.B and Section III.C below, the Commission may allow setbacks of variable depths within a proposed project, provided that such variable depths result in an average setback of at least 25 feet.
- B. The Commission may grant a waiver from the 25-foot setback requirement based upon its finding that one or more of the following criteria are satisfied:
  - (i) Strict compliance with the 25-foot setback requirement would result in a hardship greater in magnitude than the public interests protected by such requirement.
  - (ii) Such waiver is required for compliance with the Massachusetts Contingency Plan 310 CMR 40.0000.
  - (iii) A credible expert has demonstrated that the affected wetland resource area and its ability to contribute to the protection of the public and private interests will be adequately protected without strict adherence to the 25-foot setback requirement.
- C. The Commission shall consider the following standards in determining whether to grant a waiver from the 25-foot setback requirement:

- (i) The proposed project will not have a permanent material adverse impact on the affected wetland resource area and its ability to protect the interests it contributes to.
- (ii) Mitigation measures are proposed to improve or enhance the capacity of the affected wetland resource area to protect the public and private interests it provides.

## **ARTICLE IV FILING REQUIREMENTS**

Any person filing an Abbreviated Notice of Resource Area Delineation, a Request for Determination of Applicability, a Notice of Intent, a request for amendment to or extension of an Order of Conditions, a request for a Certificate of Compliance or any other request under the State Act and State Regulations (the “Application”) with the Commission in connection with an action or project proposed in any portion of the Mixed Use Development District or Open Space District shall adhere to the filing requirements as outlined below in addition to the State Act and State Regulations.

A minimum of ten (10) paper copies of the Application shall be provided by certified mail or by hand delivery to the Commission. In addition, each filing shall be submitted to the Commission electronically. The applicant shall expeditiously forward, for informational purposes, one (1) copy of the Application to the Conservation Commission of the Town in which the proposed action or project is located by certified mail or by hand delivery. If the filing pertains to land within 300 feet of an adjoining municipality, the applicant shall, for informational purposes, also provide one (1) copy of the Application to the Conservation Commission of that municipality.

Comments on the application from parties other than the Commission or the applicant must be submitted in writing to the Commission at least one week before the public hearing or meeting. The Commission will promptly forward any such comments to the applicant, who will have the opportunity to respond at the hearing or meeting before final action is taken.

A public hearing or meeting, as applicable, will be held in accordance with the provisions of the State Act and State Regulations.

## **ARTICLE V FEES**

### **5.1 Filing Fees**

Each submission to the Commission must include a filing fee as specified in the Commission's Schedule of Filing Fees, which is available at the Authority's office and website. Checks or money orders, made payable to “Southfield Redevelopment Authority,” must accompany the application. Submissions without the required fees will not be processed unless stated otherwise in the Regulations.

## **5.2 Advertising and Notification Fees**

The Commission shall be responsible for posting all legal notices required in conjunction with the applicant's filing. The applicant is responsible for payment for legal notices as required by the State Act and State Regulations.

## **5.3 Consultant Fees**

Upon receipt of an Application, the Commission is authorized per M.G.L. Ch. 44, Section 53G to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering, environmental and other consultant services deemed necessary by the Commission to come to a final decision on the Application (the "Consultant Fee").

Consultant services may include but are not limited to the review of the Application (i.e., plans, reports, etc.), attendance at public hearing(s), attendance at site inspection(s), and preparation of reports.

The applicant shall also pay the consultant's reasonable expenses in performing tasks for which the consultant was retained by the Commission. These reasonable expenses include, but are not limited to mileage, postage, overnight delivery, photocopies, reprographics, presentation materials, and other reasonable out-of-pocket expenses directly related to the Application.

All consultants shall be retained and supervised by the Commission. All requests for meetings, site visits, reports, and questions to the consultant shall be submitted to the Commission and its Agent, with a copy to the applicant, unless the Commission authorizes the consultant to work directly with the applicant to resolve project-related issues. A copy of all consultant reports shall be provided by the Commission to the applicant in a timely manner.

If the Commission deems Consultant Fees necessary for a project, it will select a consultant and request a scope of work and cost estimate. The applicant shall discuss the consultant's scope of work and cost estimate with the Commission or its designee prior to approval by the Commission. Approval of the consultant's scope of work and cost estimate will occur at a public meeting. The applicant must pay the estimated amount of the consultant's cost estimate to the Commission by check or money order before the public hearing.

The Consultant Fee shall be deposited by the Commission who shall establish a special account in accordance with M.G.L., Ch. 44, Section 53G. If a revolving fund for Consultant Fees is established, the applicant's payment shall be deposited by the Commission into such revolving fund, and the Commission may draw upon that fund for specific consultant services, the approval of which will be approved by the Commission at one of its public meetings.

The Commission's consultant shall not begin work until it receives the Consultant Fees from the applicant. Once the Consultant's services are completed, the Commission shall release any unexpended funds, including any accrued interest, to the applicant unless the Commission decides at a public meeting that additional consultant services may be required.

Should the actual Consultant Fee exceed the estimated amount, any additional charges must receive written approval from the applicant. The applicant will be required to pay these additional costs before further work is authorized and prior to the Commission rendering its decision on the Application.

## **ARTICLE VI SECURITY**

As a Special Condition of an Order of Conditions issued under these Regulations, the Commission may require that compliance with the conditions imposed with said Order of Conditions (including conditions requiring mitigation work) be secured wholly or in part by one or both of the following methods:

- By a proper bond, deposit of money or negotiable securities, 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 Certificate of Compliance for work performed pursuant to the Order of Conditions;
- By the Authority's acceptance of a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, attached to the land to the benefit of the Authority whereby the requirements of the Order of 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.

## **ARTICLE VII ENFORCEMENT**

Enforcement of the State Act, State Regulations, and these Regulations shall be conducted in accordance with 310 CMR 10.08. The Commission reserves the right to impose penalties on violators who fail to comply with an enforcement order issued by the Commission or the Conservation Agent acting on behalf of the Commission pursuant to the provisions in the State Act.

In addition to the provisions provided in the State Act, any person who violates any provision of these Regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the Regulations, permits, or administrative orders violated shall constitute a separate offense.

## **ARTICLE VII EMERGENCIES**

Emergencies are defined in the State Act and Section 310 CMR 10.06 of the State Regulations. The jurisdiction of the Commission shall be in accordance with the State Act and State Regulations.

## **ARTICLE VIII APPEALS**

Certain actions taken by the Commission under the State Act or State Regulations may be appealable to the Massachusetts Department of Environmental Protection in accordance with the State Act and State Regulations. An action taken by the Commission relating solely to a local rule and regulation set forth in these Regulations may be appealable to the Massachusetts Superior Court Department of the Trial Court.

## **ARTICLE IX SEVERABILITY**

The invalidity of any section or provision of these Regulations shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued by the Commission.