

Protecting Sterling's Great Ponds

A Guide to Living near Fitch Pond, East Waushacum
Pond, and West Waushacum Pond



Created by the Sterling Conservation Commission

For further questions, please contact the Sterling Conservation Commission using any of the methods listed below.

Telephone:

(978) 422-8111 ext 2321

Email:

Bweigel@sterling-ma.gov

Website:

www.sterling-ma.gov/conservation-commission

Address:

Butterick Municipal Building

1 Park Street




Sterling, MA 01564

Great Ponds

Under the Massachusetts Public Waterfront Act, MGL Chapter 91, Section 35, great ponds are defined as **any pond or lake that was at least 10 acres in size in its natural state**. Great ponds that have been reduced in size to less than 10 acres are still considered great ponds under state law. Additionally, ponds that are currently 10 acres or larger are presumed to be great ponds, unless proven otherwise (MassDEP, *Chapter 91, The Massachusetts Public Waterfront Act*)

Regulated Activities under the Massachusetts Public Waterfront Act

The following activities require a license from the Massachusetts Department of Environmental Protection:

-  Construction, removal, alteration, or change in use of existing structures. Examples of structures include, but are not limited to, dams, jetties, and culverts.
-  Dredging of materials, such as rocks, sand, and plant matter, as well as the deepening or widening of waters.
-  Filling of waters with materials not accumulated through natural processes.

Additional Resources:

Massachusetts State Legislature Website linked to Chapter 91:

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter91>

Massachusetts Department of Environmental Protection
Overview of Chapter 91:

<https://www.mass.gov/guides/chapter-91-the-massachusetts-public-waterfront-act#activities-requiring-authorization>

Massachusetts Department of Environmental Protection
Chapter 91 Forms:

<https://www.mass.gov/lists/chapter-91-forms>

Massachusetts Great Ponds List Organized by County:

<https://www.mass.gov/doc/massachusetts-great-ponds-list/download>

Sources Cited:

Massachusetts Department of Environmental Protection (MassDEP). (n.d.). *Chapter 91, The Massachusetts Public Waterfront Act*. Commonwealth of Massachusetts.

<https://www.mass.gov/guides/chapter-91-the-massachusetts-public-waterfront-act#activities-requiring-authorization>

Great Ponds and Wetlands Protection

Great ponds are defined and protected under the Massachusetts Public Waterfront Act, MGL Chapter 91, but they receive additional protection under Massachusetts Wetlands Protection Act, MGL Chapter 131, Section 40, enacted in 1972.







The Massachusetts Wetlands Protection Act

Under the Massachusetts Wetlands Protection Act, MGL Chapter 131, Section 40, it is prohibited to remove, fill, alter, or dredge freshwater wetlands, such as swamps, marshes, and wet meadows, coastal wetlands, such as salt marshes, estuaries, beaches, and coastal dunes, riverine wetlands and riverfront area, as well as bordering vegetated wetlands adjoining waterbodies such as freshwater and coastal wetlands, rivers, streams, creeks, lakes, and ponds. Included in this definition are both naturally occurring and man-made ponds. Activities occurring near or adjacent to ponds, as well the other wetland resource areas detailed above, are subject to regulation and require a permit (Mass. Gen. Laws ch. Chapter 131, § 40, 1972).

Areas Subject to Regulation

Activities in wetland resource areas or their associated buffer zone (100 feet surrounding wetlands and 200 feet surrounding perennial streams and rivers) require that a Request for Determination of Applicability or Notice of Intent be filed before any alteration can begin.

The following areas are protected under MGL Chapter 131, Section 40. Resource areas are regulated by 310 Code of Massachusetts Regulations (CMR) 10.00.

-  Any bank, freshwater wetland, coastal wetland, beach, dune, flat, marsh, or swamp that borders the ocean, any estuary, creek, river, stream, pond, or lake.
-  Land under any bank, freshwater wetland, coastal wetland, beach, dune, flat, marsh, or swamp that borders the ocean, any estuary, creek, river, stream, pond, or lake.
-  Land subject to tidal action.
-  Land subject to coastal storm flowage.
-  Land subject to flooding.
-  Riverfront area.






Minor Activities

Minor activities **within the buffer zone** are not subject to regulation under 310 CMR 10.00 as long as they occur solely within the buffer zone, any potential impacts to adjacent resource areas during construction is minimized (erosion controls may be required to reduce impact), and there is a plan to stabilize the area once constructed has ended.

*Even though minor activities are not regulated under 310 CMR 10.00, it is **highly recommended to contact the Sterling Conservation Commission and schedule a site visit before any activities begin** when there is uncertainty if the area planned for construction is a wetland resource area or an associated buffer zone, thereby receiving protection under MGL Chapter 31, Section 40, and requiring a permit, in order to **avoid violations and the issuing of Enforcement Orders.***

Please contact the Sterling Conservation Commission to coordinate a site visit if you are planning to engage in any activities, including the ones listed below, and you have property adjoining or contained within any great pond, wetland buffer zone, or wetland resource area outlined in the section titled *Areas Subject to Regulation*.

Common minor activities:

-  Building a shed.
-  Installing a pool, deck, or patio.
-  Vista pruning.
-  Converting impervious surfaces to vegetated surfaces.
-  Installing fencing or stonewalls that are not a barrier to wildlife.

Set up a site visit with Sterling's conservation agent or send an email with any questions to:

Bweigel@sterling-ma.gov

For those who prefer talking by phone, please call:

(978) 422-8111 ext 2321

Additional Resources:

Massachusetts Department of Environmental Protection
Website with a link to 310 CMR 10.00 Regulations:

<https://www.mass.gov/regulations/310-CMR-1000-wetlands-protection-act-regulations>

Massachusetts Legislature Website linked to Chapter 131,
Section 40:

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIX/Chapter131/Section40>

Massachusetts Department of Environmental Protection
Overview on Wetland Protection:

<https://www.mass.gov/info-details/protecting-wetlands-in-massachusetts>

Massachusetts Department of Environmental Protection
Wetland Permitting Forms:

<https://www.mass.gov/lists/wetlands-permitting-forms>

Sources Cited:

Mass. Gen. Laws Chapter 131, § 40 (1972). Massachusetts
Wetlands Protection Act.