

ORDER under G.L. c.21, s. 17b and c. 367, s. 62 of the Acts of 1978

COMMONWEALTH OF MASSACHUSETTS
 DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
 LEVERETT SALTONSTALL BUILDING
 100 CAMBRIDGE STREET, BOSTON, MA. 02202

Scenic and Recreational River Protective Order
 for the North River

SECTION 1. AUTHORITY AND DEFINITIONS

The Commissioner of Environmental Management, acting pursuant to G.L. c. 21, s. 17B and c. 367, s. 62, of the Acts of 1978, for the purposes of promoting the public safety, health and welfare, and protecting public and private property, wildlife, freshwater fisheries, and irreplaceable wild, scenic and recreational river resources, hereby adopts this Order establishing the North River Commission (hereinafter "the Commission") and regulating, restricting or prohibiting uses and activities in the Scenic and Recreational River Corridor along both the North River and parts of associated tributaries in the towns of Scituate, Marshfield, Pembroke, Norwell, Hanover and Hanson in the County of Plymouth. The Scenic and Recreational River Corridor (hereinafter "the Corridor") is delineated on a plan entitled "Commonwealth of Massachusetts, Department of Environmental Management, Scenic and Recreational River Corridor, North River". The plan and list of assessed owners of the land so affected are recorded herewith and incorporated herein.

Unless the context otherwise requires, in this Order the following words shall have the following meaning:

- (A) Abutting shall mean any two lots with a contiguous boundary line. Where the river forms the boundary line of the property, abutting lots, for the notice requirement of Special Permits, shall include lots directly across the river determined as follows: A line shall be extended from each corner boundary which abuts on the river across the river in a direction perpendicular to the center line of the river. The points at which these two lines intersect the lot boundaries on the opposite side of the river shall form the two ends of a projected boundary along the opposite side of the river. Abutting shall include any lot with boundaries contiguous with this projected boundary.
- (B) Accessory Use or Structure shall mean a use or structure of a nature customarily incidental and subordinate to a principal use or structure.
- (C) Acts shall mean the Scenic and Recreational Rivers Act, G.L. c. 21, s. 17B and the North River Commission Act, c. 367, s. 62 of the Acts of 1978.

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Approved by Alfred C. Holland, State Purchasing Agent.

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- (D) Commission shall mean the North River Commission as established by this Order pursuant to c. 367, s. 62 of the Acts of 1978.
- (E) Commissioner shall mean the Commissioner of the Massachusetts Department of Environmental Management.
- (F) Corridor shall mean the river, marsh and land up to 300 horizontal feet from the natural bank of the river as delineated on the plan entitled "Commonwealth of Massachusetts, Department of Environmental Management, Scenic and Recreational River Corridor, North River".
- (G) Distances shall mean distances measured in horizontal feet.
- (H) Management Plan shall mean the final North River Management Plan prepared by the Massachusetts Department of Environmental Management, Scenic Rivers Program with the assistance of the local advisory committees. Draft, March 1978, Final, 1979.
- (I) Natural Bank shall mean:
- a) In wetland areas, it means the landward edge of the salt or freshwater marsh, as defined in G.L. c. 131, s. 40;
 - b) In tidal rivers or streams, it means the landward edge of the mean annual high tide. Where emergent wetland vegetation is present, this boundary shall be identified as the landward edge of specific vegetative species which require periodic flushing and input of salt, brackish or fresh water to survive;
 - c) Where there is a natural or man-made structure containing the river or stream, it means the aquatic side of the structure which contains the river or stream at the mean annual high tide. Where there are beaches, rocky shores or mud banks, the natural bank shall be the point at which the water's edge meets the land during the mean annual high tide;
 - d) In freshwater rivers, it means the landward edge of the mean annual high water which usually occurs in the early spring. Where emergent wetland vegetation is present, this boundary shall be as defined in G.L. c. 131, s. 40.
- (J) Order shall mean the Scenic and Recreational River Protective Order for the North River.
- (K) Person shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof, administrative agency, public or quasi-public corporation or body, or any other legal entity, or its legal representative, agents or assigns.

(L) Principal Structure shall mean the structure on a lot in which the principal use of that lot is carried out.

(M) Structure shall mean any object of a significant nature constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, which may include but is not limited to, buildings, walls, fences, towers, poles, docks, floats and impoundments.

SECTION 2. TRESPASS, ACCESS AND OVERLAPPING JURISDICTIONS

This Order does not grant property rights; it does not authorize any person to trespass or injure the property of another; it does not grant any person access to the river over another's property; it does not excuse any person from complying with any applicable laws, regulations, by-laws or ordinances and it does not supersede any more restrictive statutes or regulations which are applicable to the property.

SECTION 3. THE NORTH RIVER COMMISSION

The North River Commission shall consist of a representative and alternate residing in each of the following towns: Scituate, Marshfield, Norwell, Pembroke, Hanover and Hanson. The Board of Selectmen of each town shall designate the town's member and alternate. The term of each representative shall be three years, and there is no limit to the terms a person may serve. The terms of the initial members and alternates shall be determined by lot, with one-third of the initial members and alternates selected respectively for one, two and three year terms. The members and alternates from each town shall serve the same term.

The Commission shall meet regularly. A majority of the designated members shall constitute a quorum. When a representative is absent, the alternate may vote in his/her stead. A two-thirds vote of members present and constituting a quorum shall be necessary for actions by the Commission with respect to a Special Permit. All other actions of the Commission shall require a majority vote. It shall be the responsibility of the Commission to:

- (A) Adopt by-laws consistent with this Order and the Acts, which shall set forth the Commission's operating procedures;
- (B) Manage and carry out all sections of this Order, including the authority to answer, in accordance with the provisions of the Acts, questions concerning this Order;
- (C) Issue a determination of whether a proposed activity is an allowed, special permit, prohibited or omitted use under this Order. Any person may request such a determination by submitting a written request to the Commission together with an adequate plan showing the extent of the activity to be performed. Within thirty days

of receipt of said request, the Commission shall issue a written determination in recordable form stating whether or not the proposed activity is an allowed, special permit, prohibited or omitted use under this Order. Failure of the Commission to issue said determination within thirty days, shall be deemed a determination that the proposed activity is an allowed use;

- (D) Review applications and grant, deny or condition Special Permits in accordance with Section 6, "Special Permit Uses", the By-laws, and the Acts;
- (E) Collect filing fees for applications and public notices and expend such funds as may be appropriated;
- (F) Grant certificates of compliance certifying that the activity described in the Special Permit has been completed in accordance with the Special Permit;
- (G) Investigate any alleged violations of this Order and issue cease and desist orders where appropriate;
- (H) Implement the Management Plan;
- (I) Answer questions about the Scenic and Recreational Program on the North River and explain the program to residents and governmental boards in the Corridor.

SECTION 4. EXISTING USES

Any existing building or structure or use of such building or structure lawful at the effective date of this Order may continue although such use or structure does not conform to this Order. Any existing building or structure may be repaired and maintained but any existing building, structure or nonconforming use may be extended, enlarged or expanded only by Special Permit from the Commission, unless otherwise allowed by this Order.

Any nonconforming use, other than a single family residential use, which is abandoned for a period of two years or more may not be resumed thereafter except in compliance with the requirements of this Order.

Any nonconforming use which is destroyed, may be rebuilt on the same location but no larger than the original overall dimensions. If the reconstruction exceeds the original dimensions, a Special Permit shall be required.

If two or more contiguous lots or portions thereof are in a single ownership at the effective date of this Order, or if a building thereon could not meet the aggregate requirements established by this Order, the lots involved must be combined to form one parcel before any appeal shall be heard on the basis of hardship.

To avoid undue hardship, nothing in this Order shall be deemed to require a change in the design, construction or intended use of any building or structure with respect to which a building permit was legally granted prior to the effective date of this Order. Such construction must be substantially completed within a period of two years from the date of this Order, or such construction shall be required to conform to this Order.

SECTION 5. ALLOWED USES

The following uses are allowed on land affected by this Order provided that the proposed use has received approval as required by all other applicable local, state, and federal statutes and regulations at the time the proposed work is to be undertaken; and provided that it meets the site design requirements described in Section 8 and chemical application requirements in Section 9:

- (A) Existing structures and uses subject to the provisions of Section 4;
- (B) Subdivisions of land within the Corridor which meet the site design requirements for structures specified in Section (8) (A);
- (C) Residential structures, including single family residences and multi-family residences with open space provisions, including planned unit residential development and cluster zoning, as well as associated accessory uses, provided that the requirements of Sections 8 and 9 are met;
- (D) Professional offices in residential homes, provided that the requirements of Sections 8 and 9 are met;
- (E) The maintenance of roadways which exist on the effective date of this Order, provided that the requirements of Section 9 are met;
- (F) Construction and maintenance of driveways in conjunction with allowed structures, provided that the requirements of Sections 8 and 9 are met;
- (G) Forest management and timber harvesting, provided that the vegetative cutting standards of Section 8 are met;
- (H) Cultivation and harvesting of agricultural or horticultural products; grazing and haying; provided that the requirements in Sections 8 and 9 are met;
- (I) Harvesting of shellfish and worms for bait, including such reasonable excavation of the flats as is necessary in accordance with the Rules and Regulations for Shell-fishing promulgated by the Boards of Selectmen of Scituate and Marshfield in accordance with G.L. c. 130, s. 52;

- (J) Aquaculture in accordance with G.L. c. 130, ss. 57-68A which does not involve dredging, filling or construction of racks, rafts or floats;
- (K) Raising, breeding and keeping of animals, provided that the requirements in Sections 8 and 9 are met;
- (L) Routine maintenance of drainage easements, ditches, watercourses and artificial water conveyances to ensure water flowage; provided that such maintenance shall not increase the drainage way existing on the effective date of this Order;
- (M) Clearing of land for recreational purposes including, but not limited to, golf courses and playing fields; provided that the requirements of Sections 8 and 9 are met;
- (N) Construction of catwalks, wharves, docks, piers, foot bridges and wildlife management shelters, provided that such structures are either floating or constructed on pilings so as to permit the reasonable unobstructed flow of the tide and preserve the contour of the marsh, if present, and provided further that their design meets the design requirements of Section 8. One boat launching ramp not exceeding twelve feet in width may be constructed per way or parking lot, provided that there is negligible destruction or alteration of the marsh.
- (O) Non-commercial land-based outdoor recreation activities including, but not limited to, hiking, trapping, hunting, fishing, golf, horseback riding, shooting preserves, tent camping, picnicking, and cross-country skiing on public land where such uses are permitted and on private land only by permission of the owner; provided that the layout of any trails and camp areas meet the requirements of Section 8 (F) and tent camping is conducted as follows:
- (1) Tent campers must obtain prior permission from the owner of the property.
 - (2) All campsites must be left in a clean condition.
 - (3) The owner of the property shall assume responsibility for ensuring that the provisions of Sections 5 (0) (1) and (2) and 8 (F) are met.
- (P) Commercial and non-commercial water-based outdoor recreation activities including swimming, fishing, motorized and non-motorized boating. Motorized boating shall be subject to the following limitations:

- (1) Boat speeds shall be limited above the Route 3A bridge to a maximum of 6 mph or "no wake" headway speed, whichever is lower, and below the Route 3A bridge a maximum of 6 mph or "no wake" headway speed, whichever is lower. No boats shall be operated in a negligent or reckless manner.
- (2) Waterskiing shall not be permitted on the River.
- (3) Racing between motorized power watercraft shall be prohibited, whether such racing is friendly or otherwise.
- (4) Passing speeds shall be reduced to a safe maximum of 6 mph when meeting other motorized watercraft, and 5 mph above the speed of the watercraft being overtaken. Furthermore, there shall also be no wake when meeting non-motorized watercraft.
- (Q) Parking lots of up to twenty cars as long as both the access road to the lot and the lot itself are made of permeable materials and the requirements of Section 8 are met;
- (R) Installation and maintenance of underground utilities including, but not limited to, electricity, communication, sewer, potable water, and residential gas lines, provided that the surface of the ground is restored substantially to its original condition and the requirements of Section 9 are met. Installation and maintenance of overhead utility lines serving a single residence when such lines are screened by vegetation from view from the river. Installation and maintenance of utility distribution lines of highway bridges, provided that the height of the lines does not exceed the height of the bridge structure;
- (S) Upgrading and expansion of existing wastewater treatment facilities.

SECTION 6. SPECIAL PERMIT USES

The following uses shall be permitted with a Special Permit from the Commission on land affected by this Order, provided that the proposed use shall be in compliance with all applicable performance standards and requirements established in this Order, including but not limited to, Sections 8 and 9, and provided that the applicant demonstrates to the Commission that the proposed use will not involve substantial:

- (1) degradation of water and air quality;
- (2) harmful alteration of wetlands;
- (3) increase in erosion or sedimentation;
- (4) danger of increased flood damage or obstruction of flood flow;

- (5) overcrowding;
- (6) noise;
- (7) obstructions to navigation;
- (8) damage to fish and wildlife habitat;
- (9) despoliation of the Corridor's irreplaceable wild, scenic and recreational river resources;
- (10) impairment of the natural visual quality of the Corridor; or
- (11) damage to private and public property.

The burden of proof shall be upon the applicant to show entitlement to a permit under this section, but if the applicant makes the requisite showing, a Special Permit shall be issued by the Commission.

An application for a Special Permit to conduct any of the activities described below in 6(A) through 6(I) shall be submitted to the Commission. No such application shall be sent before all permits, variances, and approvals required by local by-law with respect to the proposed activity, which are obtainable at the time of such application have been obtained, except that such application may be sent, at the option of the applicant, after filing of an application or applications for said permits, variances and approvals, provided that such application shall include any information submitted in connection with such permits, variances, and approvals which is necessary to describe the effect of the proposed activity on the environment.

Within thirty days of the receipt of an application for a Special Permit, the Commission shall hold a public hearing on the application. Notice of the time and place of said hearing shall be given by the Commission at the expense of the applicant not less than five days prior to the hearing by publication in a newspaper of general circulation in the town where the land of the applicant is located. Within thirty days after said hearing, the Commission shall grant, deny, or condition a Special Permit consistent with this Order.

A Certificate of Compliance shall, upon written request by the applicant, be granted by the Commission, or in the case of an appeal, by the Commissioner, if the activity described in the Special Permit has been completed in accordance with the conditions specified in said Special Permit. After receiving said request the issuer of the Special Permit shall conduct an on-site inspection with the applicant. After review and inspection, the issuer of the Special Permit shall grant or deny the issuance of a Certificate of Compliance. Where a project has been completed in accordance with a plan stamped by a Registered Professional Engineer, Architect, Landscape Architect or Land Surveyor, a written statement by said professional person, certifying compliance with the plans shall accompany the said request for a Certificate of Compliance. The Certificate of Compliance shall be filed in the appropriate Registry of Deeds.

The following uses shall be allowed if a Special Permit is issued by the Scenic River Commission for the North River:

- (A) Expansion, enlargement, extension or reconstruction of existing non-conforming uses which increase the dimensions of the structure subject to Section 4;
- (B) The construction and maintenance of a roadway or driveway of minimum legal and practical width within the 75 foot minimum setback as defined in Section 8 (B) (1) where alternative means of access from a public way to land of the same owner, whether owned in fee or a lesser interest is not available, provided that said roadway or driveway is made of permeable materials, does not exceed 15 feet in width, and the requirements of Section 9 are met;
- (C) Construction, expansion, enlargement or improvement of private, public or commercial marinas and boat mooring areas, channel maintenance in the immediate vicinity of the marina, and navigational aids;
- (D) Maintenance dredging of existing channels and marine facilities provided that such maintenance dredging shall not increase the scope of the initial dredge project;
- (E) The excavation of wildlife impoundments and other excavations including but not limited to, farm ponds, ponds for livestock, and ponds for fire protection provided that any flowage, either directly or indirectly, from the pond to the North River meets the requirements for discharges described in 7 (V) below;
- (F) The excavation and construction of areas for the cultivation of shellfish and other marine foods, in accordance with G.L. c. 130, ss. 57-68A;
- (G) The construction, expansion and maintenance of beaches, including beach nourishment;
- (H) The construction of structures for temporary educational and/or scientific projects;
- (I) The construction of a residential unit when the site design standards of Section 8 cannot be met by an owner of record on the effective date of this Order.

SECTION 7. PROHIBITED USES

Except where otherwise authorized as an allowed use or by a Special Permit, the following uses or structures shall be prohibited:

- (A) Industrial and manufacturing uses or structures;
- (B) Airports or airport landing strips;
- (C) Electrical generating units, nuclear generating facilities, wastewater treatment plants, communications towers;
- (D) Refineries, commercial oil storage tanks, gas stations;
- (E) Extractive industry;
- (F) Landfills, junkyards and auto graveyards;
- (G) Mobile home parks;
- (H) Hospitals and clinics;
- (I) Restaurants, cafeterias or other commercial establishments involved in the preparation or sale of food or other beverages;
- (J) Indoor rinks, pools and gymnasiums;
- (K) Placement or construction of structures, subsurface sanitary facilities, roadways and driveways on any wetland (as defined in G.L. c. 131, s. 40);
- (L) Dams, impoundments, and any structure or improvement which impedes the natural flow of water;
- (M) Streets and bridges except as allowed in Section (5) (E) and (F);
- (N) Overhead utilities except as allowed in Section (5) (R);
- (O) Signs including any outdoor sign, display, notice, placard, poster, billboard or any other device intended or used to advertise or inform, except Commission signs, official historic markers, official land use, traffic and boat traffic signs, trespass signs, or any signs less than 3½' x 3½' which are not visible from the river or any bridge crossing the river;
- (P) Use of off-road vehicles including, but not limited to, trail bikes, all-terrain vehicles and snowmobiles. This prohibition does not apply to the lawful use of such vehicles on public roads and public street, or where otherwise authorized as an allowed use or as a Special Permit, or on a private road or driveway with permission of the owner;

- (Q) Amphibious craft, jet skis and similar craft as may be prohibited by the Commission;
- (R) Storage or disposal of hazardous wastes, as defined by the Hazardous Waste Regulations promulgated by the Hazardous Waste Board, the Water Resources Commission, and the Division of Water Pollution Control under G.L. c. 21, ss. 27(8), 52, 57 and 58;
- (S) Storage of materials used for snow and ice control for other than normal residential use including sand, salt and sand/salt mixtures;
- (T) Dumping of snow from snow removal operations other than from those operations conducted within the Corridor;
- (U) Discharge of any pollutants, whether they be from point, nonpoint sources, or water craft, into the Corridor unless in compliance with federal and state law; subject to the jurisdiction of the appropriate state and federal agencies;
- (V) Draining or excavation or dredging of the Corridor between the natural banks, or the removal from the Corridor of loam, peat, sand, gravel, soil, or other mineral substance, except as is necessary for the construction of any allowed or approved special permit use;
- (W) Filling, placing or dumping in the Corridor of any soil, loam, peat, sand, gravel, rock or any other mineral substance, refuse, solid waste, trash, rubbish, debris or dredged spoil except as is necessary for the construction of any allowed or approved special permit use.

SECTION 8. SITE DESIGN STANDARDS

Where a lot has frontage on the natural bank, frontage shall be measured along the natural bank and set back shall be measured from a line perpendicular to the nearest point(s) of the natural bank.

Where there is a public roadway within the Corridor as of the effective date of this Order, with different ownership on either side of the road, the landowner on the far side of the road shall measure frontage along the far side of the road and setback from the nearest point(s) of the natural bank.

Where a lot does not have frontage on the natural bank and does not have frontage on a public roadway, frontage shall be measured by extending each side lot boundary to a point perpendicular to the natural bank and measuring the distance between those two points. Setback shall be measured from the nearest point(s) of the natural bank.

(A) Structural Placement Standards

In order to allow flexibility in the placement of structures within the Corridor which are in accordance with local land use regulations, as well as protecting the purposes set forth in G.L. c. 21, s. 17B, the following standards shall apply to the location and distribution of new structures built within the Corridor:

(1) Principal Structures

(a) Each allowed principal structure on a lot shall have a height of 35 feet above grade or less and a length of 60 feet or less, measured parallel to the river and:

(i) shall have a minimum frontage on the natural bank of 100 feet;

(ii) shall have a minimum setback from the natural bank of 100 feet; and

(iii) shall have a combined natural bank frontage and setback of not less than 300 feet.

(b) For every additional 10 feet of length beyond 60 feet measured parallel to the river:

(i) the minimum frontage shall be increased by 20 feet;

(ii) the minimum setback shall be increased by 20 feet; and

(iii) the sum of setback and attributable frontage shall be increased by 40 feet.

(c) Principal structures shall be distributed freely on the lot as long as they are in accordance with local land use regulations and meet the minimum requirements per structure, set forth above. For the purposes of aggregating several structures on a lot, the only requirements of these regulations are that there must be sufficient river frontage within the boundaries of the lot to allow each principal structure to meet the combined setback and frontage figure and that maximum aggregate frontage applicable to a single grouping structures shall be 1000 feet.

(2) Accessory Structures

Accessory structures including, but not limited to, garages and sheds, which are less than or equal to 15 feet in height and 20 feet in length parallel to the river, shall have a minimum setback of 100 feet from the natural bank. Accessory structures with dimensions greater than those above shall be regulated by the provisions for the placement of principal structures.

(3) River Structures

- (a) Any structure allowed under Section 5(N) which is built within the bounds of the natural bank of the river shall not exceed a height of 5½ feet above mean high water, excluding handrails, and shall not protrude more than 10 feet into the open water channel of the river.
- (b) Where possible wood shall be used as the principal building material and either left in its natural color or painted in a subdued color compatible with surrounding naturally occurring color. When another material is used, it shall be of a subdued color compatible with the surrounding naturally occurring color.

(B) Driveway and Parking Lot Standards

- (1) Driveways for allowed uses, except those necessary for boat launching and docking facilities, shall have a minimum setback of 75 feet upland from the natural bank.
- (2) Those driveways needing access to boat launching facilities (i.e. within the 75 feet of upland) shall be constructed of permeable materials and shall not exceed 15 feet in width.
- (3) Parking lots shall be constructed of permeable materials and have a minimum setback of 75 feet from the natural bank of the river. The minimum setback shall apply to the first 10 parking spaces. Each additional 5 parking spaces contained in the lot shall be set back an additional 25 feet from the natural bank. All parking lots shall be totally screened from view from the river using evergreen materials.

(C) Vegetative Cutting Standards

- (1) Between the natural banks of the river or within 300 feet of the natural banks of the river, no trees or other vegetation shall be harvested, cut, culled, removed, thinned or otherwise disturbed other than:
 - (a) the cutting and removal of diseased vegetation, rotten or damaged trees or of other vegetation that present safety or health hazards;
 - (b) the cutting and removal of fallen trees or trees which pose a threat of bank erosion or bank undercutting;
 - (c) the selected and dispersed cutting of vegetation within the 100 foot buffer for wildlife management or to the extent necessary to create a view of the river from any new principal structure or any lawfully existing principal structure or any conservation or recreation land lacking such a view provided such cutting will cause negligible adverse environmental impact, particularly with respect to the stability of the river bank and the aesthetic character of the river shoreline;
 - (d) the selective cutting and harvesting of trees subject to the following conditions:
 - (i) A buffer strip shall be left 100 feet from the natural bank of the river in which the only cutting allowed will be that stated above in 8 (C) (1) (a), (b) and (c).
 - (ii) A buffer strip 40 feet in width shall be left along any river, stream ditch, or other channel, whether natural or man-made, which carries water into the river.
 - (iii) Cutting shall be carried out in such a manner that a well-distributed stand of trees is retained and shall conform to forest cutting practices in G.L. c. 132, ss. 44-46 and regulations promulgated thereunder.
 - (iv) In any stand, no more than 35% of the number of trees, 6 inches DBH (i.e., the diameter 4½ feet above the ground) or larger shall be cut in any 10 year period.

- (v) Adequate provisions shall be made after timber harvesting to stabilize soil on all landings, skid trails and wood roads in the Corridor.
- (e) the mowing of lawns and normal maintenance of grounds;
- (f) the cutting and removal of trees and other vegetation for the construction of allowed structures and driveways and subject to the following limitations:
 - (i) Within 75 feet of the natural bank a cleared opening not greater than 15 feet in width may be created for any allowed use, which requires access to the shore, limited to one per lot.
 - (ii) Where natural vegetation is removed, it shall be replaced with other vegetation or ground cover which will prevent erosion.
- (g) the cutting and removal of trees and other vegetation for agricultural and horticultural (excluding forest products) purposes or for the construction of other allowed uses such as golf courses, wildlife management areas and playing fields subject to the following conditions:
 - (i) A buffer strip shall be left 100 feet from the natural bank of the river in which the only cutting allowed will be that stated above in 8 (C) (1) (a) and (b).
 - (ii) A buffer strip 40 feet in width shall be left along any river, stream ditch, or other channel, whether natural or man-made, which carries water into the river, in which the only cutting allowed will be that stated above in 8 (C) (1) (a) and (b).
- (D) No trees shall be felled into or across the river where avoidable. Logging debris between the natural bank or within 100 feet of the natural bank shall be removed.
- (E) No heavy agricultural, horticultural or construction equipment, including but not limited to tractors, plows, harvesters, manure spreaders, trucks, lawn mowers, skidders, bulldozers or cranes shall be stored or abandoned within 100 feet of the natural bank. This provision shall not apply to the storing of boat-handling equipment.

(F) Tent Campsite Standards:

No new campsites shall be developed within 25' of the natural bank. The cutting of trees for campsite development should be carried out only where no other alternative is available. Such tree cutting shall be governed by the standards of Section 8(C). Campsite ground cover shall be the naturally occurring ground cover, loose aggregate, or another permeable material. Campsites may be developed in cleared areas provided that each campsite is screened by vegetation indigenous to the area. Roadways and parking areas accessory to developed camping areas shall be designed in accordance with Section 8(B). Campsite facilities, including but not limited to picnic tables, trash cans, sanitary facilities and drinking water facilities, shall be set back 100 feet from the natural bank and totally screened.

SECTION 9. PESTICIDES, FERTILIZERS, SEPTIC TANK AND EROSION CONTROL

(A) Use of Pesticides

- (1) Any use of pesticides within the Corridor must comply with the rules and regulations of the State Pesticide Board relating to the application and use of pesticides, and with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), (7 USC 135 et seq.) and with regulations promulgated by the EPA Administrator pursuant to that Act.
- (2) No pesticide application shall be made to any surface waters within the Corridor, or within 100' of the natural bank, and all necessary precautions shall be made to prevent hazardous concentrations of pesticides in surface waters within the Corridor as a result of the application of pesticides on land areas within the Corridor. Such precautions against the deposit of pesticides in surface water include, but are not limited to, erosion control techniques, the control of runoff water (or the use of pesticides having low solubility in water), the prevention of volatilization and redeposition of pesticides and the lateral displacement (i.e. wind drift) of pesticides.

(B) Use of Fertilizers

- (1) The use of fertilizers is prohibited within 100 feet of the natural bank of the river except for normal residential use.

(2) The application of fertilizers in the Corridor shall be made in such a manner as to minimize adverse impacts on surface and groundwater due to nutrient transport and deposition and sedimentation. Runoff from croplands, animal feedlots, and pastures shall be minimized through the use of appropriate runoff control techniques, including, but not limited to: the construction of water retention structures; contour planting and tillage; and terracing. Excessive use of fertilizer shall be avoided. (For guidelines see tables on amounts of fertilizer necessary for vegetable crops in Nutrition of Vegetable Crops in Massachusetts, Publication 63 Cooperative Extension Service).

(C) Septic Tanks

- (1) The location and construction of septic tanks shall, at a minimum, fully comply with the provisions of Title 5 of the State Environmental Code.
- (2) No leaching facility shall be constructed within 100 feet of the natural bank of the river or any other watercourses within the Corridor.

(D) Erosion Control

- (1) The following measures shall be complied with for any development of land areas in the Corridor whether it is an allowed use or a use requiring a Special Permit (additional conditions may be required by the terms of the Special Permit):
 - (a) Stripping of vegetation, regrading or other development shall be done in such a way that will minimize soil erosion.
 - (b) Whenever practical, natural vegetation shall be retained, protected, and supplemented.
 - (c) The disturbed area shall be kept to a minimum.
 - (d) Provisions shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development.
 - (e) Where necessary, temporary vegetation and/or mulching shall be used to protect areas exposed during development.
 - (f) Sediment basins (debris basins, de-silting basins or silt traps) shall be installed and maintained when necessary to remove sediment from runoff waters from land undergoing development.

- (g) The angle of graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed must immediately be planted, or otherwise provided with permanent ground cover, devices, or structures sufficient to retain erosion.
- (h) Whenever land-disturbing activity is undertaken on a tract comprising more than one acre, if more than one contiguous acre is uncovered, a ground cover sufficient to retain erosion must be planted or otherwise provided within 30 working days on that portion of the tract upon which further active construction is not being undertaken.
- (i) The development plan or land-disturbing activity shall be fitted to the topography and soils so as to create the least erosion potential.

SECTION 10. EXEMPTIONS

No action by the Commissioner or the department under this Order shall prohibit, restrict or impair the exercise or performance of the powers and duties conferred or imposed by law on the Department of Public Works, the State Reclamation Board or any Mosquito Control or other project operating under or authorized by G.L. c. 242, nor shall it be deemed to invalidate any order imposed prior thereto by the Department of Natural Resources, the Department of Environmental Management or the Department of Environmental Quality Engineering pursuant to G.L. c. 131, ss. 40 and 40A, and G.L. c. 130, s. 105.

SECTION 11. OMITTED USES

Uses not specifically mentioned or covered by any general category in the enumeration of allowed and prohibited uses shall be deemed prohibited unless allowed by a Special Permit upon a showing by the applicant that it will not involve substantial:

- (1) degradation of air and water quality;
- (2) harmful alteration of wetlands;
- (3) increase in erosion or sedimentation;
- (4) danger of increased flood damage or obstruction of flood flow;
- (5) overcrowding;
- (6) excessive noise;
- (7) obstructions to navigation;
- (8) damage to fish and wildlife habitat;
- (9) despoliation of the corridor's irreplaceable wild, scenic and recreational river resources;
- (10) impairment of the natural visual quality of the Corridor; or
- (11) damage to public or private property.

SECTION 12. APPEALS

(A) Special Permit Application Appeal

The applicant, the Commissioner, any person aggrieved, any owner of land abutting the applicant's land, or any ten residents of the town subject to this Order may, by certified mail and within thirty days from the Commission's action or failure to act on a Special Permit application, appeal to the Commissioner. The person filing said appeal shall send a copy thereof within thirty days of the determination to the applicant and the Commission, and cause notice of said appeal to be published within forty-five days of the determination in a newspaper of general distribution in the town where the applicant's land is located. The Commissioner shall hold a hearing within thirty days of receipt of the appeal and issue a decision approving, modifying or reversing the Commission's action within thirty days of the hearing. Failure of the Commissioner to issue a decision within said thirty day period shall be deemed a grant of the appeal, unless the time is extended by the mutual agreement of both parties.

Any party to the Department's proceeding may appeal the Commissioner's determination under the provisions of the State Administrative Procedure Act, G.L. c. 30A, s. 14, by filing a petition for judicial review in Superior Court within thirty days of receipt of the Commissioner's decision.

(B) Appeals of this Order

Any person who has a recorded interest in land so affected by this Order may, within ninety days after receiving notice thereof, petition the Superior Court to determine whether this Order so unreasonably restricts the use of his property as to deprive him of the practical uses thereof and which constitutes an unreasonable exercise of the police power so as to become the equivalent of a taking without compensation.

WITNESS my hand and seal this Twenty-second day of March 1979.

Richard E. Kendall
Richard E. Kendall, Commissioner

APPROVED: BOARD OF ENVIRONMENTAL MANAGEMENT

John Loupas
Sarah H. Beebe

Norton H. Nickerson

Dana K. Dufour

Henry G. Dawson

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

Then personally appeared the said Richard E. Kendall, Commissioner of Environmental Management and acknowledged the foregoing instrument to be his free act and deed, before me.

My commission expires March 21, 1980 Norton H. Nickerson
Notary Public