

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 665

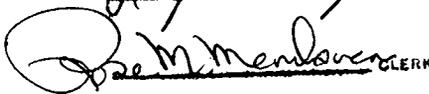
Approved October 24, 1980

WHEREAS, Senate Bill 80-S 2292 makes certain changes in the Wetlands Act and sets out the forms to be used in making application to alter or for applicability determination,

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Providence hereby opposes Senate Bill 80-S 2292 presently pending before the Senate Committee on Judiciary, relating to Wetlands.

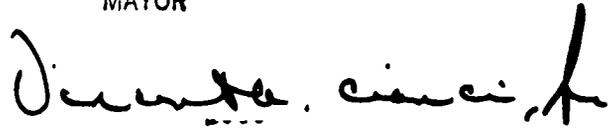
IN CITY COUNCIL
OCT 16 1980

READ AND PASSED


Ralph F. Lyman CLERK

Rose M. Mendonca CLERK

APPROVED

MAYOR


OCT 24 1980

IN CITY COUNCIL
MAR 20 1980
FIRST READING
REFERRED TO COMMITTEE ON PUBLIC WORKS

Joe M. Mendonca CLERK

THE COMMITTEE ON
PUBLIC WORKS

Recommends

Be Continued

Joe M. Mendonca
Clerk

'JUL' 8 1980

THE COMMITTEE ON
PUBLIC WORKS

Approves Passage of
The Within Resolution

Joe M. Mendonca
Clerk Chairman

October 9, 1980

Councilman Easton, Councilman Hillon
Councilman Flynn

*Councilman
Easton*

S T A T E O F R H O D E I S L A N D

I N G E N E R A L A S S E M B L Y

J A N U A R Y S E S S I O N , A . D . 1 9 8 0

A N A C T

R E L A T I N G T O W E T L A N D S

Introduced By: Senator Joseph S. GendronDate Introduced: February 12, 1980Referred To: Senate Committee on Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Sections 2-1-20, 2-1-20.1, 2-1-20.2, 2-1-20.3, 2-1-21, 2-1-22, 2-1-23, and 2-1-24 of the general laws in chapter 2-1 entitled "Agricultural functions of the department of environmental management" are hereby amended as follows:

1 2-1-20. Definitions. -- (a) "Applicant" as used in this
 2 chapter shall mean either the person giving notice of intention
 3 to alter a wetland or requesting a determination as to whether or
 4 not the wetlands act applies and shall not be limited to the
 5 owner of the property.

6 ~~(a)~~-The term (b) "Bog" as used in this chapter shall be a
 7 place not less than one (1) acre in extent where standing or
 8 slowly running water shall be near or at the surface during a
 9 normal growing season and/or where a vegetational community shall
 10 have over fifty per cent (50%) of the ground or water surface
 11 covered with sphagnum moss (Sphagnum) and/or where over fifty
 12 percent (50%) of the vegetational community shall be made up of
 13 one or more of, but not limited to nor necessarily including all
 14 of the following: highbush blueberries (Vaccinium corybosum), and

1 cranberry (Vaccinium macrocarpon), leatherleaf (Chamaedaphne
2 calyculata), pitcher plant (Sarracenia purpurea), sundews
3 (Droseraceae), orchids (~~Orchidaceae~~) (Arethusa, calopogon,
4 pogonia), white cedar (Chamaecyparis thyoides), red maple (Acer
5 rubrum), black spruce (Picea mariana), bog aster (Aster
6 memoralis), larch (Laris laricina), bogrosemary (Andromeda
7 glaucophylla), azaleas (Rhododendron canadense and R. viscosum),
8 laurels (Kalmia angustifolia and K. polifolia), sedges (Caryx),
9 bog cottom (Eriphorum), sweet gale (Myrica gale).

10 (c) "Creek" as used in this chapter shall be a body of water
11 that flows at least six (6) months of the year, has a normal
12 width of flow less than three feet (3') and discharges into
13 another body of water.

14 (d) "Days" as used in this chapter shall mean calendar days.

15 ~~(b)-The--term~~ (e) "Director" as used in this chapter shall
16 refer to the director of the department of environmental manage-
17 ment or his duly authorized agent or agents.

18 ~~(c)-The-term~~ (f) "Flood Plain" as used in this chapter shall
19 be that land area adjacent to a river or stream or other body of
20 flowing water which ~~is;--on-the-average;--likely~~ can be anticipated
21 to be covered with flood waters resulting from a one hundred
22 (100) year frequency storm, and is that land so designated as
23 flood plain on the U. S. Department of Housing and Urban Develop-
24 ment, Federal Insurance Administration Flood Hazard Maps. A--one
25 ~~hundred--(100)-year-frequency-storm-is-one-that-is-to-be-expected~~
26 ~~to-be-equalled-or-exceeded-once-in-one-hundred-(100)-years;--or-may~~
27 ~~be-said-to-have-a-one-percent-(1%)-probability-of--being--equalled~~
28 ~~or--exceeded-in-any-given-year--Rainfall-intensity-data-for-a-one~~
29 ~~hundred-(100)-year-frequency-storm-are-those-established-for--New~~
30 ~~England--locations--by-the-national-weather-service-(formerly-the~~
31 ~~U--S--weather-bureau):~~

1 (d)-The-term (g) "Fresh Water Wetlands" as used in this
2 chapter shall include, but not be limited to marshes; swamps;
3 bogs; ponds; rivers; streams; creeks; river and stream flood
4 plains and banks; areas subject to flooding or storm flowage;
5 emergent and submergent plant communities in any body of fresh
6 water including rivers and streams and that area of land within
7 fifty feet (50') of the edge of any bog, marsh, swamp or pond,all
8 as per section 2-1-20.2 and as in compliance with these defini-
9 tions.

10 (h) "Growing season" shall mean the period from April 1 to
11 October 31 of any calendar year.

12 (f)-The-term (i) "Marsh" as used in this chapter shall be a
13 place not less than one (1) acre in extent wholly or partly
14 within the state of Rhode Island where a more than fifty percent
15 (50%) of the vegetational community shall exist in standing or
16 running water during the growing season and/or where more than
17 fifty percent (50%) of the vegetational community shall be made
18 up of one or more but not limited to nor necessarily including
19 all of, the following plants or groups of plants; hydrophytic
20 reeds (Phragmites), hydrophilic grasses (Gramineae), mannagrasses
21 (Glyceria), cutgrasses (Leersia) ~~pickereelwoods~~ Pickerelweeds
22 (Pontederiaceae), sedges (Cyperaceae), rushes (Juncaceae),
23 cattails (Typha), water plantains (~~Alismataceae~~) (Alismaceae),
24 bur-reeds (Sparganiaceae), pondweeds (Zosteraceae), frog's bits
25 (Hydrocharitaceae), arums (Araceae), duckweeds (Lemnaceae), water
26 lilies (Nymphaeaceae), water-milfoils (Haloragaceae),
27 water-starworts (Callitrichaceae), bladder-worts (Utricularia),
28 pipeworts (Eriocaulon), sweet gale (Myrica gale), buttonbush
29 (Cephalanthus occidentalis), eelgrass (Vallisneria), horsetails
30 (Equisetaceae).

1 ~~(i)-The-term~~ (j) "Near or at the surface" as used in this
2 chapter shall mean within thirty-six (36) inches of the surface.

3 (k) "Person" as used in this chapter shall include any indi-
4 vidual, group of individuals, association, partnership, corpora-
5 tion, company, business organization, trust, estate, the state or
6 political subdivision thereof, administrative agency, public or
7 quasi-public corporation or body, or any other legal entity.

8 ~~(e)-The-term~~ (l) "Pond" as used in this chapter shall be a
9 place not less than one quarter acre in extent, natural or man-
10 made, wholly or partly within the state of Rhode Island, where
11 open standing or slowly moving water shall be present for at
12 least six (6) months a year.

13 ~~(j)The-term~~ (m) "River" as used in this chapter shall be a
14 body of water that flows at least six (6) months designated-as-a
15 perennial-stream-by-the--United--States--Department--of--Interior
16 Geological-Survey-on-7-5-minute-series-topographic-maps-and-which
17 is--not--a-"pond"-as-defined-in-this-section of the year, exceeds
18 ten feet (10') in width, and discharges into any ocean, lake, or
19 other river.

20 ~~(g)--The-term~~ (n) "River bank" as used in this chapter shall
21 be that area of land within two hundred feet (200') of the edge
22 of any flowing body of water having a width of ten feet (10') or
23 more during normal flow and that area of land within one hundred
24 feet (100') of the edge of any flowing body of water having a
25 width ~~of--less--than~~ between three feet (3') and ten feet
26 (10')during normal flow, and that area of land within fifty feet
27 (50') of the edge of any flowing body of water having a width
28 less than three feet (3') during normal flow.

29 (o)"Stream" as used in this chapter shall be a body of water
30 that flows at least six (6) months of the year, and has a normal
31 width of flow greater than three feet (3') but less than ten feet
32 (10') and discharges into another body of water.

1 (p) "Subject to flooding" as used in this chapter shall be
2 that land area susceptible to local and temporary inundation
3 caused by a rise in the surface of a natural body of water such
4 that it is contiguous with the subject body of water and it cov-
5 ers land not usually under water from a 25 year frequency storm,
6 a 25 year frequency storm being one that is to be expected to be
7 equaled or exceeded once in 25 years or may be said to have a
8 four percent (4%) probability of being equaled or exceeded in any
9 given year. Rainfall intensity data for a 25 year storm are
10 those established for New England locations by the National
11 Weather Service.

12 (q) "Subject to storm flowage" as used in this chapter shall
13 be those areas and locations having a normal width of flow
14 greater than three feet (3') and serve as natural water courses
15 for storm water runoff created during a twenty-five (25) year
16 frequency storm.

17 The term (r) "Swamp" as used in this chapter shall be a
18 place not less than three (3) acres in extent wholly or partly
19 within the state of Rhode Island where ground water shall be near
20 or at the surface of the ground for ~~a-significant-part~~ at least
21 four (4) months of the growing season or runoff water from sur-
22 face drainage shall collect frequently and/or where a
23 vegetational community shall be made up of ~~a-significant-portion~~
24 more than fifty percent (50%) of one or more of, but not limited
25 to nor necessarily including all of the following: red maple
26 (Acer rubrum), elm (Ulmus americana), black spruce (Picea
27 mariana), white cedar (Chamaecyparis thyoides), ashes (Fraxinus),
28 poison sumac (Rhus Toxicodendron vernix), larch (Larix
29 laricina), spice bush (Lindera benzoin), alders (Alnus), skunk
30 cabbage (Symplocarpus foetidus), hellebore (Veratrum viride),
31 hemlock (Thuja canadensis), sphagnums (Sphagnum), azaleas

1 (Rhododendron canadense and R. viscosum), black alder (Ilex
2 verticillata), coast pepperbush (Clethra alnifolia), marsh
3 marigold (Caltha palustris), highbush blueberries (Vaccinium
4 corymbosum), buttonbush (Cephalanthus occidentalis), willow
5 (Salicaceae), water willow (Decodon verticillatus), tupelo (Nyssa
6 sylvatica), laurels (Kalmia Angustifolia and K. Polifolia), swamp
7 white oak (Quercus bicolor), cowslip (Caltha Palustris), or spe-
8 cies indicative of marsh.

9 (s) "Valuable and unique wildlife habitat" as used in this
10 chapter shall mean those areas having special ecological signifi-
11 cance including areas supporting rare or endangered species of
12 plants or animals (e.g. osprey); areas supporting unusual plant
13 or animal communities; and areas used by migratory waterfowl,
14 shore birds, wading birds, marsh birds and anadromous fish.

15 (t) "Wetlands inventory maps" as used in this chapter shall
16 be maps to a scale of not less than one inch equals two hundred
17 feet (1" = 200') on which all the "fresh water wetlands" of the
18 state as defined herein are delineated.

19 2-1-20.1. Rules and Regulations. -- To protect the wetland
20 areas, the director is hereby authorized to adopt, modify or
21 repeal and promulgate rules and regulations as are in accord with
22 the purposes of sections 2-1-18 to 2-1-24 inclusive and shall be
23 subject to the administrative procedures act. All such rules and
24 regulations shall be approved by the Board of Review Commission
25 as hereinafter defined.

26 2-1-20.2. Designation of wetlands. -- The--director--is
27 hereby--authorized--to--determine--which--areas--are--to--be--known--as
28 wetlands--and--to--maintain--a--map--survey--of--the--state--of--Rhode
29 Island--that--indicates--the--wetland--areas--

30 (a) The director, within one (1) year of the effective date
31 of this act shall make an inventory of all fresh water wetlands

1 within the state. The boundaries of such wetlands shall be
2 clearly and accurately shown on suitable reproductions to a scale
3 of one inch equals two hundred feet (1" = 200'). Such maps shall
4 be prepared to cover the entire state. A copy of the completed
5 map(s) depicting such boundary lines shall be filed in the city
6 or town clerk's office.

7 (b) If before the maps are prepared, the director finds that
8 an area is in immediate danger of being despoiled by any activity
9 which would require a permit if such area were designated as
10 wetland and that such area shall probably be so designated when
11 such maps are completed, the director may designate such area as
12 a wetland, provided, if such map of such area is not completed
13 within sixty (60) days of the issuance of a cease and desist
14 order in accordance with section 2-1-24 such designation shall be
15 void. The director is hereby authorized to proceed with provi-
16 sions of chapter 2-1-22 for any applications received prior to
17 the completion of Wetlands Inventory Maps.

18 (c) The director shall periodically inspect the wetlands of
19 the state to determine the necessity for revision or correction
20 of such "fresh water wetlands" inventory maps. If the director
21 finds that wetland areas have been omitted from such maps or
22 uplands have been included within the designated boundaries or
23 finds that the natural processes of accretion, reliction,
24 subsidence, and erosion have rendered such maps inaccurate he
25 shall review such wetlands inventory maps in accordance with the
26 following provisions:

27 Upon compliance of the proposed revisions of the wetlands
28 inventory maps for any city or town, the director shall submit
29 the same to the Board of Review Commission, herein provided for
30 in this chapter for review. For all revisions approved by the
31 Commission, the director shall file copies of same with the
32 appropriate city or town clerk.

1 2-1-20.3. Inspection - Penalty. -- The director is author-
2 ized to enter, examine or survey at any reasonable time such
3 places as he considers necessary to carry out his responsibili-
4 ties under sections 2-1-18 to 2-1-24 inclusive ~~without-a-warrant~~.

5 Any person who willfully impedes or obstructs an inspection,
6 examination or survey by the director or his agents shall upon
7 conviction be punished by a fine of not more than one hundred
8 dollars (\$100) or by imprisonment for not more than thirty (30)
9 days or both.

10 2-1-21. Approval of director. -- (a) No person, firm,
11 industry, company, corporation, city, town, municipal or state
12 agency, fire district, club, non-profit agency, or other indi-
13 vidual or group, may excavate; drain; fill; place trash, garbage,
14 sewage, highway runoff, drainage ditch effluents, earth, rock,
15 borrow, gravel, sand, clay, peat, or other materials or effluents
16 upon; divert water flows into or out of; dike; dam; divert;
17 change; add to or take from or otherwise alter the character of
18 any fresh water wetland as herein defined without first obtaining
19 the approval of the director of the department of ~~natural~~
20 ~~resources--~~environmental management. Such approval will be denied
21 if in the opinion of the director granting of such approval would
22 not be in the best public interest. Such approval shall not be
23 granted if the city ~~council~~ or town ~~council~~ governing body of the
24 city or town within whose borders the project lies shall have
25 disapproved within the ~~forty-five-(45)~~ thirty (30) day period
26 provided for objections set forth in section 2-1-22. Appeal from
27 such denial may be made to the superior court.

28 (b) Whenever a landowner shall be denied approval to alter a
29 wetland by the director, or by the city or town within whose bor-
30 ders the wetland lies under subsection (a), the landowner may
31 elect to have the state, or such city or town, acquire the land

1 involved by petitioning to the superior court. If such court
2 shall determine that the proposed alteration would not essen-
3 tially change the natural character of the land, would not be
4 unsuited to the land in the natural state, and would not injure
5 the rights of others, the court shall, upon determining the fair
6 market value of the wetland, based upon its value as a wetland,
7 direct the state, if approval were denied by the director, or the
8 city or town, if approval were denied by such city or town, or
9 both, if they concurred in such disapproval, to pay to the land-
10 owner the fair market value of the wetland; provided, however,
11 that if the state, or the city or town, or both, where both are
12 ordered to pay, shall decline such acquisition, the landowner may
13 proceed to alter the wetland as initially requested. Any amount
14 paid by the state hereunder shall be paid from any funds in the
15 treasury not otherwise appropriated. If the director of the
16 department of ~~natural-resources~~ environmental management alone
17 denied approval under subsection (a) then the state shall make
18 payment. If the city or town alone denied approval under subsec-
19 tion (a) then the city or town shall make payment. If both the
20 state and the city or town denied approval then payment shall be
21 shared equally by the state and the city or town.

22 2-1-22. Procedure for approval by director. -- (a) Appli-
23 cation for approval of such project to the director of environ-
24 mental management shall be made in on a form as set out in
25 section 2-1-22 (h) to-be-prescribed-by-the-director and provided
26 by the director upon request. Prior to the application, a request
27 may be made for preliminary determination as to whether or not
28 the wetlands act applies. Such a preliminary determination shall
29 be made on a form as set out in this section 2-1-22 (h) and pro-
30 vided by the director upon request only-after-an-on-site-review
31 of-the-project. Within twenty (20) days of the receipt of a

1 request for an applicability determination, the director shall
2 then make in writing a preliminary determination whether or not
3 the wetlands act applies by referencing the wetlands inventory
4 map and if necessary an on site inspection. If the director
5 determines the wetlands act applies to any project, the director
6 shall indicate to the applicant the significant alteration that
7 is contemplated. When such applicant is other than the owner,
8 notice of any such determination shall also be sent to the owner.
9 If the director does not make a determination within the time
10 period allowed then the wetlands act shall be deemed not applica-
11 ble. The wetlands act shall be determined to apply if a signifi-
12 cant alteration does appear to be contemplated and which shall
13 mean any alteration detrimental to any of the stated values of a
14 wetland area. Such significant alteration shall be any one or all
15 of the following:

16 1. To increase considerably the velocity and volume of
17 flood flows through elimination of storage and/or absorption.

18 2. To decrease considerably the ability for recharge in a
19 ground water supply area.

20 3. To eliminate or reduce considerably a valuable and
21 unique wildlife habitat.

22 4. To eliminate or reduce considerably a valuable recrea-
23 tional environment.

24 ~~An application to alter a wetland will be required.~~ Any applicant
25 aggrieved by a decision made relative to the applicability of the
26 wetlands act may make appeal to the superior court for the county
27 where the land is located. Within thirty (30) days after upon
28 receipt of the completed application for permission to alter a
29 wetland accompanied by plans and drawings of the proposed
30 project, such plans and drawings to be prepared by a registered
31 professional engineer to a scale of not less than one inch (1")

1 to one hundred feet (100'), the director will notify the appli-
2 cant in writing of the decision whether to approve such plans, or
3 to submit the director's findings to the Board of Review Commis-
4 sion as defined in this chapter. For all those proposals judged
5 minor and for those applicants affecting areas "subject to flood-
6 ing", "areas subject to storm flowage", "flood plains" and
7 "creeks", the requirements, advertisements, abutter
8 notifications, and public hearings will not be necessary provid-
9 ing that the proposed computations and designs reflect an analy-
10 sis of flows and/or flood water storage satisfactory to prevent
11 property damage. For all proposals the director deems major, the
12 director shall submit such findings within thirty (30) days after
13 receipt of a completed application to the Board of Review Commis-
14 sion in accordance with section 2-1-22.1. If, the Commission
15 shall concur with the findings of the director, the director
16 shall then notify within twenty (20) days of the Commission's
17 decision all landowners whose properties abut the area of the
18 proposed project and he will also notify the city or town coun-
19 cil, the conservation commission, the planning board, the zoning
20 board, and any other individuals and agencies in any cities or
21 towns within whose borders the project lies who may have reason
22 in the opinion of the director to be concerned with the proposal.
23 The director may also establish a mailing list of all interested
24 persons and agencies who may wish to be notified of all such
25 applications. If the Commission does not concur with the direc-
26 tor's findings, the director shall within ten (10) days then
27 inform the applicant what sedimentation controls are appropriate
28 and the fact that the applicant may proceed with the project.

29 b) ~~If the director receives any objection to the project~~
30 ~~within forty-five (45) days of the mailing of the notice of~~
31 ~~application from his office; such objection to be in writing and~~
32 ~~of a substantive nature.~~

1 Only objections of a substantive nature received in writing
2 within thirty (30) days of the notice of application from the
3 director shall be considered by the director. Within ten (10)
4 days after the termination of the allotted objection period the
5 director shall, if necessary, then schedule a public hearing to
6 be held within the next thirty-five (35) days in an appropriate
7 place as convenient as reasonably possible to the site of the
8 proposed project. He shall inform by registered mail all objec-
9 tors of the date, time, place and subject of the hearing to be
10 held. He shall further publish notice of the time, place, date,
11 and subject of the hearing in one (1) local Rhode Island news-
12 paper circulated in the area of the project and one (1) statewide
13 Rhode Island newspaper, such notices to appear once per week for
14 at least three (3) consecutive weeks prior to the week during
15 which the hearing is scheduled. The director shall establish a
16 reasonable fee to cover the costs of the above investigations,
17 notifications and publications and hearing, and the applicant
18 shall be liable for such fee. If the director finds that a public
19 hearing is not required he shall then notify the applicant in
20 writing within twenty (20) days after the termination of the
21 allotted objection period of his decision and recommendations for
22 proceeding with work as submitted.

23 (c) ~~if no public hearing is required; or~~ Following a public
24 hearing, the director shall make his decision on the application
25 and shall notify the applicant by registered mail of his decision
26 within a period of ~~six-(6)-weeks~~ twenty (20) days. If a public
27 hearing was held, any persons who objected in writing during the
28 ~~forty-five--(45)~~ thirty (30) day period provided for such objec-
29 tion shall be notified of the director's decision by first class
30 mail. When the director or board of review commission elects not
31 to make a determination or not to take the specified action

1 within each time frame allotted, then the alterations as proposed
2 shall be judged insignificant and the application shall be con-
3 sidered approved as submitted.

4 (d) In the event of a decision in favor of granting an
5 application the director shall issue a permit for the applicant
6 to proceed with the project. Such permit may be issued upon such
7 terms and conditions, including time for completion, as the
8 director may require. Such permits shall be valid for a period of
9 one two (2) years from the date of issue and shall expire at the
10 end of that time unless renewed. A permit shall be renewed for up
11 to three (3) additional one (1) year periods upon application by
12 the original permit holder or a subsequent transferee of the
13 property subject to permit, unless such original permit holder or
14 transferee has failed to abide by the terms and conditions of the
15 original permit or any prior renewal thereof. The director may
16 require new hearings, if in his judgement, the original intent of
17 the permit is altered or extended by the renewal application or
18 if the applicant has failed to abide by the terms of the original
19 permit in any way. The request for renewal of a permit, shall be
20 made according to such procedures and form as the director may
21 require.

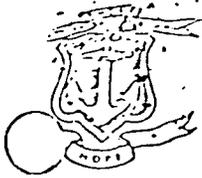
22 (e) The original permittee or subsequent transferee shall
23 notify the director in writing of any change of ownership which
24 occurs while an original or renewal permit is in effect by for-
25 warding a certified copy of the deed of transfer of the property
26 subject to such permit to the director.

27 (f) A notice of permit and a notice of completion of work
28 subject to permit shall be eligible for recordation under chapter
29 34-13 of the general laws and shall be recorded at the expense of
30 the applicant in the land evidence records of the city/town where
31 the property subject to permit is located, and any subsequent

1 transferee of such property shall be responsible for complying
2 with the terms and conditions of the permit.

3 (g) The director shall notify the person requesting a pre-
4 liminary-determination permit renewal of his decision by letter,
5 copies of which shall be sent by certified mail to the city or
6 town clerk, the zoning board, the planning board, building offi-
7 cial, and the conservation commission in the city or town within
8 which the project lies.

9 (h) Form of application to alter and form of applicability
10 determination:



DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
 WETLANDS SECTION
 DIVISION OF LAND RESOURCES
 83 PARK STREET
 PROVIDENCE, RHODE ISLAND 02903

DO NOT USE
APPLICATION NO.
DATE REC'D.

FRESH WATER WETLANDS

APPLICATION FOR PERMISSION TO ALTER

FEE \$50.00

IMPORTANT: Read back of yellow form before completing form.

Yellow form must be used as original copy, green as duplicate.

APPLICANT'S NAME				DOING BUSINESS AS			
------------------	--	--	--	-------------------	--	--	--

APPLICANT'S MAILING ADDRESS NO.	STREET	CITY/TOWN	STATE	ZIP CODE	AREA CODE AND TEL. NO.	
					<input type="checkbox"/> BUS. <input type="checkbox"/> RES.	

OWNER'S NAME	OWNER'S ADDRESS NO.		STREET	CITY/TOWN	STATE	ZIP CODE
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DESCRIPTION OF PROPOSED WORK

LOCATION OF WETLAND AREA

LAND TYPE	<input type="checkbox"/> Bog	<input type="checkbox"/> Marsh	<input type="checkbox"/> River	<input type="checkbox"/> Lake	<input type="checkbox"/> Swamp	<input type="checkbox"/> Other	DESCRIBE
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DESCRIPTION OF PROPOSED ALTERATIONS

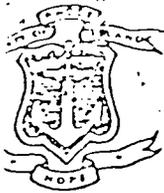
I hereby certify that upon approval of this application, the work once begun will be completed as shown in the accompanying plans and such modifications as may be recommended or approved by the R. I. Department of Natural Resources and that the property will be maintained in full accordance with the approved plans.

APPLICANT'S SIGNATURE	DATE SIGNED
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DO NOT WRITE IN AREA BELOW

NO. SHEETS	ADJUTING OWNERS	REG. FEE	LOC. MAP	PROOF OF OWNERSHIP
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REMARKS



DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
 DIVISION OF LAND RESOURCES
 WETLANDS SECTION
 83 PARK STREET
 PROVIDENCE, RHODE ISLAND 02903

DO NOT USE
APPLICATION NO.
DATE REC'D.

FRESH WATER WETLANDS
 REQUEST FOR APPLICABILITY DETERMINATION
 (NO FEE)

OTHER FORMS MUST BE SUBMITTED TO THE DEPARTMENT
 This form must be used as original copy, blue as duplicate.

APPLICANT'S NAME				DOING BUSINESS AS					
APPLICANT'S MAILING ADDRESS	NO.	STREET	CITY/TOWN	STATE	ZIP	AREA CODE AND TEL. NO.			
						<input type="checkbox"/> BUS. <input type="checkbox"/> RES.			
OWNER'S NAME			OWNER'S ADDRESS		NO.	STREET	CITY/TOWN	STATE	ZIP

DESCRIBE LOCATION OF SITE TO BE INSPECTED, BE SPECIFIC.

APPLICANT'S SIGNATURE	DATE
X	

IMPORTANT:

- Failure to complete application properly or absence of required enclosure (see at right) will delay processing.
- Be specific in describing site location, refer to street addresses, street intersections, utility pole numbers and land marks giving the distance from and direction.

REQUIRED ENCLOSURE:

Duplicate site plans showing location of wetland area, paper size 8 1/2" x 11" minimum, 22" x 34" maximum, scale less than 1" = 100'.

DO NOT WRITE IN AREA BELOW

<input type="checkbox"/> Bog	<input type="checkbox"/> Marsh	<input type="checkbox"/> River	<input type="checkbox"/> Lake	<input type="checkbox"/> Swamp	<input type="checkbox"/> Other	DESCRIBE
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NAME OF WETLAND AREA

COMMENTS

1 2-1-23. Violations. -- In the event of a violation of
2 section 2-1-21 of the general laws, the director ~~of--natural~~
3 ~~resources~~ shall within ten (10) days after the service of a writ-
4 ten order of violation, schedule a show-cause hearing allowing
5 the person charged with the violation an opportunity to be heard
6 and to show cause why such an order should not stand. In the
7 event that the violation order is upheld the director shall have
8 the power to order complete restoration of the fresh water
9 wetland area involved by the person or agent responsible for the
10 violation. Such person aggrieved by such decision may appeal to
11 the superior court within thirty (30) days. If such responsible
12 person or agent does not complete such restoration within a
13 reasonable time following the order of the director of the
14 department of ~~natural--resources~~ environmental management, the
15 director shall have the authority to order the work done by an
16 agent of his choosing and the person or agent responsible for the
17 original violation shall be held liable for the cost of restora-
18 tion. Such violator shall be liable for a fine of up to one thou-
19 sand dollars (\$1,000.00) for each such violation.

20 2-1-24. Notice to cease operation and relief in equity -
21 penalty. -- (a) Whenever any person, firm, industry, company,
22 corporation, city, town, municipal or state agency, fire dis-
23 trict, club or other individual or group shall commence any ac-
24 tivity set forth in section 2-1-21 without first having obtained
25 a decision of applicability from the approval of the director or
26 violates any rule or regulation of the director, the director
27 shall have the power by written notice to order the violator to
28 cease and desist immediately. ~~and/or--restore--said--wetlands--to~~
29 ~~their--original--state--insofar-as-possible.--if-said-violator-is~~
30 ~~ordered-to-restore-said-wetlands-to-the-original-state--and--said~~
31 ~~violator--does--not--complete--such--restoration--within--a--reasonable~~

1 ~~time-following-the-order-of-the-director;-the-director-shall-have~~
2 ~~the-authority-to-order-the-work-done-by-an-agent-of-his-choosing;~~
3 ~~and-the-person-or-agent-responsible-for--the--original--violation~~
4 ~~shall--be--held--liable--for-the-cost-of-the-restoration.~~ If the
5 violator does not conform to the director's order, the director
6 may bring prosecution by complaint and warrant and such prose-
7 cution shall be made in the district court of the state. The
8 director, without being required to enter into any recognizance
9 or to give surety for cost, may institute such proceedings in the
10 name of the state. It shall be the duty of the attorney general
11 to conduct the prosecution of all such proceedings brought by the
12 director.

13 The director may obtain relief in equity or by prerogative
14 writ whenever such relief shall be necessary for the proper per-
15 formance of his duties under sections 2-1-18 to 2-1-24, inclu-
16 sive.

17 Any person who shall violate an order of the director shall
18 be punished by a fine of not more than five hundred (\$500)
19 dollars or by imprisonment for not more than thirty (30)days or
20 by both such fine and imprisonment, and every person shall be
21 deemed guilty of a separate and distinct offense for each day
22 during which such violation shall be repeated or continued.

23 (b) For purposes of this section, the building inspector of
24 the city of Warwick shall hereby be deemed the duly authorized
25 agent of the director and is hereby vested with all the duties,
26 powers and authority granted by this section to the director of
27 environmental management to be exercised solely with respect to
28 projects or property within the City of Warwick. It shall be the
29 duty of the attorney general of the State of Rhode Island to con-
30 duct the prosecution of all such proceedings brought by the
31 building inspector of the City of Warwick in accordance with this

1 section. Nothing contained herein shall be deemed to divest the
2 director of environmental management of any duty, power or
3 authority granted by this chapter.

4 SECTION 2. Chapter 2-1 of the general laws entitled "Agricultural Functions of the Department of Environmental Management"
5 is hereby amended by adding thereto the following section:
6

7 2-1-22.1. Board of Review Commission. -- A Board of Review
8 Commission is hereby created whose duty it shall be to review any
9 or all rules and regulations under this chapter and all revisions
10 to the wetlands inventory maps pursuant to section 2-1-20.1 and
11 2-1-20.2 and whose further duty it shall be to determine if a
12 proposal to alter a "fresh water wetland" represents a significant
13 alteration that would be detrimental to the value of a
14 wetland in accordance with section 2-1-22 of this chapter.

15 (a) Terms and Qualifications. The commission shall consist
16 of five (5) members all of whom shall be residents of the state.
17 There shall be a full time staff biologist employed by the
18 department of environmental management, a full time staff member
19 from the division of water pollution control employed by the
20 department of environmental management both of whom shall be
21 appointed by the director of the department of environmental management;
22 a full time engineering staff member employed in the
23 office of health engineering state department of health to be
24 appointed by the director of health; and two (2) members
25 appointed by the governor selected from active builders or land
26 developers practicing within the State of Rhode Island; and a
27 non-commission member serving as secretary shall be appointed by
28 the director of the department of environmental management to
29 attend all meetings and make record of the minutes thereof. Each
30 member of the commission shall receive a certificate of this
31 appointment from the governor. Appointments to the commission

1 shall be made in such a manner and for such period of time that
2 the term of each member shall expire at a different time. On the
3 expiration of the term of any member, the succeeding appointment
4 shall be in the manner hereinbefore provided and for a term of
5 five (5) years. A member may be appointed to succeed himself.
6 Each member may hold office until the expiration of the term for
7 which appointed or until a successor has been duly appointed.

8 (b) Organization and Meetings. The Commission shall hold
9 bi-weekly regular meetings. Special meetings may be held as the
10 by-laws of the commission provide. The commission shall elect or
11 appoint annually the following officers, a chairman and a vice-
12 chairman. A quorum of the board shall consist of not less than
13 three (3) members of which a majority vote shall govern all busi-
14 ness before the commission.

15 (c) Duties. From time to time the director of environmental
16 management shall submit to the commission a proposed revision to
17 the wetlands inventory maps. The commission shall judge the
18 merit of all evidence and information, and shall then inform the
19 director of its conformation, denial, or revision of his find-
20 ings. Upon notice from the commission the director shall proceed
21 in accordance with section 2-1-20.2 subsection (c).

22 All proposed rules and regulations adopted by the director
23 shall first be approved by the commission. Additionally, the
24 director will submit to the commission all applications contain-
25 ing proposals he deems to present a major alteration and the
26 reason(s) for such determination. The commission shall review
27 all such applications. Whenever the commission determines that
28 the regulated activity for which a permit is sought is not likely
29 to be of significant importance to the wetland or the community,
30 the requirement for a public hearing may be waived. In evalu-
31 ating the application, supplemental information submitted by the

1 applicant, owner, or the duly appointed agent shall be considered
2 in making final determinations. The commission will notify the
3 director of such decision so that if necessary a public hearing
4 may be promptly scheduled as specified in section 2-1-22. The
5 commission will act within thirty-one (31) days of the receipt of
6 the submission by the director.

7 SECTION 3. This act shall take effect upon passage.

=====
JP037
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
AN ACT
RELATING TO WETLANDS

1 This act makes certain changes in the Wetlands Act and sets
2 out the forms to be used in making application to alter or for
3 applicability determination.

4 This act would take effect upon passage.

JP037

November 3, 1980

Honorable Rocco A. Quattrocchi
Chairman Senate Committee on Judiciary
Room 312, State House
Providence, Rhode Island 02903

Dear Senator Quattrocchi,

Enclosed is certified copy of Resolution No. 665,
passed by the City Council on October 16, 1980 and approved
by His Honor the Mayor on October 24, 1980, the same being
self-explanatory.

Councilmen Nicholas W. Easton, David G. Dillon and
Laurence K. Flynn are sponsors of said Resolution.

Very truly yours,

Rose M. Mendonca,
City Clerk.

RMM/jma
Enclosure