



# TOWN OF WEST NEWBURY

## CONSERVATION COMMISSION

381 Main Street, West Newbury, Mass. 01985

TEL: 978-363-1100 x126 | EMAIL: [conservation@wnewbury.org](mailto:conservation@wnewbury.org)

## Request for Determination of Applicability (RDA) Instructions

- Please read this information carefully. Incomplete filings may be rejected by the West Newbury Conservation Commission.
- To learn more about resource areas and buffer zones protected and regulated under the state's Wetlands Protection Act and the performance standards work in these areas are held to refer to [M.G.L. Chapter 131 Section 40 \(the "Act"\)](#) and [310 CMR 10.00](#), the Regulations promulgated under the Act.
- If you have any questions or require any additional information, please contact the Conservation Agent by phone at 978-363-1100 x126 or by email at [conservation@wnewbury.org](mailto:conservation@wnewbury.org).
- **\*\*\*IMPORTANT NOTE REGARDING ELECTRONIC FILING (e-filing):** MA DEP has added the option for applicants to e-file RDA applications. E-filing an RDA application **DOES NOT** submit the filing to the Conservation Commission and only submits the application to MA DEP. An RDA filing is **NOT** complete until the steps to submit the filing with the West Newbury Conservation Commission listed in number 6 of this document are completed. If e-filing, step 6 of this document must be completed at the same time that you e-file your RDA.\*\*\*

### Complete WPA Form 1 and Prepare Associated Documents

- Download and complete the Request for Determination of Applicability - WPA Form 1 from the Massachusetts Department of Environmental Protection (MA DEP) website:  
<https://www.mass.gov/how-to/wpa-form-1-request-for-determination-of-applicability>.
  - Ensure that all instructions are followed when completing the form.
  - Alternatively, the RDA may be e-filed following the instructions at the above link. Please note that *e-filing the RDA application only submits the application to MA DEP* and that the submission requirements listed in this document to submit the RDA application to the West Newbury Conservation Commission must still be followed.
- Required for submittal with WPA Form 1 is an engineered plan, plot plan, map, or sketch showing in as much detail as possible including:
  - a. The location of wetland resource areas;
  - b. The location of buffer zones;
  - c. Distances of proposed work to resource areas and/or buffer zones;
  - d. Existing structures;
  - e. The location and dimensions of the work that is being proposed (if applicable);
  - f. Grading limits and/or limits of clearing if the work requires site grading or clearing;
- Additional documents such as pictures of the site, project narratives, and any additional information that will help the Commission to understand the proposed work, the site location, and assist in their determination are encouraged to be submitted.
- The West Newbury Conservation Commission requires a \$100 filing fee for all RDA filings.
- The applicant should also be prepared to pay a fee to the Newburyport Daily News to publish Legal Notice of the RDA filing and public meeting.

**Submit the Complete RDA filing - WPA Form 1, Additional Documents, and Check**

**6. Submit a complete filing to the West Newbury Conservation Commission:**

- a.  2 hard copies of the completed and signed WPA Form 1
- b.  2 hard copies of all associated documents
- c.  A check in the amount of \$100 made payable to the Town of West Newbury.
  - i. Hard copies of the complete filing and checks as outlined above can be mailed or hand delivered in person to the Conservation Office:  
Town of West Newbury  
Conservation Commission  
381 Main Street  
West Newbury, MA 01985
  - ii. Digital copies must be submitted via email to [conservation@wnewbury.org](mailto:conservation@wnewbury.org)

**7. Submit to the Massachusetts Department of Environmental Protection, Northeast Regional Office (at the same time submission is made to the town):**

- a.  1 hard copy of WPA Form 1 and copies of all additional documents as listed in numbers 2 and 3 of this document.
  - i. Hard copies of the complete filing as outlined above can be mailed to:  
Department of Environmental Protection NERO – Wetlands Division  
150 Presidential Way,  
Woburn, MA 01801  
\*Please note that this is a new address as NERO moved out of their former  
Wilmington location on December 19, 2022\*
  - ii. Alternatively, applicants may choose to e-file the documents with MA DEP following the steps at the following link (<https://www.mass.gov/how-to/wpa-form-1-request-for-determination-of-applicability>).  
\*\* If e-filing with MA DEP, hard copies and emailed copies of the application as outlined in step 6 of this document (above) must still be submitted to the West Newbury Conservation Commission.\*\*

**8. Submit to the property owner, if different than the applicant (at the same time submission is made to the town, regional DEP office, and state DEP mailbox):**

- a.  1 hard copy of WPA Form 1 and copies of all additional documents.
- b.  Submission to the property owner must be done by certified mail or hand delivery.

**Next Steps – Scheduling a Public Meeting and Publishing Legal Notice of the Filing & Meeting**

- 9. The Conservation Agent will review the filing submission for completeness. Any errors or missing documents will be brought to the attention of the applicant and/or their representative and will likely need to be addressed before the Agent can add a public meeting to the Commission’s agenda.
  - The following are examples that could cause the Agent to deem a submission as incomplete:
    - Failure to complete all required and applicable sections of WPA Form 1;
    - Failure to submit required plans and documents;
    - Failure to pay the local filing fee.

10. When the Conservation Agent has received a complete filing a public meeting for an upcoming Conservation Commission meeting will be scheduled. If you are planning a timeline for your project, please keep the following in mind:
- The generally Conservation Commission meets the 1<sup>st</sup> and 3<sup>rd</sup> Monday of each month;
  - Due to holidays, meetings are occasionally rescheduled;
  - Please refer to the meeting schedule on the [Conservation Commission website](#) as it includes meeting dates and submission deadline dates for each meeting;
11. Legal Notice of the RDA filing and public meeting will be placed in the Newburyport Daily News by the Agent at the applicant's expense.
- A Legal Notice is required to be published in the Newburyport Daily News at least five days prior to the meeting.
  - The Conservation Agent will prepare the Legal Notice, submit it to the Newburyport Daily News, and the Newburyport Daily News will send a proof for review and contact the applicant or their representative for payment;
  - Please note that the Newburyport Daily News will not publish the Legal Notice until they receive payment.
  - A public meeting can't be held until proper Legal Notice is advertised.
12. The Conservation Agent will schedule the public meeting for an upcoming Conservation Commission meeting.

### ***The Public Meeting and Site Walk***

#### **13. The Public Meeting**

- The applicant or their representative is required to attend the public meeting.
- The Commission typically holds at least two public meetings for an RDA filing.
  - Typically, during the **first meeting** the Commission will:
    - Review the filing and any associated plans and documents;
    - Ask questions about the filing and associated documents to the applicant and/or their representative;
    - Hear any comments by members of the public attending the public meeting or submitted to the Commission prior to the meeting;
    - During the first meeting the Commission will typically, with consent of the applicant, ask to schedule a site walk and will request to continue the public meeting to a meeting after the scheduled site walk;

#### **14. The Site Walk:**

- At the **site walk** the Commission will review the site, observe existing site conditions, review the wetlands delineation flagging, and confirm that all resource areas are flagged and flagged correctly.

#### **15. Additional Meetings if the Public Meeting is continued:**

- Typically, during the **second meeting** the site walk and any observations or questions from the site walk are discussed.
- Additional public meetings after the second public meeting may be necessary if, for example:
  - The Commission has additional questions that the applicant and / or their representative are unable to answer during the second public meeting;
  - Revised plans or documents based on site walk observations or issues discussed at the meeting are necessary.

## 16. Issuing a Determination

- Once the Commission has all of the information needed, the Commission will vote on its Determination.
- The Commission has 21 days from the close of the public meeting to issue the Determination of Applicability – WPA Form 2 to the applicant.

## ***Determination of Applicability (Determination)***

17. The Commission will issue either a positive or negative determination for the work that was proposed:
- **Positive Determination:** Issuance of a positive determination means the work can't proceed as filed and will require the filing of a Notice of Intent and issuance of a final order of Conditions by the Conservation Commission before any work in a jurisdictional area (resource area or buffer zone) can proceed.
  - **Negative Determination:** Issuance of a negative determination indicates that no further action under the Wetlands Protection Act is required by the applicant for their proposed project.
    - The Commission may issue conditions within the Determination that must be followed prior to and/or while completing the work. Please read your determination carefully.
18. There is a 10-business day appeal period for the Determination that begins on the issuance date. Once the work is approved by the Commission, the applicant may begin the work at their own risk understanding that the Commission's Determination could be appealed to the MA DEP and the MA DEP could issue a Superseding Determination of Applicability.
19. The Determination is valid for three years from the issuance date for the work specified.
20. There are no extensions to Determinations. If the work is not completed within three years, a new RDA must be filed to permit the work.
21. The Determination is only valid for the work approved in the Determination of Applicability. Any changes to the work approved or additional work proposed in a resource area or buffer zone will require review and potentially additional permitting through the Conservation Commission.
22. A Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.