

# CITY OF GARDNER



## LAND DEVELOPMENT GUIDEBOOK

AUGUST 2009  
*Forms rev\_ April 2016*

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*Forms rev\_4/2016*

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## **1. INTRODUCTION**

The purpose of this guidebook is to help developers navigate the permitting process related to land-based developments in Gardner. The regulation of land-based development normally requires numerous permits and approvals from various City departments, boards and commissions. This guidebook identifies the boards, commissions and departments that regulate land-based development and the processes involved in applying for and receiving the permits relevant to your land-based project. More detailed information is given in the appendices.

Section 2 identifies the boards, commissions and departments that regulate and impact land-based development and includes their function, type of permit issued, schedule of meetings and contact info. You will find information about the Development Review Committee, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Traffic Commission, Department of Public Works, Department of Engineering & Survey, Department of Community Development & Planning, and the Building Commissioner.

Section 3 explains the review and approval process for each of the most commonly required permits that a land developer will need prior to securing a building permit. You will find information about Special Permits and Variances per MGL Chapter 40A; the Subdivision of Land per MGL Chapter 41; Order of Conditions per MGL Chapter 30A; and Site Plan Review per Section 1010 of the City's Zoning Code.

Section 4 outlines the expedited permitting provisions in MGL 43D and identifies the three Priority Development Districts designated by the Mayor and City Council in which these provisions apply.

The Appendices contain flow charts and timelines of the review and approval process for the permits listed above as well as links to where you will find relevant rules, regulations, application forms, and the City's zoning map.

This guidebook will hopefully direct you through the land development process to an outcome that is mutually beneficial to you and to the residents of the City of Gardner. But please keep in mind that this is just a guide, containing summary information only. As a developer, it is your responsibility to obtain copies of all applicable regulations so you can learn firsthand the requirements and standards by which your project will be evaluated. No one else can do this for you or take away your responsibility for complying with these rules and regulations. Familiarity with the rules and regulations at the beginning of a development project helps facilitate the approval process and can avoid costly and time-consuming design changes after substantial engineering or architectural work has been done. Refer to Appendix G for a listing of where to find relevant rules, regulation and application forms.

Pre-submission discussions with City staff are strongly encouraged. The first point of contact to arrange pre-submission discussions and a meeting with the Development Review Committee is the Director of Community Development & Planning. Contact information is in Appendix I. This guidebook is available in Community Development office, Manca Annex, City Hall for \$15.00 and on the City's website: [www.gardner-ma.gov](http://www.gardner-ma.gov) – Community Development & Planning Department listed under the Planning Department at no charge.

## **2. BOARDS, COMMISSIONS AND DEPARTMENTS**

### **Development Review Committee (DRC)**

*Meeting Schedule: As needed in Room 203, Manca Annex, City Hall; contact Department of Community Development & Planning (DCDP), 978-630-4011.*

DRC members include: DCDP Director, City Engineer, DPW Director, Health Director, Building Commissioner, Conservation Agent, Fire Chief or his designee, Police Chief or his designee, and one member from the Planning Board, Zoning Board of Appeals, and City Council.

Depending on the size and scale of your project, submission of a Preliminary Development Plan to the DCDP and a Preliminary Plan Conference with the DRC may be required. The intent of this submittal and meeting is to permit a full understanding of the proposed development before detailed design and planning occurs. The meeting provides the developer with an opportunity to explain the proposed project, to gain substantive reactions from City representatives and to determine agreement on detailed approaches and submittal requirements for permit application process. A report of findings of the conference is prepared by the DCDP Director and submitted to the developer and relevant City departments, boards and commissions. Unanswered questions and unresolved issues are noted for both the developer and the boards.

Although permitting authorities are not obligated to follow the DRC recommendations, projects can avoid delays in the permit review process if the DRC review has already occurred.

### **Planning Board**

*Meeting Schedule: Second Tuesday of each month at 7:00 PM in Room 203, Manca Annex; contact DCDP, 978-630-4011.*

The Planning Board is authorized under Massachusetts General Laws (MGL) Chapter 41 to regulate the subdivision of land, the laying out and construction of roadways and installation of municipal services in subdivisions, and the improvement and sale of lots within a subdivision. This permitting process is controlled by the Board's Rules and Regulations Governing the Subdivision of Land, last revised October 18, 2005.

The Planning Board also reviews and approves Site Plan applications under Subsection 675-1020 in the City's Zoning Code. Contact the City Clerk to insure you get a copy of the up-to-date Zoning Code. Site Plan Review provides for a review of plans for uses and structures which may have significant impacts on traffic; municipal buildings and public services and utilities; the environment; community economics; and the City's visual and historic character and development goals.

The Zoning Code also designates the Planning Board as the Special Permit Granting Authority (SPGA) for the following:

- Groundwater Supply Protection Overlay District (Section 520 G)
- Development Overlay District 1 (Section 530)
- Smart Growth Planned Unit Development (Section 540)
- Industrial & Commercial Heritage Planned Unit Development (Section 550)
- Infill Development (Section 630)
- Open Space Residential Development (Section 810)

The Director of Community Development and Planning can help you determine whether your project involves the subdivision of land or if it will require Site Plan Review or a Special Permit from the Planning Board.

### **Zoning Board of Appeals (ZBA)**

*Meeting Schedule: Second Tuesday of each month at 7:00 PM in first floor meeting room, Manca Annex; contact Building Commissioner's office, 978-630-4007.*

The ZBA is the Special Permit Granting Authority (SPGA) in most instances. Uses allowed by Special Permit are listed in the Use Regulations contained in Section 4 of the Zoning Code. Special Permits from either the ZBA or Planning Board shall conform to the provisions of Section 1180 and shall not be detrimental or offensive or tend to reduce property values.

The ZBA also hears and decides on appeals or petitions for variances from the terms of the Zoning Code with respect to particular land or structures as provided for in MGL Chapter 40A, section 10. This includes hearing petitions for relief in regard to the use of one's land and dimensional requirements for the use of one's land. The ZBA hears and decides appeals to a literal enforcement of the Zoning Code by any person aggrieved by the permitting process.

If a building permit is denied by the Building Commissioner (who is also the Zoning Enforcement Officer) based on zoning considerations, the applicant may have recourse to appeal that decision to the ZBA.

### **Conservation Commission**

*Meeting schedule: Second and Fourth Monday of each month at 6:30 PM in second floor meeting room, Manca Annex; contact Conservation Agent's office, 978-630-4011 or Conservation Commission Clerk's office, 978-630-4003.*

The Conservation Commission's primary role is the protection and preservation of the City's natural resources. The Commission administers the Massachusetts Wetlands Protection Act (MGL Chapter 131, Section 40) and the City's Wetlands Protection Ordinance. In addition, the Commission acquires properties through purchase or gift and manages the properties to achieve its primary role as well as for the enjoyment of the general public. The goals of the Wetlands Protection Ordinance are to preserve and exercise jurisdiction over fresh water wetland areas and adjoining land areas by controlling activities deemed by the Conservation Commission as likely to have a significant adverse effect on the resource area, which includes public and private water supplies and ground water; prevention and control of flooding, erosion and sedimentation; prevention of storm damage; prevention and control of pollution; protection of water quality; protection of wildlife and wildlife habitat; and promotion of related aesthetic, recreation and education values.

The Wetlands Protection Act and the Wetlands Protection Ordinance provide protection to several types of resource areas. The resource areas most relevant to the City of Gardner include bordering vegetated wetlands and their buffer zones (areas within 100 feet of lakes, ponds and streams), land under water, land subject to flooding, and riverfront areas (areas within 200 feet of a river or perennial stream).

The City's Wetlands Protection Act provides additional protection to areas not covered under the Wetlands Protection Act such as some intermittent streams, vernal pools and setbacks from resources areas – the first 30 feet is a no disturbance zone and the next 30 feet is a no build zone.

Any person wishing to do work that will disturb land within a wetlands resource area must file with the Commission prior to beginning work. If you are unsure if there are protected resource areas that might be disturbed, please contact the Commission – do not trust your own judgment. The Conservation Agent’s job is to assist you with compliance.

### **Board of Health**

*Meeting schedule: Third Monday of every month at 7:00 PM in room 29, City Hall; contact Health Department, 978-630-4013.*

The Board of Health, acting through the Health Department, strives to provide a safe and sanitary environment for the residents of Gardner. The Health Department enforces state and local environmental and health codes. Among the permits, licenses and services it provides are those for restaurants, markets, beaches, swimming pools, camps, housing, septic systems, wells and the transportation and storage of hazardous materials. The Health Department also operates the Gardner Transfer Station and oversees the curbside collection of trash and recyclables.

The Health Director can help you determine whether your project will require Board of Health permits or approvals, and explain the procedures for obtaining these permits.

### **Other Key Departments and Commissions**

- **Survey Department (City Engineer)** – The City Engineer should be consulted on questions about parcel boundaries, easements, curb cuts and storm water drainage. The City’s Geographic Information System (GIS) provides access to a wide variety of maps including the location of underground sewer and water services, mains and hydrants, parcel boundaries, abutters, public ways, etc. The City Engineer provides technical assistance to the Planning Board. All plans related to the extension or improvement to public ways and municipal utilities are reviewed and approved by the City Engineer. Contact information is in Appendix I.
- **Department of Public Works (DPW)** – The Department of Public Works is responsible for the construction and maintenance of streets, sewer and water mains and hydrants. Any project that involves the construction of these municipal utilities must consult with the Director of Public Works and the publication that details CITY SPECIFICATIONS for Water, Sewer, Drainage and Highway. Prior written approval from the Director of Public Works or his designee is required before commencing any excavation within the limits of a public way including sidewalks or connection to any existing municipal utility. And don’t forget to call DIG SAFE (888-344-7233). Contact information for the Director is in Appendix I. The Highway Department can be reached on 978-632-7661. The Sewer and Water Departments can be reached on 978-630-4015.
- **Fire Department** – The Fire Department reviews all subdivision and site plans and applications for Special Permits. The Fire Department also inspect and issue permits for fire alarm and sprinkler systems; smoke and carbon monoxide detector installations; commercial kitchen hood vents and suppression systems; chemical and hazardous material inventories; underground tank installations; flammable storage facilities and tank trucks. Contact information is in Appendix I.
- **Traffic Commission** – Members of the Traffic Commission include the Police Chief or his designee, as Chairman; a member of the City Council’s Public Safety Committee; City Engineer; Director of Public Works; and Director of Community Development & Planning. The Director of Public Works, under the supervision of the Traffic Commission, places and maintains all official traffic signs and

signals, markings and safety zones. The Traffic Commission also monitors all traffic related issues from signs to major project proposals and makes recommendations to the City Council regarding changes required to the Traffic Code. Contact information is in Appendix I.

### **3. PERMITS AND PROCESS**

#### **Special Permits**

The Zoning Code contains a Table of Uses (Section 415) that sets forth use regulations in residential, commercial and industrial districts. Various uses are permitted by right – only a building permit is required if the proposed structure conforms to the all provisions of the zoning code and there is no subdivision of land. Other uses are allowed by Special Permit and some uses are not permitted. Special Permits are granted by the Zoning Board of Appeals unless specifically designated otherwise. The Planning Board is specifically designated as the granting authority in the following sections of the Zoning Code: Infill Development (Section 630); Smart Growth Planned Unit Development (PUD), Industrial and Commercial PUD, and Development Overlay District (all in Section 5); and Open Space Residential Development (Section 8).

Special Permits are discretionary, and are granted only upon written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood in view of the particular characteristics of the site and of the proposal in relation to that site. Section 1182 in the Zoning Code contains specific criteria that the granting authority must consider.

The application, review and approval of Special Permits are controlled by MGL Chapter 40A. Appendix B contains a flow chart and timeline for Special Permits. Links to relevant rules and application forms are contained in Appendix G. Questions about Special Permits should be directed to the Building Commissioner (978-630-4007) or the Director of Community Development & Planning (987-630-4014). Complete contact info is listed in Appendix I.

#### **Variances**

The Zoning Board of Appeals (ZBA) is empowered to grant variances from the terms and conditions of the Zoning Code under specific circumstances where a literal interpretation of the code imposes a substantial hardship on the petitioner/applicant, but only when:

- Soil conditions, slope or topography affect the land or structure in a special way, but not the zoning district in general;
- A literal enforcement would impose substantial hardship, financial or otherwise, to the applicant;
- Relief may be granted to the applicant without substantial detriment to the public good; and
- Relief may be granted to the applicant without substantial detriment to the intent and purpose of the Zoning Code.

It cannot be over-emphasized enough that variances are granted ONLY when ALL of these conditions are met and then the ZBA may include conditions, safeguards and limitations of time and use which prevent substantial detriment to the public good.

The application, review and approval of Variances are controlled by MGL Chapter 40A, section 10. Appendix C contains a flow chart and timeline for Variances. Links to relevant rules and application forms

are contained in Appendix H. Questions about Variances should be directed to the Building Commissioner (978-630-4007). Complete contact info is listed in Appendix I.

### **Subdivision of Land**

The subdivision of land is controlled by the Subdivision Control Law, MGL Chapter 41, sections 81K-81GG, and the Gardner Planning Board's Rules and Regulations Governing the Subdivision of Land, revised October 18, 2005 (hereinafter referred to as 'Rules and Regulations'). The Planning Board is authorized to regulate the subdivision of land, the laying out and construction of roadways and installation of municipal services in subdivisions, and the improvement and sale of lots within a subdivision.

The subdivision of land is the division of a tract of land into two or more lots. If your project involves the subdivision of land and requires street construction to provide vehicular access to those lots, you must obtain subdivision approval from the Planning Board. The procedures for the submission and approval of subdivision plans are contained in Section 5 of the Planning Board's 'Rules and Regulations'. Detailed engineering plans are required to demonstrate compliance with required design standards and construction specifications for site work; street construction; water and sewer utility installation; and storm water, erosion and sediment control. Required design standards and construction specifications are contained in Section 6 and 7 of the Planning Board's 'Rules and Regulations'. The application must also address likely impacts that the proposed subdivision will have on natural resources, water and wetlands, public facilities serving the area, the neighborhood and community services.

If you are interested in subdividing a tract of land, please consult engineering or surveying firms with appropriate experience preparing subdivision plans in Massachusetts.

In certain circumstances, the division of a tract of land into two or more lots will not constitute a subdivision if, at the time the division is made, the Planning Board or its designee determines that: (1) all lots abut a qualified way; (2) all lots have adequate frontage; and (3) vital access exists to each lot. This exception in the Subdivision Control Law allows an applicant to submit an Approval Not Required (ANR) plan, refer to Section 4 in the Planning Board's 'Rules and Regulations'.

The Director of Community Development & Planning (978-630-4014) or City Engineer (978-630-4010) can help you determine if a proposed subdivision of land is subject to the procedures for the submission and approval of a subdivision plan or the more limited application and review of an ANR plan. Appendix E contains a flow chart and time line for the subdivision of land. Links to relevant rules and application forms are contained in Appendix G. Complete contact info is listed in Appendix I.

### **Site Plan Review**

Site Plan Review is controlled by Subsection 675-1020 in the Zoning Code. Site plan review provides for the Planning Board to review plans for residential, commercial and industrial projects which may have a significant impact on traffic, municipal services and utilities, the environment, and community economics and values. Site plan review is triggered by a project which contains any one or more of the following:

- Any new structure or group of new structures under the same ownership on the same or contiguous lots that consist of 5,000 square feet or more of gross floor area;
- Any improvement, alteration or change in use which results in an increase of 2,500 square feet or more of gross floor area;

- An addition of 30 or more new parking spaces as required under the Zoning Code;
- An addition of 500 or more vehicle trips per weekday; and
- An adult use as defined in the Zoning Code.

Detached single-family and two-family dwellings are excluded from site plan review. The Director of Community Development & Planning (978-630-4014) can help you determine if a proposed project is subject to site plan review.

A summary of Site Plan Review procedures and timeline for site plan review is contained in Appendix F. Links to relevant application forms are contained in Appendix G. Complete contact information is available in Appendix I.

### **Wetlands Development Permits**

The Conservation Commission's primary role is the protection and preservation of the City's natural resources. The Commission administers the Massachusetts Wetlands Protection Act (MGL Chapter 131, Section 40) and the City's Wetlands Protection Ordinance.

No alterations can be made to a protected wetlands resource area or to adjoining land areas without a permit from the Conservation Commission. Do not trust your own judgment if you are unsure if your project might disturb a resource area or an area within 100 feet of a resource area, known as a buffer zone. Buffer zones around perennial streams are expanded to 200 feet from stream's banking. The Conservation Agent (978-630-4011) will assist you with compliance.

The two most often used types of applications to the Conservation Commission are a Request for Determination of Applicability (RDA) and a Notice of Intent (NOI). If you wish to know whether or not a proposed activity or area on a lot is subject to jurisdiction of the Conservation Commission, file an RDA. If you have sought professional advice and determined that a proposed activity is subject to the jurisdiction of the Conservation Commission, file an NOI. Links to the relevant rules and application forms are contained in Appendix G. A flow chart and timeline that starts with the filing of a NOI is contained in Appendix D. Complete contact information is available in Appendix I.

### **Other Local Permits and Approvals**

- **Work within a public way** – Prior written approval from the Director of Public Works or his designee is required before commencing any excavation within the limits of a public way including sidewalks or connection to any existing municipal utility.
- **Alterations, Extensions or Connections to Public Utilities, and trench openings.** —No alterations, extensions or connections to public sewer, water or drainage systems shall be made without first obtaining written approval from the Director of Public Works.
- **New Driveway or Altering Curb** – Prior written approval from the City Engineer is required before commencing work to create or alter a curb cut. The City Engineer's office will also provide a street address when a new building lot is created.
- **Signs** – Signs and other advertising devices are regulated by Section 9 in the Zoning Code. With few exceptions, signs require a sign permit from the Building Commissioner.
- **Fire Safety** – The Fire Department inspects and issue permits for fire alarm and sprinkler systems; smoke and carbon monoxide detector installations; commercial kitchen hood vents and

suppression systems; chemical and hazardous material inventories; underground tank installations; flammable storage facilities and tank trucks.

- **Building/Occupancy Permits** – A Building Permit is issued by the Building Commissioner when plans for the project are determined to be in compliance with State building, electric and plumbing codes, as well as the City’s Zoning Code. An Occupancy Permit is issued by the Building Commissioner when the project is completed and a final inspection determines compliance with State codes and the City Zoning Code.

A list of State and Federal Permits related to land-based development is contained in Appendix J. The list is not intended to be all-inclusive. Anyone considering a land-based development that might require State and/or Federal Permits should consult with a professional engineer or surveyor as early in the process as possible.

#### **4. Expedited Permitting under MGL 43D**

This section of the guidebook is markedly different than the other sections because expedited permitting under MGL 43D and 420 CMR 2.00 is a relatively new permitting process; adopted by the City Council on October 16, 2007 and approved by the Massachusetts Interagency Permitting Board on September 24, 2008. At the time of City Council adoption of the permitting procedures contained herein no project has submitted an application under the provision of 43D. For this reason, Section 4 contains more details about the expedited permitting process and can be used by both City staff and potential developers as a standalone guide.

##### **What is MGL 43D?**

Massachusetts General Law Chapter 43D (MGL 43D) provides a legal basis for local governments to streamline their permit processes as a tool to support economic development. Local governments that choose to participate designate certain parcels as local Priority Development Sites. The City of Gardner has three approved Priority Development Sites:

- Summit Industrial Park (3 parcels totaling 114.66 acres)
- Rear Main Street Corridor in Downtown (6 parcels totaling 7.12 acres)
- The S. Bent Mill/Garbose properties on Mill Street (2 parcels totaling 37.8 acres)
- A list of parcels and maps for each Priority Development Site are contained in Appendix H.

##### **What is the benefit to using MGL 43D?**

Expedited permitting will guarantee a prospective developer that a decision on a permit application is granted within 180 days of the application being deemed complete. Expedited permitting will also ensure that development is constructed in a manner that is:

- Compatible with existing development
- Accounts for minimizing traffic impacts through appropriate mitigation
- Maintains environmental quality
- Improves community economics
- Compatible with community character.

Additionally, a Priority Development Site is given priority consideration for State resources such as grants to make infrastructure improvements, Brownfield remediation assistance and workforce training, and will be included in the State's marketing efforts.

Please note that nothing in Chapter 43D shall be construed to alter the substantive jurisdictional authority of any Issuing Authority. An Issuing Authority is a local board, commission or department that is responsible for issuing permits, granting approvals or otherwise involved in land use development including redevelopment of existing buildings and structures.

### **Permitting Process through MGL 43D**

The Director of Community Development and Planning or his designee (hereinafter 'Director') is the Point of Contact for anyone interested in a project located on a MGL 43D Priority Development Site. The first step is to meet with the 'Director' to discuss the project and to schedule a meeting with the Development Review Committee. All applicants seeking to use the expedited permitting process must meet with the Development Review Committee (DRC) prior to submitting an application. Within three (3) business-days after the DRC meeting, each Issuing Authority will provide the 'Director' with a Determination of Permits Required form (located at the end of this section). Within five (5) business-days after meeting with the DRC, the 'Director' will give the applicant a packet providing all municipal application forms or the web-addresses to access application forms required to permit the project.

The applicant must submit a complete application along with all required information and payment of fees to the Point of Contact, Department of Community Development and Planning, 115 Pleasant Street, Room 201, Gardner, MA, 978-630-4014.

After consultation with all affected Issuing Authorities and within 20 business-days from the date of receiving the application, the 'Director' will determine if the application is complete and will notify the applicant by certified mail as to the completeness of the applications. The 180 calendar-day review period shall commence the day after the notice of completeness is mailed.

If the Director determines that an application is incomplete, the applicant shall be notified by certified mail with an explanation as to why the application is incomplete and with a request for the information necessary to complete the application. The resubmission of an application package will begin a new 20 business-day completeness review period.

The 20 business-day completeness review period may be waived or extended for good cause upon written request of the applicant with the consent of the 'Director' or upon written request of an Issuing Authority with the consent of the applicant.

If the 'Director' fails to notice the applicant by certified mail within 20 business-days from the date of submitting the application, the application shall be deemed complete.

The application form for 43D Project Review, Determination of Permits Required and the Determination of Completeness Worksheet are located in Appendix H.

The City must complete the local permitting process within 180 calendar-days after the certified notice of completeness is sent, or the 20 business-day completeness review period has expired. The 180 day

review period may be extended by the 'Director' if a previously unidentified permit or review is determined necessary within the first 150 calendar-days of the review process. Immediate notice of such additional requirement must be sent to the applicant by certified mail, with a copy to the State Interagency Permitting Board (SIP Board). A maximum of 30 calendar-days of extension may be granted. Where a public notice and comment or hearing are required, the end of the review period shall be not later than 30 days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication deadlines allow.

The 180 calendar-day review period may also be extended when an Issuing Authority determines that:

- Action by another federal, state or municipal government agency not subject to MGL 43D is required before the Issuing Authority may act;
- Pending judicial proceedings affect the ability of the Issuing Authority or applicant to proceed with the application; and
- Enforcement proceedings that could result in revocation of an existing permit for the project or denial of the applicant have been commenced.

In these instances, the Issuing Authority shall provide written notice to the Secretary of Housing and Economic Development and the SIP Board by certified mail. When the reason for the extension is no longer applicable, the Issuing Authority shall immediately notify the applicant, Secretary and SIP Board by certified mail, and shall complete its decision within the time frame specified in this section, beginning the day after the notice to resume is issued.

If the 'Director', in consultation with the Issuing Authority, determines that substantial modifications to the project since the application render the Issuing Authority incapable of making a decision on the application, an extension of the review period may be granted by the SIP Board of demonstrated good cause at the written request of the Issuing Authority. The Issuing Authority shall provide terms for the extension including the number of additional days requested. Within 10 business days of receipt of the request, the SIP Board shall respond to the Issuing Authority with an extension determination.

If the applicant makes a substantial modification to a project for the purpose of public benefit, the Issuing Authority may request an extension from the SIP Board and shall make every reasonable effort to expedite the processing of the permit.

### **Permit Modifications**

Issuing authorizes shall make every effort to review permit modification requests within as short a period as is feasible to maintain the integrity of the expedited permitting process. An Issuing Authority shall inform an applicant within 20 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or required additional information for the issuing authority to issue a decision. If additional information is required, the issuing authority shall inform an applicant by certified mail within 20 business days after receipt of the required additional information whether the modification is approved or denied or that further additional information is required by the Issuing Authority in order to render a decision.

### **Automatic Grant of Approval**

Failure of any Issuing Authority to take final action on a permit within the 180 calendar-day review period, or properly extended review period, shall be considered a grant of the permit by that Issuing Authority.

In such case, within 14 calendar days after the date of the expiration of the time period, the applicant shall file an affidavit with the City Clerk. The affidavit shall include the application and documentation setting forth the facts giving rise to the grant. It shall also include documentation that notice of the grant has been mailed, by certified mail, to all parties to the proceedings which includes all persons who provided testimony or submitted written comments on record during the public hearing for the project, and all persons entitled to notice of hearing in connection with the application.

**An automatic grant shall not occur:**

- Where the 'Director' has made a timely determination that the application packet is not complete and the applicant does not provide the requested information within 90 calendar-days.
- When the 'Director', in consultation with the Issuing Authority, has determined that substantial modifications to the project since the application render the Issuing Authority incapable of making a decision on an application.
- Where the 'Director' has determined that a final application contains false or misleading information. In such event, the 'Director' must submit a statement of findings to the SIP Board and the applicant by certified mail.

**Appeals**

Appeals of an Issuing Authority decision or from an automatic grant of approval shall be filed within 20 calendar-days after the last individual permitting decision is rendered or within 20 calendar-days after conclusion of the 180 calendar-day period.

Appeals under the provision stated above shall not apply to appeals pursuant to MGL Chapter 131, Sections 40 and 40A, which shall continue to be appealed in accordance with MGL Chapter 131, Chapter 30A and applicable regulations.

**Permit Transfers and Renewals**

Permits shall not transfer automatically to successors in title, unless the permit expressly allows the transfer without the approval of the Issuing Authority.

Issuing Authorities may develop procedures for simplified permit renewals and annual reporting requirements. If the procedures are not developed, renewals of permits shall be governed by the procedures and timelines specified in this Section.

Permits issued pursuant to Chapter 43D expire 5-years from the date of the expiration of the applicable appeal period unless exercised sooner. Where permits cover multiple buildings, commencement and continuation of construction of one building shall prevent expiration of all permits on that site. Nothing in this Section shall limit the effectiveness of MGL Chapter 40A, Section 6.

**State Permitting**

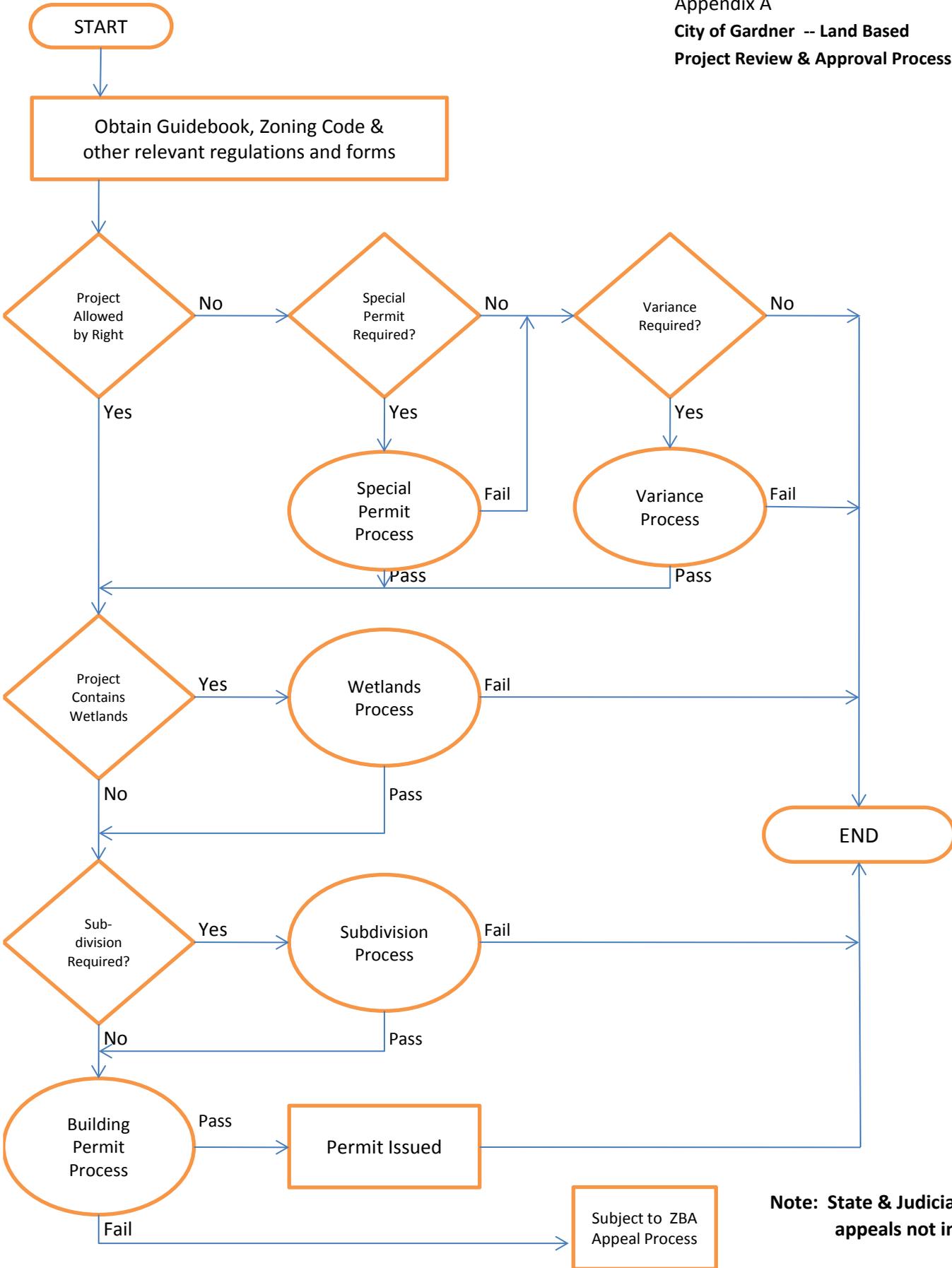
Reviews required under MEPA, MGL Chapter 30, Sections 61 to 62H, or Massachusetts Historic Commission, MGL Chapter 9, Sections 26 to 27C, inclusive, shall conclude within 120 calendar-days of a state determination of completeness of required review materials, as established by the Executive Office of Environmental Affairs (EOEA) in consultation with the Secretary of State. The aforementioned reviews shall take place concurrently with the 180 calendar-day municipal permitting review process. The Secretary of EOEA and State Secretary shall establish time frames for all required filings and additional fillings by the applicant in order to comply with this requirement.

## **5. Conclusion**

The Mayor, City Council, members of various boards and commissions and staff hope this guidebook is a valuable tool to anyone pursuing residential, commercial or industrial development in the City of Gardner. Please keep in mind that this is just a guide, containing summary information only and does not include a listing of all local permits, licenses and approvals. As a developer, it is your responsibility to obtain copies of all applicable regulations so you can learn firsthand the requirements and standards by which your project will be evaluated. No one else can do this for you or take away your responsibility for complying with these rules and regulations. Familiarity with the rules and regulations at the beginning of a development project helps facilitate the approval process and can avoid costly and time-consuming design changes after substantial engineering or architectural work has been done.

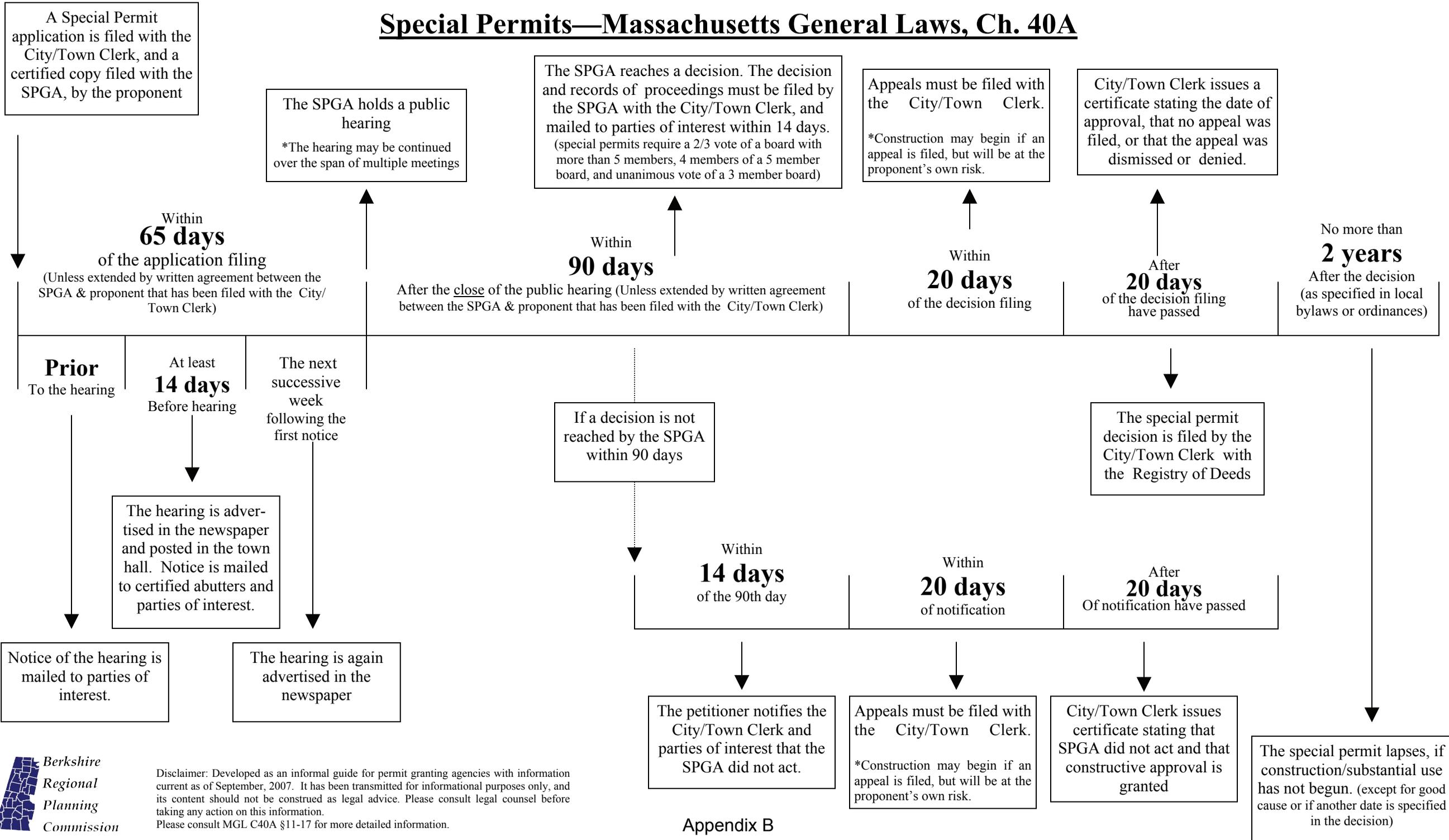
Thank you for doing business in the City of Gardner.

Appendix A  
 City of Gardner -- Land Based  
 Project Review & Approval Process

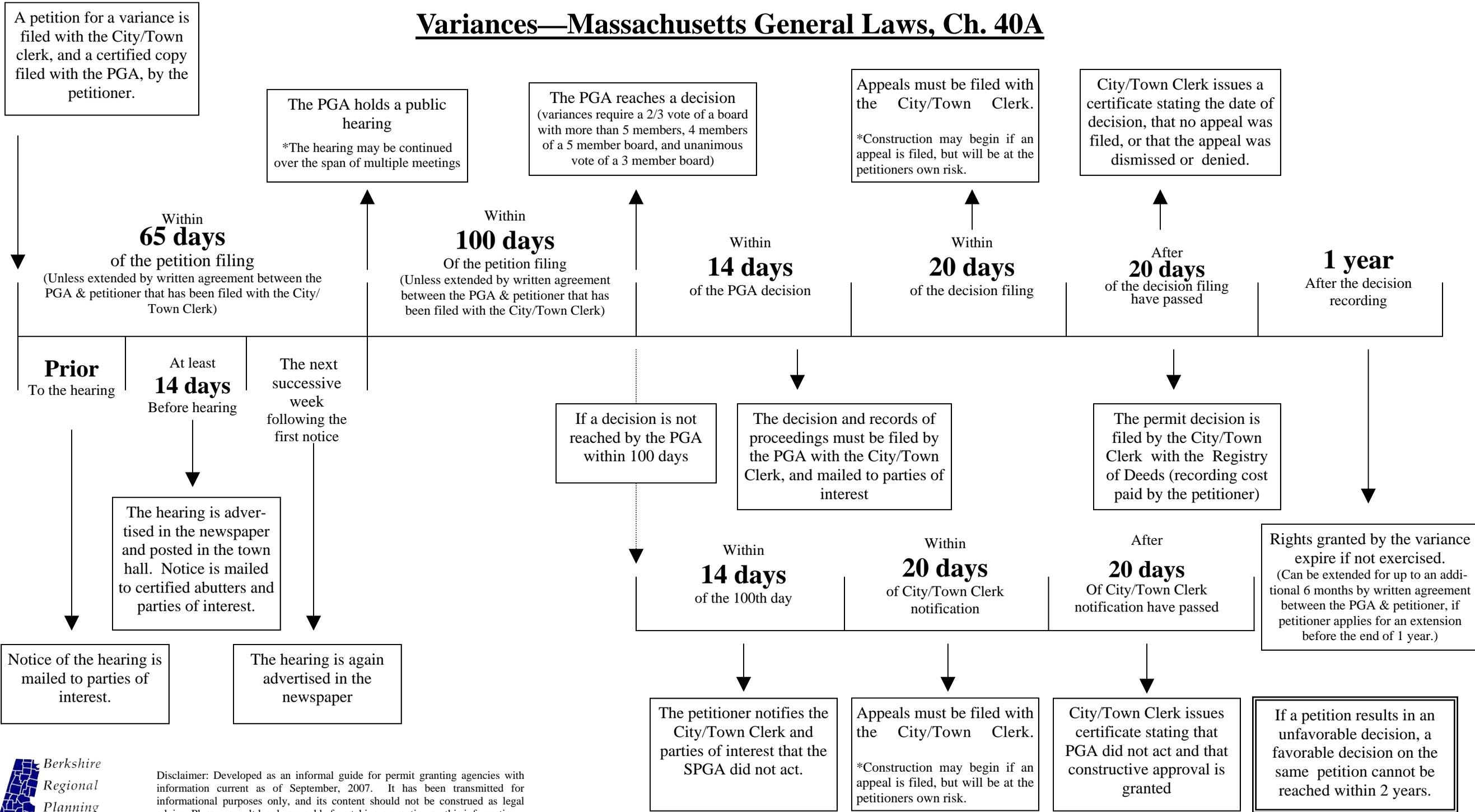


**Note: State & Judicial appeals not included.**

# Special Permits—Massachusetts General Laws, Ch. 40A

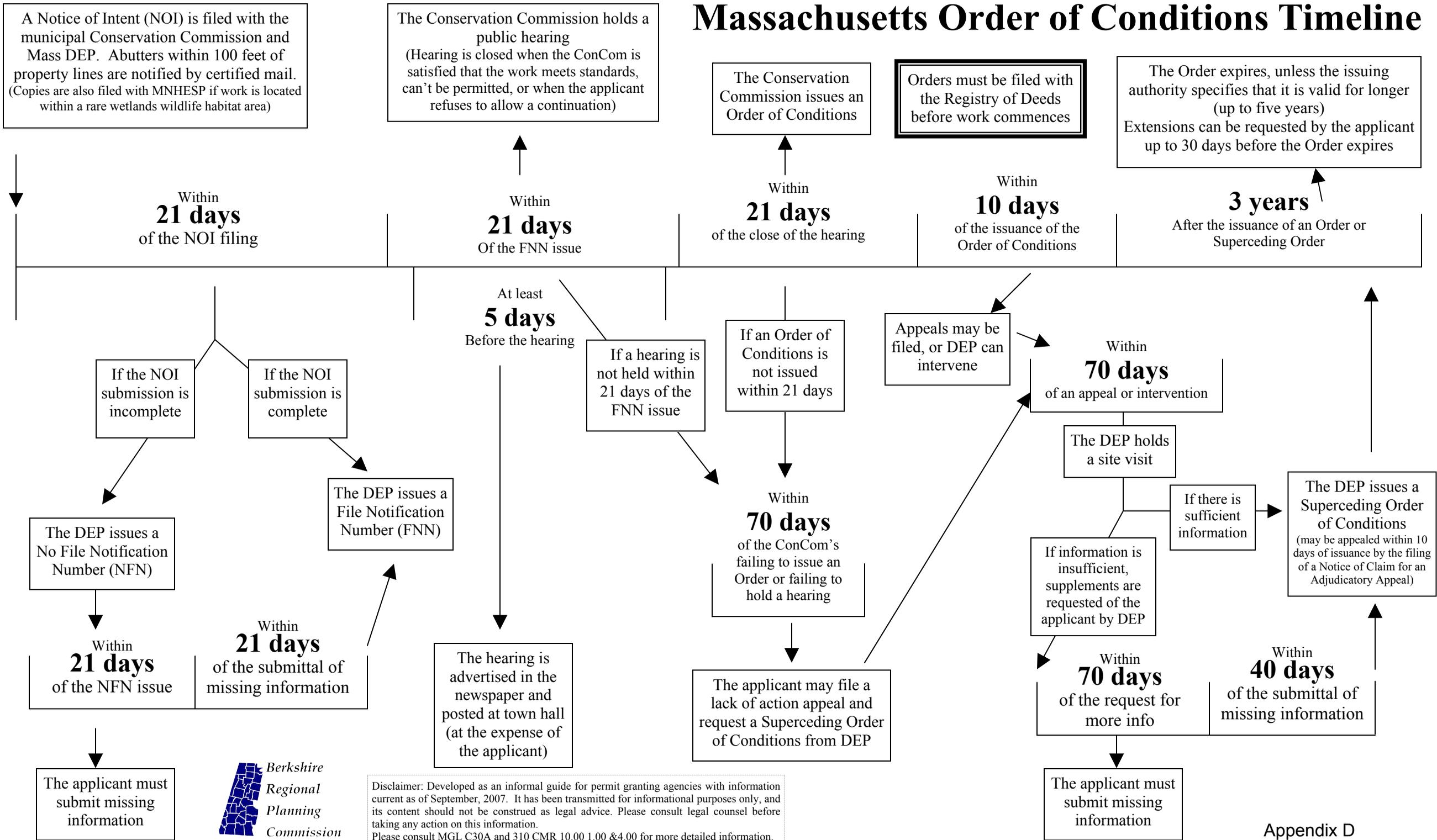


# Variances—Massachusetts General Laws, Ch. 40A



Disclaimer: Developed as an informal guide for permit granting agencies with information current as of September, 2007. It has been transmitted for informational purposes only, and its content should not be construed as legal advice. Please consult legal counsel before taking any action on this information. Please consult MGL C40A §10-16 for more detailed information.

# Massachusetts Order of Conditions Timeline

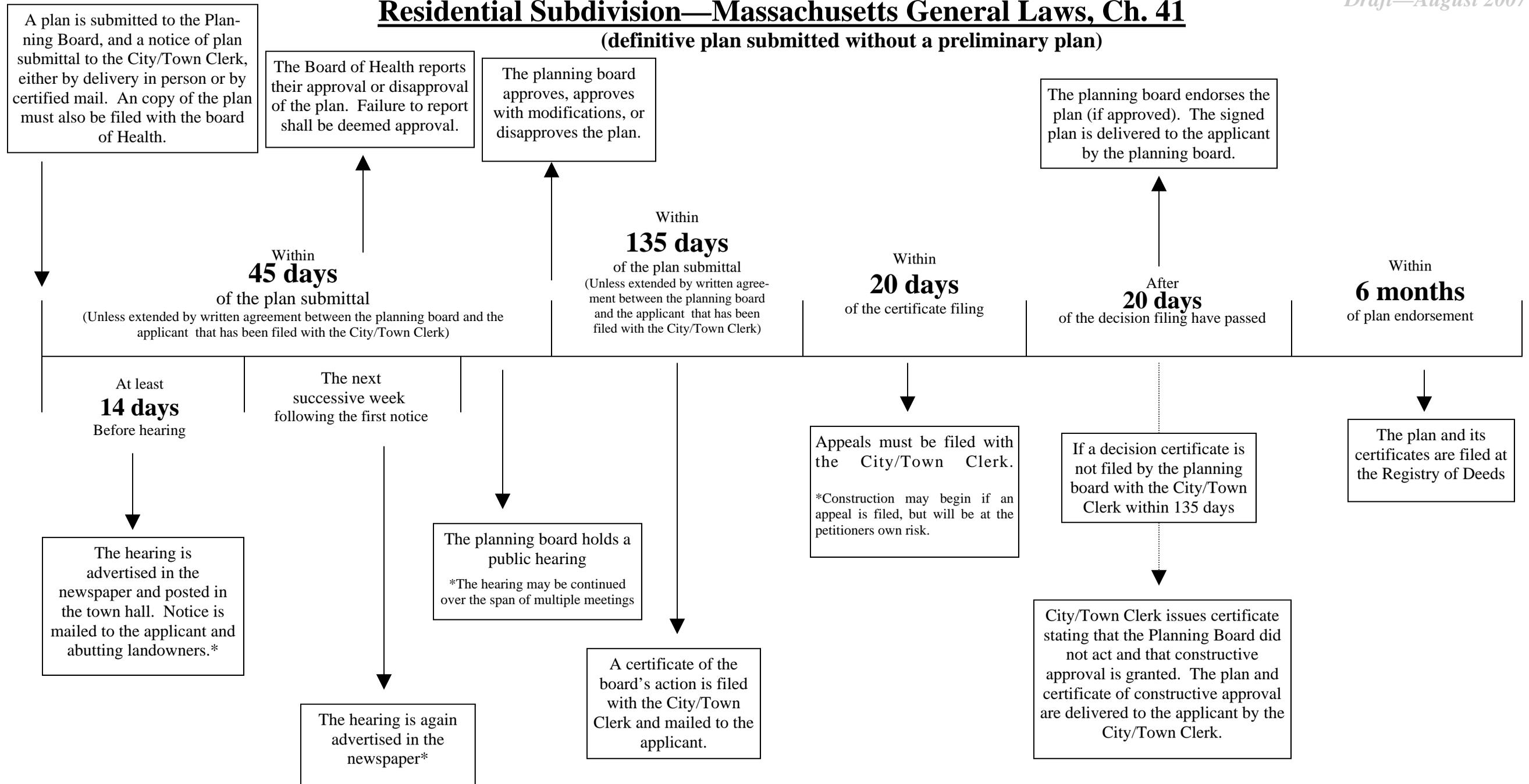


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# Residential Subdivision—Massachusetts General Laws, Ch. 41

(definitive plan submitted without a preliminary plan)



**GARDNER ZONING CODE**  
**SUBSECTION 675-1020 SITE PLAN REVIEW**  
**Summary of Application & Review Procedures**

**Step One: Preparation of Preliminary Site Plan**

*The applicant is required to submit the following to the Planning Director:*

1. A graphic and written description of the conceptual plan for site and building use improvements and functional/visual character.
2. A tentative diagrammatic plan of property subdivision to include identification of public/private access ways, utility services, parking facilities and open spaces.
3. A description of the potential impacts upon the environment and the neighborhood and, as appropriate, identification of mitigating solutions.
4. A summary of proposed uses and phasing parameters.

**Step Two: The Preliminary Plan Conference**

The purpose of this meeting is to obtain an explanation of the proposed project, to gain substantive reactions from the public representatives, and to determine agreement on detailed approach and submittal requirements for the Definitive Development Plan. The Planning Director will report the findings of the Conference to the Applicant, Owner and Planning Board.

**Step Three: The Definitive Development Plan**

The Definitive Development Plan must be of sufficient detail that construction could be completed without major adjustments. Schematic design and engineering drawings of professional quality must be submitted. Narrative and outline specifications of design and construction standards will usually be required. Depending on the environmental and economic significance of the site and project, landscaping and exterior architectural treatments may be required for presentation in a rendered site plan, building elevations, and site/building cross sections.

If required by the Planning Director or Planning Board, submittals concerning environmental, traffic, fiscal and neighborhood impacts will be presented as well as a final summary of project implementation and phasing strategy.

Immediately after receipt of the Definitive Development Plan, portions will be circulated to relevant agencies, followed by a review conference. Responsible staff will then prepare a summary of departmental comments/endorsements and assist the applicant to route all related materials to the Planning Board. The Planning Board will then schedule a Public Hearing and initiate internal review. The Planning Board has 90 days from the date of Definitive Plan submission to approve or not approve the Site Plan.

***For additional information and clarification, contact Trevor Beauregard, Planning Director, 978-630-4014 or [tbeauregard@gardner-ma.gov](mailto:tbeauregard@gardner-ma.gov).***

## Links to Relevant Rules, Application Forms, Filing Fees and Maps

- Go to City Website
- [www.gardner-ma.gov](http://www.gardner-ma.gov)
- Look under Departments *and/or* Boards & Commissions

### Community Development & Planning – Planning Department – Forms & Applications:

- ✓ Special Permits
- ✓ Subdivision Control
- ✓ Site Plan Review
- ✓ Filing Fees are contained in each of the above links

### Zoning Board of Appeals under Boards & Commissions:

- ✓ Special Permit Requirements
- ✓ Variances
- ✓ Application Form (includes instructions)
- ✓ Zoning Ordinance
- ✓ Schedule of Fees

### Conservation Commission

- ✓ Fees are set by the Conservation Commission; consult with Conservation Agent to determine applicable fees.
- ✓ Click on applicable link needed under Conservation.

### Building Department Applications

- ✓ Filing fees are set in City Code; consult with the Building Department to determine applicable fees.

### Maps and Other

- ✓ **Maps:** under Engineering/Survey Department  
(A variety of maps are available from the office of the City Engineer; consult with the City Engineer to determine the cost of reproduction.)
- ✓ **Road Opening Permit:** under Highway Department
- ✓ **Connect to City Sewer-Water-Drain:** under Water/Sewer Department.
- ✓ **Driveway/Alter Curb:** under Engineering/Survey Department (Filing fee is \$25.)
- ✓ **Fire Department** (Filing fees are set by City Code; consult with the Fire Department to determine applicable fees.)

- ❖ Appendix H contains a listing of local Fee Schedules set out in a different format.
- ❖ Please note that fee schedules are subject to change so always check with the Issuing Authority before writing a check.

→ **MARK THE CIRCLE IF PERMIT REQUIRED**

<b>Planning Board Permits and Fee Schedule</b>
--

**Special Permits**

- |   |   |  |
|---|---|--|
| ○ | Groundwater Protection Overlay District   | \$250  |
| ○ | Surface Water Protection Overlay District | \$250  |
| ○ | Open Space Residential Development        | \$150 plus \$25/lot  |
| ○ | Development Overlay District 1            | \$250  |
| ○ | Infill Development                        | \$250  |
| ○ | Smart Growth Planned Unit Development     | \$150 plus \$25/dwelling unit and<br>\$0.10/SF for non-residential |
| ○ | Industrial & Commercial Heritage          | \$150 plus \$25/dwelling unit and<br>\$0.10/SF for non-residential |

**Site Plan Review**

- |   |   |  |
|---|---|--|
| ○ | Preliminary Site Plan                                 | \$150  |
| ○ | Definitive Site Plan                                  | \$150 plus \$25/dwelling unit and<br>\$0.10/SF for non-residential |
| ○ | Large Scale Ground-Mounted Solar Voltaic Installation | \$200 flat fee plus \$50 each acre used for the<br>solar array.    |

Application forms and instructions for Special Permits and Site Plan Review under the Planning Board's jurisdiction are available on the City's website: [www.gardner-ma.gov](http://www.gardner-ma.gov) under Planning Board – Land Development Guide Book.

<b>Zoning Board of Appeal Permits and Fees Schedule</b>
---

- |   |                                    |       |
|---|------------------------------------|-------|
| ○ | <u>Special Permits</u>             | \$350 |
| ○ | <u>Variance, Finding or Appeal</u> | \$350 |

All application forms and instructions are available on the City's website: [www.gardner-ma.gov](http://www.gardner-ma.gov). under Zoning Board of Appeals.

<b>Conservation Commission Permits and Fee Schedule</b>
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- |   |   |               |
|---|---|---------------|
| ○ | <u>Request for Determination of Applicability</u> | <u>No fee</u> |
|---|---|---------------|

**Notice of Intent and Abbreviated Notice of Intent**

- |   |  |  |
|---|--|--|
| ○ | Category 1 – Existing Single Family House (SFH)                        | \$110 for each activity                    |
| ○ | Category 2 – Each New SFH  | \$500 for each activity                    |
| ○ | Category 3 – Each Commercial, Industrial, Apt/Condo                    | \$1,050 for each activity                  |
| ○ | Category 4 – Roadways, Flood Control, Dredging, etc.                   | \$1,450 for each activity                  |
| ○ | Category 5 – Dock, Piers, etc.   | \$4 per linear foot                        |
| ○ | Category 6 – Resource Area Determination                               | \$2 per linear foot for each resource area |
| ○ | <u>Riverfront Area</u> as well as another resource area additional 50% |  |

All Wetland Protection Act application forms are available on line from MassDEP:

<http://www.mass.gov/eea/agencies/massdep/water/approvals/wetlands-and-waterways-forms.html#4>

**Note:** The exact fee associated with the application for any permit will be determined by the Issuing Authority. The cost of publishing required public notices is NOT included in the Planning Board and Conservation Commission fee schedules.

*Land Development Guidebook*→ **MARK THE CIRCLE IF PERMIT REQUIRED**→ ***GARDNER FIRE DEPT. FEE SCHEDULE AS OF MARCH 10, 2008***

○ Smoke/Carbon Monoxide Detector Inspection (one unit)	\$ 25
○ Smoke/Carbon Monoxide Detector Inspection (multi-unit)	\$ 50
○ Carbon Monoxide Detector Inspection (one unit)	\$ 25
○ Carbon Monoxide Detector Inspection (multi unit)	\$ 50
○ Residential Plan Review	\$ 10
○ Commercial Plan Review (per 1000 sq. ft.)	\$ 10
○ Oil Burners	\$ 25
○ L.P. Gas/Storage	\$ 25
○ Underground Tank Installation (per tank)	\$100
○ Underground Tank Removal (per tank)	\$ 50
○ Flammable Fluids, Solids & Gas	\$ 25
○ Maintain Existing/New Underground	
○ Storage Facility	\$ 25
○ System Modification	\$ 25
○ Sprinkler System Installation	\$ 25
○ Facility Renewal (5yr./ownership)	\$ 25
○ Aboveground Storage	\$ 50
○ Tank Truck Inspection	\$ 50
○ Blasting Permits	\$ 25
○ Black Powder Storage	\$ 10
○ Smokeless Powder Storage	\$ 10
○ Ammunition	\$ 10
○ Space Heaters	\$ 25
○ Copies of Fire Reports	\$ 10

Application forms for all permits required by the Fire Department are available on-line from the Office of the State Fire Marshall under [www.mass.gov](http://www.mass.gov) – Public Safety Agencies – Department of Fire Services.

Note: The exact fee associated with the application for any permit will be determined by the Issuing Authority.

**Telephone and E-mail list**

**City of Gardner  
95 Pleasant Street  
Gardner, MA 01440  
[www.gardner-ma.gov](http://www.gardner-ma.gov)**

**Mayor's Office**

Mark P. Hawke, Mayor, 978-632-1900, [mayor@gardner-ma.gov](mailto:mayor@gardner-ma.gov)

**Department of Community Development & Planning**

Trevor Beauregard, Director, 978-630-4014, [tbeauregard@gardner-ma.gov](mailto:tbeauregard@gardner-ma.gov)

**Engineering/Survey Department**

Robert Hankinson, City Engineer, 978-630-4010, [rhankinson@gardner-ma.gov](mailto:rhankinson@gardner-ma.gov)

**Department of Public Works**

Dane Arnold, Director, 978-632-7661, [darnold@gardner-ma.gov](mailto:darnold@gardner-ma.gov)

**Building Department**

Jeffrey Cooke, Building Commissioner, 978-630-4007, [jcooke@gardner-ma.gov](mailto:jcooke@gardner-ma.gov)

**Police Department**

Neil Erickson, Chief, 978-632-3575, [nerickson@gardner-ma.gov](mailto:nerickson@gardner-ma.gov)

**Fire Department**

Richard Ares, Chief, 978-630-4052, [rares@gardner-ma.gov](mailto:rares@gardner-ma.gov)

**Planning Board**

Trevor Beauregard, Director, 978-630-4014, [tbeauregard@gardner-ma.gov](mailto:tbeauregard@gardner-ma.gov)

**Zoning Board of Appeals**

Jeffrey Cooke, Building Commissioner, 978-630-4007, [jcooke@gardner-ma.gov](mailto:jcooke@gardner-ma.gov)

**Conservation Commission**

Jeffrey Legros, Conservation Agent, 978-630-4011, [jlegros@gardner-ma.gov](mailto:jlegros@gardner-ma.gov)

**Board of Health**

Jennifer Susen-Roy, Health Director, 978-630-4013, [jsusenroy@gardner-ma.gov](mailto:jsusenroy@gardner-ma.gov)

**Traffic Commission**

John Bernard, Deputy Chief, 978-632-5600, [jbernard@gardner-ma.gov](mailto:jbernard@gardner-ma.gov)

## State and Federal Permits Related to Land-Based Development

This list of State and Federal Permits is not intended to be all-inclusive. Anyone considering a land-based development that might require State and/or Federal Permits should consult with a professional engineer or surveyor as early in the process as possible.

### State Permits

- Massachusetts Environmental Policy Act, or MEPA- [www.mass.gov/envir/mepa](http://www.mass.gov/envir/mepa)
- Massachusetts Clean Waters Act, Sewer Extension/Connection Permits- [www.mass.gov/dep/water/laws/regulati.htm](http://www.mass.gov/dep/water/laws/regulati.htm) then click on Sewer for information or on the left there is a link for permits
- Massachusetts Clean Waters Act, Surface Water and/or Groundwater Discharge Permits- same as above except click on Groundwater
- Waterways, Great Ponds and Tidelands Construction License- [www.mass.gov/dep/water/resources/waterway.htm](http://www.mass.gov/dep/water/resources/waterway.htm) then you can choose overview or permit questions
- Massachusetts Clean Air Act Approval- [www.mass.gov/czm/permitguide/regs/cleanair.htm](http://www.mass.gov/czm/permitguide/regs/cleanair.htm) for permit information or [www.mass.gov/dep/air/index.htm](http://www.mass.gov/dep/air/index.htm) for other information on the Act
- Massachusetts Endangered Species Act- [www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_home.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_home.htm)
- Hazardous Waste Management Permits- [www.mass.gov/dep/recycle/hazwaste.htm](http://www.mass.gov/dep/recycle/hazwaste.htm) then on the left it provides different links for information
- Massachusetts Historical Commission Approval- [www.sec.state.ma.us/mhc](http://www.sec.state.ma.us/mhc) then has multiple links for info and forms
- State Highway Access Permit- [www.mhd.state.ma.us](http://www.mhd.state.ma.us) then click on Access Regulations on the left for information or click on [www.mhd.state.ma.us/downloads/permitLayouts/state\\_highway\\_access\\_permit.pdf](http://www.mhd.state.ma.us/downloads/permitLayouts/state_highway_access_permit.pdf) for the permit application

### Federal Permits

- National Environmental Policy Act (NEPA)- [www.fws.gov/habitatconservation/nepa.html](http://www.fws.gov/habitatconservation/nepa.html)
- Clean Water Act, Section 404 Permit- [www.fws.gov/habitatconservation/cwa.htm](http://www.fws.gov/habitatconservation/cwa.htm) or [www.wetlands.com/regs/sec404fc.htm](http://www.wetlands.com/regs/sec404fc.htm)
- Clean Water Act, Water Quality Certification Approval- [www.mass.gov/dep/water/laws/regulati.htm](http://www.mass.gov/dep/water/laws/regulati.htm) then click on Water Quality
- Rivers and Harbors Act of 1899, Section 10 Permit- [www.usace.army.mil/CECW/Pages/reg\\_materials.aspx](http://www.usace.army.mil/CECW/Pages/reg_materials.aspx) then click on the appropriate Act for information
- National Flood Insurance Act and Flood Disaster Protection Act Certification- <http://www.fema.gov/library/viewRecord.do?id=2216>
- Clean Air Act Permits or Approvals- [www.epa.gov/air/caa](http://www.epa.gov/air/caa) then click on Permits in the Table of Contents
- National Historic Preservation Act Section 106 Review- [www.achp.gov/106summary.html](http://www.achp.gov/106summary.html)
- Environmental Protection Agency Stormwater Notices of Intent and/or NPDES Permits- [www.epa.gov/region09/water/npdes/stormwater.html](http://www.epa.gov/region09/water/npdes/stormwater.html)