



# TOWN OF HINGHAM CONSERVATION COMMISSION

## Buffer Zone Mitigation Policy

**Purpose.** The Buffer Zone is the area within 100 horizontal feet of Resource Areas specified in the Hingham Wetland Regulations (HWR), Section 2.0(1-4). The Buffer Zone is presumed to be significant to the following wetland values in accordance with HWR 22.0(b): protection of public or private water supply; protection of groundwater; flood control; erosion and sedimentation control; storm damage prevention, including coastal storm flowage; prevention of water pollution; protection of fisheries, protection of wildlife and wildlife habitat; protection of rare species habitat, including rare plant and animal species; protection of recreation; and protection of aesthetics. These presumptions and the importance of naturally vegetated buffers are further supported by well-documented science in the MACC Wetlands Buffer Zone Guidebook (2019).

This policy is intended to ensure that activities permitted by the Commission in the Buffer Zone meet the performance standards set forth under HWR Section 22.0(d)(1-5). The policy also supports the General Provisions in the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.24(1) and 10.53(1), for work in the Buffer Zone, and imposing conditions for the preservation and restoration of natural vegetation.

**Policy.** The Commission requires mitigation or restoration for activities resulting in new alterations in the 100 foot Buffer Zone. Mitigation is required when the existing area to be altered is a pervious surface, such as lawn, landscape beds, areas with naturally occurring rocks or vegetation, etc., as defined below. Mitigation is not required when the existing area to be altered is an impervious surface, as defined below. Mitigation is not generally required for fences. Prior to permitting activities in the Buffer Zone, the Commission shall consider the magnitude of the alteration, the significance of the project site to the values identified in HWR Section 22.0(b), the extent to which impacts have been avoided or minimized, and the extent to which mitigation measures, including buffer zone restoration, are provided to contribute to the protection of the values identified in Section 22.0(b). No work shall be permitted unless the applicant has demonstrated that there are no feasible alternatives with less impact to the Buffer Zone and adjacent Resource Areas.

Applicants should provide summary calculations of the existing and proposed conditions by surface type, within the 0-50 foot and 50-100 foot Buffer Zones. Mitigation shall be required as follows:

Work Location in Buffer Zone	Proposed Alteration	Mitigation Required (to Altered Area)
Within 0-50 foot Buffer Zone	Pervious surface	1:1 mitigation
	Impervious surface	2:1 mitigation*
Within 50-100 foot Buffer Zone	Pervious surface	No mitigation required
	Impervious surface	1:1 mitigation required
Within 0-100 foot Buffer Zone of Vernal Pool*	Impervious or pervious surface	2:1 mitigation**

\* Pursuant to Article 22, Section 2B, except as authorized by the Commission, no activity or alteration shall be permitted within a fifty (50) foot buffer strip between any wetland resource, bordering vegetated wetland, coastal dune or bank, and/or isolated vegetated wetland and any proposed site disturbance. Prohibited activities shall include, but are not limited to, the following: (1) new construction of any buildings, decks, in-ground and above-ground swimming pools, sheds and/or driveways of any nature or type (excepting water dependent structures expressly approved by the Commission); (2) alteration, reconstruction or relocation of existing buildings, sheds and/or driveways of any nature or

*type; and (3) activities which involve or result in the removal, filling or altering of land within the buffer strip, including vegetation removal and grading.*

*\*\*Pursuant to 19.1(b), except as authorized by the Commission, no activity or alteration shall be permitted within 100 feet of a vernal pool whether it be certified or uncertified but accompanied by credible evidence of its viability as a vernal pool.*

### **Definitions.**

Impervious surface: any surface that prevents or significantly impedes the infiltration of water into the underlying soil, including, but not limited to, artificial turf, paved roads and driveways, building rooftops, parking lots, covered porches, sheds, pavilions, swimming pools, hot tubs, walls, impermeable patios and walkways.

Pervious surface: a surface that allows water to percolate into the soil to filter out pollutants and recharge the water table, including but not be limited to, lawns, permeable patios and walkways, landscape beds, and certain structures such as decks (with spacing between planks and pervious surface beneath), pergolas with open roof, and outdoor showers.

Vernal Pool as defined in HWR Section 19.1(c).

### **Guidelines.**

1. Locations closest to the Resource Area shall be prioritized for buffer zone mitigation, as feasible based on the lot conditions. Mitigation may include new planting areas or restoration of previously disturbed buffer zone by grading, correcting site drainage, removing debris, removing impervious surfaces, removing non-native or invasive plants, planting with native vegetation, or other measures which will improve, restore and protect the wetland values of the Buffer Zone and adjacent Resource Area.
2. Mitigation planting plans shall be submitted in advance for review and approval by the Commission and shall include: the required square footage of mitigation area based on ratios in table above, with a mix of trees, shrubs, and herbaceous species appropriate to the project site; species common and Latin names; plant quantities and sizes; and seed mix or ground cover specification. All mitigation plantings shall be native species; no cultivars, non-native species, or invasive species shall be allowed. For a list of acceptable seed mixes and ground cover please refer to the Commission's website at <https://www.hingham-ma.gov/294/By-Laws-Regulations-Permitting>
3. Mitigation areas shall be prepared for planting by removing any existing debris, lawn, and non-native or invasive vegetation, as applicable, followed by minor grading or raking and coverage by topsoil if necessary. After planting woody and herbaceous species, the remaining area shall be seeded with native plant seeds (either a mix or individual species) or planted with native ground cover, as specified on approved planting plan. Mulching in mitigation areas shall be minimized to encourage growth of the natural buffer and is generally only allowed around individual plants that are still establishing roots, as necessary. If proposing mulch due to existing lot constraints and/or other Resource Area considerations (e.g. distance to or type of Resource Area), denser perennial plant cover shall be proposed. The Commission may require mitigation or restoration activities to be overseen by a wetland scientist or other qualified professional.
4. For projects subject to an Order of Conditions, mitigation area plantings shall survive at least two full growing seasons (spring, summer, and fall) with a minimum of 75% survival rate. If a 75% survival rate is not achieved, replacement plantings of the same species, unless otherwise approved by Conservation staff, shall be made by the applicant. The Commission may require a report following installation and/or monitoring reports at the end of each growing season. Mitigation areas are intended to revegetate with native species following planting and remain as a naturally vegetated buffer in perpetuity, and shall not be disturbed, mowed or maintained as a landscaped area, unless otherwise permitted by the Commission. Landscape islands or landscape beds within established lawns shall not count toward buffer zone mitigation unless granted a waiver from this policy by the Commission.

**Exemptions.** At the discretion of the Commission, projects may be fully or partially exempt from this policy based on lot constraints (e.g., insufficient area to install mitigation plantings as required by this policy) or scope of work, or the Commission may consider alternative mitigation such as off-site mitigation or mitigation outside of the Buffer Zone. In order to be granted an exemption from these requirements, the applicant shall submit a waiver request with the project application containing sufficient supporting justification for the Commission to consider.