

*Town of Franklin, MA
Thursday, July 11, 2019*

Chapter 271. Conservation Commission Bylaws

[HISTORY: Adopted by the Conservation Commission 12-4-1997. Amendments noted where applicable.]

GENERAL REFERENCES

Wetlands protection — See Ch. **181**.

Zoning — See Ch. **185**.

Subdivision of land — See Ch. **300**.

§ 271-1. Parliamentary procedure.

The Commission shall be governed by Robert's Rules of Order Revised in all questions of parliamentary procedure not provided for by special rules or orders herein.

§ 271-2. Commission meetings.

[Amended 5-14-2015]

Regular meetings shall be held on the first and third Thursday of each month, or as otherwise voted by the Commission, convening at a time voted upon by the Commission and ending at 11:00 p.m.

§ 271-3. Quorum.

A quorum shall consist of a majority of its members (four of seven, irrespective of whether all seven slots are filled by Town Council ratification). If at any time a meeting is called to order, or if during a meeting less than a quorum is present, the Chair shall declare a recess of not more than 10 minutes, after which time, if a quorum is not present, the meeting shall be adjourned. Any member may call for a roll call on the question of the presence of a quorum.

§ 271-4. Public postings.

[Amended 5-14-2015]

By law, public notices of all Commission meetings, except in emergencies, must be posted with the Town Clerk a minimum of 48 hours before any meeting. Meeting notice forms emanate from the Town Clerk's office and will include the name of the Commission and the date, time and place of the meeting.

§ 271-5. Minutes.

[Amended 5-14-2015]

A written record of each Commission meeting is required by law and becomes part of the public record. Minutes must contain the date, time and place of the meeting, members present or absent, all formal votes of the Commission, a reasonable summary of discussion and the revision dates of any plans or forms submitted by applicants. Minutes must be formally accepted by the commission.

Minutes of all Commission meetings must be placed on file in the office of the Town Clerk where they will be available for public inspection upon request.

§ 271-6. Chairman; powers and duties.

[Amended 5-14-2015]

- A. The Chairman shall take the Chair at the hour appointed for the Commission to meet and shall immediately call the members to order. In the absence of the Chairman, the Vice Chairman shall assume the role of the Chairman pro tem. In the event both the Chairman and Vice Chairman are absent the Chairmanship shall be assumed by the member with the most seniority on the Commission.
- B. The Chairman shall preserve decorum and order, may speak to points of order in deference to other members, and shall decide all questions of order, subject to an appeal to the Commission, regularly seconded. No other business shall be in order until the question on the appeal has been decided.
- C. The Chairman shall recognize members, applicants and citizens in an order which best serves the interests of the Commission. Those interests are:
 - (1) Promoting conservation;
 - (2) Administering the State Wetlands Protection Act, MGL c. 131, § 40;
 - (3) Administering the Town Wetlands Protection Bylaw, Chapter **181**;
 - (4) Protecting the water resources of the Town;
 - (5) Making recommendations to the Town Council as required; and
 - (6) Educating citizens concerning conservation issues.
- D. The Chairman may at any time declare a recess for not more than 10 minutes, and such action shall not be subject to appeal, nor shall any motions apply thereto.

§ 271-7. Election of officers.

A majority of members ratified to serve on the Commission shall be required to elect a Chairman and Vice Chairman on an annual basis.

§ 271-8. Voting.

[Amended 5-14-2015]

All questions shall be stated and put by the Chairman. The results of a voice vote and/or raised hand votes shall be declared by the Chairman. Where the result of a vote is in doubt, the Chairman may, and on demand of any member shall, call for a raised hand vote.

§ 271-9. Vote requirements.

- A. All action taken by the Commission requiring a vote will be by a simple majority (majority of members present and voting) except as otherwise provided by Massachusetts General Laws, Home Rule Charter, Bylaw or as set forth herein.

- B. In the event of a tie vote in any proposal, the proposal shall be considered lost.
- C. A motion to elect a Chairman or Vice Chairman shall require a vote.
- D. A motion to conduct separate hearings under the State Wetlands Protection Act, MGL c. 131, § 40, and the Town Wetlands Protection Bylaw, Chapter **181**, shall require a vote.
- E. A motion to close a public hearing shall require a vote.
- F. A motion to decide a request for determination shall require a vote.
- G. A motion to issue special orders of conditions for a permit to perform work per the State Wetlands Protection Act shall require a vote.
- H. A motion to require an applicant to pay the fee of a consultant per the Town Wetlands Protection Bylaw shall require a vote.
- I. A motion to determine whether an applicant's presentation under the Town Wetlands Protection Bylaw has satisfactorily demonstrated that proposed activities, either individually or cumulatively, are not likely to have a significant adverse effect upon the functions and characteristics of a resource area shall require a vote.
- J. A motion to determine whether an isolated wetland subject to flooding is capable of satisfying the definition of a "vernal pool" per the Town Wetlands Protection Bylaw shall require a vote.
- K. A motion to issue orders of conditions for a permit to perform work per the Town Wetlands Protection Bylaw separate from those issued per the State Wetlands Protection Act, or to deny a permit to perform work per the Town Wetlands Protection Bylaw, shall require a vote.
- L. A motion to require an applicant to provide a performance guarantee per the Town Wetlands Protection Bylaw shall require a vote.
- M. A motion to initiate civil and criminal enforcement actions per the Town Wetlands Protection Bylaw shall require a vote.
- N. A motion to amend or modify these rules and regulations shall require a vote. Such a vote shall require a majority of the full membership of the Commission (i.e., four of seven, irrespective of whether all seven slots are filled by Town Council ratification).

§ 271-10. Hearings.

[Amended 5-14-2015]

The format for hearings under the State Wetlands Protection Act and under the Town Wetlands Protection Bylaw shall include at a minimum presentation by the applicant and questions and discussion by the Commission and public.

§ 271-11. Conflicts of interest.

No member shall vote on any matter where the member's private or family interest will conflict with the public's interest as set out in the State Conflict of Interest Law, MGL c. 268A.

§ 271-12. Open meeting law.

[Amended 5-14-2015]

All meetings of the Commission shall be conducted in accordance with the State Open Meeting Law, MGL c. 39, § 23, c. 30A, § 18-25B^[1] and 940 CMR 29.

[1] *Editor's Note: See MGL c. 30A, § 18-25.*

§ 271-13. Definition of key terms in Town Wetlands Protection Bylaw.

As used herein and in the Town Wetlands Protection Bylaw, the following words shall have the following meanings:

ALTER

Test pits for the purpose of preparing an application to the Commission are excluded from the definition of "alter" set forth in the Town Wetlands Protection Bylaw. Normal landscaping maintenance activities are excluded from the definition of "alter" set forth in the Town Wetlands Protection Bylaw. Cutting of any woody plant greater than one inch at breast height, cutting any herbaceous plant greater than one foot height at maturity and spreading pesticide, herbicide, or lawn fertilizer closer than 50 feet to a wetland shall not be considered normal landscaping maintenance. Changing the elevation of any area greater than 10 square by more than one foot shall be considered to satisfy the definition of "alter" set forth in the Town Wetlands Protection Bylaw.

FLOODPLAIN

Any floodplain which satisfies the definitions of "floodplain" as set out in MassDEP Regulations 310, CMR 10.00. The resource area of a floodplain is limited to the area of the floodplain and does not include land within 100 feet of the floodplain.

INFORMATION AND PLANS

Plans shall be scaled 40 feet per inch or larger (e.g. 20 feet per inch), indicating the location and extent of a resource area. Plans shall have initial and revision dates and be plainly labeled to indicate the location and nature of proposed activities. Plans for new construction (i.e. not additions) shall include topographic contours of at least two-foot intervals. This definition does not preclude the Commission from requiring other information such as drainage calculations, replication schedules, etc.

SIGNIFICANT ADVERSE EFFECT

Any activity which is determined by a vote of the Commission to be likely to result in a significant adverse effect of the functions and characteristics of a resource area.

VERNAL POOL

Any isolated wetland subject to flooding which is determined by a vote of the Commission to be capable of satisfying the definition of a vernal pool as set forth in the MassDEP Regulations 310, CMR 10.00.

[1] *Editor's Note: See Ch. 181, Wetlands Protection.*