

#### **§4.10 Buffer Zone and Wetland Protection Zone**

1. Preamble. Naturally vegetated Buffer Zones protect the functions and ecosystem services provided by adjacent Resource Areas by filtering and removing pollutants, providing groundwater recharge, moderating water temperature, providing core habitat, reducing erosion and siltation into wetlands, providing flood storage capacity, prevent pollution and protect water quality. Activities undertaken within the Buffer Zone have a high likelihood of altering the adjacent Resource Area either immediately or over time.
  - a. Buffer Zones are presumed to be significant to all the values identified in the Ordinance which are associated with the adjacent Resource Area.
  - b. Accordingly, the Ordinance requires that any Persons intending to perform work or activities within the Buffer Zone, shall submit to the Commission either a Request for Determination of Applicability (RDA), Local Wetlands Permit Application (LWPA), or Notice of Intent (NOI).
  - c. If, in response to an RDA, the Commission finds that work within the Buffer Zone will not alter the resource area, it may issue a Negative Determination of Applicability (DOA), approving the work to commence, with or without conditions.
2. Definition, Critical Characteristics, and Boundaries. The Buffer Zone is that area of land extending 100 feet horizontally outward from the boundary of any Resource Area as specified in §1.3(a).
  - a. Existing condition, soils, sensitivity, vegetation, hydrology, and wildlife habitat of the Resource Area are all critical characteristics when considering potential impacts from Buffer Zone Activities.
  - b. Vegetation, surface, existing condition, water source, flow, slope, soil, groundwater regime and depth, location in relation to flow, width, size, nutrients, and upland conditions relating to the Buffer Zone are all critical characteristics when considering potential impacts to the Resource Area from Buffer Zone Activities.
  - c. Vegetative cover and soil within the Buffer Zone filter runoff, protecting water quality within the adjacent Resource Area. Vegetation and soils may also slow surface runoff or groundwater seepage, permitting infiltration of precipitation, maintaining the hydrologic regime to which the Resource Area is adapted whether or not the drainage is directed towards a Resource Area.
  - d. Vegetation is often used as wildlife for important functions such as nesting, feeding, and protective cover.
  - e. Recommend widths of Buffer Zones that contribute to protection of the Values of the Ordinance vary based on site specific conditions and goals. Buffers of 100 feet or more are scientifically proven to be most effective for removing pollutants and sediments more effectively.
  - f. The Wetland Protection Zone (WPZ) is a portion of the Buffer Zone. The WPZ shall fifty (50) feet measured from and parallel to the adjacent Resource Area.
    - i. All work or activities are prohibited within the WPZ.
    - ii. Notwithstanding the above (§4.10(2)(f)a.i.), per the Ordinance, “The Commission may (but shall not be required to): allow the Applicant to alter the WPZ temporarily, limitedly, or permanently, if the Commission determines, by majority vote, that the proposed work, including replication, restoration, and/or

mitigation, will have no significant adverse impact on Values Protected by the Ordinance.”

1. Temporary Impact: Work or activities proposed will have short-term impact on the WPZ and Values Protected by the Ordinance, such as regrading or travel by construction machinery. Once the activity is completed, the area shall be allowed to return to natural vegetation and pre-disturbance functions. In these instances, the Commission may establish time frames and conditions as well as criteria for assessing the successful return of the natural functions of the WPZ which may include additional restoration or mitigation.
  2. Limited Impact: Work or activities will not significantly impact the WPZ or Values Protected by the Ordinance and/or may improve the WPZ and/or adjacent Resource Area(s). Activities which may be considered limited impact include but are not limited to the composting of brush, storing of firewood, invasive species management, wildfire control/protection, and construction of footbridges, given certain conditions and requirements as deemed necessary by the Commission.
  3. Permanent Impact: Work or activities will have lasting impact on the WPZ but have been proven necessary to allow continued use of the land by the Applicant. Types of permanent impacts include but are not limited to dwellings, structures, parking lots, driveways, decks, conversion to lawn, and landscaping. Within the context of permanent impact of the WPZ, the Commission may set specific conditions prohibiting or restricting work or activities deemed potentially harmful to Resource Area Values. Examples of prohibited activities include but are not limited to the use of herbicides and pesticides, interceptor drains, swimming pool discharge, filter backwash systems, and road salts.
3. Presumptions. Where a proposed activity involves alteration of the Buffer Zone, the Commission shall presume that such an area is significant to the interest identified in these Regulations as listed under §4.10(1). This presumption is rebuttable and may be overcome only by a clear showing that said land does not play a role in a majority of said interest. In the event that a presumption is deemed to have been overcome, the Commission shall make a written determination to this effect, setting forth its grounds.
4. Performance Standards. Where the presumption set forth above in §4.10(3) is not overcome, any proposed work or activities upon or within the 100-foot Buffer Zone shall avoid, minimize, and mitigate alterations within the Buffer Zone and ensure that new land disturbance, structures, and activities are located as far as possible from the adjacent Resource Area, consistent with conditions at the site and the characteristics of the proposed work
- a. To the maximum extent practicable, the Buffer Zone shall be retained in a naturally vegetated condition. Where Buffer Zone disturbance is permitted, revegetation with native species may be required.
  - b. Work in the Buffer Zone shall not substantially alter the hydrology of the site, including runoff rates, volume, flow paths, flood storage capacity, and water quality.
    - i. All drainage outlets in the Buffer Zone shall be armored and shall demonstrate that there is no significant change in off-site runoff from the proposed work.
  - c. Work in the Buffer Zone shall not impair wildlife habitat or vernal pool habitat.

- d. The use of herbicides, pesticides, fungicides, fertilizers, or other chemical treatment constitutes an alteration under these Rules and Regulations and is prohibited unless administrative approval is granted.
- e. The Commission may require the placement of permanent markers to establish the boundary of any limits to future alteration on the project site. Barriers may consist of, but are not limited to, boulders, fencing, stone walls, shrubs, FENO boundary marks, signs, and monuments.
- f. Any proposed work upon or within an undeveloped Buffer Zone:
  - i. Shall not alter any portion of the WPZ or adjacent Resource Area, unless otherwise approved by the Commission.
  - ii. Notwithstanding §4.10(4)(f)i. above, in order for work or activities to occur within the WPZ, the applicant must provide restoration or mitigation on site, double that of the total area disturbed (1:2).
    - 1. In an instance of temporary impact, it is assumed that the WPZ will be naturally restored to its pre-disturbed status and if not naturally restored, the applicant will provide additional aid in restoration.
    - 2. If the Commission determines that it is unfeasible to restore or mitigate on site, it may require the applicant to contribute to the restoration, mitigation, or improvement of an offsite Resource Area.
    - 3. Enhancements to the WPZ such as invasive species removal and/or the planting of native species may be considered by the Commission as compensation.
- g. Any proposed work upon or within previously developed Buffer Zones (i.e. developed before the adoption of these Rules and Regulations.)
  - i. Shall be located landward of the existing development.
  - ii. Shall not occur within the undeveloped portion of the WPZ, unless the work will result in a net improvement to the capacity of the Buffer Zone to protect the Values of the Ordinance.
  - iii. Notwithstanding §4.10(4)(g)(i) and (ii) above, new work or activities may be approved within the previously developed WPZ if the applicant provides evidence that the existing conditions of the site existed prior to May 7, 1987, the date of the original adoption of the Westfield Wetlands Protection Ordinance.
- h. Notwithstanding paragraphs (f) and (g) above, the Commission may permit work in the Buffer Zone associated with construction of a wetland or stream crossing, as long as all performance standards for work within the adjacent Resource Area are met and the work in the Buffer Zone is minimized and is appropriately conditioned.
- i. The Westfield Stormwater Ordinance, as may be amended from time to time, applies to all projects which have a discharge point within the 100-foot Buffer Zone and are not otherwise exempt from the Westfield Stormwater Ordinance.