



TOWN OF TEWKSBURY

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CONSERVATION COMMISSION

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Permit Information: RDA vs. NOI

Below is high-level information regarding the requirement to obtain a permit through the Conservation Commission regarding working near wetlands:

- (1) There are two sets of regulations pertaining to permitting activities close to wetland resource areas: the Massachusetts Wetland Protection Act regulations (310 CMR 10.00) and the Tewksbury Wetland Protection Bylaw (i.e., the “Bylaw”). The Tewksbury Conservation Commission enforces the following, per the Bylaw:
 - a. A 25-foot No Disturb Zone, where activities within 25-feet of a wetland resource area are heavily restricted.
 - b. A 50-foot No Build Zone, where the construction of “Structures” – a defined term in the Bylaw– is prohibited, barring some exceptions.
- (2) There are two primary permits you can apply for with the Conservation Commission: a Request for Determination of Applicability (RDA) or a Notice of Intent (NOI). Here is some information about the differences between RDAs and NOIs:
 - a. RDAs are generally meant for smaller-scale projects occurring within the buffer zone (e.g., land within 100-feet of a wetland) of wetland resource areas. RDAs *typically* require less level of detail to be provided by the applicant, where approximate measurements and a site sketch will suffice. Additionally, RDAs are meant for projects small enough that few conditions are necessary to include within the permit to ensure wetland resource areas are protected during construction. For example, for small projects in the buffer zone, conditions that are typically included in the permit are to establish perimeter sediment controls (such as a silt fence or compost filter tube) and to have the Conservation Agent inspect & approve of the sediment controls prior to construction.
 - b. NOIs are generally meant for larger-scale projects within the buffer zone (usually 50-feet or closer to wetlands) and/or within wetland resource areas themselves, which may require many conditions within the permit to ensure wetland resource areas are protected during construction and to ensure compliance with state/local regulations. Moreover, NOIs *typically* are associated with higher levels of detail where the applicant hires a wetland scientist and surveyor to create a detailed site plan showing the extent of construction relative to nearby wetland resource areas.
 - c. The Commission may require construction activities and wetlands to be surveyed onto a site plan prepared by a professional land surveyor or engineer licensed in Massachusetts, if deemed appropriate.
 - d. NOIs are more expensive to file than RDAs.
 - e. NOIs require the applicant to receive a Certificate of Compliance from the Conservation Commission once the project is completed (a separate application procedure) and may require the applicant to conduct an As-Built survey of the construction that has been completed.
 - f. The Commission can require an applicant to file an NOI during a public hearing for a RDA, if they deem appropriate. The Commission, for example, may do this if the Commission would like additional detail, would like to impose a lengthier list of conditions on the project, and/or if the

Commission would prefer having the applicant go through a Certificate of Compliance process to ensure the work was constructed as per the approved application. Contrarily, applicants only go through the permitting (approval) process one time when you file a NOI.

The decision to file an NOI or RDA is up to the applicant but depends on the factors above, the work being proposed, the proximity of the work to nearby wetland resource areas, and the applicant's comfort level with risks associated with filing each type of application. Regardless of what type of application, the Commission needs enough information to know exactly where the work is being done and where nearby wetland resource areas are located relative to the construction activities.

(3) Some questions to think about for any construction project:

- a. Where will soil be stockpiled when excavation begins? How will this soil stockpile be protected from washing out into nearby wetlands during rain events?
- b. Will dewatering be necessary for construction activities (i.e., will the groundwater table be encountered during excavation)? If so, where/how will water be pumped out?
- c. How will excess soil be used onsite, or will it be removed from the site entirely?
- d. What erosion and sediment controls (e.g., silt fence and/or silt socks) are necessary to implement at the Site to prevent loose, erodible soil derived from construction activities from depositing into nearby wetlands during rain events?

(4) Please be aware that there are environmental consultants that routinely deal with Conservation Commissions, wetland delineations, permitting, and creating site plans. An internet search of “wetland consultants near me”, “wetland permitting businesses near me”, or similar will likely give you a few nearby companies that may be able to assist you, if you'd like.

Permit applications with the Conservation Commission are located here: <https://www.tewksbury-ma.gov/455/Permits-Applications>.