

**Procedure for Planning Work Near Wetland Resource Areas and  
Dealing with the Sherborn Conservation Commission**

**Note: All forms mentioned in this guidance outline are available for downloading  
from the Sherborn Conservation Commission website  
<http://conservation.sherbornma.org/>**

The Sherborn Conservation Commission enforces the Sherborn Wetland By-Law and the Sherborn Wetlands Regulations (SWR) to protect these public interests:

- public and private water supplies and quality
- ground water supply and quality
- flood control
- storm damage prevention
- prevention of pollution
- prevention of erosion
- flora and fauna and their habitats
- areas for passive recreation

The Commission protects these interests by overseeing and conditioning any altering activity near a wetland resource area. A resource area is:

- Any bank, fresh water wetland, beach, marsh, wet meadow, bog, swamp, estuary, creek, river, stream, pond, or lake, or any land under said waters
- Bordering land subject to flooding (so defined as the boundary of the 100-year floodplain)
- Isolated land subject to flooding
- Vernal Pool
- Vernal Pool Habitat

The Commission also protects the buffer zone, which is the area 100 feet horizontally outward from the upland edge of a resource area. The Commission must review any altering activity within the buffer zone. The area 50 feet outward from the upland edge of any resource area is protected from any alteration whatsoever, and is called the **no alteration zone**. For further information on all topics in this instruction sheet, please refer to the Sherborn Wetlands Regulations, which are available at the Sherborn Town Offices or on this website.

**What You Must Do**

If you are planning work that affects a resource area, or if you are uncertain about this, follow the steps outlined here. If you need further assistance, please contact the Conservation Commission's agent, who can be reached by calling 651-7863.

## **Step 1. Request for Determination of Applicability**

Before you can get a building permit or go through the Board of Health approval process, you need to find out if the project will affect a wetland resource area or is in the buffer zone. You do this by requesting a determination from the Conservation Commission. The purpose of the Request for Determination of Applicability (RDA) is to allow the Commission to determine whether the proposed project will alter a resource area such that the filing of a Notice of Intent will be required.

1. You pay \$120 (payable to the Town of Sherborn), and fill out a **Request for Determination WPA Form 1** (available on this website, at the Conservation Office or from the Selectmen's Office) and return the original to:  
Sherborn Conservation Commission  
Sherborn Town Hall  
19 Washington Street  
Sherborn, MA 01770
2. Send a copy and the plans to:  
Department of Environmental Protection  
Northeast Region  
205 Lowell Street  
Wilmington, MA 01887
3. Include a plan with the submission to the Commission. This plan must show (at a minimum): structures on the lot, North arrow on lot plan, locus map and street name, location of proposed work including access to work site, distances to wetlands or other resource to be protected, general vegetation types, drainage directions, spot elevations or contours (if available).

**Site Visit:** Within twenty-one (21) days of the filing of the Request for Determination, the site will be visited by a Commissioner or Agent, who, if satisfied that the submission is complete, will issue a Positive or Negative Determination to the applicant. If the land is snow-covered, a Positive Determination will be recommended. At the next regularly scheduled public meeting of the Commission, the Commissioner or Agent who reviewed the Request for Determination will present his/her findings, and recommend a specific Determination. The Commission will then vote upon the recommendation; a majority vote is required for acceptance of the Determination.

**Determination:** If a Positive Determination is issued, meaning that the project will impact an area subject to protection, the applicant must file a Notice of Intent. A Negative Determination means the proposed project will have a minimal or no impact on an area subject to protection and the project is approved as presented or approved with written conditions. A Negative Determination is valid for three (3) years. If the Request for Determination application is incomplete, a Positive Determination will be issued due to a lack of sufficient information.

## Step 2. Notice of Intent

You must fill out either a **Notice of Intent WPA Form 3** for extensive projects or an **Abbreviated Notice of Intent WPA Form 4** for small projects. The Abbreviated Notice of Intent is provided to simplify the review of projects which are likely to result in limited impact on a resource area. This form may be used when all of the following apply:

- The proposed work is within the buffer zone (only) or is within Land Subject to Flooding (only), and will alter less than 1,000 square feet of surface area.
- The proposed work will not result in any alteration to a wetland resource area other than those noted above.
- A department of the Army (Corps of Engineers Section 10 or Section 404 permits) or Division of Waterways license (M.G.L. Ch. 91) are not required.

**The Notice of Intent** is required for all other projects. It is in your interest to provide as complete and accurate a description of the project as possible so the Commission can effectively and expeditiously review your project. Omission of information deemed pertinent by the Commission will be grounds for not opening an advertised public hearing, continuing a public hearing, or denying the permit.

### Procedure for Abbreviated and Regular Notice of Intent

1. You must submit nine complete copies of the Notice of Intent with Site Plans, supporting documentation, and a check payable to the Town of Sherborn, in the amount set forth in the fee schedule.

### Fee Schedule for a Notice of Intent

Category	Total Fee	Town	State
Category 1	\$792.50	\$750.00	\$42.50
Category 2	\$2735.50	\$2500.00	\$235.50
Category 3	\$3562.50	\$3050.00	\$512.50
Category 4	\$5162.50	\$4450.00	\$712.50
Category 5	to be determined	\$3500.00	\$4 per linear foot
Category 6	To be determined	\$3 per linear foot	\$2 per linear foot

Other filings:

Amended Orders of Conditions have a fee of \$500.00 to the Town; no State fee is required.

Extension of an Order of Conditions requires a fee equal to the original filing fee for the Notice of Intent for that same project; no State fee is required.

A Request for Determination of Applicability requires an \$100.00 fee; no state fee is required.

A Request for a Certificate of Compliance requires a fee of \$200. No state fee is required. A Request for a Certificate of Compliance for an expired Order of Conditions requires a fee equal to the filing fee for the original Notice of Intent or \$200, whichever is greater. No state fee is required.

2. You must send a separate check and copy of the Notice of Intent with Site Plans and supporting documentation to the Massachusetts Department of Environmental Protection (DEP). The completed Notice of Intent and supporting documents will be required at least 14 days before the next regularly scheduled public hearing.
3. If your project falls within an area mapped as estimated habitat of rare wildlife as determined by the Natural Heritage and Endangered Species Program, or within one

eighth of a mile of an area mapped as mentioned, you must fill out a Natural Heritage filing form. Opening a hearing is contingent upon written response from the Natural Heritage Office.

### **Step 3. Hearings**

A hearing date will be scheduled within 21 days of the filing a **complete** Notice of Intent. The Commission will publish a public notice in a local publication at least five (5) days prior to hearing date. At the time of the hearing and before the hearing opens, the applicant must present a list of all abutters to the project, along with an Affidavit of Service (form available at the Town Offices) certifying that all abutters received notice of the hearing at least five days prior to the hearing. The applicant should send notices by certified mail, return receipt requested, and present the return receipts at the hearing meeting. (Applicants other than the property owner must submit a statement of proof of vested interest in the property, purchase and sale agreement, and notarized statement from the owner.)

At the time of the hearing, you, the applicant or your representative will appear before the Commission and make a presentation relative to the Notice of Intent.

### **Step 4. Order of Conditions**

Within thirty (30) days of the close of the hearing, the Commission will issue an Order of Conditions, which is designed to permit the proposed construction activity while, at the same time, ensuring that valuable wetland resources are protected from either deliberate or accidental damage. Wetlands protection is achieved by a combination of design elements within the approved plan and by additional conditions imposed by the Commission.

The applicant must receive the Order of Conditions and allow the mandated appeal period (10 days) to elapse before proceeding with any work conditioned under the Order. The applicant must arrange with the Conservation office for the recording of the Order of Conditions with the Middlesex Registry of Deeds. The project may not proceed until this has been done. All construction activities must be completed in compliance with the existing valid Order of Conditions. The written decision is signed by a majority of the Commission. Orders of Conditions written under the Sherborn By-Law and Regulations may be on the same form as Orders issued under the Wetlands Protection Act.

Compliance with an Order of Conditions may be monitored by periodic visits by members of the Commission or its Agent. All wetlands flags are to stay in place until the Commission issues a Certificate of Compliance. In addition, at the time it issues the Order, the Commission may strictly control construction activities by outlining stages of the work and by requiring periodic inspections and proof of compliance of each separate stage. A partial Certificate of Compliance may be required at discrete points of the project.

The Commission holds the applicant to strict accountability for complying with the conditions contained in the Order. Orders of Conditions are valid for three years from date of issue, unless otherwise extended by the Commission.

**Amended Orders of Conditions:** Quite often, modifications must be made to projects during construction. The Commission recognizes the need for such changes and sets forth procedures for assessing them in the Sherborn Wetlands Regulations. Because each modification is unique, it is impossible to determine in advance how any particular change will be addressed by the Commission. With any proposed modification, the applicant will first contact the Commission and explain the modification. The Commission has the authority to determine the appropriate category for the modification.

**Denials:** When a Notice of Intent and supporting plans are reviewed and found incomplete, or if the on-site requirements (as described in Sherborn Wetlands Regulations ) are not met, the Commission will call the applicant and advise him or her to address the inadequacies with an amended Notice of Intent and/or revised plan or corrected on-site preparation before the scheduled hearing date. The Commission may follow this verbal recommendation with a letter describing the inadequacies of the Filing. The hearing may be rescheduled due to lack of information. If the applicant at the time of the hearing has not addressed the inadequacies of the Notice of Intent filing, the Commission may deny the project for lack of information.

### **Step 5. Certificate of Compliance**

The Commission will issue the Certificate of Compliance when a project is completed within the constraints of an Order of Conditions. When an approved project required a specified remediation or mitigation planting, the plants must be planted and thriving for two complete growing seasons before the Commission will accept an application for a Certificate of Compliance. The Certificate may be used to continue permanently certain conditions from the original Order that are deemed appropriate by the Commission. If the project is not completed in accordance with Order of Conditions, the Commission has the authority to withhold the Certificate of Compliance.

1. Upon completion of the work permitted, the applicant requests, in writing, that the Commission issue a Certificate of Compliance stating that the work has been satisfactorily completed.
2. The Commission may require as-built plans stamped by a registered professional engineer, architect, landscape architect or land surveyor, including a written statement by such a professional certifying substantial compliance with the plans, or setting forth what deviation, if any, exists from the plans approved in the applicable Order of Conditions.
3. Before issuing a Certificate of Compliance, an Agent or Commission member will make a site inspection. All wetlands flags must be in place at the time of the site inspection.
4. If the Commission determines, after review and inspection, that the work has been done in compliance with the Order, a Certificate of Compliance will be issued within thirty (30) days of receipt of a written request therefore, and will certify on

**Certificate of Compliance WPA Form 8** that the activity or portions thereof described in the Notice of Intent and submitted plans have been completed in compliance with the Order. The Certificate of Compliance must be signed by a majority of the Commission. The Commission sends a copy of the Certificate of Compliance to the Massachusetts Department of Environmental Protection.

5. If the Commission determines, after review and inspection, that the work has not been done in compliance with the Order, it may refuse to issue a Certificate of Compliance. Such refusal must be issued within thirty (30) days of receipt of a request for a Certificate of Compliance, must be in writing, and must specify the reasons for denial.
6. If the final Order contains conditions that continue past the completion of the work, such as maintenance or monitoring, the Order will specify which conditions remain. These conditions will also be specified in the Certificate of Compliance.
7. The Certificate of Compliance (together with any continuing conditions) will be recorded by the applicant in the Land Court or Registry of Deeds, whichever is appropriate. Certification of recording will be sent to the Commission on the form at the end of Form 8 or its replacement.