

**GUIDELINE FOR FILINGS
WITH THE
LYNN CONSERVATION COMMISSION**

This is a guide to be used for the filing of a Request for Determination (R.F.D.), a Notice of Intent (N.O.I.), and a Certificate of Compliance.

This is only a guide. We strongly suggest that you read, at a minimum, the Wetlands Protection Act and the Lynn Conservation Commission By-Laws.

1. File with the Lynn Conservation Commission (L.C.C.) your application Request for Determination of Applicability (R.F.D.) or Notice of Intent (N.O.I.) The original and eight (8) copies of the applications are required.

NOTE: Any additional information you could provide to the L.C.C., although not always necessary, will be helpful; re: pictures, before and/or after construction, additional plans, letters from professionals or abutters, newspaper articles, etc.

This application must be received at the Commission Office fourteen (14) days prior to the hearing in order to be advertised in the local newspaper.

2. An advertising fee of \$65.00 is charged and must accompany all applications.

In addition to the advertising fee, all NOI applications require a filing fee. This is submitted, along with a fee transmittal form, to the L.C.C. and the Massachusetts Department of Environmental Protection (D.E.P.).

3. Applicants must attend the scheduled hearing for their application. The meetings are held the third Tuesday of each month at Lynn City Hall, Room 407, at 6:30 p.m.
4. Within twenty-one (21) days of the hearing, the Commission will make its Determination on the application.
5. Certificate of Compliance

Upon the completion of the work (or a partial Certificate of Compliance), the applicant must submit their request in writing, along with a site inspection fee of \$25.00.

A request for a Certificate of Compliance must be received at the L.C.C. Office fourteen (14) days prior to a regularly scheduled meeting and must, at a minimum, include:

- A. A letter from a Professional Registered Engineer stating that the work performed is in accordance with the Order of Conditions issued, and plans submitted to the L.C.C.
- B. A site inspection by the L.C.C., along with the site inspection fee.

NOTE: Any additional information you could provide to the L.C.C., although not always necessary, will be helpful; re: pictures, before and/or after construction, additional plans, letters from professionals or abutters, newspaper articles, etc.

6. Determination of Applicability

A. Request for Determination of Applicability

- 1. Any person who desires a determination as to whether the Act applies to land or to work that may affect an Area Subject to Protection Under the Act, may submit to the L.C.C., by certified mail or hand delivery, a Request for a Determination of Applicability, Form 1 of 310 CMR 10.99.
- 2. Any person who proposes to perform work within the Buffer Zone shall submit to the L.C.C. either a Notice of Intent for such work or a Request for a Determination of Applicability. Said request shall include sufficient information, as required on Form 1 of 310 CMR 10.99 to enable the L.C.C. to find and view the area and to determine whether the proposed work will alter an Area Subject to Protection Under the Act.

Additional information you could provide to the L.C.C., although not always necessary, will be helpful, re: pictures, before and/or after construction, additional plans, letters from professionals or abutters, newspaper articles, etc.

7. Notice of Intent

- A. Any person who proposes to do work that will remove, fill, dredge, or alter any Area Subject to Protection Under the Act shall submit a Notice of Intent on Form 3 of 310 CMR 10.99 and other application materials in accordance with the submittal requirements set forth in the General Instruction for Completing Notice of Intent (Form 3) and Abbreviated Notice of Intent (Form 4) provided in 310 CMR 10.99.
- B. For certain projects, applicants may, at their option, use the Abbreviated Notice of Intent, Form 4 of 310 CMR 10.99. This latter form may only be used when all three (3) of the following circumstances exist:
1. the proposed work is within the Buffer Zone, as defined in Part I, 310 CMR 10.04, or within Land Subject to Flooding, as defined in Part III, 310 CMR 10.57(2); and
 2. the proposed work will disturb less than one thousand (1000) square feet of surface area within the Buffer Zone and/or Land Subject to flooding; and
 3. the proposed work will not require U.S. Army Corps of Engineers Section 10 or Section 404 permits, or a license from the Division of Waterways pursuant to M.G.L., C.91
- C. Any person filing a notice of intention with the L.C.C. shall at the same time give written notification thereof, by delivery in hand or certified mail, return receipt requested, to all abutters within one-hundred feet of the property line of the land where the activity is proposed, at the mailing addresses shown on the most recent applicable tax list of the assessors, including, but not limited to, owners of land directly opposite said proposed activity on any public or private street or way, and in another municipality or across a body of water. Said notification shall be at the applicant's expense, and shall state where copies of the notice of intention may be examined and obtained and where information regarding the date, time, and place of the public hearing may be obtained. Proof of such notification, with a copy of the notice mailed or delivered, shall be filed with the L.C.C.

When a N.O.I. is filed, copies go to the appropriate D.E.P. Regional Office, which reviewed the N.O.I. for completeness. D.E.P. will not issue a file number for any N.O.I. that is not accompanied by an Affidavit of Service. Accordingly, applicants should submit the Affidavit of Service with each copy of the N.O.I. so that the N.O.I. will be deemed complete and file number can be issued.

- D. Upon receipt of the application materials referred to in 310 CMR 10.05(4)(a), the Department shall issue a file number. The designation of a file number shall not imply that the plans and supporting documents have been judged adequate for the issuance of an Order, but only that copies of the minimum submittal requirements contained in the General Instructions have been filed.
- E. In the event that only a portion of a proposed project or activity lies within an Area Subject to Protection Under the Act or within the Buffer Zone, and the remainder of the project or activity lies outside those areas, only that portion within those areas must be described in the detail called for by the General Instructions and Form 3 and 4 of 310 CMR 10.99; provided, however, that in such circumstances the Notice of Intent shall also contain a description and calculation of peak flow and estimated water quality characteristics for discharge from a point source (both closed and open channel) when the point of discharge falls within an Area Subject to Protection under the Act or within the Buffer Zone.

Notwithstanding the foregoing, when the issuing authority has determined that an activity outside the Areas Subject to Protection Under the Act and outside the Buffer Zone has in fact altered an Area Subject to Protection Under the Act, it may require such plans, supporting calculations and other documentation as are necessary to describe the entire activity.

- F. The requirement under the Act to obtain or apply for all obtainable permits, variances, and approvals required by local by-law with respect to the proposed activity shall mean only those which are feasible to obtain at the time the Notice of Intent is filed. Permits, variances, and approvals required by local by-law may include, among others, zoning variances, permits from boards of appeals, permits required under floodplain or wetland zoning by-laws and gravel removal permits. They do not include, among others, building

permits under the State Building Code, M.G.L. c. 23B, s. 16, or subdivision control approvals under the State Subdivision Control Law, M.G.L. c.41, ss. 81K- 81GG, which are issued by local authorities. When an applicant for a comprehensive permit (under M.G.L., c. 40B, ss. 20-23) from a board of appeals has received a determination from the board granting or denying the permit and, in the case of a denial, has appealed to the Housing Appeals Committee (established under M.G.L., C.23B, s. 5A), said applicant shall be deemed to have applied for all permits obtainable at the time of filing.

- G. If the issuing authority rejects a Notice of Intent because of a failure to obtain or apply for all permits, variances, and approvals required by local by-law, it shall specify in writing the permit, variance, or approval that has not been applied for. A ruling by the municipal agency within whose jurisdiction the issuance of the permit, variance, or approval lies, or by the town counsel or city solicitor, concerning the applicability or obtainability of such permit, variance, or approval shall be accepted by the issuing authority. In the absence of such a ruling, other evidence may be accepted.
- H. A Notice of Intent shall expire when the applicant has failed to diligently pursue the issuance of a Final Order in proceedings under 310 CMR 10.00. A Notice of Intent shall be presumed to have expired two (2) years after the date of filing unless the applicant submits information showing that (a) good cause exists for the delay of proceedings under 310 CMR 10.00; and (b) the applicant has continued to pursue the project diligently in other forums in the intervening period; provided, however, that unfavorable financial circumstances shall not constitute good cause for delay. No Notice of Intent shall be deemed expired under this section when an adjudicatory hearing is pending and when the applicant has provided all information necessary to continue with the prosecution of the case. Notwithstanding the provisions contained in 310 CMR 10.10, this subparagraph shall apply to any Notice of Intent whenever filed.

PLEASE REMEMBER THAT THIS IS ONLY A GUIDE TO ASSIST YOU WITH FILINGS BEFORE THE CONSERVATION COMMISSION.

PLEASE REMEMBER:

1. FILING - **Fourteen (14) days** prior to the meeting date (meetings are the third Tuesday of each month). Filing must include Notification of all abutters within one-hundred feet and a signed Affidavit of Service.
2. FEES - Advertising **\$65.00** for all applications, (also filing fees N.O.I. to the L.C.C. and D.E.P.).
3. RECORDING - Must be recorded by the applicant, at their expense, within **fourteen (14) days** of issue.
4. CERTIFICATE OF COMPLIANCE - Must apply to L.C.C. **fourteen (14) days** prior to a **mandatory** site inspection, along with a site inspection fee of \$25.00.
5. ORDER OF CONDITIONS RENEWAL - Must apply a minimum of **thirty (30) days** prior to expiration - Order of Conditions expires three (3) years from date of issue.