

**TOWN OF SAUGUS
CONSERVATION COMMISSION**

**Town Bylaw 508.00
WETLAND PROTECTION BYLAW
AMENDED 2001**

Section 1 – Purpose:

The purpose of this bylaw is to protect the wetlands, water resources, and contiguous land areas of the Town of Saugus by controlling activities deemed to have a significant effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention including coastal storm flowage, water quality, water pollution control, fisheries, shellfish, wildlife, wildlife habitat, recreation, and historically significant wetland-related structures and locations.

Section 2 – Definitions:

A. The following definitions shall apply in the interpretation and implementation of this bylaw.

1. The term “aesthetics” shall include the natural scenery and appearance of any area visually accessible to the public.
2. The term “alter” shall include, without limitation, the following activities when undertaken to, upon, within of affecting resource area protected by this bylaw.
 - a. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
 - b. Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patters, flow patterns, or flood retention characteristics;
 - c. Drainage, or other disturbance of water level or water table;
 - d. Dumping, discharging or filling with any material which may degrade water quality;
 - e. Placing of fill, or removal of material, which would alter elevation;
 - f. Driving of piles, erection or repair of building or structures of any kind;
 - g. Placing of obstructions or objects in water;
 - h. Destruction of plant life including cutting of trees;
 - i. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;

- j. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or ground water;
 - k. Application of pesticides or herbicides;
 - l. Incremental activities that have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.
3. The term “bank” shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, which is even higher.
 4. The term “date of issuance” shall mean the date an Order of Conditions, modification or extension of an Order, or any written decision of the Commission is mailed, as evidenced by a postmark, certified mail card, or the date it is hand-delivered.
 5. The term “isolated wetland” shall mean an isolated depression with no inlet or outlet which serves as a ponding area for run-off or high groundwater which has risen above the ground surface, and shall be capable of containing at least 5,000 cubic feet of water.
 6. The term “person” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.
 7. The term “rare species” shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.
 8. The term “vernal pool” shall include a confined basin depression which, at least in most years, holds water for a minimum of two months during the spring and/or summer, and which is free of adult fish populations, as well as the area within one hundred (100) feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries.

- B. Except as otherwise provided in this bylaw or in Regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in The Wetlands Protection Act, G.L. Ch.131, § 40, and regulations, 310 CMR 10.00, as they may be amended.

Section 3 – Jurisdiction:

No person shall remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any bank; freshwater or coastal wetland; beach; dune; flat; marsh; wet meadow; bog; swamp; vernal pool; lake; pond of any size; creek; estuary; the ocean; land under water bodies; land subject to flooding or inundation by groundwater or surface water; land subject to tidal action, coastal storm flowage, or flooding; lands within one hundred (100) feet of any of the aforesaid resource areas; rivers and streams; and lands within two hundred (200) feet of any river or stream, without filing a Notice of Intent with the Saugus Conservation Commission (Commission) and receiving and complying with an Order of Conditions issued by the Commission. Said resource areas shall be protected whether or not they border surface waters.

Section 4 – Conditional Exceptions:

- A. This bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the residents of Saugus and to be performed or ordered to be performed by an administrative agency of the Commonwealth or by the Town of Saugus. Emergency project shall mean any project certified to be an emergency by the Commissioner of the Department of Environmental Protection (DEP) and the Commission if this bylaw and G.L. Ch. 131, § 40 area both applicable, or by the Commission if only this bylaw is applicable. In no case shall any removal, filling, dredging, or alteration authorized by such certification extend beyond the time necessary to abate the emergency.
- B. The application and permit required by this bylaw shall not be required for other maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph and other telecommunication services, provided written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

Section 5 – Applications and Hearings for Permits and Requests for Determination:

- A. Said Notice of Intent (NOI), including such plans as may be necessary to describe such proposed activity and its effect on the environment, shall be filed by delivery in hand to the Commission or its authorized representative or by certified mail, return receipt requested, to the Commission. The NOI shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. Each such NOI shall be accompanied by a filing fee as specified by the Commission's rules and regulations and shall be in addition to that required by G.L. Ch. 131, § 40. No filing fee shall be required when the Town of Saugus files an application for a permit. The Commission, in its discretion, shall hear any oral presentation under this bylaw at the same public hearing required to be held under the provisions of said G.L. Ch. 131, § 40.
- B. The Commission shall hold a public hearing on the application within twenty-one (21) days of receipt of the completed NOI required under Section 5A of this bylaw, unless the applicant authorizes an extension in writing. Notice of the time and place of the hearing shall be given by the Commission, at the expense of the applicant, not less than five days prior to the hearing. Such notice shall be published in a newspaper of general circulation within the Town of Saugus and by mailing a notice to the applicant, Board of Health, Planning Board, Zoning Board of Appeals, Town Engineer, Building Inspector, and Board of Selectmen. The Commission shall have the authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearing. Such reasons may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed above. The Commission shall issue its Order of Conditions within twenty-one (21) days of the close of the public hearing thereon unless the applicant authorizes an extension in writing.
- C. Within twenty-one days of the receipt of a written request made by any person and sent certified mail, the Commission shall make a written determination as to whether this bylaw is applicable to any land or work thereon, unless the applicant authorizes an extension in writing. Such a Request for Determination

of Applicability (RDA) shall include information and plans as deemed necessary by the Commission. When such person is other than the owner, the RDA, notice of any such determination, and the Commission's determination shall also be sent to the owner, as well as to the person making the request.

- D. Any person filing a NOI or a RDA with the Commission shall, at the same time, give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors. This shall include owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred (300) feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the NOI or RDA, with plans, or shall state where copies may be examined and obtained. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.

Section 6 – Consultant Fees:

- A. Upon receipt of a permit application or RDA, or at any point in the hearing process, the commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consulting services deemed necessary by the Commission to come to a final decision on the application. This fee is called the “consultant fee”. The specific consulting services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation, analysis of resource area functions, including wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law.
- B. The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. The applicant shall pay the fee to be put into a revolving fund which may be drawn upon by the Commission for specific consulting services approved by the Commission at one of its public meetings.
- C. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside, independent consultants would be necessary for the making of an objective decision.

- D. The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or the size of, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

- E. The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The project shall not be segmented to avoid being subject to the consultant fee, but the Commission may allow reasonable phasing of the project. The applicant shall submit estimated project costs as the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

Section 7 – Permits and Conditions:

- A. If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result there from are likely to have a significant individual or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall approve or deny a permit for the activities requested. If it approves a permit, the Commission shall impose conditions that the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community, resulting from past activities, permitted and exempt, and foreseeable future activities.

- B. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specification, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

- C. To prevent wetland loss, the Commission shall require applicants to avoid wetland alteration wherever feasible or minimize wetland alteration where alteration is unavoidable, with the requirement of full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.
- D. Lands within 100 feet of specific resource areas, and within 200 feet of rivers and streams, are presumed important to the protection of these resources because activities undertaken in close proximity to wetlands rivers and streams, and other resources have a high likelihood of adverse effect upon them either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, but not be limited to, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within aforesaid 100- or 200-foot area, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by this bylaw.
- E. In the case of areas within 200 feet of rivers and streams, no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and (2) should there be no practicable alternative, that such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purposes, logistics, existing technology, costs of the alternatives, and overall project cost.
- F. A permit shall expire three (3) years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit for a period up to five (5) years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission thirty (30) days prior to the expiration date. Notwithstanding the above, a permit may contain requirements which

shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

- G. For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit or determination, notice to the public, abutters, and town boards pursuant to Section 5D of this bylaw, and a public hearing.
- H. The Commission may combine the permit issued under this bylaw with the Order of Conditions issued under G.L. Ch. 131, § 40, and its implementing regulations 310 CMR 10.00 as they may be amended.
- I. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land in the Land Court, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

Section 8 – Security:

- A. As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed hereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the following methods:
 - 1. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility in an amount determined by the Commission to be sufficient and payable to the Town of Saugus upon default;
 - 2. By accepting a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record (or registered, in the case of registered land), running with the land to the benefit of the Town of Saugus whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

Section 9 – Enforcement:

- A. The Commission, its agents, officers and employees, shall have the authority to enter upon privately owned land for the purpose of carrying out its duties under this bylaw and may make or cause to be made such examination, surveys, or sampling as the

Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

- B. The Commission shall have authority to enforce this bylaw, its regulations and permits issued hereunder by violation notices, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.
- C. Upon request of the Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.
- D. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.
- E. Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued hereunder, shall be punished by a fine of not more than three hundred dollars (\$300.00). Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

Section 10 – Regulations:

- A. Following a public hearing, rules and regulations shall be promulgated by the Commission to effectuate the purposes of this bylaw. However, failure by the Commission to promulgate rules and regulations shall not act to suspend or invalidate the effect of this bylaw.
- B. At a minimum, these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees.

Section 11 – Burden of Proof:

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to

provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

Section 12 – Relation to the Wetlands Protection Act:

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Statutes, independent of the G.L. Ch. 131, § 40, and regulations 310 CMR 10.00 hereunder, as they may be amended.

Section 13 – Appeals:

A decision of the Commission shall be reviewable in the Superior Court in accordance with G.L. Ch. 249, § 4.

Section 14 – Severability:

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination that previously has been issued.

RULES AND REGULATIONS

AMENDMENT

FEBRUARY 1996

SAUGUS CONSERVATION COMMISSION

BUFFER

Section 4.5

JURISDICTION:

Except as permitted by the Saugus Conservation Commission or as provided in the Bylaw, no person shall remove, fill, dredge, build upon, or alter within one hundred (100) feet of any resource area.

PRESUMPTION:

Based on experience to date with projects in the Buffer Zone, the Saugus Conservation Commission shall presume that within thirty (30) feet of any resource area and within fifty (50) feet from the top of the bank of the Saugus River will result in alteration of the resource area. This presumption is rebuttable and may be overcome upon a clear showing that the nature of the proposed work, special design measures, construction controls, or site conditions will prevent a negative impact on the resource area. Depending on site conditions and project characteristics, the Saugus Conservation Commission may also find that work at greater distances from the resource area will alter the resource area. Work shall mean but not be limited to: filling; excavation; grading; cutting of vegetation; operation of motorized construction equipment; and storage or stockpiling of earth or other construction materials.

CONSTRUCTION AND EXCAVATION SETBACKS:

Minimum construction and excavation setbacks will be viewed on a case by case basis. Construction includes housing, commercial building, garages and similar structures. Information to be assessed should include but not be limited to: leaching; erosion; drainage; on-site ponding; and general effect on wetlands.

A buffer of naturally occurring vegetation measuring thirty (30) feet from the edge of all wetlands and water bodies shall remain undisturbed unless the presumption has been overcome.

A buffer of naturally occurring vegetation measuring fifty (50) feet from the top of the bank of the Saugus River shall remain undisturbed unless the presumption has been overcome.

**RULES AND REGULATIONS
AMENDMENT**

DECEMBER 2006

SAUGUS CONSERVATION COMMISSION

BUFFER

Section 4.5

JURISDICTION:

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PRESUMPTION:

Based on experience to date with projects in the Buffer Zone, the Saugus Conservation Commission shall presume that within fifty (50) feet of any resource area and within one hundred (100) feet from the top of the bank of perennial streams and rivers will result in alteration of the resource area. This presumption is rebuttable and may be overcome upon a clear showing that the nature of the proposed work, special design measures, construction controls, or site conditions will prevent a negative impact on the resource area. Depending on site conditions and project characteristics, the Saugus Conservation Commission may also find that work at greater distances from the resource area will alter the resource area. Work shall mean but not be limited to: filling; excavation; grading; cutting of vegetation; operation of motorized construction equipment; and storage or stockpiling of earth or other construction materials.

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A buffer of naturally occurring vegetation measuring fifty (50) feet from the edge of all wetlands and water bodies shall remain undisturbed unless the presumption has been overcome.

A buffer of naturally occurring vegetation measuring one hundred (100) feet from the top of the bank of the perennial streams and rivers shall remain undisturbed unless the presumption has been overcome.

**TOWN OF SAUGUS
CONSERVATION COMMISSION
ARTICLE 508.0
WETLAND PROTECTION BYLAW
AMENDED 2006**

SECTION 3 FEES

Fees are payable at the time of application and are non refundable, except as provided for herein.

Fees shall be calculated per schedule below.

Town, county, state or federal projects shall be exempt from such fees.

No fee shall be charged for Request for Determinations, Extension of Orders of Conditions or Certificates of Compliance.

A fee may be required of the applicant to cover the actual costs only incurred by the Commission in obtaining independent engineering, hydrological, or other professional consultation deemed necessary by the Commission to review the application and propose appropriate conditions.

FEE SCHEDULE

New Home Construction	\$500
Commercial, Industrial and Non Resident	\$20 per each \$10,000 – Based on total cost of entire project
Sub-division	\$500 for each proposed lot in sub-division
Additions/Modification	\$2 per \$1,000 based on building permit valuation (Minimum charge of \$50)

SAUGUS CONSERVATION COMMISSION

RULES AND REGULATION
AMENDMENT
JULY 2011

**TOWN OF SAUGUS
CONSERVATION COMMISSION**

**Town Bylaw 508.0
WETLAND PROTECTION BYLAW
AMENDED JULY 2011**

SECTION 3 FEES

Fees are payable at the time of application and are non refundable, except as provided for herein.

Fees shall be calculated per schedule below.

Town, county, state or federal projects shall be exempt from such fees.

A fee may be required of the applicant to cover the actual costs only incurred by the Commission in obtaining independent engineering, hydrological, or other professional consultation deemed necessary by the Commission to review the application and propose appropriate conditions.

If work is started without a permit or is a result of an Enforcement Order, than all fees are doubled at the discretion of the Conservation Commission.

SECTION 3A FEES SCHEDULE

Request for Determination of Applicability (RDA)	\$100
Notice of Intent (NOI) (New Home Construction)	\$500
Certificate of Compliance (COC) (After expiration of order)	\$100
Partial Certificate of Compliance	\$ 50
Extension Permit	\$ 50
Notice of Intent (NOI) Commercial, Industrial and Non Resident	\$20 per each \$10,000 – Based on total cost of entire project.
Notice of Intent (NOI) Sub-division	\$500 for each proposed lot in Sub-division.
Additions/Modifications	\$5 per \$1,000 based on Building Permit valuation (minimum charge of \$50)
Amended Order of Conditions (OOC)	\$100
Abbreviated of Resource Delineation (ANRAD)	\$100

BUFFER

Section 4.5

JURISDICTION:

Except as permitted by the Saugus Conservation Commission or as provided in the Bylaw, no person shall remove, fill, dredge, build upon, or alter within one hundred (100) feet of any resource area.

PRESUMPTION:

Based on experience to date with projects in the Buffer Zone, the Saugus Conservation Commission shall presume that within fifty (50) feet of any resource area and within one hundred (100) feet from the top of the bank of perennial streams and rivers will result in alteration of the resource area. This presumption is rebuttable and may be overcome upon a clear showing that the nature of the proposed work, special design measures, construction controls, or site conditions will prevent a negative impact on the resource area. Depending on site conditions and project characteristics, the Saugus Conservation Commission may also find that work at greater distances from the resource area will alter the resource area. Work shall mean but not be limited to: filling; excavation; grading; cutting of vegetation; operation of motorized construction equipment; and storage or stockpiling of earth or other construction materials.

CONSTRUCTION AND EXCAVATION SETBACKS:

Minimum construction and excavation setbacks will be viewed on a case by case basis. Construction includes housing, commercial building, garages and similar structures. Information to be assessed should include but not be limited to: leaching; erosion; drainage; on-site ponding; and general effect on wetlands.

A buffer of naturally occurring vegetation measuring fifty (50) feet from the edge of all wetlands and water bodies shall remain undisturbed unless the presumption has been overcome.

A buffer of naturally occurring vegetation measuring one hundred (100) feet from the top of the bank of the perennial streams and rivers shall remain undisturbed unless the presumption has been overcome.

RULES AND REGULATIONS

AMENDMENT

DECEMBER 2014

SAUGUS CONSERVATION COMMISSION

SECTION 3 – Jurisdiction:

- A.** No person shall remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any bank; freshwater or coastal wetland; beach; dune; flat; marsh; wet meadow; bog; swamp vernal pool; lake; pond of any size; creek; estuary; the ocean; land under water bodies; land subject to flooding or inundation by groundwater or surface water; land subject to tidal action, coastal storm flowage, or flooding; lands within one hundred (100) feet of any of the aforesaid resource areas; rivers and streams; and lands within two hundred (200) feet of any river or stream, without a Notice of Intent with the Saugus Conservation Commission (Commission) and receiving and complying with an Order of Conditions issued by the Commission. Said resource areas shall be protected whether or not they border surface water.
- B.** Adopt the Mass Dep Snow Disposal Guidelines. Effective Date: March 8, 2001, Guideline Number BRPG01-01. This supersedes: BRP Snow Disposal Guideline BRPG97-1, issued 12/19/97, and all previous snow disposal guidelines. A copy of the guideline is attached.
- C.** There shall be no import of snow from other Communities into the Town of Saugus for purposed of dumping, storage or melting, onto any surface that will allow runoff, ground infiltration, flow into or be able to enter into any water way or body of water.