

**SPECIAL TOWN MEETING
SEPTEMBER 30, 2009
TOWN OF STOUGHTON
COMMONWEALTH OF MASSACHUSETTS**

Norfolk, ss. Officer's Return, Stoughton:

By virtue of this Warrant, I, on August , 2009 notified and warned the inhabitants of the Town of Stoughton, qualified to vote on Town affairs, to meet at the place and at the time specified by posting attested copies of this Town Meeting Warrant in the following public places within the Town of Stoughton:

Precinct 1	Stop & Shop	278 Washington Street
Precinct 2	Stoughton Public Library	84 Park Street
Precinct 3	Bob's Foodmart	289 Park Street
Precinct 4	Andy's Market	330 Plain Street
Precinct 5	Tomas Variety Store	257 School Street
Precinct 6	Stoughton Quick Stop	2139 Central Street
Precinct 7	Page's Grocery & Liquors	458 Pearl Street
Precinct 8	Town Hall	10 Pearl Street
Precinct 8	Stoughton Police Department	26 Rose Street

The date of posting being not less than fourteen (14) days prior to September 30, 2009, the date set for the Special Town Meeting in this Warrant.

Lawrence Verdun
Constable
Stoughton, MA

SPECIAL TOWN MEETING



TOWN OF STOUGHTON
COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss:

To any of the Constables of the Town of Stoughton, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of the Town of Stoughton, qualified to vote in elections and town affairs to meet at the

STOUGHTON HIGH SCHOOL AUDITORIUM
232 Pearl Street
In said Stoughton
Wednesday, September 30, 2009

At seven-thirty o'clock in the evening, at which time and place the following articles are to be acted upon and determined exclusively the Town Meeting Members in accordance with the provision of the Town of Stoughton Charter.

Article # 1 ID # 17 Unpaid Bills

To see if the Town will vote to transfer from available funds in the Treasury, if any, to pay any unpaid bills from other fiscal years in excess of departmental appropriations; or to take any other action relative thereto.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
 Requested by Accountant William Rowe
 August 4, 2009

Estimated Cost: \$2,993.75

Article # 2 ID # 18 Police Chief Search Committee/Consultant

To see if the Town will vote to transfer any available funds in treasury for Police Chief Search Committee and/or Consultant and other ancillary costs or take any other action relative thereto.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
 August 4, 2009

Estimated Cost: \$10,000.00

Article # 3 ID # 5 Human Resources Director

To see if the Town will vote to transfer from available funds in the Treasury, if any, for the position of Human Resources Director for the Town of Stoughton. The Human Resources Director shall be appointed by the Town Manager and be responsible for developing and maintaining the personnel system, job classifications, salary structures, benefits and providing general direction on personnel issues and procedures, or take any other action relative thereto.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
August 4, 2009

Estimated Cost: \$40,000.00 (1/2 year)

Article # 4 ID # 14 South Coast Rail Article To Review Technical Material And Prepare For Litigation

To see if the Town will vote to transfer from available funds in the Treasury, if any, a sufficient sum of money to fund the review of and the preparation of the Board of Selectmen's response to the EIS/EIR and technical reports for the South Coast Rail Project and to prepare for litigation as considered necessary by the Board of Selectmen to keep the train from extending to Fall River and New Bedford through Stoughton unless the requirements prescribed by the Town of Stoughton, as represented by the Board of Selectmen, are included firmly in the design of and funding for the South Coast Rail Project; or take any other action relative thereto.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA 02072
August 3, 2009
Requested by Lou Gitto

Estimated Cost: \$20,000.00

Article # 5 ID # 6 Improvements to the sewer system to reduce infiltration and Inflow

To see if the Town will vote to borrow a sufficient sum of money to continue improvements of the sewer system to reduce infiltration and Inflow (I&I); or to take any other action relative thereto.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
July 30, 2009
Requested by John Batchelder, Superintendent of Public Works

Estimated Cost: \$300,000.00

Article # 6 ID # 1 Replace Engine #4 – 1988

To see if the Town will vote to transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to replace the 1988 Fire Department Engine #4, or take any other action relative thereto.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
July 27, 2009
Requested by Fire Chief David Jardin

Estimated Cost: \$420,000.00

Article # 7 ID # 7 Motion for the construction of the Bay Road Culvert

To see if the Town will vote to borrow a sufficient sum of money to pay for the permitting, bidding and construction services and for the construction of the Bay Road Culvert including, if necessary, land acquisition and all other work required to complete the construction of the new culvert for the purpose of alleviating the periodic flooding of Bay Road, or take any other action relative thereto.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
July 30, 2009
Requested by Town Engineer Ben Fehan

Estimated Cost: \$300,000.00

Article # 8 ID # 3 Change of polling location - § C8-3. Polling places.

To see if the Town will vote to amend the Stoughton Town Charter, § C8-3, or take any other action relative thereto. Polling Places as it now reads:

§ C8-3. Polling places.

A polling place shall be made available in each of the precincts for all elections.

And substituting in its place the following:

§ C8-3. Polling place.

All voting for all precincts shall take place at the Stoughton High School.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
July 28, 2009
Requested by Town Clerk Cheryl A. Mooney

Summary: Voting in one location will save cost of setting up different locations; as well as police details needed for each location. This also is a safety measure to protect the children of Stoughton. Council on Aging van will be available for voters to call for ride to polls at least 5 days before each election. State will be redistricting soon and some voters will be moved to different precincts. This will allow voters to stay in one place, but go to the correct precinct.

Estimated savings: \$2,000.00

Article # 9 ID # 2 Delete § C8-2. Preliminary elections in its entirety.

To see if the Town will vote to amend the Stoughton Town Charter, C8-2, by deleting §C8-2. Preliminary elections in its entirety, or take any other action relative thereto.

With the remaining sections in Article 8 renumbered in sequence, or take any other action relative thereto, or take any other action relative thereto.

Current language:

§ C8-2. Preliminary elections.

Except for the election of Town Meeting Representatives, in the event that there are more than two candidates for each office to be filled, a preliminary election will be held twenty-eight days before the regular Town elections. The two candidates receiving the greatest number of votes will be eligible to run for that office and will be placed on the ballot for Town officers at the regular election. No preliminary election will be required for Town Meeting Representatives.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
July 28, 2009
Requested by Town Clerk Cheryl A. Mooney

Estimated Savings: \$20,000.00

Article # 10 ID # 10 Charter Amendment

To see if the Town will vote to amend those sections of **Article 8 Elections, §C8-2. Preliminary Elections.** of the Charter of the Town of Stoughton as follows which refer to Preliminary Town elections as follows:

Current language:

§ C8-2 Preliminary elections.

Except for the election of Town Meeting Representatives, in the event that there are more than two candidates for each office to be filled, a preliminary election will be held twenty-eight days before the regular town elections. The two candidates receiving the greatest number of votes will be eligible to run for that office and will be placed on the ballot for town officers at the regular election. No preliminary election will be required for Town Meeting Representatives.

And substituting with the following language:

Article 8, §C8-2. Preliminary Elections.

Except for the election of town meeting representatives, in the event that there are more than **three candidates for each office to be filled**, a preliminary election will be held **forty-nine days before the regular town elections**. The two candidates receiving the greatest number of votes will be eligible to run for that office and will be placed on the ballot for town officers at the regular election. No preliminary election will be required for town meeting representatives.

Or take any other action relative thereto.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
July 31, 2009
Requested by Town Meeting Charter Review Committee,
Richard Hill, Chairman; 249 William Kelley Road

Article # 11 ID # 4 Delete § C8-4. Nomination Papers; time of filing; signatures.

To see if the Town will vote to amend the Stoughton Town Charter, § C8-4. Nomination Papers; time of filing; signatures. as it now reads:

§ C8-4. Nomination Papers; time of filing; signatures.

Nomination papers for elected Town offices other than Town Meeting Representatives must be filed with the Board of Registrars thirty-five days prior to the date of the preliminary Town election and with the Town Clerk twenty-eight days prior to the date of the preliminary Town election and shall be signed by not less than one hundred registered voters of the Town, increased by one-fifth thereof. Nomination papers for the office of Town Meeting Representative must be filed with the Board of Registrars thirty-five days prior to the annual Town election and with the Town Clerk twenty-eight days prior to the annual Town election. Incumbents seeking re-election may designate only the word "re-election" on their nomination papers and on the ballot.

And substituting in its place the following:

§ C8-4. Nomination Papers; time of filing; signatures.

Nomination papers for elected Town offices other than Town Meeting Representatives must be filed with the Board of Registrars **and Town Clerk** ~~thirty-five~~ **forty-nine** days prior to the ~~date of the preliminary~~ **Annual** Town election ~~and with the Town Clerk twenty-eight days prior to the date of the preliminary Town election~~ and shall be signed by not less than one hundred registered voters of the Town, increased by one-fifth thereof. Nomination papers for the office of Town Meeting Representative must be filed with the Board of Registrars **and Town Clerk** ~~thirty-five~~ **forty-nine** days prior to the Annual Town election ~~and with the Town Clerk twenty-eight days prior to the annual Town election~~. Incumbents seeking re-election may designate only the word "re-election" on their nomination papers and on the ballot.

So it shall read as follows:

Nomination papers for elected Town offices other than Town Meeting Representatives must be filed with the Board of Registrars and Town Clerk forty-nine days prior to the Annual Town Election and shall be signed by not less than one hundred registered voters of the Town, increased by one-fifth thereof. Nomination papers for the office of Town Meeting Representative must be filed with the Board of Registrars and Town Clerk forty-nine days prior to the Annual Town Election. Incumbents seeking re-election may designate only the word "re-election" on their nomination papers and on the ballot.

Or take any other action relative thereto.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
July 28, 2009
Requested by Town Clerk Cheryl A. Mooney

Article # 12 ID # 9 Charter Amendment

To see if the Town will vote to petition the General Court to amend and/or add to Town Charter Article 7 - Representative Town Meeting, Section 7-6.

Current language:

§ C7-6 Vacancies among Town Meeting Representatives.

In the event of any vacancy in the full number of elected Town Meeting Representatives from any precinct, the remaining elected Representatives of the precinct shall choose from among the registered voters thereof a successor to serve until the next annual election. The Town Clerk shall call a special meeting of the remaining Representatives from such precinct for the purpose of filling such vacancy. He shall mail notice thereof to each Representative from the precinct specifying the object and the time and place of such meeting. The meeting shall be held not less than four days after mailing of such notice and not less than fourteen days before [convening]* of the regular or Special Town Meeting for which the vacancy is to be filled.

At such meeting a majority of the remaining Representatives shall constitute a quorum. The election to fill such vacancy shall be by ballot and the candidate(s) receiving the greatest number of votes cast shall be deemed elected and shall be notified by the Precinct Clerk.

The Precinct Clerk shall forthwith file with the Town Clerk a certificate of such election, together with a written acceptance by the Representatives elected who shall thereupon be deemed elected and qualified as a Town Meeting Representative, subject to the right of all the Town Meeting Representatives to judge of the election and qualification of the Representatives.

**This amendment was voted at the May 4, 2009 Annual Town Meeting and will be placed as a referendum question at the 2009 Annual town election.*

And substituting with the following language

§ C7-6.1 Vacancies among Town Meeting Representatives.

In the event of any vacancy in the full number of elected Town Meeting Representatives from any precinct, the remaining elected Representatives of the precinct shall choose from among the registered voters thereof a successor to serve until the next annual election. The Town Clerk shall call a special meeting of the remaining Representatives from such precinct for the purpose of filling such vacancy. He shall mail notice thereof to each Representative from the precinct specifying the object and the time and place of such meeting. The meeting shall be held not less than four days after mailing of such notice and not less than fourteen days before convening of the regular or Special Town Meeting for which the vacancy is to be filled.

At such meeting a majority of the remaining Representatives shall constitute a quorum. The election to fill such vacancy shall be by ballot and the candidate(s) receiving the greatest number of votes cast shall be deemed elected and shall be notified by the Precinct Clerk.

The Precinct Clerk shall forthwith file with the Town Clerk a certificate of such election, together with a written acceptance by the Representatives elected who shall thereupon be deemed elected and qualified as a Town Meeting Representative, subject to the right of all the Town Meeting Representatives to judge of the election and qualification of the Representatives.

And adding the following section:

§ C 7-6.2 Election by Ballot for Town Meeting Representative.

All candidates, including those candidates for unexpired terms, for Town Meeting Representative shall be listed together on the ballot, in the order as specified in this charter. At the close of the election, Town Meeting Representatives shall be listed in descending order of votes received, Town Meeting Representatives shall be elected to the number of three-year terms to be filled, then to the number of two-year terms and then to the number of one year terms. The ballot shall indicate the total number of Town Meeting Representatives to be elected and number of unexpired terms to be filled;
or take any other action relative thereto.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
July 31, 2009
Requested by Town Meeting Charter Review Committee,
Richard Hill, Chairman; 249 William Kelley Road

Article # 13 ID # 15 Amend Stoughton Center Mixed Use Overlay District

To see if the Town will vote to amend the Stoughton Center Mixed Use Overlay District Zoning By-Law and Map as it now reads:

[1.0] PURPOSE AND INTENT

- a) There is hereby established a Stoughton Center Mixed Use Overlay District (SCMUOD) zoning by-law and overlay zoning district by-law map. The benefits of the SCMUOD Zoning By-law shall accrue only to those parcels located within the boundary of the SCMUOD.
- b) The SCMUOD is intended to apply only to the Town Center portions of the Central Business District (CBD), General Business (GB) district, Industrial (I) district, and Residential Urban (RU) district as shown on the attached overlay zoning district by-law.

And substituting in its place the following:

[1.0] PURPOSE AND INTENT

- a) There is hereby established a Stoughton Center Mixed Use Overlay District (SCMUOD) zoning by-law and overlay zoning district by-law map. The benefits of the SCMUOD Zoning By-law shall accrue only to those parcels located within the boundary of the SCMUOD.
- b) The SCMUOD is intended to apply only to the Town Center portions of the Central Business District (CBD), General Business (GB) district, Industrial (I) district, and Residential Urban (RU) district as shown ~~on the attached overlay zoning district by-law map~~ on a map on

file with the Town Clerk entitled “Stoughton Center Mixed Use Overlay District”, Town of Stoughton Massachusetts, dated July 28, 2009.

Or take any other action relative thereto.

A copy of the Stoughton Center Mixed Use Overlay District Map (attached) is an integral part of this Warrant.

Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
August 3, 2009
Requested by Planning Board

Article # 14 ID # 8a Proposed Amendment to Stoughton Zoning By-Law

To see if the Town will vote to amend the Zoning By-Law by inserting the following definition in alphabetical order in Section II (Definitions):

Neighborhood Business District (NB). Districts designated on the Zoning Map to provide retail sales and services of a size no greater than is needed to serve the daily needs and convenience for residents of the neighborhood and adjacent neighborhoods. Retail, commercial, or other uses which draw or create traffic from outside these neighborhoods shall be avoided. Retail establishments shall not exceed 5,000 gross square feet. Service shops and offices shall not exceed 2,000 gross square feet. Restaurants shall be allowed as stated in the Table of Uses for food and beverages consumed indoors or in an accessory fenced outdoor area (such as a patio), with a maximum gross indoor floor area of two thousand (2,000) gross square feet and there shall be no drive-in or drive-through service. No more than three (3) establishments shall be located on any single parcel or as part of a planned development under Section XI. F;

or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Robert J. O’Regan, 26 Freely Drive
July 30, 2009

Article # 15 ID # 8b Proposed Amendment to Stoughton Zoning By-Law

To see if the Town will vote to amend the Zoning By-law by inserting into the definition of Planned Business Development after the words “One or more retail stores or commercial buildings” the phrase “as are allowed in the zoning district under the Table of Uses by right or special permit”, so that as amended, the sentence reads as follows (with the language to be added under this Article underlined for purposes of illustration only):

One or more retail stores or commercial buildings as are allowed in the zoning district under the Table of Uses by right or special permit with a unified plan and/or architectural scheme (as determined by the Zoning Board of Appeals in the Special Permit), on a single parcel or on single parcels contiguously arranged;

or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Robert J. O'Regan, 26 Freely Drive
July 30, 2009

Article # 16 ID # 8c Proposed Amendment to Stoughton Zoning By-Law

To see if the Town will vote to amend Section XI. F of the Zoning By-Law to add the following provisions at the end of Section XI. F:

8. Any use that requires a special permit under the Table of Uses shall require a separate application. A special permit under this Section XI. F shall not authorize a use that is not already allowed in the underlying zoning district as provided in this By-Law;

9. Property benefiting from a special permit for a planned business development or shopping center shall receive necessary approvals under the Site Plan Review By-Law prior to issuance of any construction permits pursuant to the special permit;

or take any other action relative thereto.

Petitioner: Board of Selectmen;
Requested by Robert J. O'Regan, 26 Freely Drive
July 30, 2009

Article # 17 ID # 11 Motion to Amend Chapter 191 of the Stoughton Wetlands Protection By-law:

To see if the Town will vote to amend Chapter 191 of the Stoughton Wetlands Protection By-Law as follows:

Current language:

Chapter 191

STOUGHTON WETLANDS PROTECTION BY-LAW

S. 191-1. Purpose

The purpose of this by-law is to protect the wetlands, related water resources, and adjoining land areas in the Town of Stoughton by prior review and the control of activities deemed by the Stoughton Conservation Commission (hereinafter referred to as "Commission") likely to have a significant or cumulative effect upon wetland values, including but not limited to the following; public water supply, private water supply, ground water, flood control, erosion and sedimentation control, storm damage prevention, prevention of water pollution, fisheries, wildlife, wildlife habitat, recreation, and aesthetic values; these values are to be collectively known as the "wetland resource area values" protected by this chapter.

S. 191-2. Definitions

The following definitions shall apply in the interpretation and implementation of this chapter:

ABUTTER means the same as owner of land abutting the activity.

AREAS SUBJECT TO FLOODING means depressions or closed basins which serve as ponding areas for runoff, snowmelt, heavy precipitation, or high ground water which has risen above the ground surface, and areas which flood from a rise in a bordering waterway or water body.

AGRICULTURE means land with resource areas or the Buffer Zone presently and primarily used in producing or raising one or more of the following agricultural commodities for commercial purposes:

1. animals, including but not limited to livestock, poultry, and bees;
2. fruits, vegetables, berries, nuts, and other foods for human consumption;
3. feed, seed, forage, tobacco, flowers, sod, nursery or greenhouse products, and ornamental plants or shrubs; and
4. forest products under a planned program to improve the quality and quantity.

ALTER means to change the condition of any Area Subject to Protection Under the By-law. Examples of alterations include, but are not limited to, the following:

- (a) the changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood retention areas;
- (b) the lowering of the water level or water table;
- (c) the destruction of vegetation;
- (d) the changing of water temperature, biochemical oxygen demand (BOD), and other physical, biological or chemical characteristics of the receiving water.

APPLICANT means any person who files a Notice of Intent, or on whose behalf such a notice is filed.

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.

BREEDING AREA means areas used by wildlife for courtship, mating, nesting, or other reproductive activity, and rearing of young.

BUFFER ZONE means that are of land extending one hundred (100) feet horizontally outward from the boundary of any area in the By-law.

CERTIFICATE OF COMPLIANCE means a written determination by the issuing authority that work or a portion thereof has been completed in accordance with an Order. It shall be made on Form 8 of CMR 10.99.

Determination: Determination of Applicability: means a written finding by a conservation commission or the department as to whether a site or the work proposed thereon is subject to the jurisdiction of the Act. It shall be made of Form 2 of 310 CMR 10.99

Determination of Significance: Means a written finding by a conservation commission. After a public hearing, or by the Department, that the area on which the proposed work is to be done, or which the proposed work will alter, is significant to one or more of the interest identified in the Act. It shall be made as part of the Order, on Form 5 of 310 CMR 10.99.

Notification of Non-Significance: means a written finding by a Conservation Commission, after a public hearing, or by the Department, that the area on which the proposed work is to be done, or which the proposed work will alter, is not significant to any of the interests of the act. It shall be made on Form 6 of 310 CMR 10.99.

ISOLATED LAND SUBJECT TO FLOODING shall be any isolated depression without an inlet which at least once a year confines standing water to a volume of at least one quarter acre-foot of water with an average depth of at least six inches. The boundary is the perimeter of the largest observed or recorded volume of water confined in the basin.

NON-TRANSIENT MACRO-ORGANISMS include the following wetland plants (as defined in M.G.L. Chapter 131, section 40, or in regulations 310 CMR 10.00) and/or animals visible to the naked eye including but not limited to: Eubrachiopods, Isopods, Amphipods, Coleoptera, Trichoptera and Pisidiid clams.

NOTICE OF INTENT means the written notice filed by any person intending to remove, fill, dredge or alter an Area Subject to Protection under the By-law. It shall be made on Form 3 or 4 of 310 CMR 10.99.

ORDER OF CONDITIONS means the document issued by a conservation commission containing conditions which regulate or prohibit an activity. It shall be made on Form 5 of 310 CMR 10.99.

OWNER OF LAND ABUTTING THE ACTIVITY means the owner of land sharing a common boundary or corner with he site of the proposed activity in any direction, including land located directly across a street, way, creek, river, stream, brook or canal.

PLANS means such data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the issuing authority to describe the site an/or the work, to determine the applicability of M.G.L. c. 131, s. 40 or to determine the impact of the proposed work upon the interests identified Town of Stoughton NOI guidelines.

PRIVATE WATER SUPPLY means any source or volume of surface or ground water demonstrated to be in any private use or demonstrated to have a potential for private use.

PUBLIC WATER SUPPLY means any source or volume of surface or ground water demonstrated to be in public use or approved for water supply pursuant to M.G.L. c. 111, s. 160 by the Division of Water Supply of the Department, or demonstrated to have a potential for public use.

RARE SPECIES means those vertebrate and invertebrate animal species officially listed as endangered, threatened, or of special concerns by the Massachusetts Division of Fisheries and Wildlife under 321 CMR 8.00.

RESOURCE AREAS BORDERING WATER BODIES” “bordering means touching” any: Bank, Flat, marsh, freshwater wetland, Beach, meadow Dune or swamp that borders on any estuary, creek, river, stream, pond, or lake, or that touches one of the above land areas that itself borders a water body, is a protectable area. (Areas subject to flooding are also protectable).

RIVERINE WETLAND means wetland resource area abutting a river.

SEASONAL WETLAND means any areas subject to flooding which form temporary confined bodies of water during periods of high water table and high input from spring runoff or snowmelt or heavy precipitation, and support populations of non-transient macro-organisms or serve as breeding habitat for select species of amphibians.

SELECT SPECIES OF AMPHIBIANS means species of amphibians which depend on seasonal wetlands for breeding habitat, including: mole salamanders (*Ambystome maculatum*, *A. jeffersonianum*, *A. laterale*, and *A. opacum*); four - toad salamanders (*Hemidactylum scutatatum*); eastern spadefoot toads (*Scaphiopus holbrookii*); American and Fowler’s toads (*Bufo a. Amricanus* and *B. Woodhousii fowleri*); spring peepers (*Hyla c. Crucifer*); gray treefrogs (*Hyla versicolor*); wood frogs (*Rana sylvatica*); and fairy shrimp (*Eubranchipus. sp*).

STORM DAMAGE PREVENTION means the prevention of damage caused by water from storms, including but not limited to, erosion and sedimentation, damage to vegetation, property or buildings or damage caused by flooding, water borne debris or water-born ice.

TEMPORARY CONFINED BODIES OF WATER means bodies of water with little or no flow that periodically become dry to such extent that they cannot support sustained fish populations.

TEMPORARY POND OR POOL means a seasonal wetland.

VERNAL POOL shall include a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries.

VERNAL POOL HABITAT means confined basin depression which, at least in most years, hold water for a minimum of two continuous months during the spring and/or summer, and which are free of adult fish populations, as well as the area within 100 feet of the mean annual boundaries of such depressions, to the extent that such habitat is within an Area Subject to Protection Under the Act as specified in the By-law 0.02(1). These areas are essential breeding habitat, and provide other extremely important wildlife habitat functions during non-breeding season as well, for a variety of amphibian species such as wood frog (*Rana sylvatica*) and the spotted salamander (*Ambystoma maculatum*), and are important habitat for other wildlife species.

Except as otherwise provided in this bylaw or in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act, G.L. Ch. 131, Sec.40, and Regulations, 310 CMR 10.00.

S. 191-3. Jurisdiction

Except as permitted by the Commission or as provided in this by-law, no person shall commence to remove, fill, dredge, build upon, degrade, or otherwise alter the following resource areas, or their buffer zones:

- A. Any freshwater wetland, riverine wetland, marsh, wet meadow, bog or swamp, vernal pools;
- B. Any bank or beach;
- C. Any lake, pond, river, stream, whether intermittent or continuous, natural or manmade;
- D. Any land under aforementioned waters;
- E. Any land subject to flooding or inundation by ground water, surface water, storm water flowage;
- F. Isolated wetlands including kettle holes;
- G. Seasonal wetlands.

Said resource areas shall be protected whether or not they border surface waters.

S. 191-4. Exceptions

- A. The application and permit required by this by-law 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, sanitary sewers, storm sewers, provided that written notice has been given to the Commission at least forty eight (48) hours prior to the commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
- B. The application and permit required by this by-law shall not be required for work performed for the normal maintenance or improvement of lands in agricultural use.
- C. The application and permit required by this by-law shall not apply to emergency projects necessary for the protection of public health and safety, 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, provided that advance notice, oral or written, has been

given to the Commission prior to the commencement of work or within twenty four (24) hour after commencement, provided that the Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency, and provided that within twenty one (21) days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in this by-law. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and subsequently order restoration and mitigation measures.

- D. The property located in the Stoughton Technology Park (formerly the North Stoughton Industrial Park) (the "Park") is subject to Final Orders of Conditions dated October 24, 1984, recorded with the Norfolk Registry of Deeds in Book 6533, Page 230; the Conservation Restriction dated September 26, 1984, recorded with said Deeds in Book 6533, Page 236, and the Declaration of Industrial Park Restrictions dated September 26, 1984, recorded with said Deeds in Book 6533, Page 247. In consideration of these existing controls, the application and permit required by this by-law shall not be required for any work performed within the Park. The Park contains approximately 272 +/- acres of land and is bounded by Lindelof Avenue (Route 139), Route 24, Page Street and the municipal boundaries with the Towns of Avon and Randolph.

S. 191-5. Requests for Determinations and Applications for Permits

- 1) Any person desiring to know whether or not a proposed activity or an area is subject to this by-law may request in writing a determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission.
- 2) The Commission in an appropriate case may accept as the request under this by-law the Request for Determination of Applicability (RFD) filed under the Wetlands Protection Act, MGL Ch. 131, Sec. 40.
- 3) Written application shall be filed with the Commission to perform activities regulated by this by-law affecting resource areas protected by this by-law. The application shall include such information and plans deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this chapter.
- 4) The Commission in an appropriate case may accept as the application and plans under this by-law the Notice of Intent (NOI) application and plans filed under the Wetlands Protection Act, MGL Ch. 131, Sec. 40.
- 5) At the time of an application or request, the applicant shall pay a filing fee specified in regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, MGL Ch. 131, Sec. 40.

6) Upon receipt of a NOI application or RFD, the Commission shall require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the consultant fee. The specific consultant services may include but are not limited to; resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law.

- 1) The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.
- 2) The Commission may require the payment of the consultant fee at any point in its deliberation prior to a final decision. The applicant shall pay the fee to be put into a consultant services account of the Commission, which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public hearings.
- 3) The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.
- 4) The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following fee schedule:

<u>Project Cost</u>	<u>Maximum Fee</u>
UP TO \$100,000	\$1,500
\$100,001 to \$500,000	\$2,500
\$500,001 to \$1,000,000	\$5,000
\$1,000,001 to \$1,500,000	\$7,500
\$1,500,001 to \$2,000,000	\$10,000

- a) Each additional \$500,000 project cost increment (over \$2,000,000) shall be charged at an additional \$2,500 fee per increment.
- b) The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project applicable to those activities within resource areas protected by this by-law. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

- G. Filing fees and consultant fees collected pursuant to this by law shall be administered pursuant to G.L. c.44, SEC. 53E and sec. 53E1/2, respectively.
- H. The Commission may waive the filing fee and costs and expenses for application or request filed by a government agency.

S. 191-6. Public Notice and Hearings

- A. An application or a request for determination shall be hand delivered or sent by certified mail to the Commission, eight (8) copies are required. A copy of all applications shall be given by the applicant to the Planning Board, the Zoning Board of Appeals, the Building Inspector and the Board of Health for comments prior to the public hearing. Any person filing a permit application or an RFD with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list from the assessors.
- B. Abutter is defined as (1) owners of land within 100 feet of the property lines, including being directly opposite on any public or private street or way, (2) directly abutting a lake, pond, stream, or river, or within five hundred (500) frontage feet of the boundaries of the subject property, (3) or in another municipality. With regard to Condominium or apartment units, abutter notification can be sent to the property manager. The notice to abutters shall have enclosed a copy of the permit application or request, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request. The property owner's signature must be on the application.
- C. The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality. The fee for publishing the notice must be provided by the applicant to the Commission simultaneously with the submission of a permit application or RFD.
- D. The Commission in an appropriate case may combine its hearing under this by-law with the hearing conducted under the Wetlands Protection Act, MGL Ch. 131, Sec. 40 and Regulations 310 CMR 10.00.
- E. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant. The public hearing will not commence until the applicant provides the majority of the return receipts from the certified mail abutter notice to the Commission.
- F. The Commission shall issue a permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

- G. The Commission shall have the authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in Section VI.

S. 191-7. Permits and Conditions

- A. If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this by-law, the Commission within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation and replication of the protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.
- B. The Commission is empowered to deny a permit for failure to meet the requirements of this by-law; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in the regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this by-law; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.
- C. Buffer zones are presumed important in the protection of those resource areas and their related wetland resource area values protected by this By-law because activities undertaken in close proximity to resource areas are presumed to have a high likelihood of adverse impact upon the resource areas and their related values either immediately or long term, as a consequence of construction and use, which can include, without limitation, erosion, siltation, loss of ground water recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetated cover within such buffer zone, unless the applicant rebuts said presumptions concerning protection of and impact upon resource areas with credible evidence to convince the Commission that said buffer zone may be disturbed or altered without harm to the values protected by this By-law.
- D. To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; if such avoidance is demonstrated by credible evidence submitted by an applicant not to be feasible an applicant shall be required to minimize wetlands alteration; and, where alteration is unavoidable, to provide full mitigation.

- E. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of the time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Failure to complete a project within the extension period shall require a new filing of a Notice of Intent. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.
- F. For good cause the Commission may revoke or modify a permit or determination issued under this by-law after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to Section VII, and a public hearing.
- G. The Commission in an appropriate case may combine the permit or determination issued under the by-law with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act M.G.L. Chapter 131, Section 40 and Regulations, 10 CMR 10.00.
- H. No work proposed in any permit application shall be undertaken until the permit 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 permit has been recorded.
- I. The Commission shall after receiving a written request for a Certificate of Compliance and an as-built plan certified as necessary and appropriate in the Commissions discretion, by a Professional Engineer and/or a Professional Land Surveyor both licensed in the Commonwealth of Massachusetts, to be in substantial compliance with the plan approved under the order of conditions, inspect the resource area and buffer zone where any activity governed by a permit issued under this by-law was carried out, and, if such activity has been completed in accordance with said permit, the Commission shall, within twenty one (21) days after receiving such written request, issue a Certificate of Compliance evidencing such determination, which may in appropriate cases be combined with a Certificate of Compliance issued under the Wetlands Protection Act. A Certificate of Compliance may specify conditions in the permit which will continue to apply. The certificate of compliance shall be recorded in the same manner as a permit and proof of recording shall be provided by the applicant to the commission, as set forth herein.

III. Regulations

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw. 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 chapter.

At a minimum these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees.

S. 191-9. 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 be secured wholly or in part by one or more of the methods described below:

- A. By deposit of money (certified check or cash) sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit. Any deposit of money received in accordance with this section shall be administered in accordance with G.L. C. 44, SEC. 53E1/2.
- B. By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality 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.

S. 191-10. Enforcement; Violations and Penalties

- A. 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 chapter.
- B. 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.
- C. The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, enforcement orders and civil and criminal court actions. Any person who violates provisions of this bylaw 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.
- D. Any person who violates any provision of this bylaw, or regulations, permits, or enforcement orders issued thereunder, shall be punished by a fine as outlined in schedule below. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.
- E. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in G.L. Ch. 40, Sec.21D. When so enforcing, any violation of this by-law shall be punishable as follows:

1. FIRST OFFENSE: A WARNING

2. SECOND OFFENSE: A PENALTY OF \$200.00

3. THIRD OFFENSE: A PENALTY OF \$300.00.

4. EACH ADDITIONAL OFFENSE: A PENALTY OF \$300.00.

THE BUILDING INSPECTOR AND THE STOUGHTON POLICE OFFICERS SHALL BE THE ENFORCING PERSONS FOR THE PURPOSE OF THIS BY-LAW.

S. 191-11. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible 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 such conditions, or as necessary to affect the purposes of this chapter.

S. 191-12. Appeals

A decision of the Commission shall be reviewable in the Superior Court in accordance with G.L. Ch. 249, Sec.4.

S. 191-13. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, G.L. Ch. 131, Sec.40, and Regulations, 310 CMR 10.00, thereunder.

S. 191-14. 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 or determination which previously has been issued.

And substitute with the following language:

Chapter 191

STOUGHTON WETLANDS PROTECTION BY-LAW

S. 191-1. Purpose

The purpose of this bylaw is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Stoughton by controlling activities deemed by the Conservation 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, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of pollution, fisheries, shellfisheries,

wildlife habitat, rare species habitat including rare plant and animal species, agriculture, aquaculture, and recreation values, and also aesthetic values, deemed important to the community (collectively, the “resource area values protected by this bylaw”).

This bylaw is intended to utilize the Home Rule authority of this municipality so as to protect the resource areas under the Wetlands Protection Act (G.L. Ch.131 §40; 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 regulations there under (310 CMR 10.00), 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 Stoughton.

~~The purpose of this by-law is to protect the wetlands, related water resources, and adjoining land areas in the Town of Stoughton by prior review and the control of activities deemed by the Stoughton Conservation Commission (hereinafter referred to as "Commission") likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public water supply, private water supply, ground water, flood control, erosion and sedimentation control, storm damage prevention, prevention of water pollution, fisheries, wildlife, wildlife habitat, recreation, and aesthetic values; these values are to be collectively known as the "wetland resource area values" protected by this chapter.~~

S. 191-2. Definitions

The following definitions shall apply in the interpretation and implementation of this chapter:

ABUT means touching.

ABUTTER means the same as owner of land abutting the activity.

AREAS SUBJECT TO FLOODING means depressions or closed basins which serve as ponding areas for runoff, snowmelt, heavy precipitation, or high ground water which has risen above the ground surface, and areas which flood from a rise in a bordering waterway or water body.

AGRICULTURE means land with resource areas or the Buffer Zone presently and primarily used in producing or raising one or more of the following agricultural commodities for commercial purposes:

1. animals, including but not limited to livestock, poultry, and bees;
2. fruits, vegetables, berries, nuts, and other foods for human consumption;
3. feed, seed, forage, tobacco, flowers, sod, nursery or greenhouse products, and ornamental plants or shrubs; and
4. forest products under a planned program to improve the quality and quantity.

ALTER means to change the condition of any Area Subject to Protection Under the By-law. Examples of alterations include, but are not limited to, the following:

- (a) the changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood retention areas;
- (b) the lowering **or raising** of the water level or water table;
- (c) the destruction of vegetation, **including cutting or trimming of trees and shrubs, or mowing**;
- (d) the changing of water temperature, biochemical oxygen demand (BOD), and other physical, biological or chemical characteristics of the receiving water;
- (e) **the discharge of dredged or fill material, including but not limited to vegetative debris, soil, dirt, rocks, stone, solid waste, or pollution**;
- (f) **activities which may cause or tend to contribute to pollution of any body of water or groundwater**;
- (g) **driving of piles, or erection or repair of buildings, or structures of any kind unless the footprint of the building is altered at ground level**;
- (h) **dumping, discharging, or filling any material which may degrade water quality**;
- (i) **placing of material, or removal of material, which would alter elevation**;
- (j) **placing of obstructions or objects**; and
- (k) **incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.**

APPLICANT means any person who files a Notice of Intent, or on whose behalf such a notice is filed.

AREAS SUBJECT TO PROTECTION: Wetlands, including bordering and isolated wetlands, marshes, wet meadows, bogs, swamps, isolated and bordering lands subject to flooding, streams, rivers, creeks, brooks, vernal pools, kettle holes, springs, land under water, ponds, lakes, banks, bogs, buffer zones and Riverfront Areas.

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.

BORDERING: touching in some manner, at any point or along any length of boundary, and including any portion of a resource area subject to protection under the bylaw.

BREEDING AREA means areas used by wildlife for courtship, mating, nesting, or other reproductive activity, and rearing of young.

BUFFER ZONE means that are of land extending one hundred (100) feet horizontally outward from the boundary of any area **subject to protection** in the By-law.

CERTIFICATE OF COMPLIANCE means a written determination by the issuing authority that work or a portion thereof has been completed in accordance with an Order. It shall be made on Form 8 of **310** CMR 10.99.

Determination: Determination of Applicability: means a written finding by a conservation commission or the department as to whether a site or the

work proposed thereon is subject to the jurisdiction of the **BY- LAW**. It shall be made of Form 2 of 310 CMR 10.99

Determination of Significance: Means a written finding by a conservation commission. After a public hearing, or by the Department, that the area on which the proposed work is to be done, or which the proposed work will alter, is significant to one or more of the interest identified in the **BY- LAW**. It shall be made as part of the Order, on Form 5 of 310 CMR 10.99.

Notification of Non-Significance: means a written finding by a Conservation Commission, after a public hearing, or by the Department, that the area on which the proposed work is to be done, or which the proposed work will alter, is not significant to any of the interests of the **BY- LAW**. It shall be made on Form 6 of 310 CMR 10.99.

ISOLATED LAND SUBJECT TO FLOODING shall be any isolated depression without an inlet which at least once a year confines standing water to a volume of at least one quarter acre-foot of water with an average depth of at least six inches. The boundary is the perimeter of the largest observed or recorded volume of water confined in the basin.

NON-TRANSIENT MACRO-ORGANISMS include the following wetland plants (as defined in M.G.L. Chapter 131, section 40, or in regulations 310 CMR 10.00) and/or animals visible to the naked eye including but not limited to: Eubrachiopods, Isopods, Amphipods, Coleoptera, Trichoptera and Pisidiid clams.

NOTICE OF INTENT means the written notice filed by any person intending to remove, fill, dredge or alter an Area Subject to Protection under the By-law. It shall be made on Form 3 or 4 of 310 CMR 10.99.

ORDER OF CONDITIONS means the document issued by a conservation commission containing conditions which regulate or prohibit an activity. It shall be made on Form 5 of 310 CMR 10.99.

OWNER OF LAND ABUTTING THE ACTIVITY means the owner of land sharing a common boundary or corner with he site of the proposed activity in any direction, including land located directly across a street, way, creek, river, stream, brook or canal.

PLANS means such data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the issuing authority to describe the site an/or the work, to determine the applicability of M.G.L. c. 131, s. 40 or to determine the impact of the proposed work upon the interests identified Town of Stoughton NOI guidelines.

POND shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply.

PRIVATE WATER SUPPLY means any source or volume of surface or ground water demonstrated to be in any private use or demonstrated to have a potential for private use.

PUBLIC WATER SUPPLY means any source or volume of surface or ground water demonstrated to be in public use or approved for water supply pursuant to M.G.L. c. 111, s. 160 by the Division of Water Supply of the Department, or demonstrated to have a potential for public use.

RARE SPECIES means those vertebrate and invertebrate animal species officially listed as endangered, threatened, or of special concerns by the Massachusetts Division of Fisheries and Wildlife under 321 CMR 8.00.

RESOURCE AREAS BORDERING WATER BODIES ~~“bordering means touching”~~ any bank, flat, marsh, freshwater wetland, beach, meadow, dune or swamp that borders on any estuary, creek, river, stream, pond, or lake, or that touches one of the above land areas that itself borders a water body, is a protectable area. (Areas subject to flooding are also protectable).

~~RIVERINE WETLAND means wetland resource area abutting a river.~~

RIVERFRONT AREA means lands within 200 feet of any river, stream, brook or creek, whether intermittent or continuous, natural or manmade.

SEASONAL WETLAND means any areas subject to flooding which form temporary confined bodies of water during periods of high water table and high input from spring runoff or snowmelt or heavy precipitation, and support populations of non-transient macro-organisms or serve as breeding habitat for select species of amphibians.

SELECT SPECIES OF AMPHIBIANS means species of amphibians which depend on seasonal wetlands for breeding habitat, including: mole salamanders (*Ambystome maculatum*, *A. jeffersonianum*, *A. laterale*, and *A. opacum*); four - toad salamanders (*Hemidactylium scutatum*); eastern spadefoot toads (*Scaphiopus holbrookii*); American and Fowler's toads (*Bufo a. Amricanus* and *B. Woodhousii fowleri*); spring peepers (*Hyla c. Crucifer*); gray treefrogs (*Hyla versicolor*); wood frogs (*Rana sylvatica*); and fairy shrimp (*Eubbranchipus. sp*).

STORM DAMAGE PREVENTION means the prevention of damage caused by water from storms, including but not limited to, erosion and sedimentation, damage to vegetation, property or buildings or damage caused by flooding, water borne debris or water-born ice.

TEMPORARY CONFINED BODIES OF WATER means bodies of water with little or no flow that periodically become dry to such extent that they cannot support sustained fish populations.

TEMPORARY POND OR POOL means a seasonal wetland.

VERNAL POOL shall include a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is

free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries.

VERNAL POOL HABITAT means confined basin depression which, at least in most years, hold water for a minimum of two continuous months during the spring and/or summer, and which are free of adult fish populations, as well as the area within 100 feet of the mean annual boundaries of such depressions, to the extent that such habitat is within an Area Subject to Protection Under the Act as specified in the By-law **S. 191-2**. These areas are essential breeding habitat, and provide other extremely important wildlife habitat functions during non-breeding season as well, for a variety of amphibian species such as wood frog (Rana sylvatica) and the spotted salamander (Ambystoma maculatum), and are important habitat for other wildlife species. **Vernal pool habitat also includes the area within 200 feet of the mean annual boundaries of those vernal pools certified by the Natural Heritage and Endangered Species Program (NHESP), if such pools are contained with the estimated or priority habitats for rare species as mapped by NHESP.**

Except as otherwise provided in this bylaw or in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act, G.L. Ch. 131, Sec.40, and Regulations, 310 CMR 10.00.

S. 191-3. Jurisdiction

Except as permitted by the Commission or as provided in this by-law, no person shall commence to remove, fill, dredge, build upon, degrade, **discharge into**, or otherwise alter the following resource areas, ~~or their buffer zones~~:

- A. Any freshwater wetland, ~~riverine wetland~~, marsh, wet meadow, **springs**, bog, or swamp, vernal pools, **reservoirs, lakes, ponds of any size**;
- B. Any bank or beach;
- C. Any land under aforementioned waters;
- D. Any land subject to flooding or inundation by ground water, surface water, storm water flowage;
- E. Isolated wetlands including kettle holes;
- F. Seasonal wetlands;
- G. any lands within 100' of any of the aforementioned resource areas, or**
- H. Any lake, pond, river, stream, **brook or creek**, whether intermittent or continuous, natural or manmade, **and lands within 200 feet of any river, stream, brook or creek, whether intermittent or continuous, natural or manmade (known as the Riverfront Area); and**

- I. Any lands within 200' of any certified vernal pool within estimated habitat or priority habitat for rare species as mapped by the Natural Heritage and Endangered Species Program.**

Said resource areas (collectively “the resource areas protected by this bylaw”) shall be protected whether or not they border surface waters.

The jurisdiction of this bylaw shall not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aquaculture uses as defined by the Wetlands Protection Act regulations, found at 310 CMR 10.04

S. 191-4. Exceptions

- A. The application and permit required by this by-law 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, sanitary sewers, storm sewers, provided that written notice has been given to the Commission at least forty eight (48) hours prior to the commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
- B. The application and permit required by this by-law shall not be required for work performed for the normal maintenance or improvement of lands in agricultural use.
- C. The application and permit required by this by-law shall not apply to emergency projects necessary for the protection of public health and safety, 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, provided that advance notice, oral or written, has been given to the Commission prior to the commencement of work or within twenty four (24) hour after commencement, provided that the Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency, and provided that within twenty one (21) days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in this by-law. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and subsequently order restoration and mitigation measures.
- D. The property located in the Stoughton Technology Park (formerly the North Stoughton Industrial Park) (the “Park”) is subject to Final Orders of Conditions dated October 24, 1984, recorded with the Norfolk Registry of Deeds in Book 6533, Page 230; the

Conservation Restriction dated September 26, 1984, recorded with said Deeds in Book 6533, Page 236, and the Declaration of Industrial Park Restrictions dated September 26, 1984, recorded with said Deeds in Book 6533, Page 247. In consideration of these existing controls, the application and permit required by this by-law shall not be required for any work performed within the Park. The Park contains approximately 272 +/- acres of land and is bounded by Lindelof Avenue (Route 139), Route 24, Page Street and the municipal boundaries with the Towns of Avon and Randolph.

- E. Other than stated in this bylaw, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) shall not apply under this bylaw.**

S. 191-5. Requests for Determinations and Applications for Permits, Fees.

- A. Any person desiring to know whether or not a proposed activity or an area is subject to this by-law may request in writing a determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission.
- B. The Commission in an appropriate case may accept as the request under this by-law the Request for Determination of Applicability (RFD) filed under the Wetlands Protection Act, MGL Ch. 131, Sec. 40.
- C. Written application shall be filed with the Commission to perform activities regulated by this by-law affecting resource areas protected by this by-law. The application shall include such information and plans deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this chapter.
- D. The Commission in an appropriate case may accept as the application and plans under this by-law the Notice of Intent (NOI) application and plans filed under the Wetlands Protection Act, MGL Ch. 131, Sec. 40.
- E. At the time of an application or request, the applicant shall pay a filing fee specified in regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, MGL Ch. 131, Sec. 40.
- F. Upon receipt of a NOI application or RFD, the Commission shall require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the consultant fee. The specific consultant services may include but are not limited to; resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law.

- 1) The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.
- 2) The Commission may require the payment of the consultant fee at any point in its deliberation prior to a final decision. The applicant shall pay the fee to be put into a consultant services account of the Commission, which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public hearings.
- 3) The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.
- 4) The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following fee schedule:

<u>Project Cost</u>	<u>Maximum Fee</u>
UP TO \$100,000	\$1,500
\$100,001 to \$500,000	\$2,500
\$500,001 to \$1,000,000	\$5,000
\$1,000,001 to \$1,500,000	\$7,500
\$1,500,001 to \$2,000,000	\$10,000
UP TO \$50,000.00	\$1,500.00
\$50,000 to \$2,000,000.00	\$10,000.00

- a) Each additional \$500,000 project cost increment (over \$2,000,000) shall be charged at an additional \$2,500 fee per increment.
 - b) The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project applicable to those activities within resource areas protected by this by-law. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.
- G) Filing fees and consultant fees collected pursuant to this by law shall be administered pursuant to G.L. c.44, SEC. 53E and sec. 53E1/2, respectively.
- H) The Commission may waive the filing fee and costs and expenses for an application or request filed by a government agency **or a non-profit organization.**

- I) **The Commission shall establish an escrow account for fees imposed to the applicant for independent specialized consultant review under G.L. c. 44, s. 53 G (Section 53 G). This shall be for review of projects under the regulatory jurisdiction of Act, and the By-law. Funds collected and held in a Section 53 G account can be returned to the applicant when the review is completed.**

S. 191-6. Public Notice and Hearings

- A. An application or a request for determination shall be hand delivered or sent by certified mail to the Commission, eight (8) copies are required. A copy of all applications shall be given by the applicant to the Planning Board, the Zoning Board of Appeals, the Building Inspector and the Board of Health for comments prior to the public hearing. Any person filing a permit application or an RFD with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list from the assessors.
- B. Abutter is defined as (1) owners of land within 100 feet of the property lines, including being directly opposite on any public or private street or way, (2) directly abutting a lake, pond, stream, or river ~~or~~ within five hundred (500) frontage feet of the boundaries of the subject property, (3) or in another municipality. With regard to Condominium or apartment units, abutter notification can be sent to the property manager. **The owners of the condominium units that abut the subject property should be directly notified.** The notice to abutters shall have enclosed a copy of the permit application or request, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request. The property owner's signature must be on the application.
- C. The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality. The fee for publishing the notice must be provided by the applicant to the Commission simultaneously with the submission of a permit application or RFD.
- D. The Commission in an appropriate case may combine its hearing under this by-law with the hearing conducted under the Wetlands Protection Act, MGL Ch. 131, Sec. 40 and Regulations 310 CMR 10.00.
- E. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant. The public hearing will not commence until the applicant provides the majority of the return receipts from the certified mail abutter notice to the Commission.

- F. The Commission shall issue a permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.
- G. The Commission shall have the authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in Section VI.

S. 191-7. Permits and Conditions

- A. If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this by-law, the Commission within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation and replication of the protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.
- B. The Commission is empowered to deny a permit for failure to meet the requirements of this by-law; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in the regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this by-law; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.
- C. **In reviewing activities within the buffer zone, the Commission shall presume the buffer zone is important to the protection of other resource areas because 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 construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may establish, in its regulations, 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 lands, including without limitation strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission by a preponderance of the evidence that the area or part of it may be disturbed without harm to the values protected by the bylaw.**

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has convinced the Commission by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (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 technology, costs of the alternatives, and overall project costs.

~~Buffer zones are presumed important in the protection of those resource areas and their related wetland resource area values protected by this By-law because activities undertaken in close proximity to resource areas are presumed to have a high likelihood of adverse impact upon the resource areas and their related values either immediately or long term, as a consequence of construction and use, which can include, without limitation, erosion, siltation, loss of ground water recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetated cover within such buffer zone, unless the applicant rebuts said presumptions concerning protection of and impact upon resource areas with credible evidence to convince the Commission that said buffer zone may be disturbed or altered without harm to the values protected by this By-law.~~

- ~~D. To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; if such avoidance is demonstrated by credible evidence submitted by an applicant not to be feasible an applicant shall be required to minimize wetlands alteration; and, where alteration is unavoidable, to provide full mitigation. 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. 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.~~

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 or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

The Commission shall presume that all areas meeting the definition of “vernal pools,” including the adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations.

- E. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of the time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Failure to complete a project within the extension period shall require a new filing of a Notice of Intent. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land. **An Applicant shall seek a Certificate of Compliance or otherwise report to the Commission the expiration of the Applicant’s Order of Conditions. Failure to report at or prior to the expiration date shall result in a fine as defined by our regulations.**
- F. For good cause the Commission may revoke or modify a permit or determination issued under this by-law after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to Section VII, and a public hearing.
- G. The Commission in an appropriate case may combine the permit or determination issued under the by-law with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act M.G.L. Chapter 131, Section 40 and Regulations, 10 CMR 10.00.
- H. No work proposed in any permit application shall be undertaken until the permit 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 permit has been recorded.
- I. The Commission shall after receiving a written request for a Certificate of Compliance and an as-built plan certified as necessary and appropriate in the Commission’s discretion, by a **Registered** Professional Engineer and/or a **Registered** Professional Land Surveyor both licensed in the Commonwealth of Massachusetts, to be in substantial compliance with the plan approved under the order of conditions, inspect the resource area and buffer zone where any activity governed by a permit issued under this by-law was carried out, and, if such activity has been completed in accordance with said permit, the Commission shall, within twenty one (21) days after receiving such written request, issue a Certificate of Compliance evidencing such determination, which may in appropriate cases be combined with a Certificate of Compliance issued under the Wetlands Protection Act. A Certificate of

Compliance may specify conditions in the permit which will continue to apply. The certificate of compliance shall be recorded in the same manner as a permit and proof of recording shall be provided by the applicant to the commission, as set forth herein. **Said letter and plan from the Registered Professional Engineer and/or the Registered Professional Surveyor shall clearly delineate any and all deviations from the approved plan.**

- J. Any person, entity, or successors in interest, granted the authority to work within any resource area as defined by this By-law shall be bound to assure that said work will be completed in a manner that will ensure that resource area and associated buffer zones will be protected and that the work performed will function in the manner intended. If after completion of the work, or anytime thereafter, the work does not perform as intended to protect the wetland, or otherwise serves to harm the resource area, the Applicant shall be obligated, at the request of the Conservation Commission, to make whatever repairs, alterations, or modifications necessary to protect the wetland resource area, and associated buffer zones.**

191-8 HH. Regulations

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw. 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 chapter.

At a minimum these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees.

S. 191-9. 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 be secured wholly or in part by one or more of the methods described below:

- A. By deposit of money (certified check or cash) sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit. Any deposit of money received in accordance with this section shall be administered in accordance with G.L. C. 44, SEC. 53E1/2.
- B. By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality 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.

S. 191-10. Enforcement; Violations and Penalties

- A. 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 chapter.

- B. 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.
- C. The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, enforcement orders and civil and criminal court actions. Any person who violates provisions of this bylaw 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.
- D. Any person who violates any provision of this bylaw, or regulations, permits, or enforcement orders issued thereunder, shall be punished by a fine as outlined in schedule below. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.
- E. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in G.L. Ch. 40, Sec.21D. When so enforcing, any violation of this by-law shall be punishable as follows:

1. FIRST OFFENSE: A WARNING

2. SECOND OFFENSE: **A fine of up to \$500 per day.** ~~A PENALTY OF \$200.00~~

3. ~~THIRD OFFENSE: A PENALTY OF \$300.00.~~

3. 4. EACH ADDITIONAL OFFENSE: **A fine of up to \$500 per day.** ~~A PENALTY OF \$300.00~~

THE ENVIRONMENTAL AFFAIRS OFFICER, BUILDING INSPECTOR AND THE STOUGHTON POLICE OFFICERS SHALL BE THE ENFORCING PERSONS FOR THE PURPOSE OF THIS BY-LAW.

S. 191-11. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible 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 such conditions, or as necessary to affect the purposes of this chapter.

S. 191-12. Appeals

A decision of the Commission shall be reviewable in a **court of competent jurisdiction** ~~Superior Court~~ in accordance with G.L. Ch. 249, Sec.4.

S. 191-13. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, G.L. Ch. 131, Sec.40, and Regulations, 310 CMR 10.00, thereunder.

S. 191-14. 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 or determination which previously has been issued.

Or take any other action relative thereto.

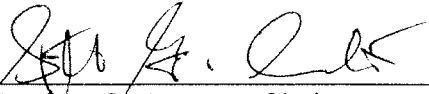
Petitioner: Board of Selectmen, 10 Pearl Street, Stoughton, MA
July 29, 2009
Requested by Environmental Affairs Officer James B. Conlon

You are hereby directed to serve this warrant by posting attested copies hereof at not less than nine public places in the Town, seven, days, at least, before the time of holding said meeting and you are hereby directed to have three hundred copies brought to the meeting for distribution.

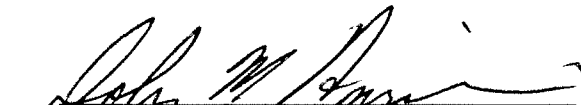
Hereof fail not and make due return of this Special Town Meeting Warrant with your doings thereon to the Town Clerk at the meeting aforesaid.

Given under our hands this fourth day of August in the year of Our Lord Two Thousand and Nine at Stoughton, Massachusetts.

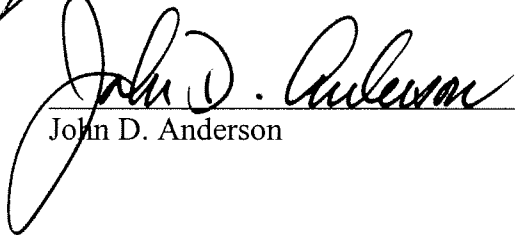
STOUGHTON BOARD OF SELECTMEN



Stephen G. Anastos, Chairman



John M. Anzivino, Vice-Chairman

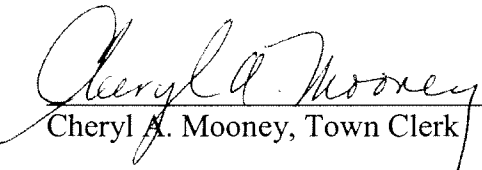


John D. Anderson

Joseph M. Mokrisky

Cynthia A. Walsh

A true copy. Attest:



Cheryl A. Mooney, Town Clerk

Lawrence Verdun, Constable