

Needham Conservation Commission

How the Permitting Process Works

TYPES OF APPLICATIONS

- **Request for Determination of Applicability:** a request that the Conservation Commission determine if the proposed work requires a permit (some minor activities, such as small alterations of the buffer zone more than 50 feet from a wetland may not require a permit) or that the Commission determine if the work is within a Resource Area or buffer zone.
- **Abbreviated Notice of Resource Area Delineation:** an application to request that the Commission formally review and approve the delineation of Resource Areas at a site.
- **Notice of Intent:** an application to request that the Commission approve work within the buffer zone or another Resource Area.

FILING DEADLINES

Notices of Intents, Requests for Determination of Applicability, Requests to Amend Order of Conditions, Abbreviated Notices of Resource Area Delineations

The Needham Conservation Commission generally meets the second and fourth Thursday of each month. The filing deadline for new applications is **Thursday by 10:00 AM** two weeks prior to each scheduled meeting. This two-week interval is necessary to allow for proper notice in accordance with the Massachusetts Wetlands Protection Act and the Needham Wetlands Protection Bylaw. The current meeting schedule is available on the website.

Permit Extensions, Certificates of Compliance, Exemption Letter Requests and Supplemental Information

The filing deadline for other materials other than NOIs, RDAs, ANRADs, and Amendment Requests is **Thursday by 10:00 AM** one week prior to a scheduled meeting. The Conservation Commission closes their agenda at this time, and generally will not take action on matters for which information has not been submitted by the stated deadline.

In the case of public hearings which have been opened and continued or for new projects which have been filed, any additional, supplemental, or revised information shall be submitted to the Commission **Thursday by 10:00 AM** one week prior to the date of the scheduled meeting. If any such additional, supplemental, or revised documentation is submitted after that time the Applicant will be deemed to have consented to a continuation of the public hearing (to the next available meeting date), unless the Applicant chooses to withdraw the late filed additional, supplemental, or revised information.

OTHER BUSINESS

The Conservation Commission generally reserves time at the start of each meeting to discuss matters that have not been formally scheduled on their agenda. The Commission is open to hearing concerns or providing direction on matters raised during this time, however the Commission will neither deliberate nor take action on matters which have not been scheduled on their agenda in accordance with the guidelines set forth above.

PREPARING YOUR PERMIT APPLICATION

Certified Abutters List Requests

A certified abutters list should be requested through the Conservation Department in writing at least one week prior to the filing deadline for Notices of Intents, Requests for Determination of Applicability, Requests to Amend Order of Conditions and Abbreviated Notices of Resource Area Delineations. Certified abutters lists must be included within the permit application submittal to be considered a complete application.

Applicant's Responsibility

It is the Applicant's responsibility to prepare and file a complete and correct application that accurately describes the site and the work proposed. The Applicant must also demonstrate, through the plans and information submitted to the Commission, that the work proposed meets the Performance Standards established under the Wetlands Protection Act and the Needham Bylaw. ***The Bylaw Regulations provide more protection for wetlands than do the State Regulations. Under the Needham Bylaw, projects that alter a wetland or the land within 25 feet of a wetland (or within 50 feet of a wetland where the Buffer Zone provides wildlife habitat) are not permitted without a Waiver.***

A project that does not meet the performance standards may only be permitted if the Commission grants a waiver from strict compliance with the regulations (for example, any work actually within a wetland requires a waiver). The application must show that (a) such action would serve a substantial public interest; (b) such action is required for compliance with the Massachusetts Contingency Plan (MCP); (c) strict compliance would result in severe economic hardship greater in magnitude than the public interest to be served; or (d) a credible expert has demonstrated that the Resource Area does not protect the public interests [the Commission requires a written statement from the credible expert (typically a qualified wetlands scientist) to evaluate if performance standard (d) has been met]. The Commission must then determine that: (a) there are no practicable alternatives to the proposed action; (b) alteration of the resource area has been minimized to the greatest extent practicable; and (c) compensatory or mitigating measures are taken, even at an off-site location, to protect the public interest in the protected Resource Area to be removed, filled, dredged, built upon, or altered.

Permit Application Filing Process

1. Complete the DEP (Department of Environmental Protection) Notice of Intent or Request for Determination of Applicability Forms.
2. Complete the Needham Application Form and Checklist.
3. Obtain a Certified List of Abutters within 300 feet of the property, and an Assessor's map showing these abutters (contact the Conservation Office to initiate this process).
4. Prepare a complete filing package containing this information and all plans and supporting documents required by the Needham Checklist and DEP regulations.
5. Determine the WPA and Bylaw filing fees. Separate checks should be submitted for the town's portion of the WPA fee and the Bylaw fee. Waiver fees, if applicable, should be paid with a separate check.
6. Although not required, it is strongly suggested that Applicants meet with the staff of the Conservation Department to review the application for completeness, before moving on to Steps 7 and 8.

7. Send 1 copy of the entire application package to DEP Northeast Regional Office (by certified mail or via eDEP). **Note: The State portion of the filing fee required by the Wetlands Protection Act is sent to a lock box in Boston as indicated on the WPA Forms.**
8. Send 9 paper copies and one electronic copy (in PDF format) of the entire package to the Conservation Commission (by hand or certified mail). All plans should be submitted in folded, not rolled, format.
9. Send one copy of the application (in paper or electronic format) to each of the Board of Selectmen, the Planning Board, the Board of Health, and the Building Inspector (by hand or certified mail).
10. Upon receipt of the complete application by the Conservation Department, the Applicant will be advised of the date and time of the public hearing.
11. Send notification to all abutters including the date and time of the public hearing (by certified mail). By signing the application forms, the Applicant then certifies that all abutters have been duly notified. A separate Affidavit of Service in **NOT** required unless abutter notifications are delivered by hand. A copy of the abutter notification must be included with the application to be considered complete.

When an Application is Received and is Determined to be Complete:

1. DEP issues a File Number.
2. The Conservation Commission schedules a Public Hearing.
3. The Conservation Commission posts a public notice in the Needham Times (at the expense of the Applicant), at least 1 week before the hearing.

What Happens Next?

1. The Commission opens the Public Hearing (within 21 days of receiving a complete application) and takes testimony from the Applicant and any interested parties.
2. The Commission may continue the hearing and request additional information, revisions to plans, etc.
3. If an Applicant submits revised plans or additional information, 9 copies are required and must be submitted 1 week before the hearing. One copy of supplemental/revised information should also be submitted to DEP.
4. The Commission closes the Public Hearing when all information needed to evaluate the application has been received.
5. The Commission issues an Order of Conditions within 21 days of closing the hearing approving the project **IF** the Commission can make the finding that the work meets the regulatory performance standards and can be conditioned to protect the interests of the Wetland Protection Act and the Needham Wetlands Protection Bylaw.

When Can I Start Work?

1. There is a 10-day appeal from the date the Determination of Applicability or Order of Conditions is issued (any individual abutter or 10 residents of Needham may appeal the Commission's decision);
2. Work cannot start until the Order is recorded at the Norfolk Registry of Deeds and documentation is provided to the Commission; and
3. Work cannot start until any pre-construction Conditions have been met.

What Happens When the Work is Complete?

1. The Order of Conditions is valid for 3 years. You must complete work within this period. A request may be made to extend a valid Order of Conditions.
2. When the work is complete, you must file a Request for a Certificate of Compliance with the Commission. This requires a statement by a Registered Engineer or Professional Land Surveyor that the work has been done in accordance with the Order of Conditions, and may also require a surveyed “as-built” plan be submitted.
3. A site inspection will be scheduled by Conservation staff to assess compliance with the Order of Conditions and that the site is fully stable.
4. At a public meeting, the Commission will determine if the work has been done in accordance with the Permit and, if it has, will issue a Certificate of Compliance. The Certificate of Compliance must be recorded at the Norfolk Registry of Deeds and documentation provided to the Commission.