

Approved: February 4, 2021

Town of Middleborough
Conservation Commission
2021 Policy

The Wetlands Protection Act under M.G.L. c. 131, sec. 40 and Regulations 310 CMR 10.02(1) (a-f) & 310 CMR 10.02 (2) (a) states:

No person shall remove, fill, dredge or alter any bank, riverfront area, fresh water wetlands, coastal wetlands, beach, dune, flat, marsh, meadow or swamp bordering on the ocean or on any estuary, creek, river, stream, pond, or lake, or any land under said waters or any land subject to tidal action, coastal storm flowage, or flooding, other than in the course of maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph and other telecommunication services, without filing written notice of his intention to so remove, fill, dredge or alter, including such plans as may be necessary to describe such proposed activity and its effect on the environment and without receiving and complying with an Order of Conditions and provided all appeal periods have elapsed.

Buffer Zones and other Resource Areas are regulated in order to ensure that no harm is done to the ability of the wetlands to protect public and private water supply, protect groundwater supply, flood control, storm damage prevention, prevention of pollution, protection of land containing shellfish, protection of fisheries and protection of wildlife habitat. These are the eight interests of The Wetlands Protection Act under Regulations 310 CMR 10.01 (2).

Any activity within this Resource Area requires the issuance of a permit (Order of Conditions or Determination of Applicability) by the Middleborough Conservation Commission. Activity requiring a filing with the Conservation Commission is defined under the Wetlands Protection Act.

The Middleborough Water Resource Protection District By-law overseen by the Board of Selectmen Regulations (Section XII G. WRPD Z3 use Regulations (3) i requires that any construction within the Buffer Zone must be designed to preserve a minimum of 25 feet of undisturbed natural vegetation and soils adjacent to a water body, bank or other wetlands.)

Please contact the Conservation Commission office (508-946-2406) or the Town's website (www.middleborough.com) to download forms and learn more about the Commission.

The Middleborough Conservation Commission may waive any and all provisions set forth as it deems necessary when permitting a project before the Commission.

1. Submittal Requirements:

A. Existing Conditions

All drawings shall be drawn with the title designating the name of the project, location and names of the person or persons preparing the drawings and the date prepared, including the last revision date.

Drawings shall be stamped and signed by a duly qualified Registered Land Surveyor and/or a Professional Engineer of the Commonwealth of Massachusetts.

An 8 1/2" x 11" photocopy of the U.S.G.S. quad sheet, showing location of the proposed activity and the outline of the area in which the activity is located.

An 8 1/2" x 11" section of the Town of Middleborough property map on which the site of the proposed activity is outlined in red.

All direct abutters to the project site shall be shown on the plans with parcel number and acreage shown.

Individual lot/site development plans must be drawn to a scale of 1 inch = 40 feet or less.

Existing contours shall be expressed in feet above sea level with intervals no greater than two (2) foot contours. Date of ground survey, company who performed survey and other pertinent information shall be given. Additional information may be requested by the Commission.

The delineation of all wetlands, lands subject to flooding, water bodies, waterways, ditches, creeks, rivers, streams, ponds, whether natural or manmade, continuously or intermittently flowing. The upland boundary and areas of all bordering vegetated wetlands shall be shown.

The plans shall indicate if the property falls under Department of Fish & Game - Division of Fisheries & Wildlife Natural Heritage Endangered Species Program restrictions.

The plan shall indicate if the property falls within a Zone II, IWPA, Zone A or ACEC.

The plan shall indicate if the property contains any protected open space, conservation restrictions, flood zones or other type of restriction. The plan shall indicate if the property contains any potential or certified vernal pools.

Existing tree lines should be shown.

Location, extent and area of all existing structures, roadways, paved areas, septic systems, wells, tanks, utilities and utility easements should be shown on the plan in relation to the wetlands and buffer zone.

Existing stone walls, buildings, rock ridges and outcroppings shall be shown.

The plan shall indicate the horizontal and vertical benchmarks on the plan.

B. Proposed Conditions

The following items, at a minimum, shall be included on plans submitted to the Commission. The Commission has the right to waive or adjust these items at any time.

Proposed contours (in contrasting symbols) shall be expressed in feet above sea level with a known horizontal and vertical coordinate system (if possible) at intervals no greater than two foot (2') contours. Date of ground survey shall be given.

Proposed lowest elevations of cellars or floors and finished first floor elevation.

Location, extent and area of all proposed structures, roadways, paved areas, septic systems, wells, tanks, utilities and utility easements.

A delineation of all alterations proposed in or having an impact on wetlands.

Area and cross section of new wetlands replication indicating volumes, plant types, amount of plants and area of plantings. A variety of plants should be considered (i.e.: more than three species). Species that are similar to those in the existing wetlands are preferred. Applicants should consider at least a 2:1 wetland replication for mitigation if wetlands are disturbed.

Plans depicting proposed drainage or septic systems must be stamped by a Registered Professional Engineer and a Professional Land Surveyor.

Existing location, rim elevation and invert elevation of all catch basins, drains, culverts and other drainage structures immediately upstream and downstream of the site, as well as those on site.

The "limit of work" lines shall be shown on the plan and the pdf submitted identifying the 25', 50' and 100' wetland delineation in a visible color coded format.

Proposed tree lines should be shown.

Details and locations for all temporary erosion controls proposed.

Proposed permanent pollution control devices on site, such as: hooded catch basins, velocity dissipaters, proprietary water quality units, or vegetative buffers.

Indicate on the plan any stockpiles (fill, soils etc.) proposed to remain exposed on site longer than 2 months and the measures proposed to mitigate sediment and erosion transport.

C. Drainage/Stormwater

Information provided should be in compliance with the Massachusetts Stormwater Regulations under The Wetlands Protection Act Regulations 310 CMR 10.05(6) (k).

Calculations should be provided indicating the pre and post development stormwater runoff rate and volume from the project.

Locations for the 2, 10, 25 and 100-year flood elevations must be noted on all plans or details accompanying an application for a permit filed with the Commission.

The proposed site drainage shall meet or reduce the rate of the proposed site drainage when compared to the pre-development construction rate.

Cross-sections and/or drainage profiles of all site drainage systems including proposed inverts of structures, pipes, stone, finished grade and elevation of estimated seasonal high ground water and groundwater elevations.

Cross-sections showing existing and proposed slope, elevations, bank and bottom conditions of each water course to be altered. Locations of cross-sections shall be specified.

Mounding analysis for drainage systems shall be provided with less than 4 feet of separation from Estimated Seasonal High Groundwater (ESHGW).

Proposed location, rim elevation and invert elevation of all catch basins, drains, culverts, and other drainage structures immediately upstream and downstream of the site, as well as those on site.

All pipe types, inverts, slopes and sizes shall be shown on the plan.

Stream crossings for all projects shall follow the DEP Massachusetts Guidelines for Stream Crossings regardless whether the stream is intermittent or perennial. Calculations indicating that the crossing will adequately pass the 100-year storm event shall be provided.

Low Impact Development (LID) practices should be included in the plan as much as practicable.

2. Technical Data:

All technical data shall be in narrative form with calculations submitted, as necessary, to substantiate the designs proposed and shall include:

A description of any alterations to the 100 year flood storage capacity of the site. If a change of flood storage capacity is proposed, demonstrate compensatory storage at every elevation in the flood plain. Value shall be calculated in cubic feet.

Maximum groundwater elevations must be given. The calendar dates of measurement, samplings and percolation tests shall be included. The Applicant shall confirm the depth to estimated seasonal high groundwater and groundwater on the plans and discuss with the Commission or its agent or representative.

Soil characterizations in representative portions of the site, including depth of peat, muck and organic matter in wetlands areas.

A Stormwater Management Plan and calculations of runoff characteristics based on the following criteria:

- On-site drainage systems – 25 year
- Roadway cross-culverts / stream crossings – 100 year
- Retention/Detention – 2, 10, 25 and 100 year storm events

Runoff characteristics should be calculated for pre and post development conditions using the standard methods described in the U.S. Soil Conservation Service National Engineering Handbook.

Hydrographs that illustrate runoff characteristics before and after the proposed activity.

An Erosion Control Plan shall be submitted describing all methods to control erosion and siltation on site, temporarily and permanently.

Hydrologists and engineers shall use Technical Paper 40 (TP40) for rainfall quantities or consider NOAA Atlas 14 for areas with sandy or high infiltrating soils (Soils with an infiltration capacity of 2.41 inches per hour or greater).

3. Inspections/Maintenance:

- A. The DEP sign with number and all wetlands flagging is to be maintained until a Certificate of Compliance is issued by the Conservation Commission.
- B. Erosion control devices shall remain in place until the Certificate of Compliance is issued or at the discretion of the Conservation Agent.
- C. Applicants shall comply with the requirements of the Middleborough Water Resource Protection District By-law (W.R.P.D. By-law) overseen by the Board of Selectmen (BOS).
- D. The Conservation Commission or its agent or other duly authorized employee shall have authority to enter upon privately owned land for the purpose of performing their duties as duly appointed members of the Conservation Commission and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary.
- E. The Agent and/or Conservation Commission will not conduct a site visit when there is snow hiding the ground cover.
- F. At least ten (10) business days prior to the first hearing date the applicant shall stake out the project area in the field. The two front corners of the project site must be staked and the site identified with a temporary sign noting the Map and Parcel number and where applicable, the appropriate street address. If a site visit is attempted and no stakes are installed the applicant is responsible to pay for an additional site visit.
- G. Any dwellings or structures of any kind, that are proposed to be located within the buffer zone of a resource area shall be staked and identified on the project locus.

- H. If wetlands alteration is allowed under limited project status, no wetlands alteration is to occur until local, state or federal permits have been received for the project as submitted to the Conservation Commission.
- I. Strict compliance with this Policy Statement may be waived when, in the judgment of the Conservation Commission, such action is in the public interest and consistent with the Wetlands Protection Act.

4. **Filing:**

Any application (Request for Determination of Applicability, Notice of Intent, Abbreviated Notice of Intent, Abbreviated Notice of Resource Area Delineation) filed with the Middleborough Conservation Commission shall be accompanied by 3 complete copies of the filing with 4 plans (11 x 17), 1 plan (24 x 36) and 1 set of the Stormwater Management Plan. The applicant is to also provide a pdf 2 weeks prior to first hearing via email or via drop box of the forms and separate plans in landscape format from the forms. The Middleborough Conservation Commission recommends that the application and plans include, but are not limited to, the following information:

- The Applicant is expected to meet the requirements of the Massachusetts Stormwater Handbook (latest revisions) and the 310 CMR 10.00 Wetlands Protection Act, latest revision.
- Stormwater report including calculations that indicates run off rates and volumes for the pre and post development conditions.
- Maps and wetlands delineation reports, plans or documents that will assist the Conservation Commission in understanding the project.
- Abutter Notification Language taken directly from MGL Chapter 131, Section 40. “Any person filing a Notice of Intention with a Conservation Commission 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 of 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 Conservation Commission.”
- Hand Delivery, or by certified mail, return receipt requested or by certificates of mailing per 310 CMR 10.05(4)(a) from all Abutter Notifications, shall be provided to the Conservation Commission 5 business days prior to the first public hearing in pdf. Hearings cannot be opened if Abutter Notification cannot be provided to the Commission.
- The Applicant is to have the Notice to Tax Collector form filled out and signed by the Treasurer/Collector and submitted with the application. Please use the collector’s email: collectors@middleborough.com as well as jmcdnld@middleborough.com.
- The Middleborough Conservation Commission generally meets the first and third Thursday of each month. The filing deadline for new applications is Monday at 10:00 a.m. **two weeks prior** to each scheduled meeting. This two-week interval is necessary to allow for proper review and notice in accordance with the Massachusetts Wetlands Protection Act and The Massachusetts Open Meeting Law.

- Filing Fee and Bylaw Fee checks made out to the Town of Middleborough are to be dated with the hearing date, not the date submitted to the Conservation Commission.
- The filing deadline for other materials (Extensions, Certificates of Compliance, etc.) is Tuesday at 10:00 a.m. **two weeks prior** to each scheduled meeting. The Conservation Commission closes their agenda at this time, and generally will not take action on matters for which information has not been submitted by the stated deadline.
- If a new Permit Application is timely filed and the applicant wishes to submit any additional, supplemental, or revised documentation, such additional, supplemental, or revised documentation must be submitted in hard copy and pdf form **one week prior** to the scheduled meeting. If any such additional, supplemental, or revised documentation is submitted after that time but before the opening of the public hearing, the Commission reserves the right to continue the hearing to the next available meeting date.
- In the case of public hearings which have been opened and continued, any additional, supplemental, or revised information shall be submitted to the Commission by the close of business on Thursday **one week prior** to the date of the meeting to which the hearing was continued. If any such additional, supplemental, or revised documentation is submitted after that time the applicant will be deemed to have consented to a further continuation of the public hearing (to the next available meeting date), unless the applicant chooses to withdraw the late file additional, supplemental, or revised information. The Commission will not close a hearing and issue a permit until all information has been received and approved.
- The public hearing notice must run in the Middleborough Gazette at least 5 business days prior to the hearing date. The notice should be run under “public notices”.
- The Applicant is required to pay the legal ad when submitting the filing, made out to South Coast Media Group for \$78.49
- The Applicant is required to pay the legal ad for re-advertising in the event of a cancellation due to the weather.
- Failure to submit all required documentation may result in delays and/or denial of your application.
- Filing Fees will not be returned or applied to another Filing once the Commission has legally advertised and opened the Hearing.

Fees: Filing Fee Payable To: Town of Middleborough (see Instructions and Supporting Materials from Mass DEP). The check date must coincide with the 1st hearing date.

Advertising Fee Payable To: South Coast Media Group for \$78.49.

Wetlands Act–Fee/Charge By Law, Passed at Town Meeting: April 27, 2015.

Approved by the Attorney General: August 11, 2015 Effective: September 4, 2015 Payable To: Town of Middleborough

**Attachments: Abutter Notification Letter
Town of Middleborough Wetlands Act – Fee/Charge By-Law
Middleborough Conservation Commission Meeting Schedule**