

City of Salem
First Passage
Summary

An Ordinance to replace the existing ordinance Ch. 50 Wetland Protection and Conservation, Sections 1-12, with the following Sections 1-18 as summarized below.

The complete text of this ordinance is on file and is available for inspection during regular business hours at the office of the City Clerk, 93 Washington Street, Salem, MA.

Sec. 1 – Introduction –to utilize the City’s Home Rule Authority to protect additional resource areas, identify additional values and create additional standards and procedures stricter than those of the Wetlands Protection Act (WPA) MGL c.131 § 40 as well a climate change adaptation and mitigation.

Sec. 2 – Purpose – to protect the wetlands, water resources, and adjoining land areas in Salem deemed by the Conservation Commission likely to have a significant or cumulative effect upon the following resource area values: public or private water supply, ground water supply, flood control, storm damage prevention, prevention of pollution, protection of land containing shellfish, protection of fisheries, protection of wildlife habitat, *climate change adaptation and mitigation, Collectively, the "resource area values protected by this Ordinance"

Sec. 3 - Jurisdiction - added, expanding jurisdiction to vernal pools and isolated vegetated wetlands.

Sec. 4 – Exceptions - added regarding emergency, minor, and maintenance activities.

Sec. 5 - Definitions - revised and expanded with the following terms added: Ancillary Structure, Climate Change Adaptation and Mitigation, Climate Change Impacts, Coastal Wetland, Freshwater Wetland, Green Infrastructure/Nature-Based Solutions, Isolated Vegetated Wetland, Passive Passage, Previously Developed or Degraded, Stream, Structures, Vernal Pool, and Wildlife Habitat.

Sec. 6 – Conservation Commission Filing Prohibited - revised to clarify application requirements.

Sec. 7 - Hearing On Permit Application; Access to Property is revised for clarity. For purposes of reviewing an application for permit, the Conservation Commission, its agents, officers, and employees may enter upon privately owned land for the purpose of performing their duties.

Sec. 8 - Buffer Zone and Setbacks - added to establish a 25’ no-disturb zone, 50’ mitigation zone, review considerations for activities within the 100’ buffer zone, criteria for waiver from setbacks, and exclusions.

Sec. 9 - Climate Change Resiliency is added, giving the Conservation Commission authority to consider climate change impacts, mitigation, and adaptation in its project review.

Sec. 10 - Waiver Criteria - added to specify criteria by which the Commission may evaluate a request for relief from the Ordinance or its implementing Regulations.

Sec. 11 - Severability - added to maintain validity of the Ordinance and Commission actions in the event that any section is made invalid. Restoration of Land In Violation section is revised to cite state statute (WPA).

Sec. 12 - Relationship to State Statute - The Conservation Commission shall not impose additional or more stringent conditions pursuant to M.G.L.A. c. 131, § 40 than it imposes

pursuant to this chapter, nor shall it require an applicant filing a notice of intention pursuant to M.G.L.A. c. 131, § 40 to provide materials or data in addition to those required pursuant to this chapter.

Sec. 13 - Promulgation of Regulations –After due notice and public hearing, the Conservation Commission may promulgate rules and regulations to effectuate the purposes of this chapter.

Sec. 14 - Burden of Proof - the Applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application for the permit required by this chapter will not harm the interests protected by this chapter.

Sec. 15 - Security - revised for capitalization.

Sec. 16 - Appeal - revised to make decisions under the ordinance reviewable by Superior Court.

Sec. 17 - Enforcement - revised to specify penalties and persons with enforcement authority through Ch. 1-10(c) – Noncriminal disposition of ordinance violations.

Sec. 18 - Effective Date - effective upon final passage and signature of the Mayor and shall apply to all Notices of Intent filed on or after that date and any subsequent procedures related to such filings made on or after that date.

In City Council January 27, 2022

Referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole

In City Council March 10, 2022

Adopted for first passage by a roll call vote of 11 yeas, 0 nays and 0 absent

ATTEST:

ILENE SIMONS
CITY CLERK

Adv: 03/16/2022