

Filing for a Wetlands Permit with the Boston Conservation Commission

The Boston Conservation Commission administers the Massachusetts Wetlands Protection Act, General Law Chapter 131, Section 40, (the Act) for the protection of wetland resource areas within the City of Boston. The Commission determines wetland boundaries, reviews projects proposed in or near wetlands and defined buffer areas, and places conditions on development projects that affect wetlands. Some of the wetland resources protected under the Act include ponds, streams, rivers, marshes, floodplains and Boston Harbor. Any proposed project within 100-feet of a wetland, or in a floodplain, is subject to the Commission's jurisdiction and requires a permit. To obtain a permit (Order of Conditions), a project proponent must submit an application (Notice of Intent) to the Commission and the Department of Environmental Protection (the Department). The Notice of Intent provides the Commission and the Department with a complete and accurate description of the:

- **Site:** including the type and boundaries of resource areas, which must be indicated on plans and specifications as required under the Act, and
- **Proposed work:** including all effects upon resource areas and measures and designs proposed to meet the performance standards described in the Wetlands Protection Act Regulations, 310 Code of Massachusetts Regulations (CMR) 10.00, (the Regulations) specific to each applicable resource area.

The applicant is responsible for providing all information required for the Commission's review of the Notice of Intent. Applicants are urged to retain the services of a qualified, experienced professional consultant when filing a Notice of Intent. Submission of incomplete or inadequate information may result in delays and continuations in the review process. Additionally, failure to provide adequate and complete documentation describing the impact of the project on resource areas may result in the issuance of a denial, prohibiting the work. To complete a Notice of Intent, the applicant should refer to the wetlands regulations (310 CMR 10.00), which may be obtained from the Department's web site: <http://www.mass.gov/dep/water/laws/regulati.htm#wl>. The Notice of Intent Form (WPA Form 3) may be obtained at: <http://www.mass.gov/dep/water/approvals/wwforms.htm>

Filing Requirements

Project proponents need to submit to the Commission eight (8) copies (1 original and 7 copies) of a Notice of Intent and accompanying plans, as well as any pertinent data, along with a check for the appropriate filing fee payable to the City of Boston. All property owners must be signatories to the Notice. Notices must be received two weeks prior to the scheduled hearing date by the Conservation Commission at Boston City Hall/Room 805 Boston, MA 02201. (To minimize the use of non-recyclable materials please do not include vinyl or plastic binders, folders or covers with the filing)

In following with the Act's interests specific to prevention of pollution and storm damage prevention, the Commission expects applicants to give consideration to future sea level rise over the design life of the project in determining the ground-level floor elevation for buildings, as well as the location of building mechanical equipment, utilities, storage areas for hazardous materials, underground garage portals, exhaust and ventilation infrastructure, and building entry points.

1. Project Description

The applicant should provide a description of the project, inclusive of construct phase activities and the final condition of the site upon project completion. The description must indicate all wetland resource areas and how the performance standards specific to those resource areas will be met. Accompanying maps and plans should indicate both existing and proposed site conditions, including temporary construction impacts, any replication areas, and/or other mitigation measures. Maps and plan must identify the proposed activities and their location relative to the boundaries of each wetland resource area and buffer zone (if applicable).

Technical data should be submitted to support the plans in narrative form, with calculations submitted as necessary to substantiate the designs proposed.

2. Abutter Notification Requirements

The applicant must provide notification to abutters within 100 feet of the *property line* from where the work is proposed. Notification must be sent by certified mail, or hand delivery, to all abutters on the most recent tax list found at the City of Boston Assessing Office. The notice shall provide an explanation of the proposed work and include the date, time and location of the public hearing. The applicant shall notify abutters simultaneously with the filing of a Notice of Intent with the Commission in order to provide abutters sufficient time to review the application and accompanying plans. An Affidavit of Service with a copy of the notification form and list of abutters must be included in the filing.

3. Plan Requirements

The following standards and design specifications are intended to provide the Commission with the minimum amount of data necessary to determine the impact of a proposed project on wetland resource areas and/or the ability of said resource area to provide documented functions and values. The Commission may find it necessary to request additional site-specific information to adequately determine the effect of the work on resource areas.

- a) All drawings shall be drawn with the title designating the name of the project, location and the names of the persons(s) preparing the drawings, and the date prepared, including the latest revision date. Drawings shall be stamped and signed by a Registered Professional Civil Engineer or Registered Professional Land Surveyor of the Commonwealth of Massachusetts.
- b) Plans depicting proposed structures, drainage systems and/or a subsurface sewage disposal system must be stamped by a Registered Professional Civil Engineer of the Commonwealth and receive the approval of the Boston Water and Sewer Commission.
- c) Property boundaries and abutters from the most recent information on record at the Assessor's Office.
- d) All existing natural and man-made features including tree lines, rock outcrops, fence lines, foot paths, overhead and underground utilities, and drainage structures.
- e) Elevations of all natural and man-made drainage structures, waterways, and wetlands (as defined by the Wetlands Protection Act).
- f) All wetland resource areas including the 100-foot Buffer Zone, and flag numbers of all field delineated wetland resource areas.
- g) 100 year flood elevations of all natural and man-made waterways and water bodies as determined from the FEMA Flood Insurance Rate Maps and Flood Boundary and Floodway Maps. Where the floodplain of wetlands and water bodies have not been mapped by FEMA, hydrologic and calculations may be required, prepared by a registered professional engineer to determine the boundary of the 10 and 100-year floodplain.
FEMA Flood Maps:
<http://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>
- h) Hydrologic calculations showing the full-flow capacity and velocity of all water courses, open and only sometimes closed channels, and storm drains flowing into, on and out of the property.
- i) Site plans shall be submitted at a scale of 1"=10', 1"=20', or 1" = 40'. Additional plans with greater or lesser detail may also be required if such plans would provide valuable information to the Commission in its review. The Commission may request a plan at a different scale for large properties or unique circumstances.
- j) An 8 ½ " X 11" photocopy of the USGS topographic quadrangle indicating the location of the proposed activity and the outline of the area in which the activity is located.

4. Stormwater Management Report

The applicant must consult the Stormwater Management Standards found at 310 CMR 10.05(6)(k)-(q) of the Wetlands Regulations, which may be obtained from the Department's web site: <http://www.mass.gov/dep/water/laws/regulati.htm#wl>, to determine if a Stormwater Management Report for the project is required. The Stormwater Management Standards may be referenced at <http://mass.gov/dep/water/laws/policies.htm#storm>. For projects that require a Stormwater Management Report, the applicant must also complete the Checklist for the Stormwater Report, and submit the list with the Notice of Intent. Stormwater management systems must also be reviewed and approved by the Boston Water and Sewer Commission.

*Applicants should note that there are Total Maximum Daily Load (TMDL) limitations for the Neponset River and Charles River watersheds for certain pollutants. Based upon the TMDL, specific stormwater Best Management Practices may need to be implemented for projects in those watersheds. For more information on TMDL's contact:

<http://www.mass.gov/dep/water/resources/tmdls.htm>

<http://www.neponset.org/Reports/9.09.BacteriaTMDLFactSheet.pdf>

5. Filing fees

The City of Boston Conservation Commission and the Massachusetts Department of Environmental Protection both require a fee for Notice of Intent processing. Please note the Commission does *not* accept the municipal portion of the State Fee, and has its own fee structure requirements as follows:

- City of Boston - The City of Boston Title 14 Section 450 requires the following fees PAYABLE TO THE CITY OF BOSTON for Notice of Intent processing:

\$25.00 for projects with the fair cost of \$1,000.00 or less.

\$50.00 for projects with the fair cost of more than 1,000.00 but not more than \$50,000.00.

\$75.00 for projects with a fair cost of more than 50,000.00 but not more than \$100,000.00.

For projects with a fair cost of more than 100,000.00 the fee shall be .075% of the fair cost provided, however, in no case shall the fee be more than \$1,500.00.

MA Department of Environmental Protection - The state fee is based on the category of the proposed activity (described in 310 CMR 10.03(7)) and the resource area to be impacted by the activity. To calculate the filing fee, follow the instructions to the NOI Wetland Fee Transmittal Form (refer to <http://www.mass.gov/dep/water/approvals/wwforms.htm> for the DEP's specific instructions). *Again, the municipal portion of the state fee is not accepted by the City of Boston.*

Commission Public Hearings

The Commission holds public hearings to review filings on the first and third Wednesday of each month. Filings must be submitted a minimum of two weeks prior to the hearing. The hearings provide an opportunity for abutters and the public to comment on proposed projects. The project proponent, their consultant and the property owner must be present at the hearing. The current hearing schedule and agenda may be referenced at:

<http://www.cityofboston.gov/environment/conservation/>

Additional Filing Options with the BCC

Project proponents who wish to have the Commission determine if their project is subject to the Wetlands Protection Act, or confirm the delineation of a wetland resource area, may file a Request for a Determination of Applicability with the Commission. More information is available at DEP's website: <http://mass.gov/dep/water/approvals/wwforms.htm#bogs>

The aforementioned filings must be reviewed by the Commission at a scheduled public hearing. For more information please contact: *Chris H. Busch, Executive Director, Boston Conservation Commission, Rm. 805 Boston, MA 02201, 617-635-3850, chris.busch@cityofboston.gov*

Checklist for Filing a Notice of Intent with Boston Conservation Commission

In order for the Boston Conservation Commission to effectively process your Notice of Intent, BCC requests that you complete the checklist below and include it with your submission. If you should need assistance please contact Commission staff for an appointment: 617-635-3850 (chris.busch@cityofboston.gov).

To the Conservation Commission:

- Eight copies (a signed original and 7 copies) of a completed Notice of Intent (form 3 of the section 10.99)
- Eight copies of plans (1 full size and 7 half size copies) in their final form with engineer's stamp affixed supporting calculations and other documentation necessary to completely describe the proposed work and mitigating measures. Plans must include existing conditions, the proposed project, erosion controls and mitigation measures, and all wetland resource areas and associated buffer zones.
- Eight copies of an 8 ½" x 11" section of the USGS quadrangle map of the area, containing sufficient information for the Conservation Commission and the Department to locate the site of the work.
- (If applicable) Eight copies the Federal Emergency Management Agency Flood Insurance Rate Map for the project site. FEMA Flood Maps:
<http://msc.fema.gov/webapp/wcs/storeservlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>
- Have you reviewed Section C. Other Applicable Standards and Requirements of the Notice of Intent, page 4 of 8, pertaining to wildlife habitat? The Conservation Commission and the Natural Heritage & Endangered Species Program have the maps necessary to make this determination.
- (If applicable) A Stormwater Report to document compliance with the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q), including associated drainage calculations for rooftops, parking lots, driveways, etc., for the required design storm events.
- Details of the stormwater management system, including: catch basins, oil separating tanks, detention basins, outfalls, sewer connections, etc.
- Any photographs related to the project which represent the wetland resource areas.
- A project narrative describing the following: the work proposed work within wetland resource areas and/or buffer zone; how the performance standards specific to the wetland resource areas will be met; construction equipment and material involved; and, measures to protect wetland resource areas and mitigate impacts.
- Notify abutters of scheduled hearing concurrently with the filing the Notice of Intent with the Commission.