



**TOWN OF LINCOLN
CONSERVATION COMMISSION**

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MEMO TO: Paula Vaughn-MacKenzie, Director of Planning and Land Use
FROM: Michele Grzenda, Lincoln Conservation Director
DATE: July 16, 2025
RE: Status of the Wetland and Watershed Protection District (Section 12.2)

You have asked me to review the Lincoln Zoning Bylaw, Section 12.2 "Wetland and Watershed Protection District" (WWPD) and provide an opinion as to whether the bylaw still applies or whether more current wetland and watershed protection laws provide equal and/or added protection.

The WWPD was adopted in 1973 and appears to be outdated, conflicting, and redundant given current wetland and watershed protection regulations. The WWPD was created during a time when wetland review processes operated under a fundamentally different framework, as documented in the 1973 Lincoln Conservation Commission (LCC) meeting minutes and the Planning Board's November 26, 1973, meeting minutes.

At that time, the newly enacted Massachusetts Wetlands Protection Act required the LCC to hold hearings on any proposed dredging, filling, or alteration of wetlands, but the LCC's findings had to be submitted to the State Department of Natural Resources for review and final determination. Local officials believed that incorporating wetland restrictions directly into the zoning bylaw would provide greater local control over these decisions. Additionally, LCC believed that marking the Wetlands District on the zoning map would alert potential developers to possible regulatory hurdles before they proceeded with development plans.

The WWPD Bylaw was drafted predominantly by the LCC in 1972 and 1973 and was approved at the December 1973 Town Meeting. The WWPD Bylaw required applicants to submit an environmental impact statement (EIS) to the LCC prior to applying to the Board of Appeals (BoA) for a special permit. According to Section 12.2.3.1, the LCC was required to provide an evaluation of and an opinion on the EIS, along with their overall recommendations to the BoA prior to an issuance of a special permit.

However, the regulatory framework for wetland and watershed review has been completely transformed since the 1970s, making the original rationale for this local zoning provision no longer applicable. In particular, Section 12.2 is obsolete for the following reasons:

- 1. Redundant Wetland & Watershed Protection** - Section 12.2's wetland & watershed protection purposes are now comprehensively covered by the following current state and local Wetlands Protection permitting processes which have specific timelines, detailed procedures, and proper enforcement mechanisms.
 - The MA Wetlands Protection Act (WPA) (MGL c.131, §40) - although the WPA was promulgated a year prior to Lincoln's WWPD, it has also evolved significantly since then and now provides substantially greater wetland and river protection.
 - Lincoln Wetlands Protection Bylaw (LWPB) (2007) & Buffer Zone Regulations (2017) – The LWPB provides greater protection over small wetlands and vernal pools and also created a new resource area known as the Upland Buffer Zone Resource Area. These areas have limited or no protection under the WPA and WWPD.
 - Aquifer Protection and Watershed Protection Overlay District (Lincoln's Zoning Bylaw Section 12.4) – Adopted in 2013 & provides comprehensive watershed protection through the Watershed Protection District (WPD). It's based on modern hydrogeologic mapping and DEP-approved zones and covers "that area of land beyond the Aquifer Protection District from which surface water and groundwater drain into Zone II" and includes specific definitions, prohibited uses, and regulatory framework based on current state requirements.

Issues with Keeping Section 12.2: Having two different review processes for overlapping issues creates confusion and potential conflicts

- 1. Lack of Clear Performance Standards:** Section 12.2 requires an "Environmental Impact Statement" from applicants but fails to establish specific performance standards or evaluation criteria. This absence leaves the BoA and LCC without clear guidance on what thresholds, legal justifications, or scientific methodologies should be used when determining whether to grant special permits for work within the WWPD.
- 2. Conflicting Review Requirements for the Conservation Commission:** Section 12.2 places an unrealistic burden on the LCC by requiring them to provide comprehensive written recommendations to the BoA on every permit application filed under 12.2. The Commission must evaluate the proposed use and its potential impacts on water supply, water quality, natural flow patterns, flood storage areas, and public health and safety. This creates a problematic dual review system where the LCC must assess the same project under both the WWPD (with its distinct submission and review requirements) and

the Wetlands Protection Act/local Wetlands Bylaw (with different standards), leading to confusion and potential conflicts in the review process.

3. **Regulatory Conflicts:** Section 12.2.2 allows certain activities as permitted uses and exempts any proposed accessory structures and buildings. These permitted and exempted activities undermine the comprehensive environmental review process required for such projects under the Wetlands Protection Act and local wetlands bylaws.
4. **Regulatory Redundancy:** Property owners may face multiple overlapping reviews for the same environmental concerns.
5. **Conflicting Authority:** Section 12.2.3.2 allows the BoA to determine areas that are "not significant" for water supply purposes, which could conflict with the LCC or State determinations.
6. **Outdated Wetland Maps:** The 1973 WWPD wetland maps were developed from 1968 aerial photography at a 1"=200' scale and some field verification. Given the limited topographic detail available at the time (5-foot contours), these maps provide only a historical snapshot of wetland locations. Furthermore, wetland boundaries change over time due to natural processes and human activities. Scientists and wetland regulators recognize that the only way to confirm the accuracy of a wetland boundary is to require a professional wetland scientist to evaluate any location where work is proposed and only after assessing the site's hydrology, vegetation, and soil characteristics can one determine the true and accurate wetland line. Some of the wetlands shown on the WWPD maps no longer exist and many small wetlands protected under current wetland laws are not shown on the WWPD maps.

Based on this review, I recommend **removing Section 12.2 entirely** from Lincoln Zoning Bylaw. The purposes in Section 12.2.1 (groundwater protection, flood control & storage, pollution prevention, wildlife protection) are now comprehensively addressed by the WPA and Lincoln Wetland Protection Bylaw. The Conservation Commission would retain all its authority under state and local law, while eliminating the redundancy, potential conflict, and confusion created by the WWPD bylaw.