



CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

March 7, 2017

City Council President Joseph P. Lopes
Honorable Members of the City Council
City of New Bedford
133 William Street
New Bedford, MA 02740

Re: Wetlands Protection Ordinance Amendment

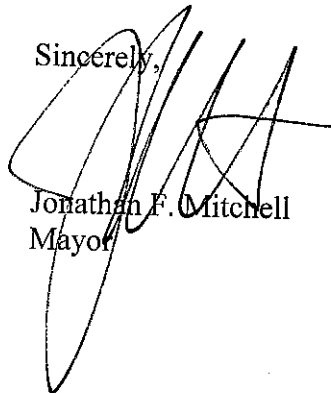
Dear Council President Lopes and Members of the City Council:

Enclosed for your review and consideration, please find a proposed amendment to Section 15-101 of the New Bedford Code of Ordinances, pertaining to Wetland Protection. The purpose of the proposed amendment is to include a provision for the United States Environmental Protection Agency to receive notice of any work that is proposed to the north of the southerly terminus of the hurricane barrier, and within 100 feet of a coastal wetland resource.

The EPA, working with the City's Department of Environmental Stewardship, has requested that they be included in the notice provision, so they will have prior knowledge of any work proposed along the Acushnet River and New Bedford Harbor. As the EPA proceeds with the remediation of New Bedford Harbor, this knowledge will enable the agency to improve coordination between their cleanup efforts and projects being constructed along the harbor.

The proposed ordinance amendment only provides the EPA with a right to receive notice. While the EPA would have the same rights as any other party to provide comments to the Conservation Commission, the agency would have no authority over the Conservation Commission's ability and responsibility to permit projects under their jurisdiction and would not delay the Conservation Commission's approval process.

Sincerely,



Jonathan F. Mitchell
Mayor

cc: Conservation Commission



CITY OF NEW BEDFORD

In the Year Two Thousand and Seventeen

AN ORDINANCE

Amending Chapter 15, Licenses and Permits; Business Regulations

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

SECTION 1.

Chapter 15, Licenses and Permits; Business Regulations, is hereby amended by striking Sec. 15-103 Exceptions in its entirety and inserting in place thereof the following:

Sec. 15-103 Exceptions

The permit and application required by this ordinance shall not be required for maintaining, repairing, or replacing an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that the structure or facility is not substantially changed or enlarged, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Conservation Commission. For any work proposed to the north of the southerly terminus of the hurricane barrier, and within one hundred (100) feet of a coastal wetland resource area protected under the Massachusetts Wetlands Protection Act and corresponding regulations, a copy of the notice shall also be sent to the United States Environmental Protection Agency, which is implementing the cleanup of the New Bedford Harbor Superfund Site.

The permit and application required by this ordinance shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Conservation Commission prior to commencement of work or within 24 hours after commencement, provided that the Conservation Commission certifies the work as an emergency project, and provided that the work is performed only for the time certified by the Conservation Commission for the limited purposes necessary to abate the emergency. For any work proposed to the north of the southerly terminus of the hurricane barrier, and within one

hundred (100) feet of a coastal wetland resource area protected under the Massachusetts Wetlands Protection Act and corresponding regulations, a copy of the notice shall also be sent to the United States Environmental Protection Agency, which is implementing the cleanup of the New Bedford Harbor Superfund Site. If the emergency requires a permanent repair, then within 60 days of commencement of an emergency project a permit application shall be filed with the Conservation Commission for review as provided in this ordinance.

In addition to those stated in this section, the exceptions provided in Wetlands Protection Act (M.G.L. Ch. 131 § 40 as amended) shall apply.

Section 2. Chapter 15, Licenses and Permits; Business Regulations, is hereby amended by striking Sec. 15-104 Applications for Permits in its entirety and inserting in place thereof the following:

Sec. 15-104 Application for Permits.

Written application for a permit to perform work regulated by this ordinance (hereinafter "application") shall be filed with the Conservation Commission. For any work proposed to the north of the southerly terminus of the hurricane barrier, and within one hundred (100) feet of a coastal wetland resource area protected under the Massachusetts Wetlands Protection Act and corresponding regulations, a copy of the application shall also be sent to the United States Environmental Protection Agency, which is implementing the cleanup of the New Bedford Harbor Superfund Site. The application shall include such plans as are necessary to describe proposed activities and their effects on the environment. No work shall commence except upon receipt and in compliance with a permit issued pursuant to this ordinance.

The application and plans shall contain data as required by this ordinance and regulations adopted by the Conservation Commission. The plans and documentation required shall be determined to be adequate by the Conservation Commission.

The Conservation Commission may accept as the application and plans under this ordinance the Notice of Intent (hereinafter known as a "NOI") and plans filed under the Wetlands Protection Act, M.G.L. c. 131, § 40. Any person planning on conducting work in or within 100' of a Resource Area shall file a NOI.

Any person desiring to know whether proposed work or an area is subject to this ordinance may in writing file a Request for Determination of Applicability (hereinafter known as an "RDA") from the Conservation Commission. Such a Request for Determination shall contain data and plans specified by the regulations of the Conservation Commission. The Conservation Commission may accept as the application and plans under this ordinance the RDA application and plans filed under the Wetlands Protection Act, M.G.L. c. 131, § 40. 5.

Section 3.

This ordinance shall take effect in accordance with the provisions of Chapter 43 of the General Laws.