

TOWN OF WELLESLEY
WETLANDS PROTECTION COMMITTEE

WETLANDS PROTECTION BYLAW

(ARTICLE 44 OF TOWN BYLAWS)

*As Approved by Wellesley Town Meeting, April 9, 2002,
Effective September 2002
(not applicable to Notices of Intent filed prior to March 1, 2002)*

&

WETLANDS PROTECTION REGULATIONS

*Portions adopted October 30, 2003
Revised by the Wetlands Protection Committee, June 24, 2004 and August 28, 2008*

TOWN OF WELLESLEY
WETLANDS PROTECTION BYLAW

SECTION 1: PURPOSE

The purpose of this bylaw is to protect the wetlands, related water resources, and adjoining land areas in the Town of Wellesley by prior review and control of activities deemed by the Wetlands Protection Committee likely to have a significant or cumulative effect upon **wetland interests and values**, including but not limited to the following:

**public or private water supply,
groundwater,
flood control,
erosion and sedimentation control,
storm damage prevention,
water pollution prevention,
fisheries,
wildlife habitat, and
recreation**

(collectively, the "**wetlands values protected by this bylaw**").

SECTION 2: JURISDICTION

Except as permitted by the Wetlands Protection Committee or as provided in this bylaw, no person shall remove, fill, dredge, build upon, or alter any of the following **RESOURCE AREAS**:

marshes;	wet meadows;	bogs;
swamps;	banks;	reservoirs;
lakes;	ponds;	rivers;
streams;	creeks;	

<u>lands under</u>		
reservoirs,	lakes,	ponds,
rivers,	creeks or	streams;

any wetlands bordering on any of the aforesaid resource areas;

isolated wetlands so long as they cover at least 2,500 square feet of surface area;

land within 100 feet of the aforesaid resource areas;

vernal pool habitats;

lands within 200 feet of
perennial streams or rivers;
bordering land subject to flooding; or
isolated land subject to flooding.

SECTION 3: DEFINITIONS

Except as otherwise provided in this bylaw or in regulations of the Committee, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act, General Laws Chapter 131, Section 40, as amended, or regulations promulgated thereunder.

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

The term "**stream**" means an open body of running water, including brooks and creeks, which moves in a definite channel, natural or man-made, in the ground due to a hydraulic gradient, year-round or intermittent.

Such bodies of running water which are intermittent (do not flow throughout the year) are streams, except for those that serve only to carry the immediate surface runoff from stormwater or snowmelt.

A portion of a stream may flow through a culvert or beneath a bridge.

"**Vernal pool habitat**" means confined basin depressions which, at least in most years, hold water for a minimum of two continuous months during the spring or summer, and which are free of adult fish populations. This includes the area within 100 feet of the mean annual boundaries of such depressions. Such areas need not lie within other resource areas subject to this bylaw to be protectable hereby. These areas are essential breeding habitat and provide other extremely important wildlife habitat functions during non-breeding seasons as well as for a variety of amphibian species.

SECTION 4: EXEMPTIONS

The permit and application required by this article shall not be required for maintaining, or repairing, but not changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, sewer, telephone, telegraph or other telecommunication services,

provided that written notice has been given to the Committee at least 14 days prior to commencement of work, and

provided that the work conforms to performance standards and design specifications in regulations adopted by the Committee.

The provisions of this bylaw shall not apply to any work performed for normal maintenance or improvement of land in agricultural use or in aquacultural use.

The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof;

provided that advance notice, oral or written, has been given to the Committee prior to commencement of work or within 24 hours after commencement;

provided that the Committee or its agent, in writing, certifies the work as an emergency project;

provided that the work is performed only for the time and place certified by the Committee for the limited purposes necessary to abate the emergency; and

provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Committee for review as provided by this bylaw.

Upon failure to meet these and other requirements of the Committee, the Committee may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this section, the exceptions provided in the *Wetlands Protection Act* shall not apply under this article.

SECTION 5: APPLICATION FOR PERMITS AND REQUESTS FOR DETERMINATION

Written application shall be filed with the Committee to perform activities regulated by this bylaw affecting resource areas protected by this bylaw. This application shall include such information and plans as are deemed necessary by the Committee to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit pursuant to this bylaw.

The Committee shall accept as the application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act, General Laws Chapter 131, Section 40, as amended, together with such other information and plans as is required by this bylaw and regulations issued hereunder.

Any person desiring to know whether or not proposed activity or an area is subject to this bylaw may in writing request a determination from the Committee. The Committee shall accept a Request for Determination of Applicability under the Wetlands Protection Act as a request under this bylaw. Such a request for determination shall contain information and plans specified by the regulations of the Committee.

Any person desiring to certify, for purposes of this bylaw, the limits of resource areas on a site may file a request for wetland delineation. This application shall include such information and plans as are deemed necessary by the Committee to describe and define the wetland resource areas. The Committee shall accept a Notice of Resource Area Delineation under the Wetlands Protection Act as a similar request under this bylaw.

At the time of an application request, the applicant shall pay a filing fee specified in regulations of the Committee. This fee is in addition to that required by the Wetlands Protection Act. The Committee, upon written request, may waive the filing fee for an application or request filed by a government agency.

The Committee may, at the expense of the applicant, retain an independent consultant for the purpose of providing the Committee with the data, analysis, or other information deemed by the Committee to be reasonably necessary or appropriate to assist the Committee in reviewing the application or rendering its decision, in conformity with the provisions of Chapter 44 of the General Laws.

SECTION 6: NOTICE OF HEARINGS

When appropriate, the Committee may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, General Laws Chapter 131, Section 40, as amended.

Any person filing an application with the Committee for a permit or for resource area delineation certification at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivery, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the site of the project or wetland, including any in another municipality or across a body of water. The notice to abutters shall enclose a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. When a person requesting a determination is other than the owner, the notice of the hearing shall be sent by the Committee to the owner as well as to the person making the request.

The Committee shall conduct a public hearing on any application or request for determination, with written notice given at the expense of the applicant, at least five working days prior to the hearing, in a newspaper of general circulation in the Town.

The Committee shall commence the public hearing within 45 days from the receipt of a completed application or request for determination unless an extension is authorized in writing by the applicant. The hearing under the bylaw may be continued in the same manner and conditions as under the Wetlands Protection Act and regulations.

The Committee shall issue its permit, its denial of a permit, or its determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

SECTION 7: PERMITS, DETERMINATIONS, AND CONDITIONS

If the Committee after a public hearing determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetland values protected by this bylaw, the Committee shall issue or deny a permit for the activities requested.

If it issues a permit, the Committee shall impose conditions which the Committee deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions.

The Committee is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Committee; for failure to meet the performance standards and other requirements in this bylaw and the regulations issued hereunder, for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this bylaw, and where no conditions are adequate to protect those values.

A permit shall expire three years from the date of issuance. The Committee may extend a permit for one or more periods of up to three years each, upon written request made at least 30 days prior to the expiration of the permit.

For good cause the Committee may revoke or modify a permit issued under this bylaw.

The Committee in an appropriate case may combine the permit or other action on an application issued under this bylaw with the Order of Conditions issued under the Wetlands Protection Act.

No work proposed in any application shall be undertaken until the permit issued by the Committee with respect to such work has been recorded in the Norfolk Registry of Deeds or, if the land affected thereby be registered land, in the registry section of the land court for the Norfolk district, and until the holder of the permit certifies in writing to the Committee that the permit has been so recorded.

SECTION 8: REGULATIONS

After public notice and public hearing, the Committee shall promulgate rules and regulations to affect the purposes of this bylaw. Failure by the Committee to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

At a minimum, these regulations when promulgated shall define key terms in this bylaw not inconsistent with this bylaw.

SECTION 9: SECURITY

As a 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 Committee may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

by a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Committee, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit;

by a covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the 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.

SECTION 10: ENFORCEMENT

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

The Committee shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, enforcement orders, and civil and criminal court actions.

Upon request of the Committee, Town Counsel shall take legal action for enforcement under civil law. Upon request of the Committee, the Chief of Police and/or Town Counsel shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Committee in enforcement.

Whoever violates any provision of this bylaw, regulations hereunder, or permits issued hereunder, shall be punished by a fine of not more than \$300.

Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations, or permit violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Committee may issue citations under the non-criminal disposition procedure set forth in General Laws Ch. 40, Section 21D, as amended, which has been adopted by the Town in Article 52 of the general bylaws.

SECTION 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 application will not have unacceptable significant or cumulative effect upon the wetland values protected by this bylaw.

Failure to provide adequate evidence to the Committee supporting this burden shall be sufficient cause for the Committee to deny a permit or grant a permit with conditions.

SECTION 12: APPEALS

A decision of the Committee shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with General Laws Chapter 249, Section 4, as amended.

SECTION 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, General Laws Chapter 131, Section 40, as amended, and regulations thereunder.

SECTION 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 previously issued.

Provided, that this bylaw shall not be applicable to activity that is the subject of a Notice of Intent filed with the Committee before March 1, 2002, pursuant to the provisions of said Wetlands Protection Act; or take any other action relative thereto.

(Natural Resources Commission)

TOWN OF WELLESLEY
WETLANDS PROTECTION REGULATIONS

SECTION 1 – GENERAL PROVISIONS

These regulations are promulgated by the Wellesley Wetlands Protection Committee under the authority of Town of Wellesley Bylaws, Article 44, Wetlands Protection.

The purpose of these regulations is to effect the purposes of the bylaw. The failure of these regulations to address all aspects of the Bylaw, or a legal declaration of their invalidity, shall not act to suspend or invalidate the effect of the Bylaw.

SECTION 2 –FILING FEES

Bylaw Filing fees are payable at the time of application and are not refundable. Fees are calculated by the Committee or its administrator according to the schedule below. Town projects are exempt from fees. These fees are in addition to and separate from State fees required to be paid to the Commonwealth and the Town for filing under the Massachusetts Wetlands Protection Act. All filing fees collected under the Bylaw shall be deposited in a special dedicated Wetland Fee Account, and such funds shall be used only for wetland-related purposes.

NOTICE OF INTENT (Permit Application)

The bylaw filing fee for a permit application shall be calculated using the following schedule.

Categories are those used in determining fees under the state Wetlands Protection Act.

	<u>Town Bylaw Fee</u>
Category 1	\$110
Category 2	\$275
Category 3	\$500
Category 4	\$700
Category 5	None
Category 6	\$50

Category 6 includes boundary delineations for vegetated wetlands as part of a permit application (Notice of Intent), or a Notice of Resource Area Delineation, or a Request for Determination of Applicability.

For example, a Notice of Intent for construction of two single family houses falls into Category 2a of the state schedule and requires a state fee of \$250 for each house. The bylaw requires an additional \$275 for each house. No additional bylaw fee or surcharge applies to projects in both river-front and another resource areas.

OTHER APPLICATION FEES:

Request for Determination of Applicability (without boundary delineation)-----\$100

Request for Extension Permit ----- \$75

Amended Notice of Intent (significant revision)-----Same as for a new Notice of Intent.

Wetland boundary delineations (Notice of Resource Area Delineation or Notice of Intent)

when state fee does not apply-----\$1 per linear foot;

-----\$100 limit for a single family house;

-----\$1000 limit for others.

Certificate of Compliance (Includes Partial)-----\$100

SECTION 3 – PROTECTION OF BUFFER ZONES AND VERNAL POOL HABITAT

3.A. DEFINITIONS

"**Buffer zone**" means the land extending 100 feet in any upland direction from the boundary of the following resource areas listed in "Section 2, Jurisdiction" of the Bylaw:

marshes;	wet meadows;	bogs;
swamps;	banks;	reservoirs;
lakes;	ponds;	rivers;
streams;	creeks; and	
lands under		
reservoirs,	lakes,	ponds,
rivers,	creeks or	streams.

any wetlands bordering on any of the aforsaid resource areas;

isolated wetlands so long as they cover at least 2,500 square feet of surface area;

land within 100 feet of the aforsaid resource areas;

A buffer zone is itself a resource area protected under the Bylaw.

Buffer zones extend 100 linear feet in the upland direction from the established boundary of any listed resource area, except that the buffer zone itself does not have a buffer zone.

"**Vernal pool habitat**" means confined basin depressions which, at least in most years, hold water for a minimum of two continuous months during the spring or summer, and which are free of adult fish populations. Vernal pool habitat includes the area within 100 feet of the mean annual boundary of the pool itself. The vernal pool need not be certified and the vernal pool and its surrounding 100-foot area need not be within another resource area to be protected by this Bylaw.

3.B. BUFFER ZONE PROTECTION

(1) Preamble

Buffer zones are likely to be significant to the wetland interests and values identified in Section 1 of the Bylaw. Buffer zones

help to reduce or prevent water pollution;
provide and protect wildlife habitat;
protect groundwater;
help reduce erosion; and
provide sedimentation control.

Buffer zones can play a vital role in protecting resource areas, including but not limited to:

- (a) **Temperature**: Shade and cover can moderate air temperature and water temperature in streams and the shallows of ponds and other waterbodies.
- (b) **Sediments and Other Contaminants**: Buffer zones help filter sediments and other contaminants, including but not limited to pesticides and heavy metals, from surface water flow. Buffer zones also prevent erosion in and into resource areas and preclude development that could lead to increased contaminant loading.
- (c) **Nutrients (nitrogen and phosphorous)**: Buffer zones reduce nutrient loading in water bodies by filtering from surface water flow the nutrients bound to sediments; removing nutrients from ground water through uptake in vegetation and by de-nitrification; and precluding development

which could increase nutrient loading as a result of activities (like lawn fertilizing and landscaping).

- (d) **Maintenance of stream flow**: Buffer zones can store water and help maintain ground water, stream base flow, and water quality during low-flow periods.
- (e) **Wildlife habitat**: The vegetated uplands adjacent to wetlands constitute one of the richest zones for aquatic organisms, mammals, birds, and amphibians because they provide shade and cover; food; shelter; and breeding habitat.

Construction and other activities or alterations within buffer zones can harm resources areas through siltation, regrading, compaction of soil, and loss of pervious ground.

Following construction or other alterations, use and maintenance of the altered buffer zone frequently degrades resources as a result of the deposition of lawn and yard debris, increased and more rapid stormwater runoff, nutrient loading, habitat degradation, and increased temperatures.

(2) **Presumption of Significance**

When a proposed activity involves the removing, filling, dredging, building upon, or altering of a buffer zone, the Committee shall presume that protection of the buffer zone is significant to the interests in the Bylaw. This presumption is rebuttable and may be overcome upon a clear showing that the buffer zone does not play a role in the protection of those interests. In the event that the Committee finds that the presumption has been overcome, it shall make a written determination to this effect, stating its grounds.

(3) **Performance Standards**

The portion of a buffer zone extending 25 feet from the wetland, bank, or waterbody defining the buffer zone's inner edge, is designated a No-Disturbance Zone. The remaining 75 feet of the buffer zone is designated a Limited Disturbance Zone.

(a) **No-Disturbance Zone**:

- (i) Alterations, including but not limited to grading, landscaping, removing of vegetation, filling, excavating, operation of vehicles or machinery, and paving, shall not be permitted in a No-Disturbance Zone.
- (ii) Structures, including but not limited to porches, decks, pools, and sheds, shall not be constructed or placed within a No-Disturbance Zone.
- (iii) Notwithstanding any of the foregoing prohibitions, the Wetlands Protection Committee may allow certain activities or structures in a No-Disturbance Zone by waiver, as provided in section 3.D. of these regulations, when no other practicable alternative exists. Petitions for a waiver shall be included in writing in the Notice of Intent filed under the Bylaw.

(b) **Limited-Disturbance Zone**:

A Limited Disturbance Zone consists of all areas in a buffer zone not located in a No-Disturbance Zone. No activity shall be permitted in a Limited-Disturbance Zone that is more likely than not to harm or eventually harm resource areas, including No-Disturbance Zones, and Limited-Disturbance Zones, with respect to the interests of the Bylaw.

3.C. PROTECTION OF VERNAL POOL HABITAT

(1) **Preamble**

Vernal pools and their surrounding areas provide important wildlife habitat. They are increasingly rare and are inhabited by many species of wildlife, some of which are totally dependent on vernal pools for their survival. The wood frog (*Rana sylvatica*) and all species of mole salamander (*Amby-*

stoma spp.) that occur in Massachusetts breed only in vernal pools, and use the surrounding upland habitat for their other habitat needs, such as feeding, shelter, and over-wintering.

(2) **Presumption of Significance**

- (a) Any confined depression which, at least in most years, holds some water for at least two continuous months during the spring or summer will be presumed to be essential breeding habitat and provide other extremely important habitat functions during the non-breeding season for a variety of wildlife, particularly amphibian species.

Pools occurring in lawns, landscaped area, or driveways as of April 9, 2002 (the date the Bylaw was enacted) are presumed not significant as wildlife habitat.

- (b) This presumption may be overcome by a clear showing that the presumed vernal pool does not and cannot meet the defining criteria set forth by the Massachusetts Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program, in Spring 2000, for vernal pool certification.

Certification of a vernal pool under the state program is not required for protection under the Bylaw or these regulations.

- (c) Because of the seasonal nature of vernal pools, the Wetlands Protection Committee **may require that evidence** presented to overcome this presumption be gathered during the spring or summer **during a year in which the level and duration of water in the pool is at or above average.**

(3) **Performance Standards**

Within a vernal pool habitat area, no activity or alteration is permitted unless it is shown to the Wetlands Protection Committee's satisfaction that a proposed activity will have no detrimental effect on the habitat value of the vernal pool and the vernal pool habitat.

Activities and alterations include, but are not limited to,

- removal or alteration of vegetation;
- removal or alteration of natural ground cover including leaves, logs, and other vegetative litter;
- grading;
- landscaping;
- filling;
- construction or placement of structures or pavement of any sort.

The Wetlands Protection Committee *may* allow limited alterations to areas that, in their existing condition and use, do not serve a significant habitat function.

3.D. WAIVERS AND MITIGATION

(1) **Waivers**

The performance standards for wetland resource areas have been adopted to ensure that the interests protected by the Bylaw are adequately protected.

The Wetlands Protection Committee recognizes that, in certain situations, a waiver of a specific performance standard may be appropriate for a particular project when the waiver is consistent with the intent and purpose of the Bylaw and Regulations.

The applicant shall have the burden of demonstrating that the granting of the waiver is consistent with the intent and purpose of the Bylaw and these Regulations. The Committee shall act on the request for a waiver and shall provide to the applicant its written decision.

The following paragraphs describe the waiver and its associated mitigation measures for the Buffer Zone and Vernal Pool performance standards.

(2) **Waivers for Buffer Zones**

The Wetlands Protection Committee *may* grant a waiver from these Regulations for an alteration of a buffer zone in situations where no practicable alternative provides less impact to the resource area values and a significant hardship would be imposed upon the applicant in the absence of a waiver. The Wetlands Protection Committee may grant a waiver of a performance standard and impose such additional or substituted mitigation requirements as it deems necessary.

The applicant must show, clearly and convincingly that:

- (a) There is no practicable and substantially equivalent economic alternative to the proposed project with less harmful effects on the buffer zone; and
- (b) The project, or its natural and consequential effects, will have the least adverse effects on the buffer zone that can be practicably achieved.
- (c) The project includes mitigation measures that improve the resource area in accordance with paragraph 3.D.(4) of this regulation.

(3) **Waivers for Vernal Pool Habitat**

The Committee may grant a waiver from these Regulations for an alteration of a portion of a vernal pool habitat area where no practicable alternative provides less impact to the habitat values and where the functioning of the vernal pool as breeding area for species dependent on vernal pools is not impaired.

A request for a waiver must show

- that sufficient vernal pool and adjacent upland habitat will remain,
- that likely use and maintenance of the altered area will have no detrimental effect on water quality of the pool or quality of the remaining habitat area.

Mitigation, such as the enhancement or protection of remaining habitat for vernal pool breeders, in or outside the limit of the Bylaw's vernal pool habitat area, will be considered.

(4) **Mitigation**

In cases where a waiver is granted, the Wetlands Protection Committee shall require mitigation measures to be implemented to offset potential impacts to the wetland resource areas.

The mitigation must maintain or improve the natural capacity of a resource area to achieve the interests protected by the Bylaw.

In its discretion, the Wetlands Protection Committee may require that mitigation be implemented and demonstrated to be functioning before alterations permitted by the waiver may be implemented.

TOWN OF WELLESLEY
WETLANDS PROTECTION COMMITTEE
RULES FOR HIRING OUTSIDE CONSULTANTS

As provided by GL Ch. 44 §53G, the Wellesley Wetlands Protection Committee may impose upon the applicant reasonable fees for the employment of outside consultants, engaged by the Wetlands Protection Committee, for specific expert services deemed necessary by the Committee to come to a decision on an application submitted to the Wetlands Protection Committee pursuant to the requirements of the Wetlands Protection Act (GL Ch. 131 §40), the Wellesley Wetlands Protection Bylaw (Article 44), the Conservation Commission Act (GL Ch. 40 §8C), or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time.

Funds received by the Wetlands Protection Committee pursuant to these rules shall be deposited with the town treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Wetlands Protection Committee without further appropriation as provided in GL Ch. 44 §53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.

Specific consultant services may include but are not limited to

- resource area survey and delineation,
- analysis of resource area values,
- hydrogeologic and drainage analysis,
- impacts on municipal conservation lands, and
- environmental or land use law.

The consultant shall be chosen by, and report only to, the Committee or its Administrator. The Wetlands Protection Committee shall give written notice to the applicant of the selection of an outside consultant, which notice shall state

- the identity of the consultant,
- the amount of the fee to be charged to the applicant, and
- a request for payment of said fee in its entirety.

Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five business days of the date notice is given.

The fee must be received in its entirety prior to the initiation of consulting services. The Committee may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Committee within ten (10) business days of the request for payment shall be cause for the Committee to deny the permit application for lack of information.

The applicant may appeal the selection of the outside consultant to the Board of Selectmen, who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Wellesley Board of Selectmen and a copy received by the Wetlands Protection Committee, so as to be received within ten (10) days of the date consultant fees were requested by the Wetlands Protection Committee. The required time limits for action upon the application shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Wetlands Protection Committee shall stand.