

*Massachusetts Department of
Environmental Protection*

*Landscaping Activities and
the Massachusetts Wetlands
Protection Act*



Wetlands Protection Program

The Wetlands Protection Act
[Massachusetts General Laws
(MGL) Chapter 131, Section 40]
protects wetlands (“resource areas”)
and the public interests they serve,
including:

- protection of public and private water supply
- protection of ground water supply
- flood control
- storm damage prevention
- prevention of pollution
- protection of land containing shellfish
- protection of fisheries
- protection of wildlife habitat

These public interests are protected by regulating activities that may alter wetlands.

Municipal conservation commissions administer the Wetlands Protection Act. The commission is a volunteer board of three to seven members typically appointed by the selectboard or city council. The Department of Environmental Protection (MassDEP) oversees administration of this law. MassDEP develops regulations and policies, and provides technical training to commissions. MassDEP also hears appeals of decisions made by commissions.

What are these protected regulated areas?

Bordering Vegetated Wetlands – Wet Meadows, Marshes, Swamps and/or Bogs that border rivers and streams, ponds and lakes.

Land Under Water Bodies and Waterways – land under any Creek, River, Stream, Pond or Lake.

Land Subject to Flooding – floodplains such as those mapped by FEMA

Bank – of any Creek, River, Stream, Pond and/or Lake.

Riverfront Area – all the land between a river's mean annual high water line and a parallel line measured 200 feet out.

100 Foot Buffer Zone - both Bank and Bordering Vegetated Wetlands have a 100 foot area known as the buffer zone.

The conservation commission ensures that proposed activities will not alter resource areas and the public interests they provide by reviewing projects on a case-by-case basis according to regulations [310 Code of Massachusetts Regulations (CMR) 10.00]. The regulations describe how each type of resource area provides one or more of the public interests. The regulations also spell out the type and extent of work

allowed in resource areas. Proposed work must meet these standards. This information helps landowners and developers plan their work and helps commissions apply the law to specific projects.

The law regulates many types of work in resource areas, including vegetation removal, regrading, and construction of houses, additions, decks, driveways, and commercial or industrial projects. If you want to work in a resource area or within the 100 foot Buffer Zone, contact the conservation commission before you start work.

If you are unsure whether your proposed work site is in a resource area or whether the work will alter a resource area, you can submit a Request for Determination of Applicability. If the conservation commission determines that the work will alter a resource area, you must file an application, called a Notice of Intent (NOI), and pay an application fee.

Certain landscaping activities are considered exempt if conducted within the Riverfront Area or within the Buffer Zone to Bank and wetlands.

These exempt activities are:

1. Unpaved pedestrian walkways less than 30 inches wide for private use and

less than three feet wide for public access on conservation property;

2. Fencing, provided it will not constitute a barrier to wildlife movement; stonewalls; stacks of cordwood;

3. Vista pruning, provided the activity is located more than 50 feet from the mean annual high water line within a riverfront area or from bordering vegetated wetland, whichever is farther;

4. Plantings of native species of trees, shrubs, or groundcover, but excluding turf lawns;

5. The conversion of lawn to uses accessory to residential structures such as decks, sheds, patios, and pools, provided the activity is located more than 50 feet from the river's edge within the riverfront area or from bordering vegetated wetland, whichever is farther, and erosion and sedimentation controls are implemented during construction

6. The conversion of impervious surfaces to vegetated surfaces, provided erosion and sedimentation controls are implemented during construction; and

7. Activities that are temporary in nature, have negligible impacts, and

are necessary for planning and design purposes.

Other activities are also not regulated:

1. Mowing of existing lawns; and
2. Pruning of existing landscaped areas.

Local Wetlands Bylaws

Almost 200 Massachusetts communities have local wetlands protection bylaws in addition to the state and federal laws described here. Contact the conservation commission at your city or town hall for more information about local bylaws.

If you are not sure whether or not the work you are doing is an exempt activity, you should contact your local conservation commission.

For more information:

call the conservation commission at 413-528-1443 x230, call MassDEP's Western Region Circuit Rider, Mark Stinson at 413-755-2257 or email to mark.stinson@state.ma.us

