



DEVELOPMENT GUIDE

This guide will help you through the process of obtaining permits for development and construction in Acton. It is in five sections:

- I. Contacts & Resources: advice on establishing contacts with town departments and on the research needed for your application.
- II. A summary of the most common permits you may need.
- III. A brief review of the permit application process.
- IV. A summary of land development options that are encouraged by the Town and may give you more flexibility and lower your costs.
- V. A checklist of development constraints and permit requirements.

IMPORTANT

This Guide is for information purposes only; it does not have the force of law. Please refer to the applicable laws and regulations for specific technical and procedural requirements. In most cases you will need professional help in such areas as land survey, engineering, architecture, law, and transportation planning.

I. CONTACTS & RESOURCES

Most projects need permits. The more research you do in the planning stage, the easier it will be to meet the requirements for town, and (sometimes) state & federal permits and approval.

First Contacts and Research

As soon as you know the location and approximate size of your development project and the use(s) to which it will be put, talk to people in the Building, Natural Resources, Health, Planning and Engineering departments at the Acton Town Hall. They can tell you if your project seems feasible or what changes you may need to make. They will show you which permits you are likely to need, roughly how long it will take to get them, and whether public hearings will be required.

This information will help you estimate your planning costs, set realistic project time lines, and minimize the likelihood of unpleasant surprises.

Building Department

This is the first department you should visit. It enforces the Acton Zoning Bylaw, the Historic District Bylaw and the State Building Code, and issues building, occupancy, and sign permits. The Building Department is your day-to-day contact

throughout the process of getting Site Plan and “Use” Special Permits from the Board of Selectmen, and Variances and Flood Plain Special Permits from the Board of Appeals.

Conservation Commission

The Conservation Commission administers the Massachusetts Wetlands Protection Act and the Acton Wetlands Bylaw, including related state and local regulations. The Natural Resources Director can tell you if your project falls under the Commission’s jurisdiction and advise you on obtaining local, state or federal permits. Do not bypass this step. Some wetlands are not obvious to the untrained eye. For new projects, Acton enforces a “No Build buffer” of 40 feet around all wetlands.

Health Department

The Board of Health enforces state and local health and environmental codes. Among the many permits and certificates it issues are those for septic systems, hazardous materials, restaurants, food retailers, swimming pools, and construction in a groundwater protection zone.

From the size and proposed uses of your project, Health Department staff can estimate its sanitation needs. They will explain the procedures for obtaining septic system and other permits and approvals. Use the Health Department’s records of soil tests to help determine your site’s suitability for septic disposal; this knowledge can save you much time and money.

Planning Department

The Planning Department evaluates development proposals for their contribution towards community planning goals as documented in the current Acton Master Plan, and to assess their impacts on the environment, transportation system, and town character. It coordinates the departmental review and administration of new development proposals submitted to the Planning Board under the Acton Zoning Bylaw and the Subdivision Control law.

The Planning Board issues special permits and approvals for subdivisions, alternative residential developments (see Section IV), affordable housing developments, certain signs, golf courses, and wireless communications facilities. The Planning Department is your day-to-day contact throughout the process of obtaining these approvals.

Engineering Department

Consult with the Engineering Department on questions regarding streets, parcel boundaries, curb cuts, floodplain regulations and permits, and locations of underground utility lines such as gas and water mains. Removal of street trees requires a permit from the Tree Warden; the Engineering Department can put you in contact with him.

Laws, Regulations, Maps, and Other Materials

You can buy these in town offices as shown below. This is not a complete list. Department staff will tell you what others you may need.

Building Dept: Board of Appeals regulations, Site Plan Special Permit regulations.

Conservation: Instructions for filing a Notice of Intent to do work affecting wetlands, Open Space & Recreation Plan.

Board of Health: Bylaws and regulations on health-related issues, e.g. septic systems, hazardous materials, and groundwater protection.

Planning Dept: Zoning Bylaw, Subdivision and Special Permit regulations, Historic District maps, Acton Master Plan, and other planning documents.

Engineering Dept: Pages from the Town Atlas, Flood Plain maps, most plot plans and deeds, street plans, curb cut regulations.

As you gather information, thoroughly study the applicable laws and regulations. If necessary, get independent professional advice on surveys, soil tests, groundwater analyses, traffic studies, and legal questions.

Preliminary Design and Review Meeting

Town staff is available for individual or joint plan review meetings while your design is still in the early stages. These meetings are informal and intended to help you avoid unnecessary delays and costs. The amount of detail you need varies according to the permits you are applying for. Contact the appropriate town department to find out their requirements. In general, your plans should show a rough layout, and you should have information in hand related to factors influencing feasibility (see the checklist in Section V).

II. PERMITS

These are the most common permits and approvals. It is not a complete list – only through your first contacts, research, and preliminary reviews can you identify all the permits you will need.

Flood Plain District (Zoning Bylaw Section 4.1)

All land below the 100-year flood elevation is subject to flooding during a severe flood (nominally expected once every 100 years). Development in this area may not be allowed or may require a *Flood Plain District Special Permit* from the Board of Appeals. You may need safeguards, which can affect your design and costs.

Wetlands Protection

Work in or within 100 feet of wetlands (defined in the Massachusetts Wetlands Protection Act and the Acton Wetlands Bylaw) is regulated by the Conservation Commission. Many kinds of work are prohibited in these areas; those that are allowed may require a permit called an *Order of Conditions*.

General Zoning (Zoning Bylaw Section 3 and others)

Your site is in one of Acton’s zoning districts. The Zoning Bylaw defines in detail the requirements of each district with dimensional controls for building height, square footage, setbacks, parking facilities, and landscaping. Some uses are prohibited in certain districts, while others require a “Use” *Special Permit* from the Board of Selectmen or the Planning Board. The permit is discretionary; don’t expect to be granted one automatically. The special permit granting authority considers neighborhood acceptance, Master Plan consistency, and other site or area-specific issues, and may require measures to mitigate the impact of the intended use.

The Zoning Bylaw defines many special permits (not listed here) which allow for special circumstances, uses, and designs.

There are also several development options (see Section IV) to encourage projects that are consistent with the Master Plan.

Among the permits you will need from the Board of Health are those for a septic system or other wastewater disposal method, and for storing or handling hazardous materials. If your project is within Groundwater Protection Districts 1, 2 or 3 and will cause discharges of any kind into the groundwater, you will need additional permits from the Board of Health.

Site Plan Review & Approval (Zoning Bylaw Section 10.4)

Almost every commercial or industrial project, including expansions and additions, requires a *Site Plan Special Permit* from the Board of Selectmen. Your plans will be reviewed by several boards and departments for specifics of site layout, building design, parking facilities, landscaping, drainage, and the mitigation of traffic and other impacts.

Signs (Zoning Bylaw Section 7)

The Zoning Bylaw regulates the design, size, location and number of signs. Most commercial signs cannot be installed without a sign license from the Building Commissioner. The Planning Board has limited discretion to issue a *Sign Special Permit* for signs which do not conform to standard regulations. Some signs, such as directories, construction, window or religious signs are subject to limitations but do not require a license.

Historic Districts

Acton has three Local Historic Districts: Acton Center, South Acton and West Acton. Development, new construction, and exterior changes of existing buildings are subject to regulations designed to preserve the historic and architectural integrity of the districts. Most exterior work requires a *Certificate* from the Historic District Commission. Information and contacts for the Historic District Commission are available at the Town Clerk’s office in Town Hall.

Subdivision Approval

If your project is a subdivision, that is, if it divides the land into lots or parcels (either residential or commercial) and requires the construction of new streets, you must get a *Subdivision Approval* from the Planning Board. If you do not have to build a new street, the Town Planner, acting on behalf of the Planning Board, may sign a “*Subdivision Approval Not Required*” (ANR) Plan.

Zoning Variances (Zoning Bylaw Section 10.5)

Rarely, and only in extraordinary circumstances, the Board of Appeals may grant *Variances* from the requirements of the Zoning Bylaw, such as for a setback or building height not otherwise permitted in that zoning district. The Zoning Bylaw, mirroring the State Zoning Act, sets stringent legal conditions for these variances, allowing them only in cases of unusual hardship, financial or otherwise, due to unique circumstances related to the land or building. You should not request a Variance unless you have determined, with legal counsel, that your situation satisfies the legal criteria. Even if those criteria are met, the Board of Appeals is under no obligation to grant a Variance, and in no case can it grant one to allow a prohibited use.

Work Within A Public Way

All work within a public way owned and maintained by the Town of Acton, such as the installation of driveways or utility lines, requires a permit from the Acton Engineering

Department. All water supply work, both public lines and individual hookups, must conform to the regulations of the Acton Water District, which is not a town department. The District offices are located at 693 Massachusetts Ave. (Route 111) in West Acton (Tel. 978-263-9107).

Trees, shrubs and growths within the limits of a public right of way are protected under Massachusetts General Law Chapter 87. Persons wishing to plant, prune, or remove vegetation from a public right of way must obtain a permit (Street Tree Removal Permit) from the Tree Warden.

State and Federal Permits

Depending on the nature of your project or its impacts, you may need to apply for one or more permits from the state or federal government. Here are the most common:

- a curb cut permit from the Massachusetts Highway Department for work affecting a State Highway (Routes 2, 2A and most of Route 111);
- a permit from the US Army Corps of Engineers for work affecting certain wetlands and water ways;
- a Certificate of Compliance from the Massachusetts Executive Office of Environmental Affairs (MEPA).

The Town’s staff can help you identify state and federal requirements for your project and help you make contact with the appropriate agency, but it is your responsibility to ensure compliance with state and federal requirements.

Building Permit

This is the last permit you get before starting construction. All other permits must be in place at this time. Before issuing a building permit, the Building Commissioner conducts a final check on zoning compliance and reviews your building and construction plans for compliance with the Massachusetts Building Code and access for persons with disabilities.

III. THE REVIEW PROCESS

When your design work is complete, you are ready to apply for your permits. Preparing an application is not always simple. We will answer any questions and try to clear up mysteries, but you should get independent professional and legal advice as well. Careful attention to detail will help you avoid delays, frustration, and disappointment.

How long will it take to get a Permit?

It depends on how many and what kinds of permits you need. Many applications can be processed simultaneously, but some, including the Building Permit, require that others be in place first. Here are some typical processing times (from the day you submit your application) for common permits:

Building Permit	1 month
Sign Special Permit	Up to 2 months
Special Permit (Zoning)	4 – 6 months
Variance (Zoning)	4 – 6 months
Wetlands Permit	2 months
Board of Health permits	1 month
Subdivision Approvals	4 – 6 months
Historic District Certificate	½ - 2 months

Most special permits, variances and subdivision approvals will take less than four months, but your schedule should allow up to six months just in case.

Public Hearing Procedures

Special Permits under the Zoning Bylaw

Before the Town can grant a Special Permit, it must hold a public hearing so that citizens, particularly neighbors and abutters, can comment on or express concerns about your project. Nevertheless, don’t wait until the formal public hearing notice to contact your neighbors; tell them your plans early on to find out what you can do to address their concerns. Early communication is not only courteous, it is a proven strategy for a successful hearing.

The special permit granting authority (Zoning Board of Appeals, Planning Board, or Board of Selectmen) will schedule the hearing no earlier than 35 days after receiving your application. It will place the required notices with the date, time, location and purpose of the hearing in two editions of the local newspaper. The paper will bill you directly for the cost of the insertions. In addition, a notice must be mailed to each abutter, abutters to abutters, and to the Planning Board of each town abutting Acton by Certified Mail, Return Receipt Requested, at least 14 days before the hearing date. All mailings must be prepared by you (the applicant) and forwarded to the permit granting authority with a check to cover the cost of the mailings. The Town Assessor in the Town Hall prepares certified abutters lists.

You or your representative should attend the hearing to present the application and state the reasons why the permit or approval should be granted. After your presentation, Board members will offer their comments and questions. Then the Chairman will solicit comments from abutters and other members of the public. Any citizen may speak in person, or through an agent or attorney, at any hearing. When all persons wishing to be heard have spoken, the Chairman will close the hearing and the Board will take the matter under advisement. In no case will the Board allow new evidence to be admitted after the close of the public hearing unless they have previously requested it. The hearing procedures for variances are the same as for a special permit.

Permits not under the Zoning Bylaw

Other permits may or may not involve the public. For instance, a Building Permit or Septic Disposal Permit does not require a public hearing, but a Subdivision Approval from the Planning Board does, as do most approvals by the Conservation Commission.

IV. PREFERRED DEVELOPMENT OPTIONS

To encourage you to help Acton realize the goals and objectives of its current Master Plan, the Zoning Bylaw offers several development options affecting density and use in some districts. Both you and the town might benefit if you can take advantage of one or more of these options.

Open Space Preservation

To foster preservation of Acton’s open space and remaining rural character, the Zoning Bylaw offers two alternatives to the standard residential subdivision: *Open Space Development* (OSD), Section 4.2 and *Planned Conservation Residential Community* (PCRC), Section 9. These options preserve open space by allowing homes to be clustered on lots smaller than

the standard in the zoning district. OSD gives you some flexibility in lot layout while retaining the character of a traditional neighborhood of single-family homes. PCRC provides even greater flexibility by allowing the use of multifamily dwellings and by eliminating minimum lot area and frontage requirements. We especially encourage these options in the R-8/4 and R-10/8 zoning districts, where standard subdivision developments are restricted to fewer dwelling units than OSD and PCRC developments. But even in zoning districts without a “penalty” on standard development, you will benefit from using the OSD and PCRC options because of increased design flexibility, lower construction costs, and the consumer’s desire to locate near or adjacent to protected open space.

Affordable Housing

Section 4.4 of the Zoning Bylaw establishes the *Affordable Housing Overlay District*. It allows you a significant increase in housing density as an incentive to include affordable housing in your project. In approving such developments, Acton seeks to maximize the number of housing units that will qualify as contributing towards the state’s 10% affordable housing goal. We urge you to take advantage of this incentive; we will help you find the best approach for your project.

Transfer of Development Rights and New Village Districts

The 1991 Master Plan established two new village district zones, *North Acton* and *East Acton*. To promote development and growth in these new districts and to discourage commercial sprawl and traffic congestion along Great Road (Route 2A/119), Section 5.4 of the Zoning Bylaw defines an option called *Transfer of Development Rights* (TDR).

Certain parcels along Great Road are designated “sending districts”. In these districts, the owner may not develop his or her property to the full extent otherwise allowed in the underlying zone. The difference between the allowed and full development limits constitutes the “development rights” that the owner may sell or transfer to the owner of property in the North Acton or East Acton Village “receiving districts”. An owner who buys such rights may build to a higher density than otherwise permitted.

Section 5.5 of the Bylaw allows TDR within a village district, encouraging development of public amenities such as village parks or shared parking to enhance the village character and economic health.

Common Driveways

Acton encourages the use of common driveways in residential and commercial areas. Driveways that serve two or more houses or commercial establishments need fewer curb cuts, reducing the potential for turning-traffic conflicts. They cost less to build and maintain than separate driveways.

Senior Housing

Section 9B of the Zoning Bylaw allows housing for seniors with amenities at a much higher unit density than regular single family housing developments. Requirements include open space preservation, resident age restriction to 55 or older, and some affordable units.

V. DEVELOPMENT CHECKLIST

Use this checklist to keep track of the information and permits you are likely to need.

Factors Influencing Feasibility

- Flood Plain (100-year flood elevation)
- Groundwater Protection District
- Wetlands
- Septic Suitability
- Zoning District (is the use permitted?)
- General Zoning Requirements (building heights, setbacks, floor area ratio, parking facilities, etc.)
- Alternatives (other designs, layouts that might save money or increase revenues, including Preferred Development Options outlined in Section IV)
- Local Historic District

Permits

- Flood Plain Special Permit
- Order of Conditions (Wetlands)
- Permit for Septic System or Wastewater Facility
- Open Space Development
- Planned Conservation Residential Community
- Senior Residence Development
- Minor/Major Affordable Housing Development
- Residential Common Driveways
- Transfer of Development Rights
- Subdivision or “Approval Not Required” Plan
- Use Special Permit
- Zoning Variance
- Site Plan Special Permit
- Sign License or Special Permit
- Permit for Work Within a Public Way
- State or Federal permits needed
- Hazardous Materials Permit
- Street Tree Removal Permit
- Building Permit

CONTACT INFORMATION

www.town.acton.ma.us

Building 978-264-9632	Conservation 978-264-9631
Health 978-264-9634	Planning 978-264-9636
Engineering 978-264-9628	Town Clerk 978-264-9615

Town of Acton Planning Department 2003