

ACEC/MA PRIVATE SECTOR COMMITTEE MEETING BOSTON WETLANDS ORDINANCE

January 20, 2022



CITY of BOSTON
Conservation Commission



STAFF PRESENT

PRESENTERS



NICK MORENO

*Executive Director,
Boston Conservation
Commission*



KATE OETHEIMER

*Conservation Assistant,
Boston Conservation
Commission*

MODERATOR



STACY MINIHANE

*Beals and Thomas,
Inc.*

AGENDA

- *Boston Wetlands Ordinance vs. MA Wetlands Protection Act*
- *Phase I Regulations - Adopted*
- *Phase II Regulations – Drafted*
- *Phase III Regulations – In progress*
- *Updated Filing Guidelines*
- *Questions/Discussion*



THE MA WETLANDS PROTECTION ACT



The Massachusetts Wetlands Protection Act (General Laws Chapter 131, §40) protects wetlands, floodplains, riverfront areas, and other areas from alteration.

Under the Act no one may “remove, fill, dredge, or alter” any wetland, floodplain, bank, land under a water body, land within 100 feet of a wetland, or land within 25 feet of a perennial stream or river, without a permit (known as an Order of Conditions) from the Conservation Commission.

In its review of an activity, the Commission is tasked with ensuring that the proposed activity will not impact the “interests” of the Act.

Under the City’s Home Rule authority, the City can supplement the jurisdiction, authority, and procedures of the Conservation Commission, and to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Act.

THE BOSTON WETLANDS PROTECTION ORDINANCE



Under the Ordinance, the Commission may establish **stricter standards and protect additional wetland resource areas** than under existing state law.

Specifically, it **extends protection to isolated vegetated wetlands, vernal pools and vernal pool habitat.**

The ordinance also allows the Commission to **develop standards for projects in the floodplain** to ensure future residents are protected from flooding.

Climate change is also a major piece of the Ordinance. The Ordinance allows for:

- Creation of Flood Resilience Zones;
- Development of climate resilience regulations;
- Extension of the Riverfront Area; and
- Development of environmental justice regulations and guidelines.

It is important to remember that the **Act & Regulations are the baseline** and that the performance standards **must conform with language in Boston Wetlands Ordinance.**

THE PHASED APPROACH TO REGULATIONS



DECEMBER 2019

*Ordinance passed by City Council
and signed by the Mayor*

EARLY 2022

*Phase II Regulations -
Performance Standards for Isolated Vegetated Wetlands,
Vernal Pools, Land Subject to Coastal Storm Flowage*

AUGUST 2020

*Approval of Phase I Regulations -
Administrative and Procedural Regs.*

IN PROGRESS

*Phase III Regulations -
Climate Resilience and
Environmental Justice*

THE PHASED APPROACH TO REGULATIONS



PHASE I

ADMINISTRATIVE & PROCEDURAL

Develop administrative and procedural regulations to:

- Clarify the application and hearing process;
- Establish additional filing requirements and fees; and
- Codify requirements established by the Ordinance.

PHASE II

PERFORMANCE STANDARDS

Develop performance standards for:

- Isolated Vegetated Wetlands (IVW);
- Vernal Pools and Vernal Pool Habitat; and
- Land Subject to Coastal Storm Flowage (LSCSF).

PHASE III

CLIMATE RESILIENCE & ENVIRONMENTAL JUSTICE

Develop regulations and guidelines for:

- Climate resilience;
- Coastal Flood Resilience Zone (CFRZ);
- Inland Flood Resilience Zone (IFRZ);
- Extended Riverfront Area;
- Climate Equity & Environmental Justice.

PHASE II REGULATIONS



ISOLATED WETLANDS

- Performance standards mirror those for BVW.
- Alteration with or without replication or restoration may be permitted.
- Requirement to consider the impacts of climate change on IVW and the integration of climate resilience and adaptation strategies.

VERNAL POOLS

- No alteration to the pool itself but alteration to the buffer zone (vernal pool habitat) may be permitted.
- Wildlife corridors and surface hydrology must be maintained.
- Requirement to consider the impacts of climate change on vernal pools and the integration of climate resilience and adaptation strategies.

LSCSF

- Protect the functions of natural or relatively undisturbed LSCSF.
- Separate subsection on Redevelopment.
- Require consideration of the impacts of climate change on LSCSF and the integration of climate resilience and adaptation strategies.
- Projects must assess the future flooding conditions projected for the site.

PHASE III REGULATIONS



CFRZ

Questions being asked:

- What is the extent of flooding based on the current projections in 2030, 2050, and 2070?
- How should these areas be regulated and to what degree?
- When should regulation of these areas begin?

IFRZ

Questions being asked:

- What is the extent of flooding based on the current projections and storm scenarios?
- How should these areas be regulated and to what degree?
- When should regulation of these areas begin?

EXTENDED RIVERFRONT

Questions being asked:

- Where are all of the city's perennial and intermittent streams?
- What are the land uses 50, 100, 150, and 200 feet from each waterway?
- What criteria should be used to extend the Riverfront Area?

PHASE III REGULATIONS



CLIMATE RESILIENCE

The Ordinance also requires a consideration of:

- Sea-level Rise;
- Extreme heat;
- The timing, frequency, intensity, and amount of precipitation;
- Storm surges;
- Increased intensity or frequency of storm events or extreme weather events; and
- Frequency, intensity, and duration of droughts.

ENVIRONMENTAL JUSTICE

Developing guidelines and regulations that promote climate equity and environmental justice as they relate to proposed projects, including both substantive and procedural considerations; and

Incorporating environmental justice in the development of the regulations through public engagement and outreach

UPDATED FILING GUIDELINES



The Commission has historically published a list of filing guidelines to aid Applicants in completing their filings.

Since the Ordinance was enacted, the filing guidelines have expanded to require require new materials and additional details to better serve the Commission in its review of projects.

Updates to the filing guidelines are expected to accompany each phase of regulation as the Commission updates and adds requirements.

Phase II updates to the guidelines include:

- Expanded consideration of sea-level rise and other coastal flooding,
- Expanded consideration of projected changes in precipitation and stormwater flooding, and
- Consideration of extreme heat.

QUESTIONS?

