



Dear New Conservation Commissioner:

Welcome to your Conservation Commission and welcome to the Massachusetts Association of Conservation Commissions (MACC). We are a coalition of the municipal Conservation Commissions throughout the Commonwealth. Because your Commission is a dues paying member of MACC, you automatically become a member of MACC once you are a Commissioner.

MACC was founded in 1961 to support, educate and advocate on behalf of Conservation Commissions. We are a non-profit corporation dedicated to community-based conservation of wetlands and other natural resources.

MACC conducts in-depth educational workshops to enhance the knowledge of Conservation Commissioners and citizens. Upcoming trainings are listed in the **MACC Quarterly** newsletter as well as this web site. Our next Annual Environmental Conference is scheduled for March 3, 2012 at The College of the Holy Cross in Worcester and features about 30 workshops and 50 exhibits. It is the largest regular gathering of local environmental officials and the largest environmental conference in New England.

In addition, MACC represents the interests of Conservation Commissioners on state advisory boards and commissions, and reviews and comments on draft environmental regulations, laws and impact reports. MACC advocates for bills in the legislature that support Conservation Commissions and wetlands and natural resources conservation.

Included in this document is a brochure of our crucial "Fundamentals for Conservation Commissioners" Certificate Training Course. This eight-unit course will familiarize you with most of the information you need to know to be an effective Conservation Commissioner. The training program units are held in different regions throughout Massachusetts during the year.

MACC publishes the **Environmental Handbook for Massachusetts Conservation Commissioners** - over 400 pages of practical information on every aspect of your job. The Handbook is also the Fundamentals course text. MACC recommends that all Conservation Commissioners have a copy of this text. We offer for sale the Handbook (now also on CD) as well as many other books about wetlands, open space, and other conservation topics. As an MACC member, you will receive a 10 percent discount on all publications you purchase and the discounted member fee on all programs. MACC publishes the **MACC Quarterly**, which you will start receiving shortly.

You also have members-only access to an information Helpline, which handles a large number of technical, legal, and procedural questions each year (617.489.3930). The information Helpline is available to you and everyone on your Commission Monday through Thursday from 10:00 a.m. to 5:00 p.m. We also offer a Rent-an-Expert program, which provides an expert to address Commission issues in a public forum setting, and our comprehensive website, which contains a tremendous amount of information and resources relevant to Conservation Commission work. Another members-only benefit is access to our on-line forum "Conservation Connections" where you can share questions and ideas with other Commissioners from around the state.

Please feel free to contact the office with any questions or comments.

Best Regards,

*Lindsay Martucci*

Lindsay Martucci  
Member Services Coordinator

# So.....you're joining the Conservation Commission!



As a member of your Conservation Commission you can look forward to a challenging and rewarding experience! To help you get started, here is a concise job description and other useful information

## Legal Authority

Your Commission was formed under the Conservation Commission Act of 1957 (G.L. Ch. 40 §8C) which gives the Commission responsibility for open space and other natural resource protection in your community. Thus you will identify key parcels that should be protected, work for acquisition by your city/town or other forms of protection, and manage local lands dedicated to conservation and passive recreation. Commissions may also organize recycling and other programs that enhance the local environment.

Your Commission is responsible for administering the Massachusetts Wetlands Protection Act (G.L. Ch. 131 §40) and, if your community has one, your non-zoning wetland bylaw/ordinance. You will review proposed development projects in or near wetlands and other water resource areas. More than 50% of cities and towns currently have wetland bylaws/ordinances.

The Community Preservation Act (G.L. Ch. 44B) is being adopted by communities across the state. The Conservation Commission has, by law, a seat on the local Community Preservation Committee; the Commission chooses its representative.

## Being a local official and part of your city/town government

The Conservation Commission is the environmental voice and conscience of your community. Being an effective Commissioner requires that you:

- Get to know your conservation lands, unique local resources, wetlands, and other water bodies
- Familiarize yourself with the laws and regulations under which you work and their supporting science
- Attend meetings and site visits
- Foster good relations with other local boards
- Always act professionally and
- Use fairness and objectivity when making your decisions.

As a local official, you are subject to certain rules of conduct. You must:

- Avoid or make public any potential conflict of interest
- Not pursue special privileges
- Maintain confidentiality, and
- Let your behavior contribute to a smooth operation of your board. (This can avoid much acrimony.)

Learn about the laws that cover conducting public open meetings, hearings, and handling public records. Review the materials you were given when you were sworn in. Since much of your time will be spent in meetings, you can help them run efficiently by making sure there are clear rules and agendas and also by learning the procedural requirements of the Wetlands Protection Act, its Regulations and other relevant laws.

You will become more familiar with your local flora and fauna (especially wetland plants), construction plans, and erosion controls. In short order, you will become conversant with acronyms like OS&R, NOI, RDA, and BVW and phrases like Order of Conditions and Performance Standards. You will learn to make and write legally binding decisions and handle the controversy your decisions may generate.

You will help maintain lines of communication and cooperation among all town boards. Sometimes overlapping or contradictory mandates for different town boards cause confusion; good communication will help your local government function smoothly and achieve better planning and land management.

You will want to take advantage of training sessions and publications offered by environmental organizations and agencies to learn about your legal responsibilities and relevant science, enhance your skills, and keep up with regulatory changes.

**You will get to know hydric soils**



**You will learn the supporting science**

# Conservation Commissioners have many responsibilities..

## About Your Open Space and Natural Resource Protection Responsibilities



Local woodlands, farms, fields, parks, rivers, streams, lakes and ponds are key components of your community's character. When protected as municipal conservation lands they provide wildlife habitat and biodiversity, scenic vistas, areas for passive recreational use such as hiking, cross-country skiing, bird watching, photography, and general relaxation.

You have an important role in determining which should be preserved, how and for what purposes.

You may help establish criteria for evaluating local lands for protection, determine priority parcels, create networks and corridors of lands in natural condition, prepare your community's Open Space and Recreation Plan, and propose lands for outright acquisition or other forms of protection such as conservation restrictions and agricultural preservation restrictions. You will work to achieve this protection through preparing publicity and presentations e.g. to town meeting, and will learn about and seek and raise funds for acquisitions.

Conservation lands may be managed to enhance their natural resource value and enjoyment by the public. You may participate in developing management plans, working with "friends" groups, organizing cleanups or conducting guided walks to explain their value.

## About Your Wetlands Protection Responsibilities

Conservation Commissioners spend much of their time focusing on the Wetlands Protection Act (and local wetland bylaws/ordinances). Below are some important concepts, terms, and recommendations.

### State Regulations and Bylaw/Ordinance Provisions

It is important to become familiar with the Wetlands Protection Act, its Regulations (310 CMR 10.00-10.99), and related guidance documents and explanatory publications. Never hesitate to refer to the Wetlands Regulations during a meeting or ask for explanations of terms you don't understand. Know in what ways your wetland bylaw/ordinance is stronger than the Wetlands Protection Act; this is where its greatest value lies.

### Resource Areas

Wetland resource areas are important to safeguard because they help prevent storm damage, reduce flooding, protect groundwater, prevent pollution, support fish and shellfish, and provide wildlife habitat. The state Wetlands Regulations cover both inland and coastal resource areas. Inland wetlands and waterways are divided into their component parts. For instance, an inland river has at least three resource areas: (1) land under

water; (2) banks, and (3) riverfront area. It may also have bordering land subject to flooding and bordering vegetated wetland. Because different resource areas have different standards with respect to alteration, it is critical that you become familiar with each. Bylaws may include additional resource areas.

### Reviewing Development Proposals

Conservation Commissions review projects that are in or near wetland resource areas or within the 100-foot buffer zone. Most often projects will come before you as either a Request for Determination of Applicability (RDA) or a Notice of Intent (NOI).



An RDA determines if a project is subject to the Wetlands Regulations or will not have a negative impact to the wetland. After reviewing the information, visiting the site, and conducting a public meeting, the Conservation Commission issues either a "Negative" or "Positive" Determination of Applicability (DOA). Given a negative determination, the project may go forward; given a positive determination, the applicant must submit a Notice of Intent (NOI).

The permit from an NOI is called an Order of Conditions (OOC). Other types of permit applications include an Abbreviated Notice of Intent and Abbreviated Notice of Resource Area Delineation. Commissions also receive requests for an Emergency Certification or Certificate of Compliance.

### Site Visits

Before voting on a permit request, it is essential to conduct a site visit. Visit the site with the applicant or applicant's representative and have them show you where the work will take place, the location of the wetland boundaries, and how the plans mesh with the site. It is also important to conduct monitoring visits after issuing a permit and work has begun. Bring the plans and a copy of the Order of Conditions to make sure the work is in compliance.

### Appeals and Enforcement

Anyone aggrieved by a decision of the Conservation Commission under the Wetlands Protection Act may appeal your ruling to your regional Department of Environmental Protection office during a 10-day appeal period. Appeals of your bylaw/ordinance go to Superior Court.

When work is being done without a permit or the terms of a permit are not being met, the Conservation Commission is responsible for enforcing state and local wetland laws. You will learn to communicate with landowners and strive to bring the work into compliance. The state Department of Environmental Protection has equal authority with Commissions in enforcing the Wetlands Protection Act.

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## Commission Administration

Commissions elect their own officers, may hire consultants including staff (subject to local requirements), and determine the rules for conducting meetings and hearings (subject to requirements of state law). Your staff can often provide invaluable assistance with the increasingly technical responsibilities of the Commission.

Commissions prepare budgets and may need to defend them before the Finance Committee or Town/City manager. Commissioners may be required to serve on subcommittees e.g. open space acquisition or land management, or on inter-board committees such as the Community Preservation Committee.

Conservation Commissioners should coordinate regularly with other local officials and boards, especially the selectboard/mayor, building inspector/commissioner, planning board, board of health, engineering department and others that may have important input about a particular project or matter.

## Who is there to help?

- More experienced board members and/or your professional conservation administrator and staff.
- **Massachusetts Association of Conservation Commissions (MACC)** provides a certificate training program and other educational offerings, and publishes the *Environmental Handbook for Massachusetts Conservation Commissioners*. 10 Juniper Road, Belmont, MA 02478. 617.489.3930. [www.maccweb.org](http://www.maccweb.org). [staff@maccweb.org](mailto:staff@maccweb.org).
- **Massachusetts Association of Municipal Conservation Professionals (MSMCP)** represents administrators and agents, and provides speakers at monthly lunches. P. O. Box 2620, Duxbury, MA 02331.
- **Massachusetts Department of Environmental Protection (DEP)** writes the state wetlands regulations, hears appeals under the state law, provides educational material and workshops on regulatory changes, and provides Wetland Circuit Riders to assist Commissions. 617.292.5500. [www.state.ma.us/dep](http://www.state.ma.us/dep)
- **The State Ethics Commission**. 888.485.4766. [www.state.ma.us/ethics](http://www.state.ma.us/ethics)

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**Your involvement and service are critical in shaping your local environmental future. You are protecting the public health and common good of all the residents of your community.**

# Fundamentals for Conservation Commissioners



## A Certificate Training Course

### About this Certificate Course

This eight-unit course for Conservation Commissioners, staff and anyone who wants a solid grounding in Commission work, provides the basics of: Commissions' responsibilities and operations; open space planning, protection and management; and wetlands and wetlands permitting. Upon completion, attendees receive a certificate and their communities are notified of their accomplishment.

### What Commissioners Will Learn

- How to administer the Wetlands Protection Act (G. L. Ch. 131 §40) effectively
- How to acquire and manage open space
- How to interact positively with other town boards and departments
- How to get the necessary information on a site inspection
- Land protection techniques
- What it takes to run an effective meeting
- Plan and map reading skills
- The scientific functions of wetlands and their values
- How to write orders of conditions
- Identification and inventory of natural resources
- An understanding of the Open Meeting Law and Public Records Law
- Local and regional open space planning

# Outline of Course Units

## Unit 1 - Overview of Conservation Commissions: Relationships, Responsibilities, Funds and Fees

- Duties and authority
- Federal and state agencies
- Town boards
- Conflict of Interest Law, Open Meeting Law
- Town budget, filing and consultant fees

## Unit 2 - Getting Home Before Midnight: How to Run an Effective Meeting

- Meeting preparation
- Participants and their interests
- Group dynamics
- Record keeping, Public Records Law
- Communication techniques

## Unit 3 - The Wetlands Protection Act: Fundamentals, Process and Procedures

- Interests of the Act, Jurisdiction
- Permit submittal requirements, Forms
- Simplified Review
- Identifying resource areas

## Unit 5 - Wetland Types: Their Functions and Values

- Common vegetated wetlands in Massachusetts
- Scientific v. regulatory wetlands definition
- Functions, characteristics and watershed context
- Performance standards
- Buffer zones

## Unit 6 - Writing Effective Orders of Conditions

- Protecting interests of the Act
- Boilerplate and special conditions
- Denials and appeals
- Amendments and extensions
- Certificates of compliance

## Unit 7 - Open Space Planning and Protection Techniques

- Establishing goals and objectives
- Inventory of local natural resources
- Selecting parcels, working with landowners
- Conservation restrictions
- Funding and grants

## Unit 8 - Managing Conservation Land: Inventories, Goals and Conflicts

- Resource evaluation
- Management plans
- Management case studies (e.g. invasives, trails, grasslands, agriculture, beavers)

## How Communities Will Benefit

- Greater respect for the Conservation Commission
- Proactive natural resource protection
- Sound, defensible permitting decisions
- Increased Commission professionalism

## Instructors and Materials

All sessions are taught by expert instructors. Attendees receive a course binder for the packets of relevant material distributed at each unit session. MACC's *Environmental Handbook for Massachusetts Conservation Commissioners* is the central text and is available for purchase.

## When and Where

Each of the eight course units is offered regularly at convenient locations around the state. Units are generally given in pairs; most are 2 1/2 hours in length.

## About MACC

Founded in 1961, the Massachusetts Association of Conservation Commissions provides educational programs, a regular newsletter and numerous publications to keep Conservation Commissioners current on relevant environmental law, science and policy.

## What the Experts Have to Say

"We believe that the more knowledgeable Conservation Commissioners are in implementing the Wetlands Protection Act, the better served are the interests of their community and the environment. We applaud MACC for initiating this training program."

Richard E. Long  
President  
*BSC Group, Inc.*

"Open space protection depends on mapping, planning and inventory skills. This course will provide a foundation in these important techniques.

Joel Lerner  
Former Director, Division of Conservation Services  
*Executive Office of Environmental Affairs*

"Training in law, science and policy is essential for Commissions to receive the respect and credibility they deserve."

Gregor I. McGregor, Esq.  
McGregor & Associates, P.C.  
Former Mass. Assistant Attorney General

# The Massachusetts Wetlands Protection Act

## How It Protects Our Wetlands, Floodplains and Riverfront Areas



### What is the Wetlands Protection Act?

The Massachusetts Wetlands Protection Act (General Laws Chapter 131 §40; the Act) protects important water-related land areas like wetlands (“swamps”), floodplains, riverfront areas and other areas from destruction or alteration without a permit from the local Conservation Commission. This law originated in 1972. Regulations for the Act (310 CMR 10.00) are issued by the Department of Environmental Protection (DEP).

In addition, many cities and towns have adopted zoning or non-zoning wetland ordinances or bylaws, which are stricter than the Act. Both permits (Act and local) are usually processed concurrently.

### What is a wetland?

Wetlands are land areas that contain surface water all or part of the time, as well as some adjacent land areas. Legally the term includes not only areas we typically think of as wetlands, such as cattail marshes or red maple swamps, but also intermittent streams, riverfronts (land within 200 feet of rivers), and other areas that may be dry for a significant portion of the year. The Act specifically regulates activities in or near these areas. The most commonly regulated wetlands are bordering vegetated wetlands (BVWs), which are wetlands that share a border with a stream, pond or lake.

### What is a floodplain?

A floodplain is a type of wetland resource area that floods following storms, prolonged rainfall or snowmelt. Three types of floodplain areas are protected under the state Act: coastal areas; areas bordering rivers and streams (these first two areas are defined by the 100-year floodplain - the upper boundary of the area which floods on average once every 100 years); and certain isolated depressions that flood at least once a year.

### What other areas are protected?

In addition to BVWs and floodplains, the Act also covers bank, dunes, beaches, vernal pools, land under lakes and ponds, and land under or within 200-feet of rivers and streams that flow year round. Technical definitions are found in the law and its accompanying regulations. Many wetland resource areas are defined by an abundance of wetland plants and by their water regime or hydrology, with the latter sometimes determined by soil type. Riverfront resource areas are in most cases measured from the top of the bank of a river or stream.

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## Why are wetland and other water resource areas important?

Over half of this country's original wetland acreage has been lost to agricultural, commercial and residential development. The cost of this loss in degraded water quality, increased storm damage, and depleted fish, wildlife and plant populations has been well documented.

In their natural state, wetlands provide many free services to the community. Low areas serve as flood ways to convey storm and other flood waters safely away, and act as buffers to prevent damage to nearby roads and buildings. Naturally forested riverfront areas slow flood waters and trap sediment and debris. These functions minimize the need for extensive (and often expensive) engineered flood management systems and seawalls. Wetlands also provide temporary storage of floodwaters, allowing floods to recede slowly and, in fresh water wetlands, to recharge groundwater.

Directly or indirectly, wetlands are often sources of public or private drinking water supply. In addition, wetlands and vegetated riverfront lands help to purify the waters they receive from highway or agricultural runoff and other sources. They serve as natural settling areas where soils and vegetation trap sediments that bind and, in some cases, break down pollutants into nontoxic compounds. For example, the sediments under marsh vegetation absorb lead, copper and iron. Wetlands and riverfront lands retain nitrogen and phosphorus compounds which otherwise would foster nuisance plant growth and degradation of fresh and coastal waters.

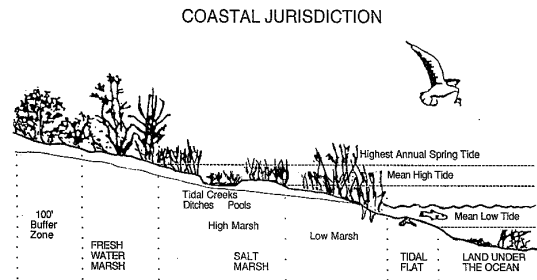
Wetlands are valuable to wildlife – providing food, breeding areas and protective cover. Naturally vegetated riverfront lands also provide essential travel corridors for many species. Shellfish beds and commercial and recreational fisheries are dependent on good water quality and healthy coastal and inland wetlands.

Floodplains are protected because they provide "storage" for floodwaters. Any alteration of the land that reduces this storage capacity may displace floodwaters and cause greater flooding elsewhere. Unfortunately there are too many examples of houses flooded and even lives lost through the cumulative effect of many people filling in a floodplain over the years. Floodplains are also valuable for wildlife habitat.

Banks serve as buffers for landowners against storm damage. Vegetated banks bind the soil, preventing erosion caused by water flow.

Beaches, dunes, and even riverbanks are dynamic systems that are continually shifting. In addition to preventing storm damage, coastal banks and dunes can naturally replenish beaches. Left in an undisturbed state, banks and

dunes provide the same replenishment as truckloads of sand, but at much less cost. Construction near banks and dunes must be planned carefully in order to allow this natural shifting to occur.



## What activities are prohibited in wetlands, riverfront lands and other resource areas?

Under the Act no one may "remove, fill dredge, or alter" any wetland, floodplain, bank, land under a water body, land within 100 feet of a wetland, or land within 200 feet of a perennial stream or river, without a permit from the Conservation Commission. The "interests" or values protected under the Act are Flood Control, Prevention of Storm Damage, Prevention of Pollution, Fisheries, Shellfish, Groundwater, Public or Private Water Supply and Wildlife Habitat. The term "alter" is defined to include any destruction of vegetation, or change in drainage characteristics or water flow patterns, or any change in the water table or water quality. The Regulations prohibit most destruction of wetlands and naturally vegetated riverfront lands, and require replacement of flood storage loss when floodplains are filled.

Normal maintenance and improvement of land currently in agricultural use is exempt from the provisions of this Act. Preparation of new land for agricultural use is not exempt. Silviculture harvesting is exempt if the landowner has obtained a forest cutting permit from the Department of Conservation and Recreation's regional forester. Certain "limited" projects, such as repairs to some utility facilities and constructing a driveway to uplands where no alternative access is available, may be approved within a resource area with conditions to protect the interests of the Act.

## How can I find out if my property lies in or near a resource area?

Some areas, such as rivers, streams, ponds, wooded swamps, bogs and cattail marshes, are easily recognizable. Distinguishing other wetland and water resource areas can be more difficult and may require the services of a botanist or wetland scientist. Your Conservation Commission can assist you in identifying wetlands on your property. If you wish to develop your land, the wetlands, floodplains or

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other regulated areas on or near your property must be mapped, and there are many engineering firms and wetlands consultants that will provide this service.

Floodplain maps issued by the Federal Emergency Management Agency (FEMA) in Boston under the national flood insurance program show the floodplains associated with major streams. Unfortunately, the maps are not always complete, and floodplain areas are not always indicated. If your property lies near a stream or in a low-lying area, there is a chance that part of it is sometimes flooded. In most cases a civil engineer or hydrologist must calculate this elevation.

To determine if an area is wetland or riverfront area, a landowner or other interested party may hire a wetland scientist to evaluate site resources. A map showing protected resources is created, and a form known as a "Abbreviated Notice of Resource Area Delineation" (ANRAD) is then submitted to the Conservation Commission. The Commission holds a publicly advertised meeting to discuss the matter and issue a decision.

### What must I do if I want to conduct a regulated activity in or near any of the resource areas protected by the state Act?

Contact your Conservation Commission for further information on the law and how it applies to the particular project. Regulations issued under the Act should also be consulted because they contain specific standards that your project must meet to be approved. Local wetland bylaws/ordinances should also be reviewed.

For small projects located entirely in the 100-foot wetlands buffer zone (but not within 200-feet of a perennial stream or river) you may submit a Request for Determination of Applicability (RDA) with a plan, sketch or other description of the work to be done, showing any measures you plan to take to protect nearby wetlands from alteration. If the project is determined to have no wetlands impact, you will be given permission to proceed as soon as a 10-day appeal period passes. Certain small projects are exempt.

If the project does impact wetlands, banks, dunes, lands within 200-feet of a river or perennial stream or other resource areas, you may submit a formal application known as a "Notice of Intent" (NOI) to the Conservation Commission. This is a formal presentation carefully prepared, usually with the assistance of a civil engineer and wetlands consultant, according to the standards and criteria defined in the Act and Regulations, and showing in detail all aspects of the proposed project. The Commission will set a time for a public hearing on your project and will advertise the hearing in the local paper at your expense. Once the hearing is completed and closed, the Commission must issue its decision, known as an "Order of Conditions," within 21 days.

You may also submit an "Abbreviated Notice of Resource Area Delineation" (ANRAD) if you are just seeking clarification of boundaries.

You may appeal an Order of Conditions within 10 days. Abutters, 10 residents of the community or DEP can also appeal within the 10-day period.

### What are the penalties for violating the law?

Violations are punishable by a maximum fine of \$25,000 and/or not more than two years of imprisonment. In addition, a landowner is usually required to restore illegally altered land to its original condition.

### How can I get more information?

Contact your local Conservation Commission (through Town or City Hall), the regional office of DEP, or an attorney, consulting civil engineer or wetlands scientist. If you wish to read the law, the Wetlands Protection Act and the associated Regulations may be found in your town library, on the DEP web site ([www.state.ma.us/dep](http://www.state.ma.us/dep)), purchased from the Massachusetts Association of Conservation Commissions (MACC) or the State House Bookstore. MACC also provides extensive explanations in the *Environmental Handbook for Massachusetts Conservation Commissioners* and other publications.

