

*Massachusetts Department of
Environmental Protection*

*Landscapers and the
Massachusetts Wetlands
Protection Act*



Wetlands Protection Program

The Wetlands Protection Act [Massachusetts General Laws (MGL) Chapter 131, Section 40] protects wetlands as well as other resource areas and the public interests they serve, including flood control, prevention of pollution and storm damage, and protection of public and private water supplies, groundwater supply, fisheries, land containing shellfish, and wildlife habitat. These public interests are protected by requiring a careful review of proposed work that may alter wetlands. The law protects these wetlands and other resource areas, such as land subject to flooding (100-year floodplains), the riverfront area (added by the Rivers Protection Act), and land under water bodies and waterways.

At the local level, the city or town conservation commission administers the Wetlands Protection Act. The commission is a volunteer board of three to seven members appointed by the selectmen or city council. On the state level, the Department of Environmental Protection (MassDEP) oversees administration of the 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 resource areas?

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

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

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

Land Subject to Flooding – Bordering and Isolated Areas.

Riverfront Area - the area of land between a river's mean annual high water line and a parallel line measured horizontally typically 200 feet out.

Both Bank and Bordering Vegetated Wetlands have a 100 foot regulated 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 buildings. If you want to work in a wetland resource area or within 100 feet of a wetland (an area called the 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 apply for 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 activities conducted by landscapers are considered an exempt activity if conducted within the Riverfront Area or with the buffer zone to Bank and the wetlands.

These activities are:

1. Unpaved pedestrian walkways for private use;
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 not regulated:

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

Local Wetlands Bylaws

Over 100 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 about:

Wetlands laws in Massachusetts, call the conservation commission at your city or town hall or, call MassDEP's Western Region Circuit Rider, Mark Stinson at 413-755-2257 or email to mark.stinson@state.ma.us

