

**Town of Uxbridge
Conservation Commission
21 Main Street
Uxbridge, MA 01569**

WETLANDS SETBACK POLICY

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

Purpose of Policy

The Uxbridge Conservation Commission (Commission) has found that activity within 25 feet of a wetland poses a serious threat to these areas. As a result, the Commission strongly discourages any activity within 25 feet from the edge of wetland. This undisturbed area provides a minimum buffer to prevent impacts to wetlands.

Basis of Policy

It has been the Commission's experience in reviewing a wide variety of projects that alterations or construction activities within close proximity to wetlands result in destructive effects on the wetlands themselves. These include but are not limited to: disturbance of natural vegetation along the wetlands boundary, run-off of pollutants, fill materials and other substances into wetlands, stockpiling or dumping of materials or debris that migrate over time into wetlands, and disturbance of wildlife habitat such as nesting sites and movement corridors that are important to wetlands wildlife species. The Commission has also noted a tendency on the part of many project proponents to design the project to the limit of the wetland edge. Given the variability that may arise in defining wetland boundaries, it is vital to protect an adjacent upland area to prevent destructive impacts to wetlands.

The Policy

As used herein:

“alteration” shall mean any removal (grading, filling and/or excavation) of vegetative cover, soil or other naturally occurring materials.

“construction” shall mean the construction of any permanent or temporary structure or building including without limitation any residential or commercial building, garage, shed, barn, tennis court, deck, swimming pool, parking area, driveway, fence, or landscape project.

In acting upon Notices of Intent and Requests for Determination of Applicability, the Commission will presume that any **alteration** or **construction** within 25 feet of a wetland boundary will have a significant adverse impact on wetland, and such alteration or construction shall not be permitted unless the applicant demonstrates that:

1. Such activity will not result in adverse impact to wetland, or
2. Public benefits, such as health or safety, outweigh any such impact, or
3. The activity involves the maintenance of existing structures, or
4. The activity is the installation of a stormwater outlet structure that has been designed to meet or exceed the standards of the DEP Stormwater Management Policy.

The applicant will have the burden of proof by clear and convincing evidence. Factors to be considered by the Commission in determining whether the applicant has met the burden of proof shall include, but are not limited to the following:

1. Slope of the buffer zone.
2. Type and structure of vegetation, soils and hydrology in the buffer zone.
3. Degree and scale of past alteration in the buffer zone.
4. Ecological integrity of the adjacent wetland.
5. Importance of the buffer zone to wildlife.
6. Any ecological benefits arising from the proposed activity such as removal of exotic vegetation or creation of enhanced wildlife habitat.
7. Any public benefits arising from the proposed activity.
8. Alternatives have been considered and in the judgment of the Commission, no practical alternative is available. Restoration or plantings in the buffer zone may be required to help define and protect the remainder of the buffer zone.
9. Project scope and design have minimized the work in close proximity to the wetland resource area.
10. The project will not lead to encroachment on the resource area after the project is completed.
11. The Commission may impose a wider undisturbed buffer zone to ensure the protection of the wetland resource areas if the project involves: sensitive habitats, steep slopes, erosion prone soils, extensive disturbed area or hydraulic conditions likely to promote erosion.

Applicants wishing to rebut the presumptions set forth in this policy shall provide the Commission with the following information, together with any relevant information that the Commission may require:

1. A cross-sectional profile of elevation change in any area of the buffer zone within 25 feet of a wetland that would be disturbed by the proposed activity.
2. A list of all vascular plant species occurring in the 25 foot area of the buffer zone and adjacent wetland resource area, including relative abundance of each species.
3. A wildlife habitat evaluation of the 25-foot setback area of the buffer zone and adjacent wetlands, including data on observed wildlife utilizing the area. The list should include birds, reptiles, amphibians, and mammals.
4. A description of the nature of any public or ecological benefits that may arise from the proposed activities.
5. A photograph of the area to be disturbed.

It is the Commission's policy where it has discretion, to prohibit any activity in wetlands except where there are exceptional circumstances, where no other practicable alternative exists, and where satisfactory replication is proposed. Activity within the 100-foot buffer zone will continue to be reviewed on a case-by-case basis.

Existing Conditions

Maintenance (but no further alteration or expansion) of lawns that existed on or before November 5, 2001 within the 25-foot buffer zone will be permitted, however, property owners are encouraged to maintain natural vegetation within 25 feet of the wetland edge to help improve surface runoff to wetlands and streams. A list of native vegetation that could enhance wildlife use and water quality can be obtained from the Commission office at Town Hall. The Commission encourages property owners to allow a natural vegetation buffer to establish along the edge of wetlands, ponds and streams.

In addition, the use of herbicides/pesticides and inorganic fertilizers that may alter the adjacent resource area (excluding lime or similar soil treatments) where labels indicate they are toxic to aquatic organisms, 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.