



Information for Property Owners

The Watershed Protection Act and Other Local, State and Federal Regulations

Background

The Watershed Protection Act (WsPA) has been in effect since 1992. This law and regulation, found at 350 CMR 11.00, were specifically created to protect the quality of the drinking water of the Wachusett Reservoir, Quabbin Reservoir and the Ware River. The WsPA and regulations created additional buffer zones around water resources that are only regulated under this law and in some cases go beyond other previously existing regulations.

Things to Know if You Are Proposing Work

There may be multiple reviewing authorities for your project. Many times property owners are confused about the process for gaining approval of their project. Hopefully, this information will help explain the process.

Authority

The Department of Conservation and Recreation (DCR) is the only agency that implements the WsPA. Therefore, contact DCR any time work is planned on a lot with WsPA jurisdiction. Only DCR has the authority to determine if your project can go forth under the WsPA. Not only should site work should be discussed with DCR but any change in use on a jurisdictional parcel should also be discussed with DCR. Your current use may be allowed but a change in use may not be allowed.

Jurisdiction

When you go to your local Town Hall to speak with your local building inspector about a possible project, you can also check the WsPA map that is available there. By reviewing this map you can tell if your parcel is jurisdictional; although, please pay attention to the legend on the map as it explains the limitations due to several areas of jurisdiction that are not shown. You may also check jurisdiction by going online to http://maps.massgis.state.ma.us/map_ol/dcr_wsapa.php or you may call the local DCR office for assistance.

WSPA and Other Regulations

It is important to know the WsPA is in addition to all other local, state and federal regulations. It is neither part of, nor does it replace, any other local, state or federal law. It is an additional layer of regulation with which property owners must comply.

Also, approval from all applicable Boards and/or Commissions is necessary. The approval from one Board/Commission does not outweigh or replace the approval from another Board and/or Commission.

Other Project Reviewers

Building Inspector - the Building Inspector is a town employee and is the zoning administrator for your town. This person will be able to tell you if your proposed use is allowed within your zoning district as well as any setback requirements and he/she will also issue the building permit.

Things to Know

Other Project Reviewers

- Conservation Commission – the Commission is a volunteer group of town residents who interpret the Wetlands Protection Act (WPA). The WPA is a state regulation (see 310 CMR 10.00) that is administered and enforced by a local Commission. A wetland, marsh, swamp bordering on a pond, stream or river, land subject to flooding and riverfront area are all resource areas under the WPA. Buffer zones vary from 100 feet to 200 feet depending upon the resource area. Some towns also have a local Wetlands Bylaw that is in addition to the state WPA. Some Commissions have a staff person who can answer your questions and others do not. You can contact this Commission through your Town Hall.
- Board of Health- the Board of Health is a volunteer group of town residents who interpret local health bylaws as well as state regulations relative to setbacks for private residential wells and Title 5 regulations (see 310 CMR 15.00) for septic systems. For example, one of the setbacks of Title 5 requires that a leachfield be located 200 feet from a tributary in the Wachusett watershed. Some towns also have an additional local bylaw that will be stricter than the state regulation. Some Boards have a staff person who can answer your questions and others do not. You can contact this Board through your Town Hall.
- Planning Board – the Planning Board is a volunteer group of town residents who review subdivision plans as well as ANR lots which are individual lots created with frontage on an official street. Most of the plans reviewed by this Board are larger in scope. Some Boards have a staff person who can answer your questions and others do not. You can contact this Board through your Town Hall.

Suggested Course of Action for Review of a Proposed Single Family Dwelling or Other Small Project

- Start with the Building Inspector in your Town. The Inspector will be able to tell you if your proposed use is allowed under the Local Zoning Bylaw and will be able to explain all the setback requirements for your proposed project.
- A review should be done to determine all the areas on your property that may be subject to various regulations. Looks at streams, wetlands, floodplains, endangered species, aquifers, topography, etc.
- The Wetlands Protection Act, Endangered Species Act, and the Watershed Protection Act may all apply to your property.
- You may also want to look at and avoid other areas on your property that can make development more difficult – steep slopes, highly erodible soils, etc. You may also want to protect and preserve other features of your property – trees etc.
- Submit applications to the applicable authorities for an official approval of the areas of jurisdiction on your property.
- Once the Boards have approved the location of areas subject to regulation on your property - now is the time to determine the location of proposed activity and structures; don't forget your Zoning Bylaw setback requirements.
- OR, if your project is small, you can combine the two steps above and go before the Board for review of the jurisdiction and the structure at the same time.
- You may also want to consider the use of Low Impact Development ideas including the use of native plantings, rain barrels and rain gardens.
- If your activity is proposed within a regulated area or buffer zone, submit plans to all necessary regulatory reviewers. This plan should include all the approved resource areas as well as the location of all activity. This activity should include structures and grading.
- DCR suggests that you go before all Boards simultaneously or go before the Board with the most restrictive requirement first.
- Once a project has been approved by one Board, if another Board requires changes, you must go back to all the Boards that have already granted approval.
- All Boards must approve the same proposal and project.