



Town of Boylston
Conservation Commission
221 Main Street
Boylston, MA 01505

Wetlands Setback Policy

Unless demonstrated otherwise by the applicant, the Conservation Commission shall presume that any proposed activity within 25 feet of any wetland will have a significant adverse impact on the wetland and should not be permitted.

Purpose of Policy

The Conservation Commission has found that activity in the 100-foot buffer zone bordering wetland resource areas poses a serious threat to such areas, and activity within the first 25 feet from the wetland resource is the most impactful. These findings are from training provided by Massachusetts Association of Conservation Commissions (MACC), and training provided by Massachusetts Department of Environmental Protection. As a result, the Conservation Commission strongly discourages such activity within 25 feet of wetland boundaries. This undisturbed zone will provide a minimum buffer to prevent negative impacts on wetlands and other resource areas.

The Conservation Commission may require larger No-disturb or No-build zones when it is deemed necessary to protect the values and functions of the wetland resource areas and to allow the continuity of natural conditions.

Basis of Policy

Scientific research, and the Conservation Commission's own experience in reviewing a wide variety of projects, demonstrates that alteration or construction activities within the buffer zone consistently result in destructive effects on the wetlands themselves. These include, but are not limited to, disturbance of natural vegetation along wetland boundaries, run-off of pollutants, placement of fill material or other substances into the wetlands, stockpiling or dumping of materials or debris which migrates over time into the wetlands, and disturbance of wildlife habitat, such as nesting sites and corridors which are important to wetland species. The Conservation Commission has also noted a tendency on the part of many project proponents to design the project so that it goes to the absolute limit of the wetland boundary. Particularly given the difficulty which often arises in defining that boundary, in most instances it is vital to protect an adjacent section of the buffer zone and prevent the inevitable destructive impacts on the wetlands which arise from activity which goes to the boundary.

The Policy

In acting upon Notices of Intent, Resource Area Delineations, and Determinations of Applicability, the Conservation Commission will presume that any activity within 25 feet of a wetland boundary will have a significant adverse impact on the wetlands, and such activity shall not be permitted unless the applicant demonstrates that (1) such activity would not have such an impact or (2) public benefits, such as health or safety, outweigh any such impact. The applicant shall have the burden of proof on this issue.

Applicants wishing to rebut the presumption set forth in this policy shall provide the Conservation Commission with the following information, together with any additional relevant information which the Commission may require:

1. A cross-sectional profile of elevation changes in any area of the buffer zone within 25 feet of a wetland, which would be disturbed by the proposed activity;
2. A list of a species occurring in the 25-foot area of the buffer zone and adjacent wetland areas including data on relative abundance of each species;
3. A wildlife habitat evaluation of the 25-foot area of the buffer zone and adjacent wetlands including data on observed wildlife utilization of such area, such as breeding bird use, occurrence of fish, reptiles, amphibians, and mammals;
4. A description of the nature of any public or ecological benefits which may arise from the proposed activities. It is the Conservation Commission's policy, where it has discretion, to prohibit any activity in the wetlands except where there are exceptional circumstances, where no other practical alternative exists, and where satisfactory replication takes place prior to any work.

Activities identified as minor activities in the Wetlands Protection Act Regulations will be given consideration. Activity within the 100-foot buffer zone, but not within the 25-foot area, will continue to be reviewed on a case-by-case basis.

Existing Conditions

Maintenance (which includes care and upkeep but no further alteration or expansion) of yards which existed on or June 27, 2022, within the 25 ft. buffer zone, will be permitted, however, homeowners are encouraged to maintain natural vegetation within 25 ft. of the wetland edge to help improve the water quality of wetlands and streams. Further, the use of herbicides/pesticides, inorganic fertilizers (excluding lime or other soil treatments) where labels indicate they are toxic to aquatic organisms, which may alter the adjacent resource area, should not be used adjacent to wetlands. It is likely that the use of these chemicals over time will have an impact on the adjacent wetlands.

Conservation Commission Authority

The Boylston Conservation Commission is the statutory authority for administration of the Massachusetts Wetlands Protection Act (WPA) and Regulations in Boylston. The Conservation Commission is further authorized by MGL Chapter 40, Section 8C to adopt its own rules and regulations "to further regulate matters established by section 40 of Chapter 131" (the WPA). The WPA Regulations at 310 CMR 10.53(1) provide for conditions to be imposed on work in the Buffer Zone in order to protect the interests of the WPA identified for the adjacent wetland resource areas. As stated in the Regulations:

The potential for adverse impacts to Resource Areas from work in the Buffer Zone may increase with the extent of the work and the proximity to the Resource Area. The Issuing Authority may consider the characteristics of the Buffer Zone, such as the presence of steep slopes, that may increase the potential for adverse impacts on Resource Areas. Conditions may include limitations on the scope and location of work in the Buffer Zone as necessary to avoid alteration of Resource Areas. The Issuing Authority may require erosion and sedimentation controls during construction, a clear limit of work, and the preservation of natural vegetation adjacent to the Resource Area and/or other measures commensurate with the scope and location of the work within the Buffer Zone to protect the interests of M.G.L. c. 131, § 40.

This Policy was unanimously approved by the Conservation Commission on June 27, 2022, after public review at a Public Hearing.