

Attachment D
Needham Wetlands Regulations
Wildlife Habitat Assessment Policy

The Town of Needham Wetlands Protection Regulations (pursuant to the authority of the Needham Wetlands Protection Bylaw, Needham General Bylaw, Section 6) protect vegetated wetlands and buffer zones for, in part, their ability to provide wildlife habitat. The Regulations presume that these resource areas, as well as Bordering Land Subject to Flooding and Bank, protect wildlife habitat except in certain unusual circumstances. The Regulations, at 1.05(4)(a), require submittal of a wildlife habitat assessment where work is proposed within a resource area (including the Buffer Zone). This Policy is intended to establish standards for such habitat assessments.

REGULATORY FRAMEWORK

The regulations for the Vegetated Wetlands, Section 2.02(1), state that “the hydrologic regime, plant community composition and structure, soil composition and structure, topography, and water chemistry of Freshwater Wetlands and their adjacent uplands provide important food, shelter, migratory and overwintering areas, and breeding areas for many birds, mammals, amphibians, reptiles, and invertebrates.”

The regulations for Bordering Land Subject to Flooding, Section 2.04(1), state that “Bordering Land Subject to Flooding is likely to provide important wildlife habitat, with the exceptions of those portions which have been so extensively altered by human activity that their important wildlife habitat functions have been effectively eliminated (such as paved and graveled areas, and roadways). The hydrologic regime, plant community composition and structure, topography, soil composition and structure, proximity to Water Bodies, and to Freshwater Wetlands, enable Bordering Lands Subject to Flooding to provide important food, shelter, migratory and overwintering areas, and breeding areas for wildlife.”

The regulations for Buffer Zone, Section 2.06(1), state that the “plant communities and soils of these areas, where these are composed of natural vegetation and indigenous soils, provide important shelter, nesting, feeding, and migratory areas for wildlife associated with the adjacent wetlands. Many wildlife species that feed or breed in Freshwater Wetlands require adjacent undisturbed upland areas for critical portions of their life cycles. Other wildlife, which perform key ecological roles in Freshwater Wetlands or Water Bodies, may nest or perch in areas immediately adjacent to Freshwater Wetlands or Water Bodies. Forested upland vegetation, where this occurs directly adjacent to Freshwater Wetlands or Water Bodies, provides an important buffer that maintains air temperatures, light regimes, and habitat quality within the Freshwater Wetland or Water Body.”

PRESUMPTIONS

The Regulations establish the presumption that wetland resource areas, including the Buffer Zone, are significant to the protection of wildlife habitat unless they are so substantially altered that wildlife habitat has been eliminated. Areas that are presumed to **not** be significant to the protection of wildlife habitat include:

- a) mowed lawns

- b) parking lots and other paved areas
- c) roads and railroads
- d) cemeteries
- e) areas with a gravel surface, lacking natural vegetation

The regulations presume that the alteration of any resource area (including the Buffer Zone) will adversely affect the ability of the resource to protect wildlife habitat, including the ability of the resource to provide shelter, nesting habitat, migratory habitat, feeding habitat, or other habitat functions, for birds, mammals, amphibians, or reptiles. The regulations presume that alteration of the Buffer Zone is likely to have an adverse effect on the ability of the adjacent Vegetated Wetland or Bank to provide wildlife habitat. The performance standards for each of the resource areas require that any proposed work, permitted by the Commission, shall not result in “any impairment of the capacity of said area to provide important wildlife habitat functions.”

The Massachusetts Wetlands Protection Regulations (310 CMR 10.00 et seq) provide clear performance standard thresholds for work that is presumed to not impair the capacity of an area to provide important wildlife habitat functions:

- a) for Vegetated Wetland, alteration of less than 5,000 with equal replacement
- b) for Bordering Land Subject to Flooding, alteration of the lesser of 5,000 square feet or 10 percent of the land within the resource area
- c) for Bank, alteration of the lesser of 50 linear feet or, 10 percent of the total length of Bank
- d) for Riverfront Area, alteration of the greater of 5,000 square feet or 10 percent of the land within the resource area.

The Needham Conservation Commission incorporates these performance standards and the procedures for determination of Important Wildlife Habitat as established in DEP Wetland Program Policy 88-2. However, the state regulations do not address Buffer Zone, which is a resource area only under the Needham Wetlands Protection Bylaw.

WILDLIFE HABITAT PERFORMANCE STANDARDS – BUFFER ZONE

Work within the Buffer Zone of a Vegetated Wetland, Bank, or land under a Water Body is presumed to not impair the capacity of the Buffer Zone to provide important wildlife habitat functions when the work will:

1. alter the lesser of (a) up to 5,000 square feet or (b) 10 percent of the land within the resource area, and
2. maintain undisturbed natural vegetation a minimum of 50 feet in width adjacent to the Vegetated Wetland, Bank or land under a Water Body.

Applicants seeking to alter land within the Buffer Zone in excess of these thresholds must provide a wildlife habitat analysis to the Commission that includes the information listed in the next section of this Policy.

WILDLIFE HABITAT ANALYSIS

Wildlife Habitat Analyses **must include the information listed below**. Habitat analyses that generate a numerical value rating for wildlife habitat do not provide this information and will not be accepted by the Needham Conservation Commission.

1. Description of Adjacent Wetland Resource Area (Bank, land under a Water Body, or Vegetated Wetland)

- a) Size or length within the subject property
- b) Total size or length
- c) Type of hydrology (seasonal maximum depth and extent of water)
- d) Presence of open water (size, location, type of water body)
- e) Dominant Vegetation
 - a. Canopy: list species, percent cover
 - b. Shrub layer: list species, percent cover
 - c. Herbaceous layer: list species, percent cover
- f) Other vegetation cover types
- g) Wildlife habitat features (tree cavities, fallen logs, dead perch trees)
- h) Direct observations of wildlife usage
- i) List of wildlife species that are capable of using the resource area for nesting, breeding, overwintering, or for migratory or feeding habitat.

2. Description of Buffer Zone

- a) Size within the subject property
- b) Dominant vegetation
 - a. Canopy: list species, percent cover
 - b. Shrub layer: list species, percent cover
 - c. Herbaceous layer: list species, percent cover
- c) Other vegetation cover types
- d) Wildlife habitat features (tree cavities, fallen logs, dead perch trees)
- e) Direct observation of wildlife usage
- f) Location of Buffer Zone with respect to potential wildlife corridors to other Wetlands
- g) List of wildlife species that are capable of using the resource area for nesting, breeding, overwintering, or for migratory or feeding habitat.

3. Description of Impact

- a) Amount of Buffer Zone to be altered
- b) Percent of total Buffer Zone on the property
- c) Distance from edge of Vegetated Wetland or Bank
- d) Configuration of impacted area (outer edge of Buffer Zone vs. creation of gap in canopy extending to wetland edge)

4. Description of measures to mitigate for impacts to wildlife habitat within the Buffer Zone

For example, minimizing the use of leaf blowers and outdoor lighting.