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FREQUENTLY ASKED QUESTIONS

What is the Conservation Commission and what does it do?

How often does the Commission meet and where?

How do I contact the Commission?

What are wetlands, and do they always have to be wet to qualify as a wetland?

Why do we bother protecting wetlands anyway?

What is the difference between the State Wetlands Protection Act and the local Wetlands Protection Ordinance?

How do I know if there are wetlands on my property?

Can I cut down tree(s) in the buffer zone and wetland?

Can I dump my yard waste in the wetland?

If my project needs a permit from the Conservation Commission what form do I file and how long will it take to get my permit?

Are there permit fees?

I received an Abutter Notification, what does it mean?

What will take place at the hearing?

How do I make my concerns known at the hearing?

If I am an abutter, could nearby wetlands affect future projects on my property?

[\(Back to Top\)](#)

What is the Conservation Commission and what does it do?

In 1957 the Massachusetts Legislature passed the Conservation Commission Act (M.G.L. Chapter 40, Section 8C) authorizing municipalities to establish Conservation Commissions for “the promotion and development of the natural resources and protection of watershed resources”. Commissions were charged with the responsibility to protect the community’s natural resources, inventory the open space and conservation holdings and develop Open Space and Recreation Plans which are prerequisites for securing Self-Help grant money, work to acquire important open space properties for both conservation and passive recreation, and serve an advisory role to other land use boards, commissions and bodies within the municipality as to important resource protection and conservation considerations.

In 1972, the Jones Act (regulating coastal wetlands), and the Hatch Act (regulating inland freshwater wetlands) were combined and revised to form the Massachusetts Wetlands Protection Act and local Conservation Commissions were given the primary permitting responsibility to administer this State law. This greatly shifted the focus and responsibility of Commissions across the Commonwealth, as they were now regulatory bodies governing land use decisions within municipalities. The Massachusetts Wetlands Protection Regulations were later developed to clarify and implement the Act.

Beverly established the Conservation Commission on May 19, 1961. The Conservation Commission (the Commission) is a 7 member volunteer board made up of residents of the City of Beverly who possess various skills and backgrounds that help lend expertise to the varied responsibilities the Commission must perform. The Commission is the primary permitting authority for work within wetland resource areas and their associated buffer zones. The Commission also serves as stewards for open space and conservation properties that are under its ownership, care and custody. Pursuant to its authority under the Conservation Commission Act, it has the ability to establish land management plans and adopt rules and regulations for such land.

In December 2001, the Commission adopted the Beverly Wetlands Protection Ordinance (see Conservation Commission web page for Word and PDF versions of Ordinance), which is designed to provide stronger protection of the wetland resources in Beverly. In July of 2003 the Commission adopted the Beverly Wetlands Protection Regulations (see Conservation Commission web page for Word and PDF versions of the Regulations) to further clarify and implement the Ordinance.

[\(Back to Top\)](#)

How often does the Commission meet and where?

The Commission meets roughly every three weeks on Tuesday or Wednesday evenings at 7:00 p.m. The meetings are held at City Hall, 3rd Floor Council Chambers. Visit the Commission’s web page for the upcoming meeting schedule.

[\(Back To Top\)](#)

How do I contact the Commission?

The Conservation Commission office is located within the Planning Department, 3rd Floor City Hall, 191 Cabot Street, Beverly, MA 01915. The Conservation Administrator and can be reached at conservation@beverlyma.gov or at (978) 605-2343.

[\(Back to Top\)](#)

What are wetlands, and do they always have to be wet to qualify as a wetland?

Generally, the word “wetland” conjures up the classic image of a swamp or bog, but wetlands can take many forms, and some may indeed look dry for a major portion of the year. Wetland resources are determined by standardized identification methods established by the Department of Environmental Protection, Army Corps of Engineers and in some instances by local Conservation Commissions. Wetland resources are divided up into “inland resources” and “coastal resources” and the more commonly encountered resources are briefly described below:

INLAND WETLAND RESOURCES	
RESOURCE AREA	DESCRIPTION
Bordering Vegetated Wetland	Freshwater wetlands which border on creeks, rivers, streams, ponds and lakes. They include wet meadows, marshes, swamps and bogs
Bank	The portion of the land surface which normally abuts and confines a water body (stream, lake or pond)
200-Foot Riverfront Area	The land area between a river’s mean annual high water (MAHW) line and a parallel line measured horizontally 200 feet from the MAHW
Bordering Land Subject to Flooding	An area with low, flat topography adjacent to and inundated by floodwaters rising from creeks, rivers, streams, ponds and lakes, the boundary of which is the estimated lateral extent of flood water resulting from the statistical 100-year storm event
Land Under Water Bodies or Waterways	Land underneath any creek, river, stream, pond or lake
Isolated Land Subject to Flooding	Isolated depressions or closed basins that serve as ponding areas for run-off or high ground water and must contain at least 1/4 - acre feet of water volume at least annually,

	with an average depth of 6 inches
Isolated Vegetated Wetland	Freshwater wetlands, of at least 1,000 square feet in area that do not border on creeks, rivers, streams, ponds or lakes
Vernal Pools	A freshwater body, which in most years holds water for a minimum of two (2) consecutive months and is free of established reproducing fish populations and provides specialized and critical breeding habitat for certain species of salamanders, frogs and other invertebrates
100-Foot Buffer Zone	The area of land measured 100 feet from the edge of the delineated wetland resource (Lands Subject to Flooding and 200' Riverfront Area and land under water bodies and waterways do not receive a buffer zone)

COASTAL WETLAND RESOURCES

RESOURCE	DESCRIPTION
Rocky Intertidal Shore	Naturally occurring rocky areas such as bedrock or boulder-strewn areas between the mean high water line and the mean low water line
Coastal Beach /Tidal Flats	Areas of unconsolidated sediment (sand, pebbles or loose rocks) which slope from the toe of a Coastal Dune, Coastal Bank or any man-made structure replacing them to mean low water
Coastal Bank	The seaward face or side of any elevated landform, other than a coastal dune, which lies at the landward edge of a coastal beach, land subject to tidal action or other wetland
Land Subject to Coastal Storm Flowage	Land within the 100 year floodplain (A Zones and V Zones on the FEMA Maps)
Land Containing Shellfish	Land under the ocean, tidal flats, rocky intertidal shores, salt marshes and land under salt ponds that contain shellfish (i.e. shellfish beds)
Land Under the Ocean	Begins at mean low water and extends to the limit of the municipal jurisdiction or, at most, to a depth of 80 feet
Salt Marsh	A coastal wetland that extends landward up to the highest high tide line, that is, the highest spring tide of the year, and is

	characterized by plants that are well adapted to or prefer living in saline soils
Coastal Dunes	Any natural hill, mound or ridge of sediment landward of a coastal beach deposited by wind action or storm overwash
Barrier Beaches	A narrow low-lying strip of land generally consisting of coastal beaches and coastal dunes extending roughly parallel to the trend of the coast
Land Under Salt Ponds	Semi-enclosed bodies of shallow salt or brackish water that are usually found behind a barrier beach. These may receive fresh water inflow from seepage, springs or streams
Anadromous/Catadromous Fish Runs	Anadromous fish live in salt water but spawn in fresh water (shad, salmon, alewives); Catadromous fish spawn in salt water and return as juveniles to mature in fresh water locations (eels) and certain rivers, streams and lakes can serve as passage ways and/or spawning grounds for these fish
100-Foot Buffer Zone	The area of land measured 100 feet from the edge of the delineated wetland resource area (Land subject to coastal storm flowage, tidal action and land under water bodies and waterways do not receive a buffer zone)

Any work or project that is proposed within 100 feet (i.e. the buffer zone) of the resources listed above must be reviewed and permitted by the Conservation Commission



[\(Back to Top\)](#)

Why do we bother protecting wetlands anyway?

Wetland protection laws don't protect wetlands.... They protect people and human interests!

This is a fact that often gets lost in the wetlands permitting process... wetlands and their associated buffer zones function to protect and preserve many things that people care about. Wetland resources and buffer zones work for all of us by functioning to protect the following “statutory interests”:

- ✓ Protection of public and private drinking water supply
- ✓ Protection of groundwater supply
- ✓ Flood control
- ✓ Storm damage prevention
- ✓ Prevention of pollution
- ✓ Protection of land containing shellfish
- ✓ Protection of fisheries
- ✓ Protection of wildlife habitat

Additional “statutory interests” under the Beverly Wetlands Protection Ordinance are:

- ✓ Protection from and prevention of erosion and sedimentation
- ✓ Protection of rare wildlife and rare species habitat
- ✓ Agriculture
- ✓ Aquaculture
- ✓ Recreation

[\(Back to Top\)](#)

What is the difference between the Massachusetts Wetlands Protection Act and the Beverly Wetlands Protection Ordinance?

The Beverly Wetlands Protection Ordinance is designed to provide stronger protection to the wetland resources and buffer zones than is provided under the Massachusetts Wetlands Protection Act. One of the main differences is the designation of No Disturbance Zones under the Ordinance, which prohibit activity or structures within 25 feet of a wetland resource area and 100 feet of a vernal pool and the No Build Zone, which prohibits certain construction within 50 feet of a resource area. The Ordinance provides regulatory protection to isolated vegetated wetlands where the State Act does not.

[\(Back to Top\)](#)

How do I know if there are wetlands on my property?

The Conservation Administrator may help in determining the presence of wetlands and their associated buffer zones on your property. Please keep in mind that the Administrator will not delineate and flag the exact wetland line for you, you must hire a wetland scientist/environmental consultant for that, but the Administrator can give you a *rough and very conservative idea* of the extent of the wetland resources.

[\(Back to Top\)](#)

Can I cut down tree(s) in the buffer zone and wetland?

Not without written permission from the Conservation Commission. Contact the Conservation Administrator at conservation@beverlyma.gov or (978) 605-2343 to inquire as to whether your proposed tree or vegetation removal project needs a formal application or other written approval. The Commission established the hazard tree removal protocol for removal of a single tree or a small number of trees that pose a hazard to safety and property.

[\(Back to Top\)](#)

Can I dump my yard waste in the wetland?

No! Yard waste is considered fill as would excavated soil or other solid waste material and, although it is organic, it nevertheless acts to alter the wetland by introducing invasive plants, reducing flood storage capacity, reducing its ability to filter pollutants, as well as encroaches on wildlife habitat. Dumped refuse of this nature can cause a nuisance to neighboring properties not only by displacing stormwater and causing potential flooding problems, but also it can be unsightly and cause offensive odors. The Commission encourages the use of the Standley Street compost facility, which provides Beverly citizens a convenient centrally located disposal facility for disposing of yard waste and related debris.

[\(Back to Top\)](#)

If my project needs a permit from the Conservation Commission what form do I file and how long will it take to get my permit?

The size and scope of your project will dictate which application you need to file. Below is a rough guide to applications and permitting timelines:

- Request for Determination of Applicability (RDA)
 - This application covers projects that are minor in scope (i.e. decks, sheds, minor landscaping, small additions that are located in the outer reaches of the buffer zone); it can also request that the Commission make certain determinations about an area or a project and whether they are regulated under or applicable to the Act or the Ordinance.
 - This application is fairly straightforward and usually the homeowner can fill out the form and gather the necessary supporting documentation. The Conservation Administrator can answer your questions and assist you in filling out this application.
 - A checklist of the required application materials is available on the Commission's web page
 - The Commission will hold a public meeting and the applicant or representative will provide a presentation of the project. If the project is minor and the information provided is clear and descriptive enough, the Commission can issue a decision at the meeting. It may take longer if the Commission decides it needs to conduct a site inspection or additional information, in which case it will continue the application to the next regularly scheduled meeting and schedule a site inspection usually on a Saturday morning prior to the next meeting. From the time you submit your

application, allow at least a month (longer if the Commission needs a site inspection/additional information) to receive your permit and add the subsequent 10-business day appeal period before you can start work.

➤ Notice of Intent (NOI)

- This application covers larger projects that involve work close to or within the wetland itself (i.e. excavation, grading, large additions, garages, piers, docks, single-family house construction etc...)
- The Commission strongly recommends that you hire an environmental consultant to assist you in filing this type of application as the project is usually more involved and the wetland line usually needs to be formally delineated by a wetland scientist
- A checklist of required application materials is available on the Commission's web page
- Within 21 days of receiving a complete application, the Commission will hold a public hearing and the applicant or representative will provide a presentation of the project and the Commission will consider any comments or questions from the public or abutters to the project. The Commission may schedule a site inspection and continue the hearing to the next regularly scheduled meeting. Once the Commission determines it has sufficient information to make a decision, it will close the public hearing and issue an Order of Conditions approving or denying the project. From the close of the public hearing, the Commission has 21 days to issue the Order of Conditions and from the date of issuance, there is a 10-business day appeal period during which no work can commence.

➤ Abbreviated Notice of Intent (ANOI)

- This application covers projects that are not located within a wetland resource (except for Riverfront Area), are located either in the buffer zone or land subject to flooding, and will disturb less than 1,000 square feet of land surface area and does not require an Army Corps of Engineers or Division of Waterways license
- The Commission strongly recommends that you hire an environmental consultant to assist you in filing this type of application as the project is usually more involved and the wetland line usually needs to be formally delineated by a wetland scientist
- A checklist of required application materials is available on the Commission's web page
- Within 21 days of receiving a complete application, the Commission will hold a public hearing and the applicant or representative will provide a presentation of the project and the Commission will consider any comments or questions from the public or abutters to the project. The Commission may schedule a site inspection and continue the hearing to the next regularly scheduled meeting. Once the Commission determines it has sufficient information to make a decision, it will close the public hearing and issue an Order of Conditions approving or denying the project. From the close of the public hearing, the Commission has 21 days to issue the Order of Conditions and from the date of issuance, there is a 10-business day appeal period during which no work can commence.

[\(Back to Top\)](#)

Are there permit fees?

Yes, there are fees charged under both the State Act and the local Ordinance. See the Conservation Commission web page for fee schedules.



[\(Back to Top\)](#)

I received an Abutter Notification, what does it mean?

You have received a notification because you are an abutter to a proposed project that will be reviewed by the Beverly Conservation Commission. The Commission must hold a public hearing for projects filed under certain applications that could affect a wetland resource area or its buffer zone. As a property abutter (you live within 300 feet of the property line of the proposed project), you must be notified that a hearing will take place in order to give you an opportunity to comment, ask questions, or voice your concerns. This notice will be the only one that you will receive for this particular project. It is up to you to stay informed regarding the status and progress of the project.

[\(Back to Top\)](#)

What will take place at the hearing?

During the public hearing portion of the meeting, the person(s) proposing the project (the applicant) typically provides a short presentation showing how the project conforms (or does not conform) to state and local wetland regulations. If the applicant is proposing work that could adversely affect the wetland, he or she may offer mitigation measures, which the Commission will consider in determining whether to approve the project. After the presentation, during which the Commissioners ask their questions and make comments, members of the public is invited to ask questions or offer their comments that are relevant to the project *and* are within the jurisdiction of the Conservation Commission (see more below).

[\(Back to Top\)](#)

How do I make my concerns known at the hearing?

In order to make the most effective use of your time at the hearing, it is advised that you learn as much as possible about the project under review. You may do this by requesting project information from the

Conservation Administrator or by coming into the office to review the file. You can get copies of documents in the file and there is a fee for copies.

It is also important to understand that only those aspects of a project related to the Massachusetts Wetlands Protection Act, Beverly's Wetlands Ordinance, or other related laws under the jurisdiction of the Conservation Commission are appropriate for discussion at the hearing. Comments regarding noise, increased traffic, hours of operation of a business, lighting issues, etc. should be voiced to the Zoning Board of Appeals or Planning Board (if the project is subject to permitting by those Boards), as the Conservation Commission has no jurisdiction over these issues.

[\(Back to Top\)](#)

If I am an abutter, could nearby wetlands affect future projects on my property?

As an abutter, you may in fact be located near a wetland resource area. In the future, if you have a project that will take place within the buffer zones of any of the wetland resource areas outlined above, you will need to apply for the appropriate wetland permit. If you are not sure, contact Beverly's Conservation Administrator at conservation@beverlyma.gov or (978) 605-2343, who will help you determine if you need a permit for work on your property and what type.

