



Weston Conservation Commission Proposed Wetland Bylaw *Frequently Asked Questions*

Why do we need a Wetland Bylaw?

Protecting Weston's Unique Wetland Resources through Local Control

Weston places a high value on protecting its unique natural resources--the Conservation Commission and Weston Forest & Trail Association have permanently protected more than 2,000 acres of open space in Weston and partner with local and regional conservation organizations to ensure protection of Weston's wetlands, forests, tree canopy, and ecological integrity.

Weston is home to 815 acres of forested wetland--approximately 7% of the total land area in Town. It sits within both the Charles River and Sudbury-Assabet-Concord River (SuAsCo) watersheds and supports nine (9) named brooks and streams.

More than 200 communities in Massachusetts have enacted wetland bylaws to address deficiencies in the state Wetlands Protection Act (the Act) to provide better protection and to clarify a vague state law, a law that was created to provide the bare minimum protection to wetlands and in many ways was based on politics rather than science.

It is time for Weston to join these other communities and provide the level of protection that our wetlands, water bodies, and residents need for our health and safety and the planet's sustainability.

Weston's Proposed Bylaw Promotes Clear, Consistent, and Fair Administration by Proposing 3 Provisions:

1. Establish protection for vernal pools and isolated vegetated wetlands.
2. Codify the 25-foot No Disturb Zone Policy through regulation.
3. Establish local control over enforcement and compliance.

1. Protection of Vernal Pools and Isolated Vegetated Wetlands

Vernal pools are seasonal pools providing extremely important wildlife habitat. Vernal pools are currently protected only if in a wetland; many are not. Often the surrounding habitat of the vernal pool species also is not protected (protected only if habitat falls within a wetland). Under state law, all land around a pool may be developed, which would destroy all vernal species' year-round habitat. Weston's Bylaw would protect all vernal pools and create a 100-foot buffer to vernal pools. Standard single-family work in existing developed areas (including lawns and landscaped areas) in the 100-foot buffer would be exempt. Isolated

Vegetated Wetlands, or those that do not border on a surface water, also would be protected provided they cover at least 2,500 sq. ft. of surface area.

2. Codify 25-foot No Disturb Zone (NDZ) to wetlands

The Commission reviews work within 100 feet of wetlands, called the 100-foot buffer zone. The Act does not define any specific setbacks distances from wetlands for proposed work. The first question people ask is, "How close to wetlands may I propose work?" Based on science that supports a minimum of 25-foot naturally vegetated buffer for protection, the Commission created a local 25-foot No Disturb Zone (from wetlands) policy in 1998 (amended 2010, 2016), the minimum buffer required to protect wetlands.

The Commission now seeks to codify the 25-foot NDZ through the proposed Bylaw. This approach, of including a No Disturbance Area as a regulation, is consistent with the minimum local requirement imposed by most of our neighboring towns. Codifying this existing 25-foot NDZ policy as a regulation would present no policy change from the Commission's current administration of the state Wetlands Protection Act but would provide an enforceable legal foundation to deny a project if a developer proposed to build in the 25-foot NDZ.

The Commission would continue to allow work in the 25-foot NDZ in the rare cases that there are no alternatives or in situations where there are pre-existing structures or landscaping. Visit the Conservation Commission's website for the existing 25-foot NDZ policy.

3. Fair Enforcement & Better Use of Town Resources

Most violations of the Act are minor accidents and easily addressed with a simple conversation. If this, follow-up letters, or the issuance of an Enforcement Order for major violations are not effective, the Commission needs a tool to ensure compliance. The Bylaw will enable the Commission to issue fines for non-compliance, similar to procedures used by the Building Commissioner and Public Health Director. Such action would be a last resort for repeat or noncompliant offenders to ensure fair compliance and protection of wetlands. Encouraging compliance will redirect taxpayer money (town staff time and resources) from enforcement to protection.

How would the permitting process change?

- No new fees.
- No additional paperwork--permit applications under the Bylaw would use existing state application.
- No changes to time frames, abutter notification, or legal notice requirements.
- Other than vernal pools located outside of wetlands and isolated vegetated wetlands, no resource areas are added.
- Appeals of the Bylaw would go to Superior Court, though the Commission would make every attempt to mediate a settlement instead.

Are there any proposed changes to common home activities that are currently allowed under the Act?

No. Work within existing landscaped areas such as lawn mowing and maintenance, pruning, and planting beds is exempt from review. Existing agricultural exemptions will remain the same. Required septic system work must be permitted but if it complies with Title V (Board of Health), it is assumed to comply with the Act and with the Bylaw. If a tree is located within a protected area but is a hazard to health and safety, it is possible that it may be removed (check with the Conservation Department first). It should be noted that the Commission recognizes that fields and meadows are declining locally and regionally, so encourages projects to restore them. Invasive species control projects are also encouraged. See our website for a new Invasive Plant Removal Administrative Permit.

Other frequently asked questions:

- **Why is the 25' NDZ proposed as regulation and not included in the Bylaw itself?** The 25' NDZ will function as a regulatory performance standard under the jurisdictional areas described in *Section 2: Jurisdiction* of the Bylaw. As that performance standard is a regulation, the Commission will be able to tailor exemptions to the NDZ and identify the standards by which an exemption would be granted for each jurisdictional area. This will give the Commission as well as applicants filing for permits under the Bylaw more flexibility when redeveloping existing structures within the NDZ and in receiving exemptions from the NDZ in cases where there no better alternatives.
- **Will Chapter 40B development proposals be subject to the Bylaw?** When a wetland permit application is submitted for a 40B project, the Zoning Board of Appeals (ZBA) will assume the role of the Commission for purposes of the local Bylaw. The Commission will continue to review permits submitted under the State Wetlands Protection Act. When a 40B applicant submits a permit application to the ZBA (acting as the Commission for permits submitted under the local bylaw), the application may include an accompanying request to waive the 25' NDZ requirement. The ZBA must then consider whether the need for the protections afforded by the 25' NDZ outweigh the need for affordable housing that the 40B project aims to address.
- **If my property is not currently subject to the state Wetlands Protection Act, will this Bylaw affect me?** There will be some households in Weston not currently subject to wetlands protection laws that will be subject to this Bylaw. It is important to note:
 1. Permitting requirements associated with wetlands protection laws are typically triggered only when there is exterior work on a property within a defined jurisdictional buffer zone that results in the removal of vegetation or ground disturbance. On average, most homeowners subject to wetlands protection laws go through this process one or twice, if at all, during their ownership of the home.
 2. The Bylaw will honor all of the exemptions currently included in the state Wetlands Protection Act and will not change or impact the way you currently manage your property. Work within existing landscaped areas such as lawn mowing and

maintenance, pruning, and planting beds will remain exempt from review. Existing agricultural exemptions will remain the same. Replacement of existing driveways, walkways, patios, etc. will be allowable through a simple administrative review process. Required septic system work must be permitted, but if the work complies with Title V (Board of Health), it is assumed to comply with the Wetlands Protection Act and with this Bylaw. Hazard tree removal requests will continue to follow the Commission's existing hazard tree policy, and smaller scale invasive plant removal projects will continue to follow the Commission's existing administrative approval process.

3. Important to note: Conservation Department staff are extremely knowledgeable and well-equipped to guide residents and consultants through the wetland permitting process.

- **Why is the Conservation Commission looking to pass a Bylaw now?** The Commission has long been interested in a local wetlands protection bylaw. As development pressure in the Metro Boston area continues to grow, the Commission needs to ensure that Weston's most environmentally sensitive and important areas and their inner-most Buffer Zones are protected by law--with a set of clear and consistent standards that are enforceable on the local level.

Please visit the Commission's web site for more bylaw information at www.westonma.gov/conservation