

## **Bolton Conservation Commission FAQ's**

### **What is the Conservation Commission's role in Bolton?**

The Commission has these responsibilities:

- Open space protection, including the following:
  - Land acquisition
  - Accepting gifts of land
  - Administering Conservation Restrictions
  - Administering Agricultural Preservation Restrictions
- Wetlands protection, by administering two laws:
  - The Massachusetts Wetlands Protection Act ("the Act", MGL Ch. 131.s 40)
  - The Bolton Wetlands Bylaw (1.18)
- Advising other government bodies
- Other non-regulatory functions (such as public education)

Administering the wetland laws is an important and time consuming part of the Conservation Commission's duties.

### **What is a wetland?**

Wetlands are places where there is shallow water or soggy soil at least part of the time. The water has to be just shallow enough, or the soil just soggy enough, for wetland plants to take hold. Ponds, lakes, rivers and streams are not wetlands, because the water is too deep, but there are often wetlands along the edges of those water bodies.

Some examples of wetlands are bogs, swamps, marshes, and intermittent streams. Another type of wetland is a "bordering vegetated wetland", which shares a border with a stream, pond, or lake. Wetlands can, however, be found far from deep water.

### **Why are wetlands important?**

Wetlands provide many valuable functions. The state's Wetland Protection Act protects eight functions, called "interests":

- Public and private water supply
- Ground water supply
- Flood control
- Storm damage prevention
- Pollution prevention
- Land containing shellfish
- Fisheries
- Wildlife habitat

The Bolton Wetlands Bylaw protects all of the above, as well as these additional interests:

- Rare species habitat
- Agriculture
- Aquaculture
- Adjoining land areas deemed important to the community

All of these interests ultimately benefit people, often in ways that are not obvious. For example, wetlands play a key role in recharging groundwater. Even though some wetlands have no apparent connection to surface water, most have critical groundwater connections. Wetlands are sponges that soak up water after storms, protecting us from floods. They also allow particles to settle so that pollutants can be detoxified by plants and microorganisms.

Wetlands are often wildlife “hot spots”, providing food, water, breeding sites, and cover for many species. The benefits to humans of wildlife habitat go beyond recreation: Green plants moderate climate by fixing carbon. Forest canopies clean air by capturing particles produced by combustion. Leaf surfaces are the site of chemical reactions that transform certain pollutants into harmless compounds.

Even rare species habitat benefits people. Nature is a system which functions best when all of its components – all its living organisms – are present. When habitats are polluted or lost to development, and when species disappear, the system begins to erode, natural processes are compromised, and humans ultimately suffer.

### **What is a “wetland resource area”?**

You will probably hear this term often, if you need to meet with the Conservation Commission. Technically a resource area is *land* (not the water) subject to protection under the Wetlands Protection Act or the Bolton Wetlands Bylaw.

Inland wetland resource areas:

- Land under water (which could be land under a stream, pond, etc.)
- Banks
- Bordering vegetated wetland (see What is a Wetland, above)
- Land subject to flooding
  - Bordering a stream, pond, or lake.
  - Isolated from other water bodies
- Riverfront area

The Act protects these wetland resource areas, but the Bylaw protects additional land. According to the Bylaw, the wetland itself plus land within 25 feet of it, comprise the “wetland resource area”. The Bylaw protects this entire area.

### **What is an “Adjacent Upland Resource Area” (AURA)?**

The Bolton Wetland Bylaw also protects land between 25 and 100 feet from the wetland. This area is called the Adjacent Upland Resource Area. Activities within the wetland resource area and within the AURA are presumed to impact the wetland. The burden is on the applicant to prove that the proposed activity will not impact the wetland.

### **What is a wetland buffer zone?**

Under the Wetlands Protection Act, a “buffer zone” is the area within 100 feet of a wetland. According to the WPA, activity within the buffer zone is not presumed to have impact on the wetland. However, buffer zones play an important role in preservation of the physical, chemical, and biological characteristics of the wetland, and an applicant who wishes to conduct activity within a buffer zone must explain what will be done to protect the nearby wetland.

## **Which law applies to my project, the Wetlands Protection Act, or the Bolton Wetland Bylaw?**

Generally, both laws apply, but there are some exemptions to each law. The Conservation Commission Administrator and the Conservation Commission can help you determine whether your project meets criteria for any exemption.

## **Why is it important to evaluate the impact of every project within these resource areas?**

People sometimes think that one backyard project within a resource area won't make a difference, and should be ignored. However, many backyards are within resource areas, and the effects of many small projects add up. In a sense, wetland violations are like littering. The impact of only one person littering is very small, but the cumulative impact of many people littering can be enormous. Likewise, the cumulative impact of many small wetland violations can be enormous. Like the no-littering laws, wetland protection laws and bylaws must apply to everyone. That is only fair, and it ensures that the cumulative impact will be minimized.

It's also important to understand that most wetlands are connected to other wetlands, either directly or through groundwater. This means that activities which impact wetlands within one property can impact people living elsewhere.

## **When am I required to file an application with the Conservation Commission?**

You must file an application when you want to conduct activity within an area which is under the jurisdiction of the Conservation Commission, as identified by the Wetlands Protection Act or the Bolton Wetland Bylaw.

## **How do I apply to conduct activity in or near a wetland or floodplain?**

There are three kinds of applications under these regulations. The size and scope of your project will determine what application process should be submitted to the Conservation Commission. Contact the Conservation Administrator if you are not sure which is appropriate. The Commission will set a time for a public hearing/meeting on your project and will advertise the hearing/meeting in the local newspaper at your expense. Once the public hearing/meeting is closed, the Commission must issue a decision.

- A Request for Determination of Applicability should be filed if you are unsure if your project area falls within the jurisdiction of the Conservation Commission, or if it will have any impact on a resource area.
- An Abbreviated Notice of Resource Area Delineation can be filed to confirm the boundaries of a resource area.
- A Notice of Intent should be filed if it is clear that your project will impact a resource area.

The Conservation Administrator can explain the laws that regulate wetlands more completely to you and their effect on the particular project you have in mind. Regulations issued under both the Act and the Bylaw should be consulted, as they contain specific standards that you should incorporate into your project design. If you know that your project is regulated and that the size and scope of the project will require professional services you may go directly to a wetland consultant to assist you.

**How should I prepare for a meeting/hearing?**

You should be prepared to clearly explain your project, refer to maps and diagrams where helpful, and answer the Commission's questions. The Commission must treat everyone as fairly as possible and make fact based decisions. A focus on the facts, rather than your mission or passion for the project, will help the process go more efficiently.

**Whom can I call for assistance in permitting?**

The Conservation Commission cannot legally recommend any particular engineer, consultant, or landscaper, but may be able to advise you as to the type of consultation that would be most appropriate.

**If I hire a consultant, will the Conservation Commission accept his/her opinion as the final word?**

Consultants can help you understand the complicated wetland laws and how they apply to your project, and can also help you communicate efficiently and effectively with the Conservation Commission. However, a consultant you hire to represent your own interests, is not an unbiased expert. Therefore, the Commission cannot automatically accept a consultant's opinion as the final word. If the Commission did so, there would be no one representing the wetland interests of Bolton.

**Are there trail maps for Bolton Conservation Land?**

The Bolton Conservation Trust (BCT) has produced a Trail Guide that can be purchased at Town Hall in the Town Clerk's office for \$10.00 with the proceeds going to the BCT. The Bolton Trail Committee, a committee composed of representatives of the Conservation Commission, Bolton Conservation Trust and the general public, is in the process of updating these maps. The Conservation Commission's web page houses some of the maps which can be found at [www.TownofBolton.com](http://www.TownofBolton.com)