

# Conservation Bylaw revisions

The Warrant for the October 1 Special Town Meeting includes an article proposing to update the town's conservation Bylaw. The Conservation Commission has prepared this brief Q&A to provide background on its proposal, and has posted a longer FAQ with information about wetlands protection and the work of the Commission on its website at <https://www.hamiltonma.gov/government/conservation-commission/>.

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## General FAQs

### 1. What does the Hamilton Conservation Commission (HCC) do?

The HCC is responsible for protecting the town of Hamilton's open space and wetlands resources. It does this by administering the following:

- the Conservation Commission Act (MGL Chapter 40 section 8C) for open space protection;
- the Wetlands Protection Act (MGL Chapter 131 section 40) for protecting wetlands and waterways, and
- the home rule provisions of the state constitution for non-zoning wetlands bylaws

The Commission also strives to support environmental education in the community via collaborations with the regional school system and by organizing conferences and events for residents.

### 2. Why are wetlands important?

Wetlands provide us with many "free services". For example:

- Wetlands protect our water quality by filtering out harmful sediments, pollutants, and excess nutrients, and 'recharging' groundwater. (Remember – all of Hamilton's drinking water, whether public or private, is connected to our town's wetland resource areas.) Without wetlands, the cost of water treatment would be much higher than it already is.
- Wetlands store floodwater from heavy rains and melting snows. As we experience more severe storms and more extensive episodes of flooding or drought (like this summer) – wetlands "sponge-like capacity" can help us by:
  - o 1) reducing the impact of flooding on nearby properties, and
  - o 2) distributing stored moisture during times of severe drought.Without functioning wetlands, weather extremes would be more severe and more costly to the town and residents.
- Wetlands provide critical wildlife habitat for plants and animals, and also provide people with valuable recreational opportunities – including swimming, fishing

*and boating – and great scenic vistas that make our town attractive to residents and visitors.<sup>1</sup>*

- *The areas around wetlands – their buffer zones – also provide a set of “free services” including water filtration, groundwater recharge, additional flood storage capacity, carbon sequestration, habitat, and more. Because of these important functions, buffer zones (those areas that extend out 100 feet from most wetlands, or 200 feet from rivers and streams) are also protected by the Hamilton Conservation Commission.*

## **Bylaw-specific FAQs**

### **3. What is a local conservation bylaw?**

*A local conservation bylaw provides extra protections beyond those in the Wetlands Protection Act (WPA) in order to meet the unique needs of a community and its wetland resource areas. Typically, local bylaws:*

- *Protect wetlands to a **greater degree**, and/or*
- *Recognize and protect **resource areas beyond those covered by the Act, and/or additional wetland values**, recognized by the Town as significant.*

### **4. Why do we need a local conservation bylaw? Isn't the Wetlands Protection Act (WPA) enough?**

*The WPA sets forth only minimum state-wide standards to protect wetlands and other inland and coastal resource areas. Developing and administering local conservation bylaws can provide communities with the opportunity for **more local input and oversight, as well as added clarity that can save applicants time and money.***

*For example:*

*The WPA has several aspects which are decided on a case by case basis at the Commission level. This often has to do with how much of the buffer zone can be developed, how close to the wetland can be developed, etc. By having designated no build/no disturb zones, it is clear prior to undertaking any work, developing any designs, or otherwise investing in a project, what will clearly not be allowed. In towns without Bylaws and associated regulations, plans may need to be changed because the architect or contractor was unaware of the value of wetlands and their buffers, and may design something that the Commission will require them to remove, or which will require mitigation activities. Mitigation activities are often complicated, and generally add significant time and expense to projects which require them. While requirements such as no build or no disturb zones may appear restrictive, they actually streamline the approval process by ensuring Applicants and their representatives can plan around*

*known restrictions, rather than being surprised by them in the course of the permitting process.*

*Also, while the Conservation Commission is the first layer of review for projects filed under the WPA, it does not have final say, and can be removed from the process. When projects are appealed to the Department of Environmental Protection, the Agency which the town Commission is acting on behalf of, the State issues the permit. The state becomes responsible for enforcing the permit. The state becomes responsible for amending or closing the permit. While the Commission may help the State to track on the project, the Commission is no longer the issuing authority. Which means that local concerns which may have been part of a permit issued by the town's Commission are commonly dropped from the permit issued by the State. Local control and input are significantly reduced.*

*More than 210 Massachusetts municipalities have adopted non-zoning wetlands bylaws or ordinances that provide extra protections to wetlands resources within their borders.*

**5. Why do we need to revise the current Hamilton conservation bylaw? Isn't it sufficient as is?**

*Hamilton's current Conservation Bylaw is out of date; its core components date back to the 1980s/90s. It is missing key links to the Regulations, which were updated during the 2000s/10s, and guide the Commission's operations. Updating the Bylaw should provide applicants with **more clarity** on the Commission's jurisdiction, permit processes and requirements by putting all of that information in one document - the Bylaw. This should help **reduce the turnaround time** for processing permit requests.*

*The HCC is also proposing that we use this opportunity to bring the bylaw into alignment with the [Massachusetts Association of Conservation Commissions model bylaw](#). To achieve this, we are proposing to add the following sections to the bylaw: Exemptions and Exceptions, Applications and Fees, Appeals, Relation to the Wetlands Protection Act, Waivers, Severability.*

*These additions would integrate boilerplate legal language from the MACC model bylaw, alongside existing language from the Hamilton R&Rs, and would in no way change the HCC's scope, powers, or current practice.*

**6. What are the Regulations referenced above? How do they relate to the Conservation Bylaw?**

*Both the state-level Wetlands Protection Act (WPA) and municipal level Conservation Bylaws serve as laws - they articulate "**what**" Conservation Commissions have the authority to protect. Both of the laws have associated regulations - these documents*

clarify “**how**” to interpret and implement their associated laws. In Hamilton, the content of a Conservation Bylaw must be voted on and approved by residents at Town Meeting. Following this, the Conservation Commission can develop and publish the associated regulations. All elements of the Regulations must directly reference/link back to the local Conservation Bylaw.

As mentioned previously, a major issue with the HCC’s current Bylaw is that it is missing key links to the Regulations that have guided the Commission’s operations in recent years. Given the success of the joint administration of the Bylaw and Regulations, the HCC proposes that some key definitions currently included in the Regulations should be codified into the Bylaw. These include: Adjacent Upland Resource Areas (AURA), freshwater wetlands, smaller ponds, vernal pools, no-build and no-disturb zones. Codifying these definitions into the bylaw would in no way change the HCC’s scope, powers, or current practice.

**7. How would the proposed revisions to the Hamilton conservation bylaw change the following:**

- **Which areas in town are protected?**

*There would be no change to the jurisdiction currently protected under the existing bylaw and regulations.*

- **The processes for submitting permit applications, reviewing projects and issuing permits**

*There would be no change to the processes for submitting permit applications, reviewing projects and issuing permits*

- **The overall authority of the HCC**

*There would be no change in the HCC’s authority and no increased burden to landowners.*

**8. What has the HCC’s process been for gathering community input to ensure the proposed bylaw revisions reflect the needs/wants of Hamilton residents?**

*The HCC has been discussing updates to the Conservation Bylaw for a number of years. More recently in:*

- *May 2022:*
  - o *The HCC began holding regular discussions about the Bylaw at every public Conservation Commission meeting.*
  - o *The HCC invited public comment on the bylaw revision via outreach on the town website, Facebook and by word of mouth.*

- *August 2022:*
  - *The HCC presented a draft Bylaw revision to the Selectboard.*
  - *The HCC integrated feedback received by members of the Selectboard, Planning Board, and general public into a revised draft of the bylaw.*
  
- *September 2022:*
  - *The HCC presented the revised Bylaw proposal to the Selectboard*
  - *The Selectboard voted to approve and recommend the Bylaw for the 2022 STM warrant.*

**9. If the new Bylaw is adopted, how will this affect the current set of Regulations that accompany the current Bylaw?**

*The current regulations will be revised to align with the updated bylaw.*