

INFORMATION: Boston Local Wetlands Ordinance

May 1, 2013

Why do we need a Local Wetlands Ordinance?

- Superstorm Sandy and other recent events have highlighted the fact that coastal cities are vulnerable to the effects of climate change and must be prepared for a future that will bring more and more coastal flooding.
- Currently, the City of Boston, through the Conservation Commission, regulates activities in coastal and inland wetland resource areas only through the Commonwealth's 1972 Wetlands Protection Act (WPA) and accompanying regulations (310 CMR 10). Although the WPA provides for the protection of many wetland resource areas, it does not enable the Commission to protect against the future impacts of climate change.
- Massachusetts municipalities can enact local wetlands ordinances (LWO) that provide greater authority to protect more resource areas, protect existing resources to a greater degree, and consider how future conditions will affect resource areas. A carefully prepared LWO is a critical component of the plan to make Boston more resilient to projected changes in the climate.
- More than half of the 351 cities and towns in Massachusetts have already adopted local wetland ordinances or bylaws. Of the 78 municipalities in the Coastal Zone, Boston is one of only six that has not yet adopted such an ordinance.
- In February of 2013, Mayor Thomas M. Menino asked the administration, with guidance from the Conservation Commission, to draft a Local Wetlands Ordinance that would address the impacts of climate change on the relationship between the natural and built environments.

What is the Wetlands Protection Act (WPA)?

- The WPA (M.G.L. Ch. 131 § 40) recognizes eight important public values or functions provided by wetlands, water bodies and other wetland resources areas in both coastal and inland areas. These interests are:
 - Protection of public and private water supply
 - Protection of groundwater supply
 - Flood control
 - Storm damage prevention
 - Prevention of pollution
 - Protection of land containing shellfish
 - Protection of fisheries
 - Protection of wildlife habitat
- The WPA protects these values in 12 types of Coastal Resource Areas and 5 types of Inland Resource Areas. Only the Inland Resource Areas (*in italics*) have specific performance standards. The Coastal Resource Areas have general standards or none at all.

Coastal Resource Areas		Inland Resource Areas
Land Under Water	Anadromous/Catadromous Fish Runs	<i>Land Under Waterways and Water Bodies</i>
Coastal Beaches	Land Containing Shellfish	<i>Banks</i>
Barrier Beaches	Land Subject to Coastal Storm Flowage/ Land Subject to Tidal Action	<i>Bordering Land Subject to Flooding/Isolated Land Subject to Flooding</i>
Rocky Intertidal Shores	Designated Port Area	<i>Bordering Vegetated Wetlands</i>
Coastal Dunes	Salt Marshes	<i>Riverfront (25 feet)</i>
Coastal Banks	Land Under Salt Ponds	

- Work that removes, fills, dredges, or alters the above resource areas is regulated to protect the eight interests and values. A permit for this type of work, known as an "Order of Conditions," specifies conditions that must be met before, during, and after completion of the work.

INFORMATION: Boston Local Wetlands Ordinance

May 1, 2013

- The WPA **DOES NOT** protect the values and functions of the following:
 - Land outside of the FEMA 100-year floodplain that may be affected by storm surges and sea level rise
 - Waterbodies (only the land under and adjacent to them is protected)
 - Isolated Vegetated Wetlands
 - Vernal Pools
 - Intermittent Streams
 - Buffer zones to all but 4 resource areas

What might be included in a new Local Wetlands Ordinance (LWO)?

A LWO is a law that provides direction regarding the protection of wetland resource areas. Regulations are the rules and administrative codes adopted under the authority granted by the ordinance. This current process will guide the development of the ordinance. A separate public process will guide the development of the accompanying regulations after the ordinance is adopted by City Council.

The Boston Environment Department has reviewed some other local ordinances in Massachusetts and discussed some possibilities with local experts. The City of Boston could use a local ordinance to:

- Identify and protect new resource areas, including some of concern for adaptation to sea level rise;
- Allow the Commission to adopt resource area maps;
- Add additional values for protection such as recreation and aesthetics;
- Allow the levying of enforcement fines and the collection of fees for Commission actions;
- Require performance standards, design specifications and other measures and safeguards; and
- Require review for work that occurs *over* resources areas and for construction staging in buffer zones.

What Happens Next?

1. A steering committee composed of 3 Commissioners and 3-4 other professionals in the field is being formed to draft recommendations for the ordinance that the Commission can make to the Mayor (May-July).
2. ConCom hearings will include public testimony and discussions relevant to the proposed ordinance recommendations (May-June).
3. Staff will continue to research mapping methods and definitions of new or modified resource areas (April-June)
4. ConCom will endorse recommended guiding principles for the LWO to be submitted to the Mayor (July).
5. Based on the ConCom's recommendations, the Mayor's Office, with the assistance of staff, will draft an ordinance and proposes it to the City Council (August/September).
6. If the Council passes the ordinance, ConCom will develop, adopt and implement supporting regulations, including a map(s) depicting Land Subject to Coastal Storm Flowage incorporating SLR.

Please send your feedback to Stephanie.krueel@cityofboston.gov

Information regarding the Local Wetland Ordinance can be found at:

<http://www.cityofboston.gov/environment/Conservation/wetlands.asp>