

# A Guide to Wetland Protection Laws in Sunderland, MA



**Read this before you  
dump, cut, or build  
near wetlands.  
You may need a permit.**

**Sunderland Conservation Commission**

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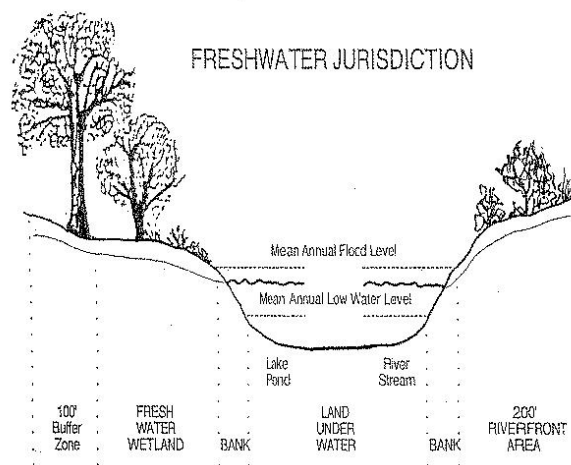
<https://www.townofsunderland.us/conservation-commission>

## What is the Wetlands Protection Act?

The Massachusetts Wetlands Protection Act (GL Ch. 131, sec. 40; the Act) prohibits any filling, excavation, or other alteration of the land surface, water levels, or vegetation in wetlands, floodplains, or other water resource areas, regardless of ownership, **without a permit** from the local Conservation Commission.

## What is a wetland?

Legally the term "wetland" includes not only areas we typically think of as wetlands, such as swamps and cattail marshes, but also intermittent streams and other areas that may be dry for a significant portion of the year. The Act specifically regulates activities in or near "bordering vegetated wetlands" (BVWs) — marshes, swamps and bogs adjacent to water bodies, banks and floodplains.



## Which wetlands are protected?

By law, wetlands are defined by the kind of plants that grow in them (such as jewelweed, red maples, or skunk cabbage) and the kind of soils that exist there. The Conservation staff or a wetland specialist can help you determine whether you live near a wetland.

The Commission has jurisdiction over **any work**:

- Within 100 feet of a:
  - Swamp or marsh
  - Forested wetland
  - Vernal pool
  - Pond
  - Intermittent stream
- Within 200 feet of a stream that flows year round, including the Connecticut River
- Within the 100-year flood zone



Wetlands may not be wet all the time. Low areas that flood in the spring may be wetlands.

Wetlands are valuable because they reduce flooding, provide wildlife habitat, help recharge aquifers, and filter polluted water.

## Why are wetlands, floodplains and other water resource areas important?

Left in their natural state, wetlands provide many free services to the community. Wetlands provide temporary storage of flood waters, allowing floods to recede slowly. In freshwater wetlands, they also recharge groundwater aquifers.

Directly or indirectly, wetlands are often sources of public or private water supply. In addition, a wetland can purify the water it

receives. Wetlands and their related buffer zones are essential to wildlife — providing food, nesting areas and protective cover.

Floodplains are protected because they provide "storage" for flood waters. Any alteration of the land that reduces this storage capacity will displace floodwaters and cause greater flooding elsewhere.

### What activities are regulated?

Under the Act, no one may "remove, fill, dredge, or alter" any wetland, floodplain, bank, land under a water body, or land within 100 feet of a wetland, **without a permit** from the Conservation Commission. The term "alter" is defined to include any destruction of vegetation, any change in drainage characteristics or flow patterns, or any change in the water table or water quality. The regulations prohibit most destruction of wetlands and require replacement of flood storage lost when floodplains are filled.

The Conservation Commission regulates permit activities that will alter wetlands or their buffer zones. Regulated activities include:

- Building structures or a septic system
- Dumping leaves, brush, grass, debris
- Cutting down trees or shrubs
- Reconstructing lawns
- Changing stormwater discharge
- Grading, excavating, or filling

You can maintain lawfully existing (grandfathered or permitted) structures, lawns and landscapes; you can also do some limited vista pruning of trees. But a permit is required for cutting of whole trees, clearing understory,

construction, earth disturbing activities, or drainage-altering activities.

### What must I do if I want to build or pursue a regulated activity in or near a wetland?

First, contact your Conservation Commission for further information on the law and how it applies to the particular project you have in mind. Regulations issued under the Act should also be consulted, because they contain specific standards that you must incorporate into your project design. Sunderland also enforces its local wetlands bylaw, which in some cases is stricter than state laws. For example, Sunderland does not permit construction or disturbance within 50 feet of a protected wetland. Isolated wetlands are also protected by the local bylaw. Your project must meet state and local legal standards to be approved.

For small projects located within the 100-foot wetlands buffer zone, you may submit a **Request for Determination of Applicability** (RDA) Form. If the project is determined (at a public meeting) to have no wetlands impacts, you will be given permission to proceed as soon as a 10-day appeal period passes.

If the project does impact the wetlands, the next step is to submit a formal application known as a **Notice of Intent** (NOI) to the Conservation Commission. The Commission will set a time within 21 days for a public hearing on your project and will advertise the hearing in the local paper at your expense. Once the hearing is closed, the Commission must issue its decision, known as an Order of Conditions, within 21 days.

You may appeal the Order of Conditions within 10 days. Abutters, 10 residents in the community, or the **Department of Environmental Protection (DEP)** can also appeal within the 10-day period. Under the state Act, appeal goes first to the regional office of DEP, which will issue what is known as a Superseding Order. Further appeal of this Order goes to the Boston office of DEP, and then to Superior Court.

### What are the penalties for violating the law?

Violations include unpermitted:

- Dumping of grass, leaves, brush, or debris in a wetland or buffer zone;
- Cutting of trees or shrubs within Riverfront Area, wetland, or buffer; or
- Building without a permit within Riverfront Area, wetland, or buffer.

Under the Wetland Protection Act, the Conservation Commission can require illegally altered land to be restored to its original condition, and the Mass DEP can issue fines up to a *maximum fine of \$25,000 and/or not more than two years of imprisonment*.

### How can I get more information?

Contact the Sunderland Conservation Commission, an attorney, consulting engineer or wetlands scientist. The **Massachusetts Association of Conservation Commissions** (MACC) is also a good resource, at <http://www.maccweb.org>. Additionally, you may contact the state Department of Environmental Protection directly at (413) 784-1100, or their Service Center / Permit Assistance at (413) 755-2214.