

Overview of Nahant's Wetlands Protection By-law

Tuesday, April 23, 2019
Town of Nahant
Nahant, Massachusetts

Presented by
Nahant Conservation Commission



Nahant's Conservation Commission

The Nahant Conservation Commission was established to protect the town's natural resources in a regulatory and advisory manner.

- Responsible for administering the state and local wetlands protection regulations
- Advisor to the Nahant Floodplains Zoning Bylaw and environmental planning
- Advise other boards on environmental concerns
- Appointed by the Town Administrator

Resident volunteers

Term

Kristin Kent, Chair

Expires Jun 30, 2020

Ellen Steeves

Expires Jun 30, 2019

Henry Hall

Expires Jun 30, 2020

Meredith Tibbo

Expires Jun 30, 2020

Tom Famulari

Expires Jun 30, 2020

Ben Harvey

Expires Jun 30, 2021

Carol Crawford

Expires Jun 30, 2021

State & Local Wetlands Regulations Comparison

Nahant



Jurisdiction

Massachusetts Wetlands Protection Act

- Coastal Wetlands (Bank, Beach, Dune, Land Under Ocean, etc.)
- Inland Wetlands (Bordering Vegetated Wetlands, Streams)
- Floodplain (as mapped by FEMA)
- Areas within 100 feet of Coastal Wetlands and Inland Wetlands (buffer zone)

Nahant Wetlands Protection By-law

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- Inland Wetlands (Bordering Vegetated Wetlands, Streams)
- Floodplain (as mapped by FEMA)
- Areas within 100 feet of Coastal Wetlands and Inland Wetlands (buffer zone)
- Areas within 100 feet of Floodplain

Difference: The By-law regulates areas within 100 feet of floodplain

Why? Property owners adjacent to floodplain can unintentionally exacerbate flooding for neighbors and Town infrastructure as a result of the addition of impervious surfaces or changes to topography.

In some cases, the buffer zone is an area where FEMA will expand the floodplain in the future.

Regulations

Massachusetts Wetlands Protection Act

- Coastal Wetlands have specific performance standards for work in resource areas (310 CMR 10.21-10.37)
- Inland Wetlands have specific performance standards for work in resource areas (310 CMR 10.51-10.60)
- Coastal Floodplain (aka Land Subject to Coastal Storm Flowage) has no specific performance standards in the regulations

Nahant Wetlands Protection By-law

- Coastal Floodplain (aka Land Subject to Coastal Storm Flowage) has specific performance standards under Section V of the bylaw regulations

Why? The state wetlands regulations are very strong in their regulation of coastal and inland resource areas, but silent on coastal floodplain.

One of Nahant's most critical resources is coastal floodplain, and needs to be more strictly reviewed to prevent unintended consequences for our neighbors and Town infrastructure in low lying areas.

Exemptions

Massachusetts Wetlands Protection Act

- All minor buffer zone activities set forth in 310 CMR 10.02(2)(b), including
 - Unpaved pedestrian walkways
 - Certain types of fencing
 - Vista Pruning
 - Native tree, shrub and groundcover plantings
 - Conversion of lawn to decks, sheds, patios and pools (work must be >50' from wetland)
 - Conversion of impervious to vegetated surfaces
 - Temporary work for planning purposes

Nahant Wetlands Protection By-law

- All exemptions in 310 CMR 10.02(2)(b), *PLUS*
 - Lawn maintenance and landscaping
 - Most repair, maintenance and improvement to existing structures or buildings
 - Maintenance, repair or replacement of public utilities
 - Work performed by the State Reclamation & Mosquito Control Board

Why? The by-law is intended for the Town to review those activities that might adversely impact resource areas, while still allowing property owners to maintain and improve their properties.

Filing with the Conservation Commission

Filing under the Nahant Wetlands Protection By-law mirrors the process required under the Massachusetts Wetlands Protection Act

- Forms are the same
- Fees use the same structure designated by the state, with reduced rates for single family home filings
- Hearing process is the same
- Timelines are the same
- Permits are in the same format

Why? Mirroring the filing requirements of the state law streamlines the process and simplifies the process for homeowners

Appeals

Massachusetts Wetlands Protection Act

- Appeal of an adverse decision is to the Massachusetts Department of Environmental Protection

Nahant Wetlands Protection By-law

- Appeal of an adverse decision is to Superior Court

Why? This is a function of state law, not a change to the state wetlands rules. MA DEP does not have jurisdiction over local wetlands bylaws. An appeal of a wetlands bylaw decision is governed by a separate statute, M.G.L. c. 249 sec. 4, which provides for an appeal to Superior Court

Appeals

M.G.L. c. 249, sec. 4 states:

Section 4. A civil action in the nature of certiorari to correct errors in proceedings which are not according to the course of the common law, which proceedings are not otherwise reviewable by motion or by appeal, may be brought in the supreme judicial or superior court or, if the matter involves any right, title or interest in land, or arises under or involves the subdivision control law, the zoning act or municipal zoning, or subdivision ordinances, bylaws or regulations, in the land court or, if the matter involves fence viewers, in the district court. Such action shall be commenced within sixty days next after the proceeding complained of. Where such an action is brought against a body or officer exercising judicial or quasi-judicial functions to prevent the body or officer from proceeding in favor of another party, or is brought with relation to proceedings already taken, such other party may be joined as a party defendant by the plaintiff or on motion of the defendant body or officer or by application to intervene. Such other party may file a separate answer or adopt the pleadings of the body or officer. The court may at any time after the commencement of the action issue an injunction and order the record of the proceedings complained of brought before it. The court may enter judgment quashing or affirming such proceedings or such other judgment as justice may require.

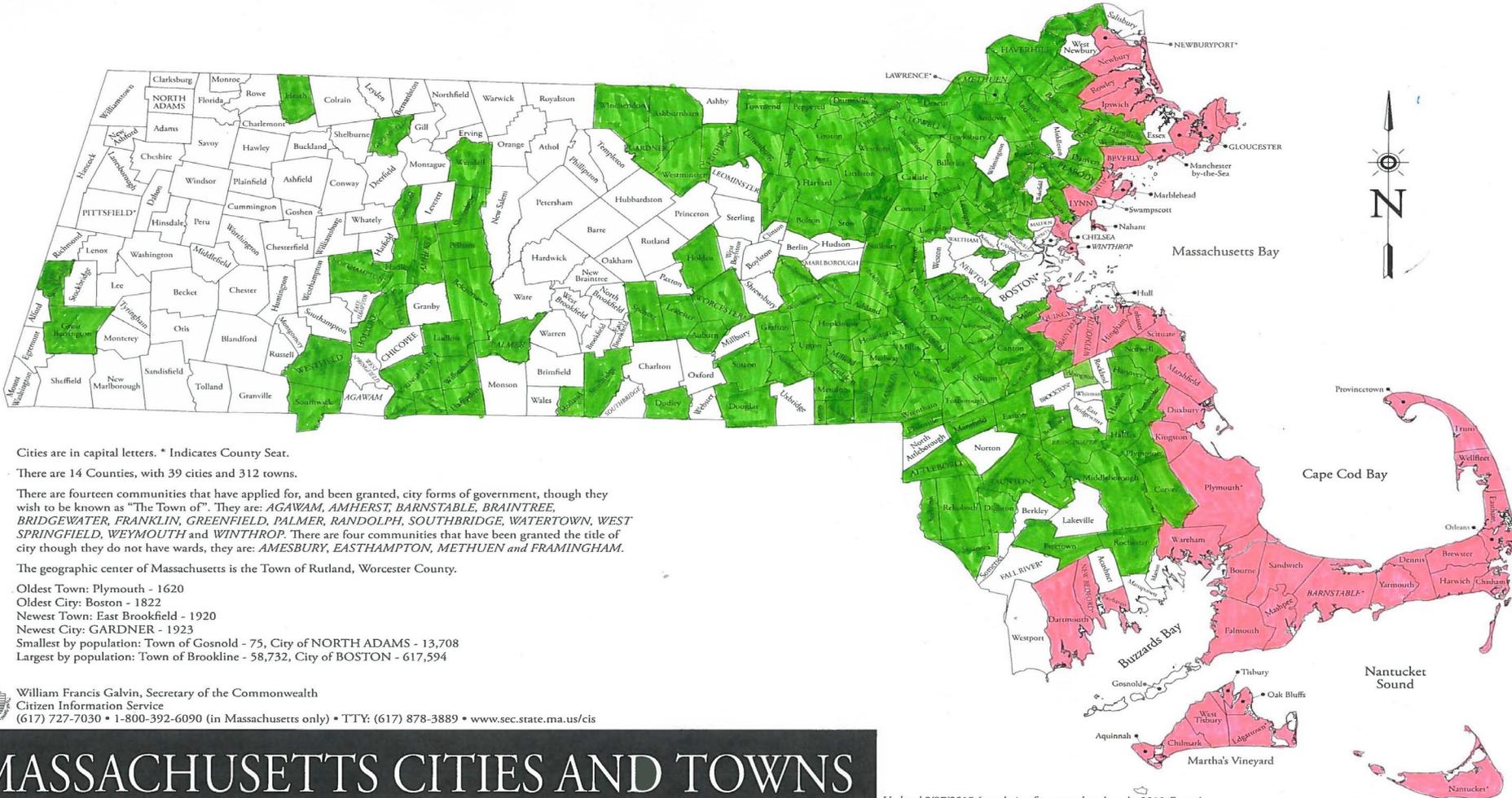
Facts About Wetlands & Floodplain

Why Are Wetlands Important?

- Wetlands absorb wave energy and reduce the height of storm waves
- Wetland plants bind the soil and help slow shoreline erosion
- Wetlands temporarily store flood waters. Paved areas cannot absorb flood waters and can increase the speed of flood waters and storm damage
- Provide wildlife habitat
- In economic terms- the cost of preserving wetlands is far lower than the cost of repairing property that has been damaged or building structures or facilities to replace wetland functions.

Depiction of Massachusetts Coastal and Inland Cities and Towns with a Wetlands Protection By-law

- Massachusetts coastal cities and towns with Wetlands Protection local By-law are noted in Pink.
- Massachusetts inland cities and towns with Wetlands Protection local By-law are noted in Green.



Cities are in capital letters. * Indicates County Seat.

There are 14 COUNTIES, with 39 cities and 312 towns.

There are fourteen communities that have applied for, and been granted, city forms of government, though they wish to be known as "The Town of". They are: *AGAWAM, AMHERST, BARNSTABLE, BRAINTREE, BRIDGEWATER, FRANKLIN, GREENFIELD, PALMER, RANDOLPH, SOUTHBRIDGE, WATERTOWN, WEST SPRINGFIELD, WEYMOUTH and WINTHROP*. There are four communities that have been granted the title of city though they do not have wards, they are: *AMESBURY, EASTHAMPTON, METHUEN and FRAMINGHAM*.

The geographic center of Massachusetts is the Town of Rutland, Worcester County.

Oldest Town: Plymouth - 1620

Oldest City: Boston - 1822

Newest Town: East Brookfield - 1920

Newest City: GARDNER - 1923

Smallest by population: Town of Gosnold - 75, City of NORTH ADAMS - 13,708

Largest by population: Town of Brookline - 58,732, City of BOSTON - 617,594

 William Francis Galvin, Secretary of the Commonwealth
Citizen Information Service
(617) 727-7030 • 1-800-392-6090 (in Massachusetts only) • TTY: (617) 878-3889 • www.sec.state.ma.us/cis

MASSACHUSETTS CITIES AND TOWNS

Updated 2/27/2019 (population figures are based on the 2010 Census)



FEMA Flood Maps & Flood Insurance

FEMA Flood Maps & Flood Insurance

Local Wetlands Protection By-law will not alter (expand or change) the floodplain or FEMA Flood Maps

- Both the Massachusetts Wetlands Protection Act (M.G.L. C.131) and the Nahant Wetlands Protection By-law rely on the FEMA Flood Insurance Study to determine the extent of local floodplain (Land Subject to Coastal Storm Flowage)
- The local Wetlands Protection By-law cannot and does not expand or change FEMA's delineation
- FEMA relies on science and data to establish floodplains, not the language of local wetland by-laws

Recall when FEMA recently agreed to alter its maps for the Town of Nahant, it did so based on the science and engineering which established that the floodplain in Nahant was different than that depicted on FEMA's maps

FEMA Flood Maps & Flood Insurance

Local Wetlands Protection By-law will not alter (expand or change) Flood Insurance Rate Map

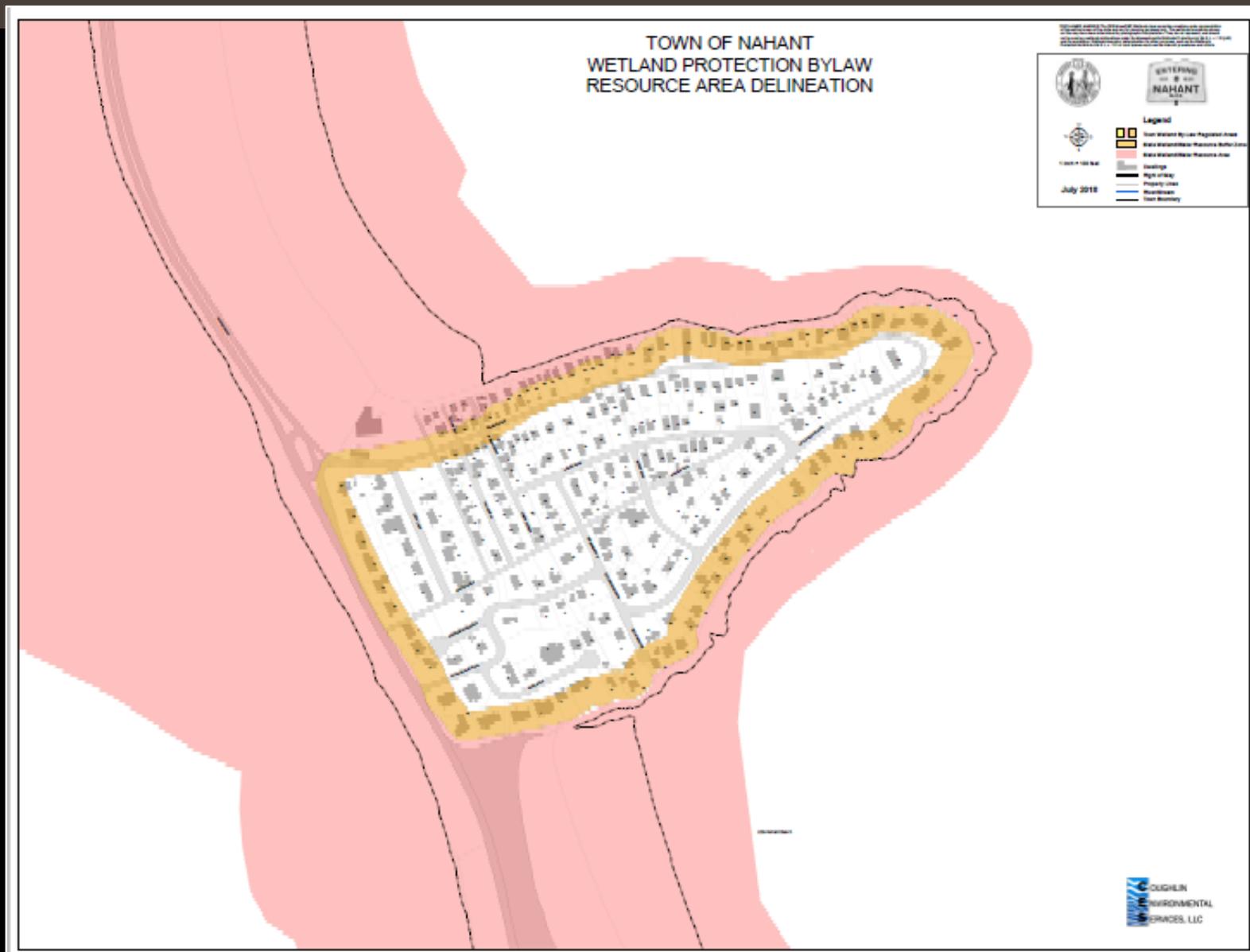
- FEMA provides the factors considered when determining a flood insurance premium, including:
 - the amount and type of coverage being purchased
 - Property location and flood zone
 - design and age of your home
 - homes located in high-risk areas (e.g., Special Flood Hazard Areas or AE, VE Zones) built after the first Flood Insurance Rate Maps were drawn for that community, the elevation of the building in relation to the base flood elevation
- Questions on flood insurance – call your insurance agent and ask what factors go into setting flood insurance rates

See FEMA Reference: <https://www.fema.gov/faq-details/Calculation-of-Flood-Insurance>

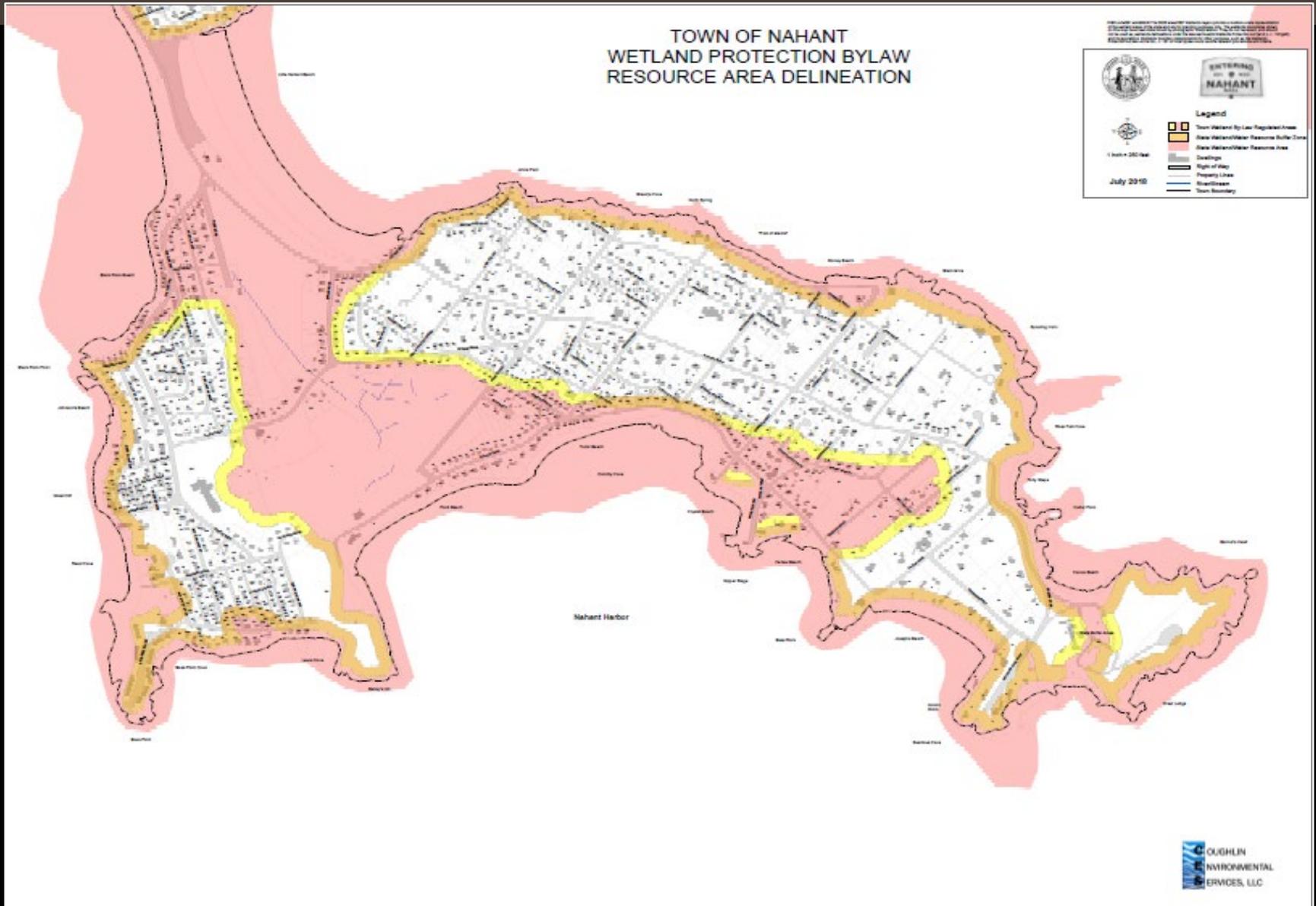
Nahant's Wetlands Protection By-law Resource Area Delineation



Nahant's Wetlands Protection By-law Resource Area Delineation



Nahant's Wetlands Protection By-law Resource Area Delineation





Thank You

Questions? Feel free to contact the Conservation Commission at
Conservation@Nahant.org