

**TOWN OF NORTON
FALL ANNUAL TOWN MEETING
OCTOBER 5, 2009**

The Fall Annual Town Meeting was called to order by moderator William A. Gouveia at 7:00 PM at the Henri A. Yelle Elementary School Gym. He then led the Pledge of Allegiance to the Flag.

ARTICLE 1 Motion was made by Wayne Graf, Chairman of the Finance Committee, that the Town vote to transfer the amount of \$7,761.71 from Free Cash for the following unpaid bills for which obligation was incurred in prior fiscal years:

\$ 1,588.00	Municipal Building	Compton Doors, Inc.
\$ 1,142.90	Fire Department	Greenwood Emergency Vehicles
\$ 98.03	Street Lighting	National Grid
\$ 4,932.78	Sanitary Landfill	Coler & Colantonio, Inc.

\$ 7,761.71

DECLARED VOTED UNANIMOUSLY BY THE MODERATOR

ARTICLE 2 Motion was made by Mr. Graf that the Town vote to transfer the amount of \$10,000.00 from the Water Surplus Account for the purpose of developing a Water Department Administrative Strategic Plan, including but not limited to incidental costs, expenses, and professional services associated therewith.

DECLARED VOTED BY THE MODERATOR

ARTICLE 3 LOST FOR LACK OF MOTION (Collective Bargaining Agreement)

ARTICLE 4 Motion was made by Mr. Graf that the Town amend the vote taken under Article 14 of the June 8, 2009, Annual Town Meeting Warrant by increasing appropriations for certain line items and transferring others and to do so, by transferring the additional amount of \$30,000.00 from Free Cash, by transferring the amount of \$100.00 from the Finance Committee Salary Account to the Finance Committee Expense Account, and by transferring the amount of \$24,250.00 from the Data Processing Expense Account to the Data Processing Salary Account as follows:

FY10 Operating Budget Supplements			
Account	Department	Use	Amount
001-123-570	Town Manager	Expense	\$ 300.00
001-123-510	Town Manager	Salary	\$ 5,000.00
001-438-750	Sanitary Landfill	Purchase Services	\$ 9,800.00
001-541-570	Council on Aging	Salary	\$ 500.00
001-543-570	Veterans' Services	Expense	\$ 14,400.00
TOTAL SUPPLEMENTS:			\$ 30,000.00
001-131-510 to 001-131-570	Finance Committee	Transfer Salary to Expense	\$ 100.00
001-155-570 to 001-155-510	Data Processing	Transfer Expense to Salary	\$ 24,250.00
TOTAL TRANSFERS:			\$ 24,350.00

and, further, by transferring the amount of \$285,782.00 from Free Cash as an other funding source for the Fiscal Year 2010 budget.

DECLARED VOTED BY THE MODERATOR

ARTICLE 5 LOST FOR LACK OF MOTION (Capital Improvements Fund)

ARTICLE 6 LOST FOR LACK OF MOTION (Appropriate FY10 Cap Imp Fund)

ARTICLE 7 Motion was made by Mr. Graf that the Town vote to transfer the amount of \$11,000.00 from Free Cash for a study concerning potential future liability for retirement, health and life insurance benefits for town employees to comply with the federally mandated Governmental Accounting Standards Board Statement #45.

DECLARED VOTED BY THE MODERATOR

ARTICLE 8 LOST FOR LACK OF MOTION (Land/Local Housing Partnership)

ARTICLE 9 Motion was made by Mr. Graf that the Town vote to amend the “Salary Plan” by deleting the line:

“Custodian – Municipal Center \$10.00-\$15.00 Hourly”.

DECLARED VOTED BY THE MODERATOR

ARTICLE 10 Motion was made by Mr. Graf that the Town vote to amend the “Job Classification” listing by adding “Information Technology Director” and “Tax Collector – Treasurer” and by deleting “Custodian – Police Station” and “Custodian – Municipal Center”.

DECLARED VOTED BY THE MODERATOR

ARTICLE 11 Motion was made by Mr. Graf that the Town vote to amend its By-Laws for the purpose of adopting, ratifying, and incorporating therein a new By-Law entitled “Wetlands Protection By-Law” as set forth in Article 11 of the October 5, 2009, Annual Town Meeting Warrant, **provided, however, that the words “non-zoning” appearing in the title shall be deleted.** (Reading of the Complete Article was Waived).

WETLANDS PROTECTION BYLAW

I. Purpose

- A. Resource Area Values. The purpose of this bylaw is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Norton by controlling activities deemed by the Conservation Commission (hereinafter referred to as the “Commission”) likely to have a significant or cumulative effect on resource area values, including but not limited to the following: public or private water

supply, groundwater supply, flood control, storm damage prevention, prevention and control of pollution, protection of fisheries, protection of wildlife habitat, water quality, pollutant removal capacity, protection of riparian ecosystems, protection of wildlife populations and species diversity, and the function and character of resource area landscapes.

- B. Relationship to the Wetlands Protection Act. This bylaw is enacted pursuant to the Town's Home Rule authority to protect the resource areas under the Wetlands Protection Act (G.L. c.131, §40, hereinafter referred to as the "Act") to a greater degree, to protect additional resource areas beyond the Act recognized by the Town as significant, to protect all resource areas for their additional values beyond those recognized in the Act, and to impose in local regulations and permits additional standards and procedures stricter than those of the Act and the implementing regulations thereunder (310 CMR 10.00, as amended), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Norton.

II. Rules and Regulations

The Commission shall be authorized to promulgate Rules and Regulations to effectuate the purposes of this Bylaw at a meeting for which one week's notice has been provided in a newspaper of general circulation in the Town. Such regulations shall take effect upon filing with the Town Clerk. Failure by the Commission to promulgate such Rules and Regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

Such regulations may include, but need not be limited to the following: requirements for permit procedures; definitions of additional terms not inconsistent with the bylaw; authorization for the use of a consultant fee fund; and imposition of filing and consultant fees.

III. Jurisdiction

Except as permitted by the Commission or specifically exempted in Section IV of this Bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas listed below in Sections III.A-D. These resources shall be known collectively as the "Areas Subject to Protection under this bylaw". Said resource areas shall be protected whether or not they border surface waters.

- A. Any freshwater wetland, including:
1. Vegetated wetlands (marshes, wet meadows, bogs, swamps, seeps and springs) bordering and isolated;

2. Lands subject to flooding or inundation by groundwater or surface water, (bordering and isolated);
 - 3 Banks (naturally occurring and beaches);
 - 4 Reservoirs, lakes, and ponds of any size;
 - 5 Lands under water bodies;
 - 6 Intermittent streams, brooks and creeks; and
 - 7 Lands under waterways.
- B. Lands adjoining freshwater wetlands, out to a distance of 100 feet (defined herein as the Wetland Protection Zone).
- C. Perennial rivers, streams, brooks and creeks, and lands adjoining these resource areas out to a distance of 200 feet (defined as the riverfront area in the Act and its implementing regulations).
- D. Vernal Pool Habitat out to a distance of 100 feet, as defined in this Bylaw, regardless of whether the pool has been certified by the Massachusetts Natural Heritage and Endangered Species Program (NHESP), or whether the pool is located within a state protected resource area.

IV. Exemptions and Exceptions

The exceptions provided in the Act and regulations shall not apply under this Bylaw unless specifically identified in Sections IV.A-C below.

- A. Agricultural Activities. The applications and permits required by this Bylaw shall not apply to work performed for normal maintenance or improvement of land in agricultural and aquacultural use as defined by the Wetlands Protection Act regulations at 310 CMR 10.04.
- B. Existing Structures and Utilities. The applications and permits required by this Bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.
- C. Emergency Situations. The applications and permits required by this Bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof or is authorized by the Board of Health in response to an emergency situation. The

regulations promulgated by the Commission under Section II of this Bylaw may include detailed procedures and requirements for undertaking work in an emergency situation. Upon an applicant's failure to comply with relevant requirements or orders of the Commission, the Commission may, after provision of such notice as it deems appropriate, and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

V. Applications and Fees

- A. Application Required. Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this Bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this Bylaw.

- B. Existing Application Materials. The Commission, in an appropriate case, may at its discretion accept as the application and plans under this Bylaw any application and plans filed under the Act and its implementing regulations

- C. Request for Determination of Applicability. Any person desiring to know whether a proposed activity or an area is subject to the provisions of this Bylaw may submit to the Commission a written request for determination of applicability ("RDA").

- D. Filing Fees. At the time of an application, the applicant shall pay a filing fee as specified by the Commission. The fee shall be in addition to that required by the Act and its implementing regulations. The Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. The Commission may impose additional consultant fees where the requisite review is more extensive than originally estimated based upon changes to the project, the availability of or need for additional information, or other change in circumstances necessitating the same.

VI. Notice and Hearings

- A. Notice. Any person filing a permit or other application, RDA or Abbreviated Notice of Resource Area Delineation (ANRAD), or other request with the Commission shall provide notice as required by the Commission.

- B. Hearing. The Commission shall conduct a public hearing on any permit application, RDA, or ANRAD, with written notice given at the expense

of the applicant, at least five (5) business days prior to the hearing, in a newspaper of general circulation in the Town. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion, based on comments and recommendations of other boards and officials.

The Commission in an appropriate case may combine its hearing under this Bylaw with the hearing conducted under the Act and the implementing regulations, as amended.

VII. Coordination with Other Boards

The Commission shall post meetings to consider matters under the Bylaw in accordance with the Open Meeting Law. The applicant shall provide a copy of the permit application and plans to any Town multiple-member board or officer if so requested, at the applicant's expense. Any Town multiple-member board or officer may submit written comments to the Commission in advance of the public hearing, and such comments shall be provided to the applicant.

VIII. Assessment of Impacts

- A. Overall Impacts to Resource Values. In reviewing any permit application within the jurisdiction of this Bylaw, the Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such impact. The Commission also shall take into account any loss, degradation, isolation, fragmentation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities.

- B. Impacts to Freshwater Wetlands, the Wetland Protection Zone and Vernal Pool Habitat. In reviewing activities for those resource areas listed in Sections III.A, III.B. and III.D of this Bylaw, the Commission shall presume that the associated buffer zones are important to the protection of these resource areas because the best scientific evidence available demonstrates that activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from activities and use can include, without limitation, erosion, siltation, sedimentation, loss of groundwater recharge, poor water quality,

increases in flooding, alteration of pollutant removal rates, and loss of wildlife habitat.

The Commission shall presume that all vernal pools, including the vernal pool habitat and lands adjoining vernal pools, perform essential habitat functions. This presumption may be overcome only by the presentation of a preponderance of credible evidence which, in the judgment of the Commission, demonstrates that the vernal pool habitat as defined by this Bylaw does not provide essential habitat functions. Any formal evaluation shall be performed by an individual who, at a minimum, meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations and has conducted the evaluation at the appropriate time of year.

- C. Impacts to Rivers and Streams. In reviewing activities for those resource areas listed in Sections III.A.6 and III.C of this Bylaw, the Commission shall presume that the riverfront areas are important to the protection of these resource areas because the best scientific evidence available demonstrates that activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from activities and use can include, without limitation, erosion, siltation, sedimentation, loss of groundwater recharge, poor water quality, increases in flooding, alteration of stream morphology, significant changes in water temperature, alteration of pollutant removal rates, and loss of in-stream or riparian wildlife habitat.
- D. Impacts in Areas of Critical Environmental Concern (ACECs). In reviewing activities within an ACEC, the Commission shall presume the ACEC is important to all the resource area values listed in this Bylaw and shall work to ensure the protection of these values and the functions they provide, particularly by taking measures toward:
1. Protection and enhancement of existing native vegetative cover for the improvement and maintenance of existing water quality and quantity;
 2. Protection of pollutant removal capacity (including nitrates, nitrites, phosphorus, metals, salt, sediments and carbon);
 3. Protection of riparian ecosystems and riverfront areas which support the continued viability of fisheries habitat and movement, including seasonal coldwater fisheries, mammals, freshwater mussels and other invertebrates;

4. Protection of wildlife habitat and existing native vegetative and aquatic cover in order to maintain existing populations and species diversity; and
5. Preservation and maintenance of the natural vegetation and geologic features such as stone walls and agricultural relics, which preserve both the function and character of resource area landscapes.

IX. Permits

No permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this Bylaw, has proved by a preponderance of the evidence that: (1) there is no practicable alternative to the proposed project with less adverse effects: and (2) such activities, including proposed mitigation measures will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technologies, costs of the alternatives, and overall project costs. The applicant for a permit shall have the burden of proving by a preponderance of the evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. 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 as further described in this Section of the Bylaw.

- A. Issuance of Permits. The Commission shall issue its permit, order or determination in writing within 21 days of the close of the public hearing thereon.
- B. Conditional Permits. If a permit is issued, the Commission shall impose conditions deemed necessary or desirable to protect said resource area values, and all activities shall be conducted in accordance with those conditions.
 1. To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. Projects shall not be segmented or phased to evade or defer review requirements under this Bylaw or to give the appearance of no or minimal alteration or impact to the resource areas protected by this Bylaw. The Commission may authorize or require replication of wetlands as a

form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.

2. Due to the importance of the Areas Subject to Protection under III.A-D, the Commission may require compliance with design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of such Areas Subject to Protection, including without limitation strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.
3. The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual, historic or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who, at a minimum, meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

C. Denial of Permit. The Commission may deny a permit based on the findings or conditions listed below; provided, however, that the Commission may consider any hardship on the applicant created by reason of denial, as demonstrated at the public hearing, such as those matters set forth below in Section IX(D):.

1. Where no conditions are adequate to protect said resource area values; or
2. For failure to submit necessary information and plans requested by the Commission; or
3. For failure to comply with the procedures, design specifications, performance standards, and other requirements in the Rules and Regulations associated with this Bylaw; or

4. For failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw.

D. Waivers to Rules and Regulations. The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that:

1. The Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; and
2. That avoidance, minimization and mitigation have been employed to the maximum extent feasible; and
3. That the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

E. Permit Validity. A permit, DOA, or ORAD shall expire three (3) years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five (5) years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be extended for one (1) or more periods up to three (3) years each, provided that a request for an extension is received in writing by the Commission at least thirty (30) days prior to the expiration date. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

F. Permit Revocation. For good cause the Commission may revoke any permit, DOA, or ORAD or any other order, determination or other decision issued under this bylaw after notice to the holder, the public, abutters, and town boards, pursuant to §VI, and after a public hearing.

G. Permit Amendments. Amendments to permits, DOAs, or ORADs shall be handled in the manner set out in the Act and implementing regulations, and, to the extent that the Commission promulgates regulations in accordance with Section II of this Bylaw, the Commission's regulations.

- H. Combining Decisions. The Commission in an appropriate case may combine the decision issued under this bylaw with the permit, DOA, ORAD, or Certificate of Compliance (COC) issued under the Act and its implementing regulations.
- I. Recording of Decision. No work proposed in any application shall be undertaken until the permit, or ORAD issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded and all appeal periods have lapsed. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

X. Definitions

The following definitions shall apply in the interpretation and implementation of this Bylaw.

The term “agriculture” shall be defined as set forth in 310 CMR 10.04, “Agriculture”.

The term “alter” shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, 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, expansion or repair of buildings, or structures of any kind

- G. Placing of obstructions or objects in water
- H. Destruction of plant life including cutting or trimming of trees and shrubs or clearing herbaceous plants
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

The term “Area of Critical Environmental Concern” shall mean an area designated by the Secretary of Energy and Environmental Affairs pursuant to M.G.L. c. 21A, § 2 (7) and 301 CMR 12.00.

The term “bank” shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The term “isolated land subject to flooding” shall mean an isolated depression or closed basin of any size, not occurring in existing lawns, gardens, landscaped areas, storm water management structures or driveways. Isolated land subject to flooding may be underlain by pervious material, which in turn may be covered by a mat of organic peat or muck. The boundary of isolated land subject to flooding is the perimeter of the largest observed or recorded volume of water confined in said area.

The term “isolated vegetated wetland” shall mean any wet meadow, marsh, swamp, bog, area where groundwater, flowing or standing surface water, or ice provide a significant part of the supporting substrate for a hydrophitic plant community or hydric soil. Isolated vegetated wetlands may contain emergent and/or submergent plant communities and may also be referred to as “isolated wetlands”, “federal non-state wetland” or combination of terms thereof.

The term “land adjoining the vernal pool” means the terrestrial area surrounding the vernal pool that may also be referred to as the critical terrestrial habitat in the best scientific evidence available and the appropriate literature.

The term “no disturbance zone” shall mean a continuous strip of undisturbed natural vegetative cover directly adjacent to a resource area. The no disturbance zone (NDZ) means that there shall not be any alteration of natural vegetation including but not limited to, cutting or clearing vegetation, construction, stockpiling materials or dumping whether organic or inorganic.

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 town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

“Pollutant removal capacity” means that ability of a resource area to remove, but not limited to, the following: nutrients, sediments, organic materials, pathogens, hydrocarbons, metals, pesticides, chlorides, trash and debris, nitrates, nitrites, phosphorus, metals, salt, sediments and carbon.

The term “pond” shall be defined as set forth in 310 CMR 10.04, except that the size threshold of 10,000 square feet shall not apply.

“Protection of fisheries” means protection of the capacity of an Area Subject to Protection under this bylaw to:

- a. prevent or reduce contamination or damage to fish; and
- b. serve as their habitat and nutrient source. Fish includes all freshwater species.

“Protection of riparian ecosystems” means protection of the capacity of an Area Subject to Protection under this bylaw to:

- a. maintain the baseflows of brooks, streams and rivers, both intermittent and perennial;
- b. maintain the native plant cover necessary for maintaining temperature and relative humidity in and around the stream, for wildlife habitat and for organic input to the stream system; and
- c. support the continued viability of fisheries habitat and movement, including seasonal coldwater fisheries, mammals, freshwater mussels and other invertebrates.

“Protection of wildlife habitat” means areas that due to their plant community composition and structure, hydrologic regime or other characteristics, provide

important food, cover, shelter, nesting, aestivation, migratory or overwintering areas, or breeding areas for wildlife.

“Protection of wildlife populations and species diversity” means protection of the capacity of an Area Subject to Protection under this bylaw to:

- a. maintain essential life functions of wildlife; and
- b. maintain wildlife corridors essential for wildlife dispersal, recruitment and genetic diversity

The term “rare species” shall include, without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.

“Request for Determination of Applicability” means a written request made by any person to a conservation commission or the Department of Environmental Protection for a determination as to whether a site or work thereon is subject to this bylaw. The request shall be submitted on DEP Form 1. Requests for resource area boundary verification shall be done using the Abbreviated Notice of Resource Area Delineation (ANRAD).

The term “segmentation” shall mean dividing, separating or sectioning a project or property(ies) to 1) evade or defer the review requirements of this Bylaw; 2) give the appearance of no or minimal impact to the Areas Subject to Protection under this Bylaw or 3) to avoid the appearance of exceeding resource area thresholds. Examples of segmentation include, but are not limited to, separating a larger project into smaller individually permitted phases; dividing a larger parcel into smaller lots; and submitting permit applications individually for separate assessor’s parcels that are cumulatively part of a larger project.

The term “vernal pool depression” means the area of the confined basin depression, or the aquatic habitat area. The boundary of the vernal pool shall be the mean annual high-water mark.

The term “vernal pool habitat” shall include, in addition to scientific definitions found in the regulations under the Act, a confined basin or depression of any size not occurring in existing lawns, gardens, landscaped areas, storm water management structures or driveways which, at least in most years, holds water for a minimum of two (2) continuous months during the spring and/or summer; is free of adult fish populations; provides essential breeding habitat, and other extremely important wildlife habitat functions

during non-breeding season as well, for a variety of amphibian species including but not limited to, wood frog (*Lithobates sylvaticus*) and Ambystomatid salamanders, and freshwater invertebrates (like caddisflies, amphibious snails, dragonflies and damselflies and fingernail clams); and provides important habitat for other wildlife species, regardless of whether it has been certified by the Massachusetts Natural Heritage and Endangered Species Program (NHESP), or whether the pool is located within a state protected resource area. The vernal pool habitat shall include the vernal pool depression, and the land adjoining the vernal pool.

The term “visual barrier” shall mean a permanent immovable barricade used to demarcate the no disturbance zone and notify owners of environmentally sensitive areas. Visual barriers shall consist of a post-and-rail fence or a split-rail fence or other approved barrier.

The term “Wetland Protection Zone” means the area of land extending 100 feet horizontally outward from the boundary of any area specified in III.A.

The term “wildlife” means all vertebrates and invertebrates listed to inhabit Massachusetts by the Division of Fisheries and Wildlife.

Except as otherwise provided in this bylaw or in associated regulations of the Commission, the definitions of terms and the procedures in this bylaw shall be as set forth in the Act and its implementing regulations.

XI. Security

As part of a permit issued under this bylaw, 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 thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or all of the methods described in the Rules and Regulations promulgated under this Bylaw.

XII. Enforcement

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

A. Entrance to Property. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the

Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

- B. Means of Enforcement. This Bylaw and any rules and regulations promulgated hereunder may be enforced by any available means in law or equity, including but not limited to enforcement by criminal indictment in accordance with G.L. c.40, §21 and by noncriminal disposition in accordance with G.L. c. 40, §21D and the Town Bylaws, “Non-Criminal Disposition.”

- C. Penalties/Restoration. Any person who violates any provision of this Bylaw, rule or regulation of the Commission, or of a permit issued hereunder may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both. Any person who violates any provision of this Bylaw or any rules or regulations promulgated hereunder, or permits or administrative orders issued thereunder shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each violation of a provision of the Bylaw or rules or regulations promulgated hereunder, or permits or administrative orders issued thereunder, shall constitute a separate offense.

- D. Non-Criminal Disposition. The Conservation Commission, its agent, and any police officer of the Town may enforce this Bylaw and any rules or regulations promulgated hereunder by non-criminal disposition in accordance with G.L. c.40, §21D and the Norton Town Bylaws, “Non-criminal Disposition.” The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each violation of a provision of the Bylaw or any rules or regulations promulgated hereunder shall constitute a separate offense.

XIII. Severability

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued.

Motion was made by Mr. Ronald O’Reilly, Chairman of the Conservation Commission, and seconded that the Town amend Article 11 by deleting the words “or repair” from definition of “alter”, item **F** found in Section **X. Definitions**.

Amendment

DECLARED VOTED BY THE MODERATOR

ATM10-09

Motion was mad and seconded to allow a non-resident to speak on Article 11, which was declared voted by the Moderator.

After much discussion Motion was Made to Move the Question, Motion was Declared Voted by the Moderator.

Vote on Article 11 as Amended DECLARED LOST BY THE MODERATOR

ARTICLE 12 Motion was made by Mr. Graf that the Town vote to accept as a public way under the provisions of Massachusetts General Laws Chapter 82, as amended, **Rubin Drive**, as laid out by the Board of Selectmen and as shown on a plan titled “As-Built Plan and Profile of Rubin Drive within Rocknoll Farm, A Subdivision in Norton, MA” dated September 14, 2009, revised September 23, 2009, drawn by RIM Engineering Co., Inc., and on file in the Office of the Town Clerk, and further, that the Town authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain an easement to use said street for all purposes for which public ways are used in the Town of Norton and associated easements, and to appropriate therefore the sum of One Dollar.

DECLARED LOST BY THE MODERATOR

ARTICLE 13 Motion was made by Mr. Graf that the Town vote to accept as a public way under the provisions of Massachusetts General Laws Chapter 82, as amended, **Beverly Lane**, as laid out by the Board of Selectmen and as shown on a plan titled “Definitive Plan of Whispering Pines, A Subdivision in Norton, Mass.”, dated September 10, 1987, drawn by Hutchins-Trowbridge Associates, Inc., and on file in the Office of the Town Clerk, and further, that the Town authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain an easement to use said street for all purposes for which public ways are used in the Town of Norton and associated easements, and to appropriate therefore the sum of One Dollar.

DECLARED VOTED BY 2/3 VOTE BY THE MODERATOR

ARTICLE 14 Motion was made by Mr. Graf that the Town vote to accept the provisions of Massachusetts General Laws Chapter 64L, Section 2(a), authorizing the imposition of a local excise in the statutory amount of .75 percent on the sale of restaurant meals originating within the Town, such excise to take effect January 1, 2010.

A standing vote was taken:

YES 131 NO 93

DECLARED VOTED BY THE MODERATOR

ARTICLE 15 Motion was made by Mr. Graf that the Town vote to amend the amount of the local excise imposed under Massachusetts General Laws Chapter 64G, Section 3A, on the rental of rooms in hotels, motels, lodging houses, and bed and breakfast establishments within the Town to 6 percent, such amended excise to take effect January 1, 2010.

DECLARED VOTED BY THE MODERATOR

The Fall Annual Town Meeting was declared concluded at 9:15 PM by Moderator Gouveia.

ATTEST:

Diane P. Casagni
Town Clerk