

License & Permit FAQ's

- **Wetlands**

What is a wetland?

What is a floodplain?

What activities are regulated in wetlands and floodplains?

Why are wetlands and floodplains so important?

How can I find out if my property lies in or near a wetland or floodplain?

What must I do if I want to conduct a regulated activity in or near a wetland or floodplain?

What if I don't agree with the Order of Conditions?

What are the penalties for violating these laws?

How can I get more information?

- **Health**

How does a food establishment obtain or renew a food permit?

Are restaurant food handlers required to wear gloves?

Must employees wash hands after handling money?

- **Building Permits**

Building Permit Application Procedure

When is a building permit required?

What is an ordinary repair?

What is the penalty for working without a permit?

How do I apply for a building permit?

Is any other information required to be submitted with the application?

Can I begin work once I submit my application?

How long does it take to obtain a permit?

Will I be informed when the permit is issued, or do I have to keep calling to find out the status?

Building Permit Fees

What is the fee for a building permit?

What do I get for this fee?

Do I calculate the fee?

What if I don't know the valuation?

If I do my own work and use donated materials, won't the permit fee change?

When do I pay the fee?

If my permit is denied or if I decide not to proceed with my project, can I get my fee back?

Why should I obtain a building permit?

Licenses

Can I do the construction myself or do I have to be licensed?

Construction Plans

Are plans required?

Do I have to have an architect prepare my plans?

How much detail is needed on the plans?

Can I change my plans after they have been approved?

Plot Plans

Is a plot plan required?

What information is required on a plot plan?

If I have a plot plan, can I draw my addition on it?

If I don't have a plot plan, where can I get one?

Can the town recommend surveyors?

How much is a plot plan?

Expiration of Permits

When I obtain my permit, how long do I have to start the work?

How long do I have to complete the work?

Inspections

When I start construction, is the work inspected?

Where should this card be kept?

Do I need to provide anything else to the inspector?

How much notice does the inspector need when I am ready for an inspection?

FAQ's about Wetlands**What is a wetland?**

Legally, the term wetland includes not only what we typically think of as wetlands, such as streams, ponds, and cattail marshes, but also areas such as wet meadows, red maple swamps, and intermittent streams that may be dry for a significant portion of the year. The technical definitions may be found in the Massachusetts [Wetlands Protection Act](#) and its accompanying regulations, and for the most part are based on the occurrence of surface water and/or the abundance of specific wetland plants.

What is a floodplain?

A floodplain is an area that experiences surface flooding during storms. Two types of floodplain areas are protected under the state act. The more common areas are those bordering streams or ponds that flood during the 100-year statistical storm, which is the worst storm that can be expected to occur, on average, once every 100 years. The less common areas are isolated depressions that flood at least once a year to an average depth of 6" and to a volume of one-quarter acre-foot (10,890 cubic feet).

What activities are regulated in wetlands and floodplains?

Under the law, no one may "remove, fill, dredge, or alter" any wetland, any floodplain, or any land within 100 feet of a wetland without a permit from the Lexington Conservation Commission. The term "alter" is defined to include any destruction of vegetation, any change in drainage characteristics or flow patterns, or any change in the water table. Examples of activities requiring a permit include construction of a house, garage, or shed, filling to enlarge a backyard, installation of drainage ditches, and disposal of landscaping debris and other materials.

Why are wetlands and floodplains so important?

Wetlands are afforded legal protection because they play an important role in overall environmental quality through: protecting the groundwater and the private and public water supply; controlling pollution by acting as a filter for removing sediments, nutrients and other pollutants from runoff; reducing storm and flood damage by providing areas to retain and store water; and as habitat for fish and wildlife.

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

Floodplains are protected because they provide "storage" for floodwaters during storms. Any alteration to the land that reduces this storage capacity will displace floodwaters and cause greater flooding elsewhere. Unfortunately, there are too many examples of damage to property and even loss of life through the cumulative effect to incremental filling of floodplains over the years.

How can I find out if my property lies in or near a wetland or floodplain?

Some wetlands, of course, are easily recognizable: streams, ponds, and cattail marshes, for instance. Distinguishing other wetland areas may be more difficult and can require the services of a trained botanist. The Conservation Administrator in the Office of Community Development may be able to assist you in identifying areas of wetlands on your property. There are a number of engineering firms and wetlands consultants that can provide this service for a fee. If you wish to develop your land, the wetlands on or near your property must be mapped.

The floodplain map for Lexington issued by the Federal Emergency Management Agency shows the floodplain associated with major streams in town. Follow [these instructions for viewing the map online](#). Unfortunately, the map is far from complete, and many floodplain areas are not indicated. If your property lies near a stream or in a low-lying area, there is a chance that part of it is flood-prone. Previous applications to the Conservation Commission may assist you in determining the 100-year flood level on our property, but in some cases a professional engineer must calculate this elevation.

What must I do if I want to conduct a regulated activity in or near a wetland or floodplain?

The first thing you may want to do is contact the [Conservation Administrator](#) in the Office of Community Development. The Administrator and staff can explain the law more completely to you and its effect on the particular project you have in mind. Regulations issued under both the state act and Lexington's Wetlands By-Law should be consulted, as they contain specific standards that you should incorporate into your project design. If your project does not meet these standards, your application will be denied.

The next step is to submit a formal application, known as a [Notice of Intent](#), to the Conservation Commission. Although the Commission operates under two laws (the state Wetlands Protection Act and the local By-Law for Wetlands Protection), one form serves as your application for both and all proceedings are held simultaneously. The Commission will set a time within 21 days for a public hearing on your project and will advertise the hearing in the Minuteman at your expense. Once the public hearing is closed, the Commission must issue its decision, known as an Order of Conditions, within 21 days.

For small projects located only in the 100-foot wetlands buffer, there is a simpler, alternative application process. A landowner or other interested party may submit a form known as a [Request for Determination of Applicability](#) to the Commission. The Commission is bound to hold a publicly advertised meeting within 21 days to discuss the matter and issue a decision. The applicant is given permission to proceed as soon as the ten-day appeal period lapses for projects with no wetland impact.

What if I don't agree with the Order of Conditions?

If you or other interested parties are unhappy with the Order of Conditions, the Order may be appealed. Since the order is issued under both state law and local by-law, the appeal involves two routes. Under the state act, appeal is first to the regional office of the Mass. Dept. of Environmental Protection (DEP) in Woburn, which will consider the appeal and issue what is known as a Superseding Order. Further appeal of this Order is possible, first to the Boston office of DEP, and then to Superior Court. Under the by-law, appeal of the Commission's Order is directly to Superior Court.

What are the penalties for violating these laws?

Violation of the town's By-Law for Wetlands Protection carries a maximum penalty of \$300 for each violation or each day of continuing violation. Under the state act, violations are punishable by a maximum fine of \$1000 and six months imprisonment per day of continuing violation. In addition, a landowner is usually required to restore any illegally altered land to its original condition.

How can I get more information?

Contact the Conservation Administrator in the Office of Community Development, or an attorney, or a consulting engineer. If you wish to read the law, the Massachusetts [Wetlands Protection Act](#) may be found in Cary Library (Mass. General Law Chapter 131, Section 40) or [online](#); the regulations promulgated pursuant to it are available from the State House Bookstore (310 CMR 10.00) or [online](#). The local code and its accompanying regulations may be obtained from the Office of Community Development, at Cary Library, or online: [code](#), [regulations](#).

Health**How does a food establishment obtain or renew a food permit?**

Renewal forms are sent out to food establishments approximately one month before the expiration date or they can come into the office to renew in person. New establishment owners should come into our office and pick up a packet that contains all the forms and information they will need to apply for a permit.

Are restaurant food handlers required to wear gloves?

The use of utensils by food handlers is preferred during the various stages of food preparation. If used, disposable gloves must meet the same sanitary standards for hands as outlined in the State Sanitary Code 105 CMR 590.009 and .011, which covers employee cleanliness and employee hygiene. Disposable gloves must not be used as a substitute for frequent hand washing. Staphylococcus aureus can accumulate as hands perspire, can multiply on hands that are encased in gloves. If the gloves are ripped or punctured, foods may be contaminated with an even greater number of bacteria than is normally present on hands. Food handlers should avoid the false sense of security that often is associated with the use of disposable gloves.

Must employees wash hands after handling money?

It has been speculated that both paper currency and metal coins might act as fomites-inanimate objects that may be contaminated with infectious organisms and serve in their transmission. If this is so, then people who contact food would be required to wash their hands between handling money and touching food or food contact surfaces. In 1971, FDA asked the Treasury Department's Bureau of Engraving and Printing (BEP) if paper currency could transmit disease organisms. BEP's reply stated that "...specifications for currency paper require that it contain fungicidal agents...hav[ing] germicidal[al] characteristics ...[which] retain their effectiveness throughout the life of the currency in circulation." Additionally, "The inks used... on currency also contain ingredients which inhibit the growth of bacteria." A 1973 survey of 217 bills of various denominations found low number of organisms (1.46-167.26 per square centimeter), thus supporting BEP's position. The same survey tested 161 metal coins again finding low levels of organisms (19.50-413.29 per square centimeters). This information indicates that money does not support the growth or transfer of bacteria, i.e., it is not a "fomite".

Building Permits

Building Permit Application Procedure

When is a building permit required?

The Massachusetts State Building Code states that "it shall be unlawful to construct, reconstruct, alter, repair, remove or demolish a structure; or to change the use or occupancy of a building or structure; or to install or alter any equipment for which provision is made or the installation of which is regulated by this code" without first obtaining a building permit. This includes, but is not limited to, new structures, additions, dormers, chimneys, woodstoves, decks, roofing, siding, swimming pools, antennae, and sheds. The only exception is an ordinary repair. An ordinary repair does not require a building permit.

Paving projects do not require a building permit but will require a permit from the Engineering Department if work is being done within the public right-of-way. There are also zoning restrictions on the amount and location of paving, so check first with the Office of Community Development.

What is an ordinary repair?

The State Building Code defines ordinary repairs as "any maintenance which does not affect structure, egress, fire protection systems, fire ratings, energy conservation provisions, plumbing, sanitary, gas, electrical, or other utilities. This has been interpreted to mean that rotted floor boards can be replaced on a deck, but the deck cannot be rebuilt without a permit. Also, damaged roof shingles can be repaired, but the entire roof cannot be re-shingled without a permit. If in doubt as to how much work can be done under ordinary repairs, contact the Office of Community Development before the start of work.

What is the penalty for working without a permit?

At the minimum, you will be required to obtain a permit and pay a triple fee. The State Building Code allows for a fine of up to \$1000.00 per day. If work requiring

inspections is covered, it will be required to be uncovered for inspection, and if any work is in violation of the building code or zoning by-law, it will be required to be corrected. Failure to obtain a building permit may jeopardize your homeowner's insurance.

How do I apply for a building permit?

Applications can be obtained at the Office of Community Development. A sample building permit is available on-line.

Is any other information required to be submitted with the application?

Yes. For most projects, 3 sets of construction plans and 3 copies of a certified plot plan must accompany the application, along with the permit fee.

Can I begin work once I submit my application?

No. Work cannot proceed until the permit has been issued.

How long does it take to obtain a permit?

The Office of Community Development has a maximum of 30 days in which to issue or deny a building permit. The actual time can vary from 1 day up to the maximum 30 day limit, depending on the number of applications ahead of yours, and the scope of work. Generally, the smaller jobs will take a shorter time, with new buildings taking close to the full 30 days, so allow for this in your scheduling.

Will I be informed when the permit is issued, or do I have to keep calling to find out the status?

The applicant will be called when the permit is ready. If we are unable to reach you by telephone you will be notified by mail. When the permit is ready, it must be picked up at the Office of Community Development.

Building Permit Fees

What is the fee for a building permit?

The fee schedule is kept in the Community Development Office.

What do I get for this fee?

Your permit fee covers the cost of plan review and inspections to determine code compliance.

Do I calculate the fee?

No. That will be done by the Office of Community Development. In general, it is based on the valuation of the work, which you provide in the applicable space on the permit application.

What if I don't know the valuation?

Then we will calculate it for you, using valuation tables published by BOCA (Building Officials and Code Administrators). Also, many cost estimating publications are available at the library or at bookstores to assist you. If the figure you put on the application is too low, we will adjust it.

If I do my own work and use donated materials, won't the permit fee change?

No. The fee is based on valuation, not how much the job cost you.

When do I pay the fee?

The fee is paid at the time of application for the permit.

If my permit is denied or if I decide not to proceed with my project, can I get my fee back?

Maybe. The Board of Selectmen has set a policy for when and how permit fees may be non-refundable. You should refer to this policy for further details.

Why should I obtain a building permit?

A building permit ensures that work is done correctly and safely. The permit fee is cheap assurance against faulty construction. Also, there are legal and financial liabilities that you face when you don't get a permit. Work done without a permit is illegal and can pose serious complications for you when you try to sell or refinance your house. Any fire and homeowner's insurance you have may be invalidated if you do work without a permit.

Licenses**Can I do the construction myself or do I have to be licensed?**

The State Building Code states that no structural work shall be done without a construction supervisor's license. A homeowner can do work on his/her own home without a license provided that if the homeowner engages a person for hire to do such work that the homeowner shall act as supervisor.

Construction Plans**Are plans required?**

In most cases, construction plans are required. However, for minor work such as roofing or siding, the requirement for plans will be waived. When plans are required, three copies must be submitted. Two will be returned with an approved stamp placed on them, and one will be kept for our files. One copy of the approved plans must be kept on the job site at all times for the inspector to view.

Do I have to have an architect prepare my plans?

If the work involves unique methods or materials (i.e. manufactured lumber), the Office of Community Development will require that the plans be stamped by a Registered Architect or Engineer.

How much detail is needed on the plans?

A full set of construction plans must be submitted. It must be clear from the plans what work is being done and how it is being done. Plans should be to scale and legible. A title block giving the address of the project must be provided on the lower right-hand corner of all sheets. All areas addressed in the building code must be addressed on the plans. In general, plans for new construction should include floor plans, foundation plan, framing plans, sections and elevations. Simply adding a note to the plans that says "all work to comply with codes" is not sufficient. All applicable items should be addressed on the plans. Remember, the more complete that the plans are, the less likely that problems will arise after construction. Several good books are available at the library or at bookstores on architectural drafting.

Can I change my plans after they have been approved?

Yes. Revised plans must be submitted prior to constructing the change. Also, an application for revised plans must be submitted and additional fees, if any, paid. If the new work is a lower valuation than the original work, no refunds are given.

Plot Plans**Is a plot plan required?**

If the work involves a new structure or an addition to an existing structure (including a vertical addition), a plot plan is required. As with construction plans, you must submit three copies

Can I prepare my own plot plan, if I am certain where my property line is?

No. Plot plans can only be prepared by a Registered Land Surveyor, and must bear his/her stamp.

What information is required on a plot plan?

The surveyor generally knows the procedure for preparing a plot plan and the information required. Setbacks to all structures must be shown. If any structure is to be demolished, its location must be shown. Also, any easements must be indicated on the plan. Any new driveway must have the setback from the property line and its slope shown on the plan. Trees with a diameter of 6" or more must be shown, and grades (before and after construction), must be shown. Some of these requirements may be waived if the work is of a minor nature

If I don't have a plot plan, where can I get one?

Mortgage plans can sometimes be obtained from the bank. Also, the Office of Community Development has plans on file for many properties in town. If available, these may be acceptable. Otherwise, you must contact a Registered Land Surveyor to prepare a plan for you.

How much is a plot plan?

There are too many variables to give an accurate estimate. You can probably expect to pay anywhere from a few hundred dollars for simple jobs to a few thousand dollars for more complex jobs. This amount should be considered when you are estimating the cost of your project.

Expiration of Permits**When I obtain my permit, how long do I have to start the work?**

The State Building Code states that "any permit issued shall be deemed abandoned and invalid unless the work authorized by it shall have been commenced within 6 months after its issuance; however, for cause, one or more extensions of time, for periods not exceeding 6 months each, may be granted in writing by the Building Commissioner or Inspector of Buildings." Extensions are normally granted without any trouble. However, if there have been changes to the Zoning By-Law or building code subsequent to the original issuance of the permit, any grandfather status may be lost if work has not begun (i.e., you will have to comply to the new requirements). A request for an extension must be made in writing.

How long do I have to complete the work?

The State Building Code states "Work under (a permit) in the opinion of the Building Commissioner or Inspector of Buildings must proceed in good faith continuously to completion so far as is reasonably practicable under the circumstances."

Inspections**When I start construction, is the work inspected?**

Yes. It is the responsibility of the permit holder to call the Office of Community Development to arrange for the required inspections. Required inspections are indicated on the inspection record card, which you receive when your permit is approved.

Where should this card be kept?

The card must be posted in a location visible from the street and accessible to the inspector. Generally, the best location is inside a front storm door.

Do I need to provide anything else to the inspector?

Yes. If you submitted plans along with your permit application, a copy of these plans, bearing an "approved" stamp was returned to you with the approved building card. This copy must be available for the inspector to review for determination that the work is in compliance with the approved plans.

How much notice does the inspector need when I am ready for an inspection?

The State Building Code states that the contractor must give the inspector 24 hours notice prior to the time when the inspection needs to be performed. It further states, " the Building Inspector shall make the inspection within 48 hours after such notification".

Can I call for plumbing and electrical inspections?

No. These calls must be made by the licensed plumber or electrician. The amount of notice required is stated in their respective codes.

What does the inspector look for during the inspection?

We are trying to determine compliance with the approved plans and with the applicable codes. For more detail, see the attached list of inspection checkpoints.

Does the inspector carry identification?

Yes. All inspectors have business cards and photo identifications. Also, they normally arrive in an official vehicle. If in doubt as to the inspector's identity, please request identification.

What if my project makes it impossible to comply with a provision of the building code?

The Office of Community Development does not have the authority to waive a requirement of the building code. If code compliance is not possible due to a unique situation, a variance must be obtained from the State Board of Building Regulations and Standards.

How do I obtain a variance?

Applications are available in the Office of Community Development or at the State Department of Public Safety. It is a lengthy procedure, so allow ample time in your project scheduling.

What if something is not covered in the building code?

In that unlikely situation, the building inspector has the authority to approve or disapprove the proposed method of construction.

What if I don't agree with a decision of the inspector?

If the disagreement can not be resolved, an appeal can be filed with the State Board of Building Regulations and Standards, using the same application used for a variance.