

Exempt Minor Activities in Riverfront Areas and Buffer Zones

Under the Wetlands Protection Act

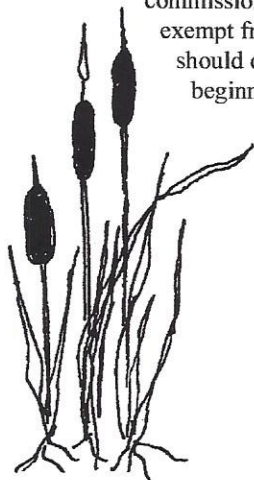
In October 1997, the Massachusetts Department of Environmental Protection (DEP) revised the wetlands regulations primarily to incorporate new standards for the Rivers Protection Act, but also to remove certain minor activities from review by local conservation commissions. The exemption applies to certain minor activities – common landscaping tasks and home improvements – which are conducted solely in the buffer zones of wetland resource areas and in riverfront areas. Please note that the same minor activities proposed in other wetland resource areas are *not* exempt.

Why Create Minor Activities?

DEP has determined that certain minor activities, based on their type, size, and location, will not cause impacts to any of the protected interests under the Wetlands Protection Act. DEP exempted these minor activities from review to lessen permitting responsibilities for potential applicants and to ease administrative burdens on conservation



commissions. (Please note these activities may not be exempt from review under local bylaws. Landowners should check with the conservation commission before beginning work to see if the activity is subject to a local wetlands bylaw.)



Where are Riverfront Areas and Buffer Zones?

The **riverfront area** is a 200-foot wide corridor on each side of a perennial river or stream, measured from the mean annual high-water line of the river. However, the riverfront area is 25 feet in certain communities (Boston, Brockton, Cambridge, Chelsea, Everett, Fall River, Lawrence, Lowell, Malden, New Bedford, Somerville, Springfield, Winthrop, and Worcester) and in “densely developed areas,” as designated by the Secretary of Environmental Affairs.

A **perennial river** is any natural flowing body of water (including a stream or brook) that empties into any ocean, lake, or other river and that flows throughout the year.

The **buffer zone** is an area of land extending outward 100 feet horizontally from a bank, marsh, swamp, freshwater or coastal wetland, beach, dune, or flat.






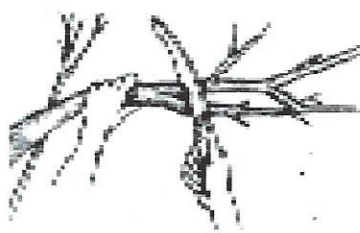




What About Activities That Are Not Exempt?

Activities that do not meet the requirements of the exemption (310 CMR 10.58(6)(b)) may still be permitted after the conservation commission reviews the proposed project. If the commission determines that the work will not alter a resource area, it will issue a Negative Determination of Applicability and work may proceed. The commission also may issue a permit (called an

Order of Conditions) that describes how the work must be done to protect the resource areas and their public benefits. To streamline the review of smaller projects, DEP has issued a new policy (#99-1) that allows projects in the buffer zone and meeting certain criteria to proceed under a Negative Determination of Applicability rather than an Order of Conditions.

Exempt Minor Activities

The following minor activities are exempt from local conservation commission review as long as they are located in the riverfront area or buffer zone, but not within any other resource area. These activities are described in the wetlands regulations (310 Code of Massachusetts Regulations 10.00, section 10.58(6)). The landowner can proceed with these tasks without prior Wetlands Protection Act review by the conservation commission.

-  Unpaved pedestrian walkways for private use
-  Fencing that does not create a barrier to wildlife movement
-  Stonewalls
-  Stacks of cordwood
-  Vista pruning – the selective thinning of tree branches or understory shrubs to create a “window” to improve visibility – as long as it occurs more than 50 feet from the mean annual high-water line within a riverfront area or from a bordering vegetated wetland, whichever is farther. (This activity does not include the cutting of trees which reduces the leaf canopy to less than 90 percent of the existing crown cover or the mowing or removal of understory brush.)
-  Plantings of native trees, shrubs, or groundcover, but not turf lawns
-  Conversion of lawns to decks, sheds, patios, and pools that are accessory to single family homes, as long as:
 - ◆ house existed prior to August 7, 1996
 - ◆ activity located more than 50 feet from the mean annual high-water of the riverfront area or bordering vegetated wetland (whichever is farther) and
 - ◆ sedimentation and erosion controls used during construction
-  Conversion of patios, pools, sheds, or other impervious surfaces to lawn or natural vegetation
-  Activities, such as monitoring wells, exploratory borings, soil sampling, and surveying, that are temporary, have negligible impacts, and are necessary for planning and design purposes

Note: Maintenance of existing landscaping, including lawn mowing and pruning, is exempt from review regardless of location in the buffer zone or any wetland resource area.

For more information . . .

Contact the local conservation commission or the appropriate DEP regional Wetlands Circuit Riders:

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For more information about permitting requirements under the Massachusetts Wetlands Protection Act, visit DEP's Web site:

www.state.ma.us/dep/brp

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