

ARLINGTON CONSERVATION COMMISSION

PREPARATION and FILING INSTRUCTIONS

For Notice of Intent (NOI) and Abbreviated Notice of Intent

Notify the Arlington Conservation Office (781-316-3012, email cbeckwith@town.arlington.ma.us) when you intend to file for a permit to do work under the State of Massachusetts Wetland Protection Act (hereafter “**ACT**”) and/or the Town of Arlington By-Law for Wetland Protection (hereafter “**BY-LAW**”) for a pre-filing consultation and hearing date. The applicant will be assigned a date, time and location for the public hearing so this information may be incorporated into the abutter's notification which, according to the ACT, must be mailed the day of filing at the Conservation Office. The ACT, its regulation, forms and instructions are available from the Department of Environmental Protection (DEP) at 617-654-6500 or at <http://www.state.ma.us/dep/brp/ww/wwforms.htm>. The same NOI form may be used for filing under the By-Law.

The internet address for the Massachusetts wetlands Act is <http://www.mass.gov/legis/laws/mgl/131-40.htm> and the Massachusetts wetlands Regulations is www.state.ma.us/dep/brp/ww/regs.htm. Arlington’s Wetland Protection Bylaw and Regulations are available at http://www.arlingtonma.gov/Public_Documents/index. Local regulations for the Wetlands Protection Act explaining Consultant fees have also been promulgated.

I. FILING AND PUBLIC HEARING PROCEDURES

A. Forms to File:

Review the ACT and its Regulations and the BY-LAW and its Regulations to determine which form should be used for the proposed project: **Notice of Intent** (hereafter **NOI**) or **Abbreviated Notice of Intent**. Since the ACT and the BY-LAW are administered concurrently by the Commission, it is necessary to complete only one applicable form when filing under both laws. Note that copies of some forms must also be filed with the state Department of Environmental Protection in order to obtain a file number. A file number is needed for the Commission to issue a permit decision.

See Appendix 1 for checklist of material to file and Appendix 2 for the number of copies to file.

B. Additional Material:

After review by the Conservation Commission and staff, additional material may be requested prior to the public meeting. If there is time, it may be incorporated into the plan and information. Additional information may also be requested by the Commissioners as a result of the presentation at the public hearing.

Omission of information at any stage may require that the public hearing be continued pending receipt of the information. If the applicant fails to provide the requested information, the Commission may deny the permit.

C. Public Hearing:

A public hearing is held for each filing where the application is presented to the Commission and the public by the applicant and/or representative/s. The plans for the presentation should be colored/shaded so pertinent features are clearly visible to the Commission and the public. As required by law, notice of this hearing is given as follows:

1. Notification to Abutters by Applicant - As required in the ACT, notification of the public hearing must be mailed, at the expense of the applicant, to all abutters within 100 feet of the property the day of filing the NOI. A certified abutter's list must be obtained from the Town Assessor's Office. Please see "Appendix 4" for the format to be used for this notification. A copy of this notification and the certified abutter's list, and a signed 'Affidavit of Service' (Appendix 5) must be submitted as part of your Notice of Intent package. The Commission generally also requires similar abutter notification under the BY-LAW, which may be done in conjunction with notification under the ACT.

- C. 2. **Legal Notice** - Notice of the date, time and place of the public meeting must be placed in a local newspaper (usually, *The Arlington Advocate*) by the Conservation Office at the expense of the applicant. In order for this to happen, the applicant shall sign and submit to the Conservation Commission Agent the Legal Notice Charge Authorization Form. (See APPENDIX 6) at least 14 days prior to the date of public hearing (due to the Arlington Advocate's schedule).
- D. **Schedule Planning:**
1. **Public Hearing** - The Commission meetings generally are held first and third Thursdays of each month. Check with the Conservation Office at 781-316-3012 or email cbeckwith@town.arlington.ma.us for the meeting sequence. Copies of the Notice of Intent or Abbreviated Notice of Intent must be filed with the Commission office and copies provided to Commissioners 10 business days before the meeting at which the project is scheduled to be presented.
 2. **Site Visit** - The Commission may call for a site visit during evenings or weekends before closing the public hearing. The applicant or representative should call the Conservation Office at 781-316-3012 or email cbeckwith@town.arlington.ma.us to coordinate the site visit.
 3. As described in I.C.2. above, due to its publishing deadline and schedule, legal notices must be submitted to *The Arlington Advocate* at least fourteen days before the public hearing.
- E. **Filing Fees:** See APPENDIX 3 for fee schedules.

II. RESPONSIBILITY OF THE APPLICANT

- A. **Preparation of Application Materials:** See APPENDIX 1 for Checklist.
- B. **Notification of Abutters:** See Public Hearing I.C.1. above and App. 4 and 5 below.
- C. **Site Flagging Prior to Filing and the Public Hearing**
It is useful to have flagged stakes installed at the project site for the Commission's site visit to mark the following features:
- 1) the wetland boundary with the flags numbered corresponding to the numbers shown on the plan; and
 - 2) the corners of proposed buildings and drainage systems and delineation of roadways nearest the protected resource areas, with the specific location noted on the flags to correspond to the plan.
- D. **MA National Heritage & Endangered Species Program**
If applicable, submit a copy of the Notice of Intent. (See *NOTE below) A copy of the current Estimated Habitats of Rare Wetlands Wildlife & Certified Vernal Pools Map for Arlington is available for review in the Conservation Office (781-316-3012, email cbeckwith@town.arlington.ma.us). Mail the Notice of Intent to: **Natural Heritage and Endangered Species Program, Massachusetts Division of Fisheries and Wildlife, Route 135, Westboro, MA 01581.**
- E. **US Army Corp of Engineers Permit**
If applicable, submit a copy of the Notice of Intent. (See *NOTE below).
- F. **401 Water Quality Certification**
Required on notification from DEP.
- G. **DEP Division of Waterway M.G.L. 91 License**
Required on notification from DEP.

***NOTE:** Although the instructions detailed in this document generally incorporate all of those included in the ACT's Regulations, "General Instructions for Completing Notice of Intent" (310 CMR 10.99), that document should also be reviewed. Specific detail for items D. through G. are included in that form.

III. THE DECISION

The Commission shall make a decision on the Notice of Intent based on information and material filed, the site visit and information presented at the meeting. If more information is needed, the meeting may be continued in compliance with applicable State and Town laws. If the applicant fails to provide the requested information, the Commission may deny the permit. A file number and any comments from DEP must be received in order for the permit to be issued. The decision shall be issued within 21 days of the closing of the public hearing.

APPENDIX 1

**CHECKLIST OF
INFORMATION TO BE FILED**

- I. Notice of Intent (hereafter NOI) and Supplemental Form for Riverfront [Stream] Area**, if applicable, with the following support material.
- A. 8-1/2 x 11" USGS Quad Map noting project area.
 - B. 8-1/2 x 11" Flood Plain Map of area (FEMA FIS maps available for viewing at the Conservation Office).
 - C. Narrative - at the applicant's discretion, to provide detail to clarify the proposal.
- II. Plan(s) (Required Format and Information)**
- A. Plan(s)**
 - 1. Topographic plan prepared by an engineer, land surveyor, or landscape architect registered in Massachusetts showing existing conditions.
 - 2. Site analysis plan, if topography is very irregular.
 - 3. If more than two sheets required in the plan set to detail the proposed work, provide cover sheet showing a composite of all work proposed and an index of the sheets.
 - B. Format and Information**
 - 1. Scale - no smaller than 1" = 50'.
 - 2. Sheet Size - 8-1/2" X 11" to 24" X 36". Larger sheets may be used for complex large projects.
 - 3. Title Block - located in the right-hand corner or on the right side, shall incorporate name and address of the project; name of the property owner or applicant; name, address and imprint of the professional consultant responsible for the preparation of each sheet; date and revision date(if any); and sheet title and number.
 - 4. Other - north arrow, graphic scale, a legend defining signs and symbols used on the plan and not otherwise explained; revision date chart; location of ground water borings and the soil profile resulting from borings.
 - 5. Plan Graphics - existing conditions screened or lighter with topographic contours shown as dashed lines; and proposed conditions clearly differentiated from the existing conditions by use of heavier or bold lines with topographic contour changes shown in solid lines. The contour lines must correspond to known elevations on existing bench marks and to the existing and proposed grades of streets.
 - 6. Delineate the following:
 - a) Wetland boundary showing flags numbered to correspond with numbered flags installed at the site; b) 100 year flood boundary; c) the 50 and 100 foot buffers; d) Riverfront Area; e) the erosion control barrier; f) the limit-of-work line or note if the same as the erosion control barrier; g) recorded easements or restrictions on or crossing the property and location of proposed conservation restrictions noting the total restricted area; and h) streets abutting the project, their grades and the utilities to which connections are proposed.
 - 7. Details of following (if applicable):
 - a) utilities and systems pertaining to mitigating stormwater runoff to comply with DEP's Stormwater Standards 1-9 and other drainage systems; and b) erosion control barriers and limits of work.
 - 8. Elevations or sections of buildings, retaining wall or other structures, or landscaping to define design approach to wetland protection.

9. Stamped Certification from a land surveyor or Civil Engineer, acceptable to the Building Department.

III. Stormwater Management Form

To ensure that proposed stormwater control designs meet DEP's Stormwater Management Policy. (See further explanation on the form.)

IV. Drainage Calculations

If applicable, provide drainage calculations to support systems or design features proposed to mitigate impact on the wetlands to comply with *DEP's Stormwater Management Policy*.

APPENDIX 2

CHECKLIST
COPIES TO BE FILED

<u>ITEMS</u>	NUMBER OF COPIES	
	<u>TO TOWN</u>	<u>TO STATE</u>
1. Notice of Intent/supporting information	11*	1
2. Plan/s	11*	1
3. Stormwater Management Form (if required)	11*	1
4. Drainage Calculations (if required)	3	1
5. Wetlands Filing Fee Calculations Worksheet (ACT)		1 1
6. NOI Fee Transmittal Form (ACT)	1	1**
7. By-Law Fee Transmittal Form (App. 3)	1	----
8. Certified List of Abutters (copy)	1	1
9. Abutters Notification	1	1
10. Abutters Affidavit of Service	1	1
11. Legal Notice Charge Authorization (App. 5) (Signed)	1	----
12. <u>Fees Submitted</u>		
To "Town of Arlington" (By-Law)	check	----
To "Town of Arlington" (under the ACT)	check	copy**
To "Commonwealth of Massachusetts" (ACT)	copy	check**

* Copies shall be sent to the mailing list in Appendix 7.

** Fee calculated and transmitted as detailed on the DEP Notice of Intent Fee Transmittal Form. Notice of Intent forms for this area submitted to the DEP Northeast Regional Office, 205B Lowell St, Wilmington, MA 01887 as instructed on the Transmittal.

APPENDIX 3

**NOTICE OF INTENT
BYLAW FILING FEES and TRANSMITTAL FORM**

Rules:

1. Fees are payable at the time of filing the application and are non-refundable.
2. Fees shall be calculated per schedule below.
3. Town, County, State, and Federal Projects are exempt from fees.
4. Failure to comply with the law after official notification shall result in fees twice those normally assessed.
5. These fees are in addition to the fees paid under M.G.L. Ch. 131, s.40 (ACT).

Fee Schedule:

<u>\$</u>	<u>NO./Area</u>	<u>Category</u>
_____	_____	<u>Minor project</u> - \$100 (house addition, tennis court, swimming pool, utility work, etc.)
_____	_____	<u>Maintenance activity</u> - \$100 Work in, on or affecting any body of water, wetland or floodplain.
_____	_____	<u>Single Family Dwelling</u> - \$400
_____	_____	<u>Subdivisions road and utilities only.</u> \$400 + \$2/l.f. feet of roadway sideline within 100 ft. of wetlands or within land subject to flooding.
_____	_____	<u>Multiple dwelling structures.</u> \$400 + \$100 per unit all of part of which lies within 100 feet of wetlands or within land subject to flooding.
_____	_____	<u>Commercial, industrial, and institutional projects:</u> \$500 + 50¢/s.f. wetland disturbed; 2¢/s.f. land subject to flooding; 100 s.f. buffer disturbed.)
_____	_____	<u>Extensions</u> a. Single family dwelling or minor project - \$100.
_____	_____	b. Other - \$150.
_____	_____	<u>Refilings</u> of previously denied projects within 3 years. Original fee or \$1,000 whichever is less.
_____	_____	<u>Amendments</u> \$300 or 50% of original filing fee, whichever is less
_____	_____	<u>Consultant Fee</u> Refer to Bylaw for fee structure.
_____	TOTAL	

Note: Submit this form along with the forms submitted for the ACT - the "Wetlands Filing Fee Calculations Worksheet," and the "Notice of Intent Fee Transmittal Form."

APPENDIX 4

ABUTTER'S NOTIFICATION MODEL

**Notification to Abutters Under the
Massachusetts Wetlands Protection Act
And Arlington Wetlands Protection Bylaw**

In accordance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40, and the Arlington Wetlands Protection Bylaw, you are hereby notified of the following:

The Conservation Commission will hold a public hearing in the second floor conference room of the Town Hall Annex, 730 Massachusetts Avenue, Arlington, on Day of Week, Month, Year, at Time in accordance with the provisions of the Mass. Wetlands Protection Act (M.G.L. Ch. 131, s. 40, as amended) and the Town of Arlington By-Laws Article 8, By-Law for Wetland Protection, for a Notice of Intent from applicant, for project description at project address or location, within 100 feet of a wetland, on Assessor's Property Map/s # , Lot/s # .

A copy of the Notice of Intent and accompanying plans are available for inspection Mon. Wed, Thurs., and Fri. 8:30am-noon at the Conservation Commission office, first floor of the Town Hall Annex, 730 Massachusetts Avenue and any other location - may be the project engineer's office.

For more information call the applicant at phone number or the Arlington Conservation Commission at 781-316-3012, or the DEP Northeast Regional Office, 978-694-3200.

NOTE: Notice of the Public Hearing will be published at least five (5) days in advance in *The Arlington Advocate* and be posted not less than 48 hours in advance in the Arlington Town Hall of the public hearing.

This format is available in Microsoft Word. For a copy on disk bring a disk to the Conservation Office or email cbeckwith@town.arlington.ma.us.

For your information in completing your Notification, the meeting information for your hearing is:

Date:

Time:

APPENDIX 5

AFFIDAVIT OF SERVICE

(Return to Conservation Commission)

I, _____, being duly sworn, do hereby state as follows: on _____, I mailed a “Notification to Abutters” in compliance with the second paragraph of Massachusetts General Laws, Chapter 131, s.40, the DEP Guide to Abutter Notification dated April 8, 1994, and the Arlington Wetlands Protection Bylaw, Title V, Article 8 of the Town of Arlington Bylaws in connection with the following matter:

The form of the notification, and a list of the abutters to whom it was provided and their addresses, are attached to this Affidavit of Service.

Signed under the pains and penalties of perjury, this _____ day of _____,

Name

APPENDIX 6

LEGAL NOTICE CHARGE AUTHORIZATION

DATE:

TO: BEACON COMMUNITY NEWSPAPERS
LEGAL NOTICE DEPARTMENT
FAX NO. (781) 453-6650

I hereby authorize Beacon Community Newspapers to bill me directly for the legal notice to be published in the Arlington Advocate newspaper on _____ for a public hearing with the Arlington Conservation Commission to review a project at the following location:

Thank you.

Signed:

Send bill to:

Phone:

APPENDIX 7

MAILING LIST

Instructions:

1. Contact the Conservation Administrator (781-316-3012, or cbeckwith@town.arlington.ma.us) for the latest mailing address list of the Commissioners.
2. Send two copies of the application to the Administrator and one each to the Commissioners.
3. **Do not send copies to the Commissioners by certified mail or delivery requiring signature.**
4. For public viewing, the Commission may request that additional copies of the submittals be sent to:
Reference Desk, Robbins Library, 700 Massachusetts Avenue, Arlington, MA 02476

Cori Beckwith, Administrator	Arlington Conservation Commission, Town Hall, 730 Massachusetts Ave, Arlington, MA 02476
Nathaniel Stevens	
David E. White	
Catherine Garnett	
Charles L. Tirone	
Curt Connors	
Chris Naylor	
Eileen Coleman	
William O'Rourke	
Michelle Durocher	