

**ORDINANCE NO. 1773**

**CITY OF WESTFIELD**

**IN CITY COUNCIL**

**MAY 1, 2025**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF WESTFIELD, ADOPTED JANUARY 21, 1971

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTFIELD, AS FOLLOWS:

That Code of Ordinances, City of Westfield, Chapter 13, Article V, Division 2, be deleted in its entirety and substituting therefore with the following:

**DIVISION 2. WETLAND PROTECTION ORDINANCE**

**SECTION 13-176 – Purpose**

The purpose of this Ordinance is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the City of Westfield by controlling activities deemed by the Westfield Conservation Commission (hereinafter referred to as the Commission) likely to have a significant or cumulative effect upon resource area values (known collectively as “Values Protected by This Ordinance”) including but not limited to:

- 1) Public or private water supply
- 2) Groundwater
- 3) Flood control
- 4) Storm damage prevention
- 5) Prevention of pollution
- 6) Water quality
- 7) Fisheries
- 8) Wildlife habitat
- 9) Rare species and their habitats
- 10) Erosion and sediment control
- 11) Agriculture
- 12) Aquaculture
- 13) Open land and passive recreation

This Ordinance is intended to utilize the Home Rule authority of this municipality to impose local regulations and permits, additional standards, and procedures stricter than those of the Wetlands Protection Act (M.G.L. Ch.131 §40; hereinafter, the “Act”) and regulations thereunder (310 CMR 10.00) and to protect additional resource areas beyond the Act recognized by the City as significant.

**SECTION 13-177 – Jurisdiction**

Except as permitted by the Commission or as provided in this Ordinance, no Person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal

pools, ephemeral pools, springs, banks, reservoirs, lakes, ponds of any size, beaches, isolated wetlands, and land under water bodies and lands adjoining these resource areas out to a distance of 100 feet, known as the Buffer Zone; rivers, streams, brooks and creeks whether perennial or intermittent and lands adjoining these resource areas out to a distance of 200 feet; and lands subject to flooding or inundation by groundwater or surface water (collectively the “Resource Areas Protected by this Ordinance”). Said Resource Areas maybe protected whether or not they border surface water or originate from an upstream Resource Area.

### **SECTION 13-178 – Definitions**

Except as otherwise provided in this Ordinance or in the regulations of the Commission, the definitions of terms in this Ordinance shall be as set forth in the Act and 310 CMR 10.00, et seq. Wetlands Protection.

The term “*310 CMR 10.00, et seq. Wetlands Protection*” shall mean the regulations set to implement M.G.L. Ch.131 §40 that define and clarify the process of regulatory review and establish standard definitions and uniform procedures for all Conservation Commissions of the Commonwealth to follow. Also referred to as 310 CMR 10.00 or Regulations.

The term “*alter*” shall include, without limitation, the following actions when undertaken to, upon, within, or affecting Resource Areas Protected by this Ordinance:

- a) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- b) Changing, of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics, including increasing the volume of stormwater runoff directed to a Resource Area;
- c) Changing or other disturbance of water level or water table;
- d) Dumping, discharging, or filling with any material which may degrade water quality;
- e) Placing of fill, or removal of material, which would alter elevation;
- f) Driving, of piles, erection, or repair of buildings, or structures of any kind;
- g) Destruction of plant life including but not limited to cutting of trees;
- h) Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;
- i) Incremental activities which have, or may have, a cumulative adverse impact on the Resource Areas Protected by this Ordinance

The term “*Applicant*” shall refer to the definition found in 310 CMR 10.04.

The term “*Conservation Commission*” shall refer to the issuing authority; a board lawfully appointed pursuant to M.G.L. Ch. 40 §8C. The Commission shall issue permits; administer and enforce the Act and its Regulations; administer this Ordinance and its Rules and Regulations; protect open space; and oversee and appoint the Conservation Agent.

The term “*Conservation Agent*” (Agent) shall refer to a city employee appointed by a majority vote of the Commission to administer the Act, 310 CMR 10.00, this Ordinance, and Rules and Regulations to the Ordinance; to serve as a liaison to the Commission; to accept, review, and

comment on applications; to assist Applicants; provide information to the Commission and the Public about the laws and resource areas; and to manage the Conservation Department, staff, and interns. The authority of the Agent is granted by the Commission, the Massachusetts Wetland Protection Act, and this Ordinance.

The term “*Massachusetts Wetlands Protection Act*” shall refer to the state law which sets forth a review and decision-making process to regulate activities which may affect Areas Subject to Protection Under the Act which contribute to the interest of the Act.

The term “*Person*” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust estate, the Commonwealth or political subdivision thereof to the extent subject to city Ordinance, administrative agencies, public or quasi-public corporations or bodies, and any other legal entity, its legal representatives, agencies, or assignees.

The term “*Resource Area Subject to Protection*” shall include any areas specified in 310 CMR 10.02(1)(a) and those areas additionally defined in Section 13-177 of this Ordinance. It is used synonymously with Resource Area, Jurisdictional Area, Area of Significance, or Area.

#### **SECTION 13-179 – Regulations**

The Commission adopts the Regulations of the Massachusetts Wetlands Protection Act as contained in *310 CMR 10.00*, as may be amended from time-to-time hereafter, unless otherwise specifically noted herein.

The Commission may adopt local Rules and Regulations pursuant to the following procedure, provided same are not inconsistent or incompatible with the provisions of the Act, 310 CMR 10.00, or this Ordinance:

After public notice, the Commission may promulgate Rules and Regulations to effectuate the purposes of this Ordinance, effective when voted to adopt such Rules and Regulations by a majority vote of the Commission and then filed with the City Clerk. Failure by the Commission to promulgate and, from time to time, amend such Rules and Regulations, or a legal declaration of their invalidity by a court of law, shall not act to suspend or invalidate any provisions of this Ordinance. At a minimum, these regulations shall further define and clarify the terms and procedures set forth in this Ordinance. In the event of conflict between this Ordinance and such Rules and Regulations, the Ordinance shall prevail. The Commission may waive any provision of its Rules and Regulations as they deem reasonable.

#### **SECTION 13-180 – Exceptions**

This Ordinance and accompanying Rules and Regulations of the Ordinance, which may be amended from time to time, are applicable to Persons who seek to conduct an activity or otherwise alter a Resource Area Subject to Protection Under this Ordinance, requiring the approval of the Conservation Commission. Other than stated in this Ordinance, the exemptions provided in the Wetlands Protection Act and 310 CMR 10.00 shall not apply and will require the filing of a Request for Determination of Applicability, Notice of Intent, Abbreviated Notice of Intent, or Local Wetlands Permit Application.

This Ordinance includes several exceptions whereby the application and permit procedures required shall not apply. Where an application or permit is not required, all performance standards as listed in Section 4 of the Rules and Regulations pursuant to this Ordinance shall still be met for the Resource Area. A Person should file a Request for Determination of Applicability to ascertain the jurisdiction of the Commission specific to these exceptions when uncertain if the exception applies to the work, land, or activity. These exceptions include:

**A. Land in Agricultural Use**

The application and permit required by this Ordinance shall not be required for work performed for normal maintenance or normal improvement of land which is lawfully in agricultural use as defined in 310 CMR 10.04 (Agriculture) so long as:

- 1) Written notice has been given to the Commission at least thirty (30) days prior to the commencement of work; and
- 2) Work shall conform to general performance standards, design specifications, and best management practices for farming in or near wetlands as defined in 310 CMR 10.04 under the definition of "Agriculture."

**B. Forestry**

The application and permits required by this Ordinance shall not apply to the harvesting of forestry products as defined in M.G.L. Ch.132 §§40 - 46 when an approved forest cutting plan has been properly filed and reviewed by the Commission or Agent and approved by the Department of Conservation and Recreation.

If the Commission or Agent determines that the cutting and removal of trees or other vegetation will have a significant or cumulative impact on a Resource Area Subject to Protection Under this Ordinance, they may, at their discretion, require the filing of the application and permit required by this Ordinance.

**C. Structures and Facilities in Service to the Public**

The application and permit required by this Ordinance shall not be required for maintaining, repairing, or replacing an existing and lawfully located structure or facility which is used in the service of the public to provide electric, gas, water, sanitary sewer, storm drainage, public roadway, telephone, telegraph, or other telecommunications provided that:

- 1) Written notice has been given to the Commission at least seventy-two (72) hours prior to the commencement of work;
- 2) The structure or facility will not be, in the opinion of the Commission, substantially changed or enlarged; and
- 3) Provided any work done conforms to the performance standards and design specification in the Rules and Regulations adopted by the Commission.

#### **D. Emergency Projects**

The application and permit required by this Ordinance shall not apply to emergency projects necessary for the protection of the health, safety, or wellbeing of the public provided that the Person requesting permission specifies why the project is necessary and is issued an Emergency Certification signed by the MassDEP, Agent, Chair of the Commission or any member thereof.

The agency or department of the Commonwealth or of any subdivision thereof which is to perform the project or has ordered its performance shall notify the Agent, or the Chair of the Commission, or any member thereof, prior to commencing the project. The Agent, Chair, or member shall be authorized to issue an Emergency Certification upon confirmation and inspection that the project is a threat to public health, safety, or wellbeing.

If an Emergency Certification is issued independently, by the Agent, Chair of the Commission, or member thereof, the issuance of the Emergency Certification shall be placed on the agenda of the next regularly scheduled Commission meeting and the Commission shall vote as to whether to ratify the Emergency Certification. If ratification is withheld, all work on the project shall cease and the appropriate application and permit process followed. If ratification is approved, no further permitting shall be required, and work may continue as described in the Emergency Certification.

No work on any emergency project shall be conducted after the expiration of thirty (30) days from the initial certification of the project as an emergency project, unless a longer period is expressly required by regulation due to the nature of the work (i.e., 60-day Immediate Response Actions pursuant to the Massachusetts Contingency Plan). If the Emergency Certification will expire prior to work being completed, an extension should be requested from the Commission. If the Emergency Certification expires prior to work being completed, a new emergency certification shall be requested, or an application for the work submitted.

#### **E. Activities Subject to Administrative Approval**

The application and permit required by this Ordinance shall not apply to minor activities within the Buffer Zone or Riverfront Area, provided that such activities and staging occurs greater than fifty (50) feet from the Resource Area, erosion controls and best management practices are implemented, and an Administrative Approval is granted from by the Agent. Minor activities are limited to the following:

- 1) Installation of fencing provided that it does not create a barrier to wildlife movement or floodwaters.
- 2) Unpaved pedestrian less than 30 inches wide for private use and less than three feet wide for public access on conservation property
- 3) Vista pruning or selective thinning
- 4) Planting of native trees, shrubs, or groundcover (excluding turf lawns)

- 5) Conversion of patios, pools, sheds, or other impervious surfaces into lawn or natural vegetation
- 6) Activities such as monitoring wells, exploratory borings, sampling, surveying, and percolation tests, provided that Resource Areas are not crossed or altered in order to access the site.
- 7) The cutting of trees on private property, for private use, provided that:
  - a. The location and methods of cutting and removal of trees or other vegetation have been reviewed and approved by the Commission or Agent;
  - b. All slash, branches, limbs, and other materials are removed from the Resource Area(s); and
  - c. No filling, excavation, or other change shall occur in topography or hydrology of the Resource Area(s).
- 8) Public Shared Use Path vegetation cutting for public safety, pavement repair, and resurfacing limited to:
  - a. The removal of trees which pose an immediate threat to public safety
  - b. Removal of vegetation to maintain vertical clearances, horizontal edges, and visibility. Vegetation shall be chipped and dispersed on site no greater than 3 inches deep or removed and disposed of to prevent the spread of invasive species;
  - c. Paving, resurfacing, or reclamation of a paved area shall not widen or extend the path, use asphalt mulch, coal tar-based sealants, or involve stockpiling of materials; and
  - d. All disturbed surfaces must be stabilized within 72 hours of completion of activities of the above listed activities.

Maintenance of existing landscaping, including mowing lawns, gardening, and pruning, is exempt from review under the Ordinance regardless of location in the Buffer Zone or within any Resource Area.

### **SECTION 13-181 – Application for Permits**

No activities upon or within Resource Areas shall commence without receiving and complying with a Local Wetland Permit, Order of Conditions, or Determination issued pursuant to this Ordinance.

Written application shall be filed with the Conservation Commission to perform activities that will or, in the opinion of the Commission, may affect Resource Areas. An application shall include such information and plans as are deemed necessary by the Commission to describe the proposed activities and their effects on the Resource Areas.

If the Applicant is not a landowner of the Project Locus, the Applicant shall obtain written permission from a landowner(s) prior to filing a Local Wetland Permit Application for proposed work.

#### **A. Fees**

At the time of application, the Applicant shall pay a filing fee as specified in the Commission's fee schedule. The fee shall be deposited in a dedicated account for uses only approved by the Commission relating to protection of the values identified in section 13-176 of this Ordinance.

The reissuance of lost documents, request for extension of a Final Order or LWP, and request for amendment to a Final Order or LWP may also be subject to a fee as set forth in the Ordinance Rules and Regulations.

The fee schedule may be found in Appendix A of the Westfield Wetland Protection Ordinance Rules and Regulations. No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

**B. Request for Determination of Applicability (RDA)**

Any Person desiring to know whether proposed work or an Area is subject to this Ordinance, the Act, or both shall file a Request for Determination on WPA Form 1. Upon review of the Request for Determination, the Commission, at its discretion, may require the filing of a Notice of Intent, Abbreviated Notice of Intent, or Local Wetland Permit Application for such work. Additional information on the process for applying for an RDA may be found in Appendix B of the Westfield Wetlands Protection Ordinance Rules and Regulations.

**C. Notice of Intent (NOI) and Abbreviated Notice of Intent (ANOI)**

Where a project is subject to the jurisdiction of both this Ordinance and the Act, the Commission may accept the application and plans filed under the Act as the permit application and plans required pursuant to this Ordinance, notwithstanding the fact that the permit application requirements of this Ordinance may exceed those requirements of the Act and the Regulations of the Act. Any Person desiring to work within an Area Subject to Protection Under this Ordinance and the Act shall file a Notice of Intent using WPA Form 3: Notice of Intent. Where the proposed work is in the Buffer Zone, Land Subject to Flooding, or Riverfront Area, will disturb less than 1,000 sf of the aforementioned Areas, and a Chapter 91 License is not required, a Person may file an application using WPA Form 4: Abbreviated Notice of Intent. Appendix C of the Westfield Wetlands Protection Rules and Regulations provides greater detail on the NOI Requirements.

**D. Local Wetland Permit Application (LWPA)**

Where jurisdiction is held at the local level, only by this Ordinance, any Person shall file a Local Wetlands Permit Application. Further explanation of requirements for submittal under this Ordinance may be found in the Rules and Regulations of the Westfield

Wetland Protection Ordinance. Appendix D of the Westfield Wetlands Protection Rules and Regulations provides greater detail on the LWP Requirements.

**E. Abbreviated Notice of Resource Area Delineation (ANRAD)**

Any Person desiring to confirm delineation of a Bordering Vegetated Wetland (BVW) may file an Abbreviated Notice of Resource Area Delineation (ANRAD). Confirmation of other Resource Areas boundaries, including those only protected by this Ordinance, may be requested that are in association with the BVW at the time of application. In lieu of filing an ANRAD, a Person may file an RDA, NOI, LWPA, or ANOI, to confirm wetland boundaries and seek approval for proposed work concurrently.

**SECTION 13-182 – Notice, Meetings, and Hearings**

**A. Public Notice**

Any Person filing an application with the Commission at the same time shall give written notice thereof, by USPS certified mail or hand delivered, to all Abutters at their mailing address shown on the most recent applicable tax list, including owners of land directly opposite on any public or private street or way and to the Abutters within 100 feet of the property line of the Project Locus (as defined in 310 CMR 10.04), including any in another municipality or across a body of water. The notice shall provide a brief description of the proposed work and date of the Commission hearing or meeting date. The notice shall include either a copy of the application with plans or shall inform Abutters where a copy may be examined and obtained. An affidavit, certifying such notice was provided, signed under penalty of perjury, by the Person providing the same, with a copy of the notice shall be filed with the Commission. Notification of Abutters shall be at the Applicant's expense. Appendix E of the Westfield Wetlands Protection Rules and Regulations provides greater detail on the Abutter Notification Process.

The Commission shall publish a legal notice in a newspaper of general circulation at least five (5) business days prior to the hearing of any application and shall be billed directly to the Applicant.

**B. Public Hearings**

Public Hearings shall be held in accordance with the requirements set forth in 310 CMR 10.05(5). Hearings include the review of NOI, ANOI, ANRAD, and LWPA. The Commission, in an appropriate case, may separate its Hearing under this Ordinance from the Hearing conducted under the Act. Hearings occur during Public Meetings.

**C. Timeliness**

Public meetings shall be held in accordance with the timeliness requirements set forth in 310 CMR 10.05 and M.G.L. Ch. 131 §40.

The Commission shall have the authority to continue the Meeting or Hearing to a certain date for reasons stated during the Meeting which may include but is not limited to the receipt of additional information from the Applicant or others deemed necessary by the Commission, for

reasons stated within 310 CMR 10.05; or the comments and recommendations of the boards and officials.

### **SECTION 13-183 - Permit and Conditions**

If the Commission, after a Public Meeting, determines the activities which are subject to the application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the Values Protected by this Ordinance, the Commission, within 21 days of the close of the Meeting or Hearing, shall make a decision to approve or deny of the application to perform the activities requested. The Commission shall consider the extent to which the Applicant has avoided, minimized, and mitigated such impacts.

If a Permit, Order, or Determination is issued, the Commission may impose conditions which the Commission deems necessary to protect the Values Protected by this Ordinance of both the subject lands and any contiguous lands within the jurisdiction of the Commission. All activities approved under an LWPA, Final Order, Determination, or shall be done in accordance with those conditions.

Where no such conditions are adequate to protect said Values Protected by this Ordinance, the Commission is empowered to deny an application for failure to meet the requirements of this Ordinance. The Commission may also deny an application for:

- 1) failure to submit necessary information and plans requested by the Commission;
- 2) failure to comply with the procedures, design specifications, performance standards, and other requirements in the Rules and Regulations of this Ordinance; or
- 3) failure to avoid or prevent unacceptable significant or cumulative effects upon the Values Protected by this Ordinance.

Due consideration shall be given to any demonstrated hardship on the Applicant, with the exception of self-imposed hardships, by reason of denial, as presented at the public Hearing or Meeting. When issuing a denial, the Commission shall cite whether the source of the denial is the Act, 310 CMR 10.00, or the Ordinance and any rules and regulations adopted hereunder.

Activities undertaken within 100 feet to such Areas have a high likelihood of adverse impact upon the Resource Area either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities proposed. The adverse impacts from construction and use can include, without limitation: erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore shall require that the Applicant maintain a strip of continuous, undisturbed vegetative cover upon contiguous lands to the Resource Area(s) identified in §1.3(a) of the Rules and Regulations. This Area shall be referred to as the Wetland Protection Zone (WPZ). The WPZ shall be at a minimum of fifty (50) feet measured from and parallel to the Resource Area, and in some instances, may be up to the full extent of the 100-foot Buffer Zone. To be permitted to do work in the WPZ, the Applicant must demonstrate, by a preponderance of credible evidence, that because of project design and site conditions, the work will not cause significant individual or cumulative harmful effects to the Resource Areas and Values Protected by this Ordinance. The Commission may (but shall not be required to):

- 1) Allow the Applicant to make use of the WPZ in a passive manner if, in the opinion of the Commission, there is no significant adverse impact on the Resource Areas Protected by this Ordinance.
- 2) Allow the Applicant to alter the WPZ temporarily, limitedly, or permanently, if the Commission determines, by a majority vote, that the proposed work, including replication, restoration, and/or mitigation will have no significant adverse impact on Values Protected by this Ordinance. Any alteration of the WPZ shall follow the performance standards set forth in §4.11 of the Ordinance Rules and Regulations.

An LWP or Determination issued pursuant to this Ordinance shall expire three (3) years from the date of issuance. Notwithstanding the above, the Commission at its discretion may issue an LWP expiring five (5) years from the date of issuance for recurring or continuous maintenance work, provided that notification of time and location of work is given to the Commission. An LWP may be renewed for an additional period of up to three (3) years, provided that a request for renewal is received in writing by the Commission at least 30 days prior to the expiration of the permit, in accordance with 310 CMR 10.05(8) and that financial guarantees and other securities required by this Ordinance are also reviewed and renewed.

No work approved in any LWP shall be undertaken until the permit issued by the Commission with respect to such work has recorded in the Registry of Deeds or the Land Court for the district in which the land is located, , and until the holder of the permit provides proof of recording to the Commission. Recording of an LWP shall be at the Applicant's expense.

For good cause, the Commission may revoke or modify a Final Order, LWP, or Determination issued pursuant to this Ordinance after giving written notice of such intent to the holder and then holding a Public Meeting or Hearing. Any changes made to a Final Order or LWP shall be recorded at the Registry of Deeds with the original version issued to the Applicant. Recording of the amended Order or LWP shall be at the Applicant's expense.

The Commission, in an appropriate case, may separate the LWP issued under this Ordinance from the Final Order issued pursuant to the Act and 310 CMR 10.00.

Amendments to any LWPA, Final Order, or Determination shall be handled in the manner set out in Appendix F of the Ordinance Rules and Regulations.

Once all work is completed or a portion thereof, that was permitted under a Final Order, the Applicant shall file for a Request for Certificate of Compliance (COC) on WPA Form 8A. Upon receipt of a Request for COC, the Commission shall review the work approved by the Final Order and issue a COC if compliance has been met. The Certificate of Compliance must then be recorded at the Registry of Deeds to close out the Order.

Once all work is completed or a portion thereof, that was permitted under an LWP, the Applicant shall file for a Local Compliance Certificate (LCC) on the form provided by the Commission. Upon receipt of a request for LLC, the Commission will review the permitted work and issue an LCC if compliance has been met. The LCC must then be recorded at the Registry of Deeds to close out the LWP.

### **SECTION 13-184 – Security**

As part of a Determination, Final Order, or LWP issued under this Ordinance, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed be secured wholly or in part by one or more of the methods described below. No work approved in any permit issued by the Commission shall be undertaken until the form of security specified has been filed and proof has been provided to the Commission.

#### **A. Cash bond or check**

The amount of said bond shall be determined by the Commission to be sufficient and payable to the City of Westfield.

Projects which are privately financed shall be required to provide a cash bond (check acceptable) payable to the City of Westfield in an amount determined by the Commission as stated in the Final Order or LWP and approved in a Public Hearing or Meeting. Bonding companies are not involved in the process.

Projects which are publicly funded by the Commonwealth or any City of the Commonwealth, where other methods of security are provided, may not be required to submit a cash bond.

#### **B. By a Conservation Restriction or easement**

Such restriction would be enforceable by the Commission in a court of law, run with the land, executed, and properly recorded at the Registry of Deeds (or registered, in the case of registered lands) 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.

#### **C. By a Declaration of Restrictions**

A declaration of restrictions shall be recorded in the Registry of Deeds or the Land Court for the district in which the land is located for the property where work is to be performed indicating that a portion or entirety of the property is located within a Resource Area Subject to Protection Under This Ordinance and requires approval of the Commission to perform any work within these Areas. The purpose of this declaration is to ensure current and future property owners are aware of Resource Areas on the property in question.

### **SECTION 13-185 – Enforcement**

The Commission shall have the authority to enforce this Ordinance, its Rules and Regulations and permits issued thereunder by violation notices, enforcement orders, non-criminal citations under M.G.L. Ch.40 §21D, and civil and criminal court actions. Municipal boards and officers, including, the Conservation Agent, any police officer, or other officer having policing or enforcement powers, shall have the authority to assist the Commission in enforcement of this Ordinance.

The Commission, its agents, officers, and employees shall have the authority to enter upon privately owned land for the purpose of performing their duties under this Ordinance and may make or cause to be made examinations, surveys, or sampling as the Commission deems necessary, subject to constitutional limitations or an administrative search warrant to enter the property.

Any Person who violates a provision of this Ordinance, Rules and Regulations, or Permits thereunder, may be punished by a fine of \$100.00 per violation, per day for each day the violation is not addressed. Each day or portion thereof during which a violation continues shall constitute a separate offense and each provision of the Ordinance, Rules and Regulations, or Permit violated shall constitute a separate offense.

The Commission is also empowered to enforce violations of the Act and its Regulations and may do so pursuant to any authority and procedure enumerated therein. Further details on course of enforcement action may be found in the Rules and Regulations to the Ordinance.

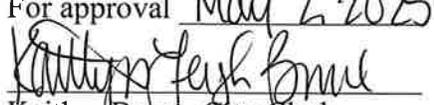
**SECTION 13-186 – Burden of Proof**

The Applicant shall have the burden of proving by a preponderance of the evidence that the work proposed in the application will not have, in the opinion of the Commission, an unacceptable significant or cumulative effect upon the Values Protected by this Ordinance. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a Permit or grant a Permit with conditions.

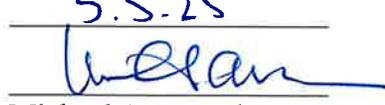
**SECTION 13-187 – Severability**

The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, determination, or order of conditions which previously have been issued.

Presented to the Mayor

For approval May 2, 2025  
  
Kaitlyn Bruce, City Clerk

Approved by the Mayor

5.5.25  
  
Michael A. McCabe, Mayor