

THE CITY OF PROVIDENCE  
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

# RESOLUTION OF THE CITY COUNCIL

No. 665

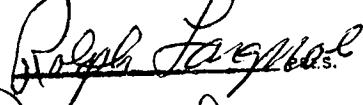
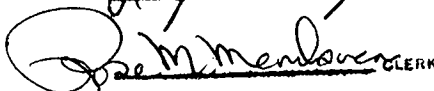
Approved October 24, 1980

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.

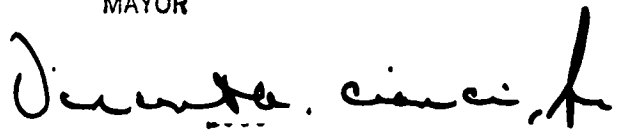
IN CITY COUNCIL  
OCT 16 1980

READ AND PASSED

  
 CLERK

APPROVED

MAYOR

  
OCT 24 1980

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

Rose M. Mendonca CLERK

THE COMMITTEE ON  
PUBLIC WORKS

Recommends Be Continued

Rose M. Mendonca  
Clerk

'JUL' 8 1980

THE COMMITTEE ON  
PUBLIC WORKS

Approves Passage of  
The Within Resolution

Rose M. Mendonca  
Clerk Chairman  
October 9, 1980

Councilman Easton, Councilman Shillon  
Councilman Flynn

*Councilman  
Easton*

## STATE OF RHODE ISLAND

## IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 1980

## A N A C T

## RELATING TO WETLANDS

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 (*Larix laricina*), bogrosemary (*Andromeda*  
7 *glaucophylla*), azaleas (*Rhododendron canadense* and *R. viscosum*),  
8 laurels (*Kalmia angustifolia* and *K. polifolia*), sedges (*Caryx*),  
9 bog cotton (*Eriophorum*), 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), sphagnum (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 anadramous 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 commisssion, 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.

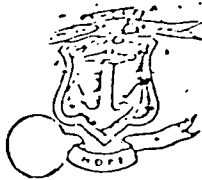
27 (f) A notice of permit and a notice of completion of work  
28 subject to permit shall be eligible for recordation under chapter  
29 34-13 of the general laws and shall be recorded at the expense of  
30 the applicant in the land evidence records of the city/town where  
31 the property subject to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

• Low 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
NATURE 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	

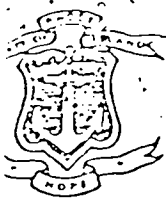
DESCRIPTION OF PROPOSED ALTERATIONS

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
-----------------------	-------------

DO NOT WRITE IN AREA BELOW					
NO. SHEETS	ADJUTING OWNERS	REG. FEE	LOC. MAP	PROOF OF OWNERSHIP	

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)

OTH FORMS MUST BE SUBMITTED TO THE DEPARTMENT  
ite 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

SCRIBE 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 8½" x 11" minimum, 22" x 34" maximum, scale less than 1" = 100'.

DO NOT WRITE IN AREA BELOW

☐ Bog

☐ Marsh

☐ River

☐ Lake

☐ Swamp

☐ Other

DESCRIBE

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  
=====

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.

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JP037

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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