

Town of Westminster, MA
Tuesday, January 31, 2017

Chapter 202. Wetlands

[HISTORY: Adopted by the Annual Town Meeting 5-1-2004 by Art. 47. Amendments noted where applicable.]

GENERAL REFERENCES

Earth removal — See Ch. 97.

Zoning — See Ch. 205.

Subdivision of land — See Ch. 231.

Groundwater monitoring and soil testing — See Ch. 241.

§ 202-1. Purpose; administration; terms; exemptions.

- A. The purpose of this chapter is to provide protection in addition to the Massachusetts Wetlands Act and to preserve and protect the wetland resource areas of the Town of Westminster by regulation of, and control of activities deemed by the Westminster Conservation Commission to have significant or cumulatively detrimental effect upon the following interests and values, including: public or private water supply; groundwater; the prevention and control of flooding, erosion, sedimentation, storm damage, and/or pollution; protection of fisheries, wildlife, wildlife habitat and recreation.
- B. It shall be the responsibility of the Conservation Commission to administer the protection of all wetlands within the geographical boundaries of the Town of Westminster, as defined in the Massachusetts Wetlands Act, Massachusetts General Laws, Chapter 131, § 40, and enforce all provisions of this chapter as described below and adopt regulations for administering this chapter.
- C. Throughout this chapter, the words "wetland" and "resource areas" hold the same meaning.
- D. Throughout this chapter, exemptions as referenced in the Massachusetts Wetlands Act shall apply.

§ 202-2. Alteration of resource areas.

- A. A resource area is an area specified in 310 CMR 10.25 through 10.35 and 310 CMR 10.54 through 10.58, and vernal pools as defined within this chapter.
- B. No alterations shall be allowed within 25 feet of any resource area on a lot that was created after the date of the acceptance by Town Meeting vote of this regulation.
- C. Alterations will be allowed within 25 feet of any resource area on any preexisting lot when the alteration is required to protect public health and safety, or the lot would become unbuildable without the alteration and that reasonable alternatives are presented to the Commission, in which the resource area will be enhanced or enlarged and protected permanently through a conservation restriction or other means acceptable to the Commission.
- D. Any permanent alteration or change of habitat of the resource area on a preexisting lot will require 150% replication of that area within that resource area.
- E. The two-hundred-foot riverfront area and land subject to flooding are exempt from the twenty-five-foot requirement of this chapter.

§ 202-3. Vernal pools.

- A. A vernal pool is an isolated wetland which has been certified by the Division of Fisheries and Wildlife and/or meets the requirements for certification as established by the Massachusetts Natural Heritage Endangered Species Program for vernal pool certification and is larger than 500 square feet in area.
- B. The vernal pool does not have to be located within another resource area to be considered jurisdictional.
- C. No alteration shall be allowed within 25 feet of any vernal pool on a lot that was created after the date of the acceptance by Town Meeting vote of this regulation.
- D. Alterations of the upland area adjacent to a vernal pool are allowed within 25 feet of a vernal pool's seasonal high-water mark, when the alteration is required to protect public health and safety, or the lot would become unbuildable without the alteration and that reasonable alternatives are presented to the Commission in which the vernal pool will be enhanced or enlarged and protected permanently through a conservation restriction or other means acceptable to the Commission.

§ 202-4. Enforcement; violations and penalties.

- A. In accordance with applicable law, including but not limited to the provisions of MGL c. 40, §§ 21D and 31, the Commission and or Town may enforce the provisions of this chapter and the Massachusetts Wetlands Protection Act, restrain violations thereof and seek injunctions and judgments to secure compliance with its orders of conditions.
- B. Without limiting the generality of the foregoing:
 - (1) Any person who violates any provision of this chapter, any order of conditions, or any permit, with or without conditions issued pursuant to it, may be punished by a fine in the amount of \$100 per day, per violation. Each day or portion thereof during which a violation continues shall constitute a separate offense; if there is more than one, each condition violated shall constitute a separate offense. The Conservation Commission Administrator, agent or appointed designee or any police officer shall be empowered to enforce this chapter.
 - (2) The penalties for violations of this chapter or regulations promulgated hereunder may be assessed as follows:

Violation	Penalty per Violation per Day
Alteration of any wetland resource area	\$100
Violation of any order of conditions	\$100
Depositing any material in a wetland or water body unless otherwise exempt from this chapter	\$100
Alteration of any stream or water body	\$100
Any violation of any section of this chapter that occurs in the Westminster/Fitchburg Watershed	\$100
Any and all other violations of this chapter	\$100
 - (3) In the event of a violation of this chapter or of any order issued there under, the Commission or its agents may issue a stop work order to the owner, the applicant or applicant's agent by certified mail, return receipt requested, or by posting the same in a conspicuous location on said site. Any person who violates the provisions of a stop work order shall be deemed in violation of the chapter; however, the failure of the Commission to issue a stop work order shall not prevent the Town from pursuing any other legal remedy at law or in equity to restrain violations of this chapter, any orders issued hereunder, or rules and regulations promulgated applicable hereto and to secure full compliance.