

### **What is the West Stockbridge Conservation Commission?**

Assisted by a Conservation Officer, the Conservation Commission is a volunteer group of 7 citizens of West Stockbridge specifically charged with the protection of wetlands and related resource areas. All projects that fall within the jurisdiction of the Conservation Commission are reviewed by the Commission to ensure that impact to any resource areas is minimized.

### **What does the West Stockbridge Conservation Commission do?**

The role of the Conservation Commission is to protect the water resources in West Stockbridge by ensuring compliance with the state's Wetlands Protection Act, the West Stockbridge Wetlands Protection bylaw, and any associated local policies. These water resources are also referred to as resource areas and include:

- Wetlands
- Land subject to flooding
- Riverfront areas (also protected through the Rivers Protection Act)
- Land under water bodies
- Banks of water bodies

The Wetlands Protection Act [Massachusetts General Laws (MGL) Chapter 131, Section 40] protects wetlands and the public interests they serve, including flood control, prevention of pollution and storm damage, and protection of public and private water supplies, groundwater supply, fisheries, land containing shellfish, and wildlife habitat. These public interests are protected by requiring a careful review and permitting by local Conservation Commissions of proposed work that may alter these resource areas.

The Wetlands Protection Act prohibits any filling, excavation, or other alteration of the land surface, water levels, or vegetation in wetlands, floodplains, riverfront areas, vernal pools, or other wetland resource areas, regardless of ownership, without a permit from the Conservation Commission. These areas are defined by the type of vegetation, water activity, and soils, and it may take a qualified specialist to determine their boundaries.

If you are considering any alteration to land on or near the above resource areas, you may need to obtain a permit from the West Stockbridge Conservation Commission. The Commission issues these permits on behalf of, and with the assistance of, the Department of Environmental Protection (DEP).

### **Why is protection of water resources important?**

Water resources provide habitat for wildlife, and serve as environmental, recreational and scenic assets.

West Stockbridge provides important water resources for Southern New England. It is transected by the Williams River and many wetlands keep rivers, lakes, ponds and groundwater supplies clean and protect against flooding.

Since Colonial times, almost one third of Massachusetts' wetlands have been destroyed. Today, wetlands are protected by state and federal laws. The West Stockbridge Commission works hand-in-hand with state agencies to make sure that our water resources remain intact for future generations.

### **What work that I may want to do on my property falls under the jurisdiction of the West Stockbridge Conservation Commission?**

The purpose of the Wetlands Protection Act is to protect water resources, and the way the act does this is by creating jurisdictional areas comprised of the resource areas as well as certain buffer zones near those resources.

Under the act, no one may "remove, fill, dredge, or alter" any wetland, bank of a lake or stream, land under a water body, land within 100 feet of any of these resource areas, land within 200 feet of a perennial stream or river, or within a floodplain, without a permit from the Conservation Commission. The term 'alter' includes any activities that will change drainage characteristics, impact the water table, destroy vegetation, or impact the physical, biological, or chemical characteristics of the receiving water. The regulations prohibit most destruction of wetlands and naturally vegetated riverfront lands.

If you are doing any construction, digging, cutting of trees, or other work that is:

- Within 200 feet of a perennial stream.
- Within 100 feet of an intermittent stream.
- Within 100 feet of a wetland,
- Within 100 feet of a lake or pond
- Within a 100-year floodplain,

Then your work is under the jurisdiction of the Conservation Commission, and you may need to obtain a permit for such activity. Some minor activities may be exempt from these permitting requirements.

### **How do I know if my work is in or near a resource area?**

Certain resource areas are not easy to determine without some training or expertise. You may have an intermittent stream that is not running at the time you are looking at it, or certain wetland soils that you can't identify without soil or plant sampling. And work that you want to do may be near a resource area that is not on your property and that you may not even see. The safest thing to do is to either check with the Conservation Commission prior to doing any work or hire a qualified wetlands professional to look at your site and help you identify and determine the wetlands boundaries and areas under the jurisdiction of applicable laws.

Moving forward on work in jurisdictional areas without a permit may result in an enforcement order from the Conservation Commission, and added time, expense, and delay for your project.

### **What do I do if I think someone is violating the Wetlands Protection Act?**

If you see any action that you think is in violation of the Wetlands Protection Act, please notify the Conservation Commission immediately. We will go and look at the site and take appropriate action. We may request your assistance to find the property and view the area with the violation. Your name will remain confidential if you so desire.

### **What steps should I take if I want to do any kind of work in or near a resource area or that may be under the jurisdiction of the Conservation Commission?**

If you are sure that your project meets one of the criteria above, you must submit an application form to obtain approval for your project. The purpose of the application is to provide the Commission and the Department of Environmental Protection with a complete and accurate picture of the site, the work that you want to do on it, and how the work will be done. After receiving a complete application, the Conservation Commission will hold a public hearing, where it will make a ruling on your application.

If you are uncertain whether a permit is required, you can ask the Commission for a determination of whether you need a permit.

### **What application form should I use?**

The correct form depends on the type of project or activity and its proximity to a resource area. Application forms are issued by the state Department of Environmental Protection. Forms can be downloaded on-line or picked up at West Stockbridge Town Hall during office hours. Some forms can be filed electronically on line.

It is important to follow instructions when filling out the forms; an incomplete, incorrect, or confusing application may cause the Commission to postpone ruling on your application, or to

deny the permit. The Commission may require that supporting materials (plans and calculations) be prepared by licensed professionals.

The most common forms are:

*If you are unsure whether your project falls under the Wetlands Protection Act:* File a **Request for Determination of Applicability (RDA)** (WPA Form 1). Use this form to determine whether the Act applies to a particular area of land, to confirm the precise boundaries of any delineated resource area, or to determine whether the Act applies to work that is planned within a resource area or jurisdictional area.

Before filing this form to confirm the boundary delineation of a resource area, the applicant should discuss other delineation review options with the Conservation Commission. The Commission may require that a different form be used.

*If your project falls under the Wetlands Protection Act:* File a **Notice of Intent (NOI)** (WPA Form 3): Use this form if you want to remove, dredge, fill, or alter land or water in or around a resource area. The wetland regulations describe the type and extent of work that may be permitted in jurisdictional areas, called performance standards. The NOI application must address how the proposed work will meet these standards.

In addition to the basic site and project information required in all applications, the Conservation Commission may require that supporting plans and calculations be prepared and stamped by a registered professional engineer (PE), or other professional, when the complexity of the proposed work warrants it. Examples of information likely to require professional certification include: hydraulic and hydrologic calculations; critical elevations and inverts; and drawings for water control structures such as head walls, dams, and retention areas.

*If your project falls under the Wetlands Protection Act but is small in overall size and impact:* File an **Abbreviated Notice of Intent (ANOI)** (WPA Form 4): The Abbreviated Notice of Intent (WPA Form 4) simplifies filing requirements for projects that are likely to result in limited impacts to wetlands and other resource areas. The form may be used when the proposed work will disturb less than 1,000 square feet of surface area within the Buffer Zone and/or Land Subject to Flooding, or less than 1,000 square feet of Riverfront Area, provided the work conforms to the requirements of 310 CMR 10.58(4)(c)2.a. pertaining to analysis of alternatives; and when neither a Department of Army permit nor a Chapter 91 Waterways license from the Department of Environmental Protection is required.

If you want confirmation of wetland and resource area boundaries; File an **Abbreviated Notice of Resource Area Delineation (ANRAD)** (WPA Form 4A): The ANRAD provides a procedure for

an applicant to confirm the delineation of wetlands, or to serve as the application for Simplified Review of projects with work areas entirely outside the resource areas and at least 50' away from all wetlands. If an ANRAD is filed for a wetland delineation, confirmation of other resource areas may also be requested. For those applicants filing for simplified review for Buffer Zone projects, applicants are required to certify (and affirmatively check) that the project complies with certain eligibility requirements in terms of location of work in relation to the resource area, topography of the site, and more.

Forms and instructions can be found on the Commission webpage or at <http://www.mass.gov/dep/water/approvals/wwforms.htm>

### **What should I include in my application and what does it cost?**

**Request for Determination of Applicability (RDA)** (WPA Form 1). An original and two (2) paper copies and 1 scanned/generated electronic PDF file of the completed application form and accompanying plans should be submitted by mail or in-person at least one week before your scheduled hearing/meeting. If the office is closed, please place documents in the mailbox on the first floor during Town Hall's business hours.

A minimal RDA application will include:

- A description of your work: what it is that you want to do, what steps are involved in the project and in what order those steps will occur, a timeline for the work, and other relevant information described below.
- A site plan: that shows where your property is located, your property lines, and other relevant information described below.
- A delineation of resource areas and jurisdictional areas, these should be shown on your site plan, and resource areas clearly marked on your property.
- A "Permission to Access Site" form available from the Website or the Conservation Agent at Town Hall), signed by the property owner or his/her agent;
- A check in the amount of \$150, payable to the Town of West Stockbridge, to cover the cost of the required legal notice and site visit(s).

**Notice of Intent (NOI)** (WPA Form 3) or **Abbreviated Notice of Intent (ANOI)** (WPA Form 4): Original and two hard copies of the NOI/ANOI and 3 sets of the accompanying full size engineered plans along with electronic PDF files of both the NOI and associated engineered plan, must be delivered to the West Stockbridge Town Hall by the filing deadline.

Note: An additional copy of the entire submission must be sent to "Mass DEP Wetlands Program, 436 Dwight Street, Springfield, MA 01103 and/or submitted online at <https://www.mass.gov/how-to/wpa-form-3-wetlands-notice-of-intent>.

A minimal NOA/ANOI application will include:

- A description of your work: what it is that you want to do, what steps are involved in the project and in what order those steps will occur, a timeline for the work, and other relevant information described below.
- A site plan: that shows where your property is located, your property lines, and other relevant information. Plans submitted with Notices of Intent and Abbreviated Notices of Resource Area Delineation must include the following:
  - Boundary of the entire parcel area
  - Context of adjacent lots, if necessary to show extent of Resource Area
  - Numbered wetland flags (attachments must include DEP Field Data Forms)
  - Certified and/or potential Vernal Pools, if any
  - 25-foot (if work is proposed within 50 ft of resource area), 50-foot, 100-foot and 200ft Buffer Zone boundaries
  - 100-foot inner and 200-foot outer Riparian boundaries for Riverfront Areas
  - Mean annual High-Water Line, for Riverfront Area applications
  - Top of Bank delineation for all intermittent streams and water bodies
  - Elevations in feet (not meters) for sites within floodplain or Mapped Scenic Mountain Areas
  - Contour lines (two-foot intervals)
  - Proposed grading/new contours
  - Existing structures, impervious surface areas and lawn area
  - Proposed structures/additions/new impervious surfaces
  - Proposed location of erosion control barriers
  - Limit-of-work line, if different from erosion controls
  - Significant trees (4" + diameter @ breast height) within the limit-of-work area
  - Proposed removal of vegetation and/or significant trees
  - Proposed landscaping and plantings plan

A complete application may also include the following:

- Erosion Controls: describe what measures will be taken to minimize erosion, stabilize disturbed areas, and block potential erosion, and show on your site plan where these controls will be located.
- A well-defined work area: mark on your plan where the work will be taking place, including where the equipment will enter and exit, where trees are that may be cut down, what the limit of disturbance is on the property, where structures will be built, etc.

- Equipment: describe what equipment will be used to accomplish the work.
- Storage area: show where the materials, demolition debris, fill and machinery, will be stored.
- Fill: describe where and what type of fill, if any, will be used in the project.
- Grade changes: identify any changes to the grade of the property that are proposed, including location, height and depth, explain why these changes are necessary and how they may impact resource areas or water flow.
- Ground stabilization: identify how the ground will be stabilized after construction is completed, including the type of any plantings that may be used.

Not every project will need all of this information. But the more complete your application is, the easier it will be for the Commission to make a timely ruling on your project. Contact the Conservation Commission with any questions.

- An “abutters list” provided by the Richmond Assessors’ Office, showing all direct abutters and property owners within 300 feet of the property line of the land where the activity is proposed.
- A “Permission to Access Site” form available from the Website or the Conservation Agent at Town Hall), signed by the property owner or his/her agent;
- A check in the amount of \$150, payable to the Town of West Stockbridge, to cover the cost of the required legal notice and site visit(s).

### **Do I need to hire a professional engineer or other licensed professional?**

This is a decision by the applicant. However, especially for an NOI, it is advised that a professional or professionals, such as, a registered engineer, registered architect, registered landscape architect, registered land surveyor, registered sanitarian, biologist, environmental scientist, geologist, or hydrologist be consulted as appropriate. Supporting materials from a professional may be required by the Commission if it determines that the complexity of the project warrants specialized expertise.

### **What happens after I submit my application?**

Applications are submitted by the applicant to the West Stockbridge Conservation Commission and to the Massachusetts Department of Environmental Protection.

For NOIs, the DEP will issue a file number and their comments as guidance to the Commission. The Conservation Commission will hold a public meeting within 21 days of the file number notification.

For RDAs, no file number from DEP is needed, and the Commission will rule on the application at its meeting.

Any information needed in consideration of an application coming before the West Stockbridge Conservation Commission must be received by the Commission at least two Fridays prior to the meeting at which the Commission will discuss the application, unless otherwise agreed upon by the Commission or chair. All requested changes or additions to the applications need to be received by 10:00 a.m. on the Monday before the meeting unless requested by the Commissioners at site visits, in order for the Commission to act on it at their meeting.

Regular Commission meetings are scheduled on the first Thursday of the month. In certain circumstances the Commission may hold a special hearing sooner than the next month's regular meeting.

The Conservation Commission will schedule a visit to your site prior to acting on your application. Please note that your property must be identifiable from the road so that Commission members can locate it. Project sites should also be well marked with flagging and/or staking for any structures and wetlands clearly visible, easy to interpret, and corresponding to the plans that are submitted. If your site, the location of any proposed work area, or resource areas are not clearly marked, the Commission may not be able to make a determination on your application and may issue against your proposal or defer your hearing to its next meeting.

After the site visit, you may be contacted for additional information that should be provided before or at the Commission meeting. Keep in mind, however, that the Commission reserves the right to require more time to review such additional information (especially if it is extensive or highly technical or requires another site visit to understand or verify), and may decide to continue your public hearing to a later date.

### **What happens at Commission meetings?**

At the meeting, the Commission will make a ruling on your application. All meetings are public and advertised by the town in the Local Yoke. After questions from the Commission to the applicant, the public will have the opportunity to comment. The Commission can then vote to approve—with or without conditions— disapprove or continue an application until the following meeting. A continuation can only occur with the consent of the applicant. However, if the Commission determines that more information is necessary for it to make a decision, it is within its rights to deny the permit if the applicant does not consent to a continuation.

For an RDA application, the Conservation Commission will issue a negative or positive determination of applicability, with certain standard conditions, as well as other conditions if necessary. A negative determination will allow you to move ahead with the project after a

permit is issued and an appeals period is over. If you receive a positive determination, you will have to file an NOI or other more detailed application.

For an NOI application, the Conservation Commission will issue an Order of Conditions with the permit that will specify what work may be done and where and any specific conditions on how the work is to be done. Orders of Conditions will have standard conditions attached, and possibly additional conditions specific to the project. Work may begin on the project after a permit is issued (keep in mind the 10-business-day appeal period) and the Order of Conditions has been recorded at the Registry of Deeds.

RDA determinations are usually valid for three years and cannot be extended. NOI permits (Orders of Conditions) are usually valid for three years but may be extended by a vote of the Commission at a public meeting.

### **When does the Commission meet?**

The Conservation Commission's regular monthly meeting is at 7:00 PM on the first Thursday of the month. The Commission may schedule additional special meetings in addition to the regular monthly meetings when it deems them necessary. All meetings will be publicly posted on the Town of West Stockbridge website.

### **Should I attend the meeting?**

It is not always necessary to attend the hearing, but it is highly recommended that you, or your representative, do appear to answer any questions from the Commission and the public.

### **Do I have to notify my neighbors about my project?**

RDA's do not require abutter notification. NOIs, however, do require that your abutting neighbors be notified by certified mail. See the instructions in the NOI form or call the Commission for more information.

### **How do I appeal a decision by the Commission?**

Any decision made by the Conservation Commission on an NOI or RDA may be appealed to the DEP within ten business days of the postmark of the decision sent to DEP by the Commission. The Commission has 21 days to issue and send the approved permit to DEP and to the applicant, but generally files this paperwork within several days of the meeting where a determination is made.

Only the following persons may appeal a permit:

- the applicant
- the owner, if not the applicant

- any person aggrieved by an RDA Determination or an NOI Order of Conditions
- any owner of land abutting the land on which the work is to be done
- any ten residents of the town where the land is located
- the Massachusetts Department of Environmental Protection

### **When can I start working?**

You can begin work on your project after the 10-day appeal period following issuance of the permit.

### **What happens if I start work without obtaining a permit or if I do not follow my Order of Conditions?**

An Enforcement Order may be issued, forcing you to cease work until the situation is remediated. In addition, the Conservation Commission may refer the violation to the DEP, who can assess fees that can go into the thousands of dollars per violation.

### **What happens when my work is complete?**

When your work is completed under an NOI, you must fill out a **Request for a Certificate of Compliance**. Once this is given to the Commission, the Commissioners will visit the site to see if the Order of Conditions has been complied with. The Commission will then vote at a public hearing on whether to issue a Certificate of Compliance. The applicant must then register this Certificate with the Registry of Deeds.

### **Disclaimer**

Please note that the information on this website is meant to simplify very complicated regulations and is not meant to substitute for applicants' responsibility to understand and follow applicable laws and read the official forms and instructions carefully. In cases where information on this website disagrees or appears to disagree with state and local regulations and policies, the official regulations and policies take precedent.

Thanks to the Massachusetts Association of Conservation Commissions and the Massachusetts Department of Environmental Protection for contributing to information on this website.