

# Permitting Procedure for Compliance with General By Law Chapter 12 Wetlands Protection

Massachusetts Endangered Species Act (MESA)  
Local Review Provision

## ADMINISTRATIVE REVIEW PROCESS

### STEP 1: Locate Your Property on the MESA Map

The MESA map is located on the Town website: [www.provincetown-ma.gov](http://www.provincetown-ma.gov) or in the Community Development Office at Town Hall 260 Commercial St.

### STEP 2: File an Administrative Review Application

At a minimum the Provincetown Conservation Commission requires that an Administrative Review Application be filed with the Conservation Agent for any proposed work within the expanded jurisdiction even if the proposed work meets an exemption as set forth by the Natural Heritage & Endangered Species Program (NHESP). Please see attached list of exemptions.

The applicant shall file an Administrative Review Application in accordance with Article 3 of the Conservation Commission Local Regulations. An opinion will be provided in writing within 2 weeks and shall serve as evidence of the proponent's due diligence to comply. Any person who disagrees with the opinion provided may file a Request for Determination of Applicability (RDA) as a means to appeal the decision. The Administrative Review may be appealed due to lack of action after two weeks by filing a RDA. The project proponent shall understand that any work beyond the scope of the Administrative Review shall be subject to enforcement action. The opinion provided under the Administrative Review shall be considered accurate for one year unless relevant changes are made to the Provincetown General By-Law or to the regulations promulgated thereunder. The Administrative Review process is not meant to provide relief from new regulations unless work under the review has begun prior to the effective date of any changes. Minimum submissions shall include the property address, map and parcel, full scope of work and a sketch plan of the property. i.e.(GIS)

A nonrefundable Administrative Review fee of \$50.00 shall be collected at the time of submittal.



# Local Protections for Endangered & Threatened Plant & Animal Species



**Summary:** As of the 2011 Annual Town Meeting updates to General By Law Chapter 12 - Wetlands Protection By Law the local Conservation Commission has local jurisdiction over areas presently protected by the Mass Endangered Species Act (MESA) both priority and estimated habitat. Under this Act, the Natural Heritage and Endangered Species Program lists out the exemptions and fee structure for certain activities that pertain to these habitat areas.

## Massachusetts Endangered Species Act (MESA)

### Exemptions from Review for Projects or Activities in Priority Habitat (321 CMR 10.14)

The following Projects and Activities shall be exempt from the requirements of 321 CMR 10.18 through 10.23:

#### 1. Agriculture and Aquaculture.

##### (a) Normal Maintenance and Improvement of Land in Agricultural or Aquacultural Use.

All activities described under the definitions of Normal Maintenance and Improvement of Land in Agricultural Use or Normal Improvement of Land in Agricultural Use Aquacultural Use are exempt. This exemption shall continue only so long as such land remains in agricultural or aquacultural use. Land in agricultural use does not include those portions of a site that are not in such use and are not designated fallow land. The normal maintenance and improvement of land in agricultural or aquacultural use does not include site preparation for purposes of conversion to another, non-agricultural or non-aquacultural use;

##### (b) Activities on Land adjacent to or in the immediate vicinity of Land in Agricultural Use or Land in Aquacultural Use.

The following activities on land adjacent to or in the immediate vicinity of Land in Agricultural Use or Land in Aquacultural Use are exempt, provided such activities are carried out in accordance with a habitat management plan approved in writing by the Division:

2. the construction, expansion, or reconstruction of a water management system such as a reservoir, farm pond, ditch, dike, tailwater recovery systems or canal/channel;

3. the construction or expansion of storage, staging, work and composting areas;

4. farm structures, not including habitable dwellings, provided that the cumulative footprint of such farm structures does not exceed 4,000 square feet;

5. the installation of permanent windbreaks or hedgerows, or the cutting of vegetation to create forest boundaries up to five feet wide;

6. the squaring-off of fields and bogs, provided there is no increase in the amount of land in production beyond the minimum increase necessarily resulting from making the boundary of any field or bog more regular; and

7. the excavation of sand from sandpits (vertically and horizontally) for use in associated, on-site, agricultural and aquacultural operations, provided that such excavation activities are reasonable in scope and used exclusively for the related on-site crop production.

(a) The exemption under 321 CMR 10.14(1)(b) does not include site preparation for purposes of conversion to land in production or to other non-agricultural or non-aquacultural uses, or the sale or off-site use of any commodity that is associated with the exempt on-site agricultural and aquacultural activities;

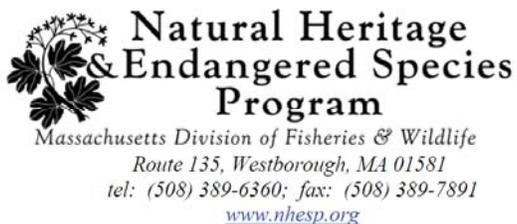
8. non-commercial forest management activities that do not require an approved Forest Cutting Plan under the provisions of M.G.L. c. 132, §§ 40 through 46, and 304 CMR 11.00, including but not limited to pruning, cutting of fuelwood for personal use, planting of tree seedlings, or selective cutting of trees for aesthetic purposes, provided that said management activities are carried out on Land Devoted to Forest Purposes and in accordance with a management plan approved in writing by the Division;

9. the maintenance, repair, removal, or replacement, or additions that do not exceed 50% of the footprint of existing commercial and industrial buildings, multifamily and mixed use structures within existing paved areas and lawfully developed and maintained lawns or landscaped areas;

10. the maintenance, repair, or replacement, or additions, including the construction of a driveway for an existing single family or two family home within existing paved and lawfully developed and maintained lawns or landscaped areas, provided there is no expansion of such existing paved, lawn and landscaped areas;

11. Construction or removal of structures that are secondary to the primary residence and located within existing paved areas and lawfully developed and maintained lawns or landscaped areas on residential properties, provided there is no expansion of such existing paved, lawn and landscaped areas;
12. Construction, repair, replacement or maintenance of septic systems, private sewage treatment facilities, utility lines, sewer lines, or residential water supply wells within existing paved areas and lawfully developed and maintained lawns or landscaped areas, provided there is no expansion of such existing paved, lawn and landscaped areas;
13. Repair, replacement or maintenance of existing, properly maintained stormwater detention basins or other stormwater systems;
14. Construction of new stormwater management systems that are designed to improve stormwater management at previously developed sites, provided that the plans for the system are submitted to the Division for prior review, and the Division makes a written determination that such systems will not have an adverse impact on state-listed species or their habitats;
15. Repair, replacement or maintenance of existing, properly maintained dry hydrant pipe systems;
16. Installation, repair, replacement, and maintenance of utility lines (gas, water, sewer, phone, electrical) for which all associated work is within ten feet from the edge of existing paved roads, and the repair and maintenance of overhead utility lines (phone, electrical) for which all associated work is within ten feet from the edge of existing unpaved roads, provided, however, that unpaved utility access roads associated with exempt activities under 321 CMR 10.14(11) shall be addressed in and subject to the Division-approved operation and maintenance plan required thereunder;
17. routine operation and maintenance on existing electrical, gas, and telecommunication distribution and transmission lines and existing substations, provided that the operation and maintenance are part of an operation and maintenance plan approved by the Division, for which a review fee shall be charged, the amount of which shall be determined by the commissioner of administration under the provisions of M.G.L. c.7, §3B;
18. the maintenance, repair or replacement, but not widening, of existing paved roads, shoulder repair that does not exceed four feet from an existing travel lane, paved and unpaved driveways and paved and unpaved parking areas, provided such unpaved driveways and unpaved parking areas are for year-round use and are not thereafter paved, but not including bike paths, or parking areas on barrier beaches, coastal beaches, coastal dunes, or salt marshes, as defined by the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40 and 310 CMR 10.00), and not including actions that are likely to result in changes in storm water drainage;
19. the maintenance or replacement but not the expansion of existing lawns and landscaped areas;
20. performance of customary land surveying activities, wetland resource area delineations, percolation tests, environmental assessments and investigations performed in accordance with M. G. L. c. 21E, and other customary preliminary site investigations or customary property due diligence activities, provided that vegetation clearing and soil alteration are avoided or minimized to the maximum extent practicable;
21. the active management of State-listed Species habitat, including but not limited to mowing, cutting, burning, or pruning of vegetation, or removing exotic or invasive species, for the purpose of maintaining or enhancing the habitat for the benefit of rare species, provided that the management is carried out in accordance with a habitat management plan approved in writing by the Division and;
22. the management of vegetation within existing utility rights-of-way provided that the management is carried out in accordance with a vegetation management plan approved in writing by the Division prior to the commencement of work for which a review fee shall be charged, the amount of which shall be determined by the commissioner of administration under the provisions of M.G.L. c.7, § 3B;
23. (a) the management of vegetation within rail ballast necessary to maintain existing rail lines; and (b) other vegetation management outside of ballast areas necessary to maintain existing rail lines, provided that such maintenance is implemented in accordance with a vegetation management plan approved in writing by the Division, for which a review fee shall be charged, and
24. the construction of a new residential dwelling, including the proposed lawfully developed paved areas, lawns and landscaped areas associated with such dwelling, on an infill lot, with frontage, of no greater than two acres in size, or such smaller lot size approved by a municipality under the applicable zoning bylaw or ordinance, provided that such lot is part of a residential subdivision that has received final, definitive approval pursuant to M.G.L. c. 41, ss.81K-81GG (the state subdivision control law), or is part of residential housing development that has received final, definitive approval pursuant to M.G.L. c. 40B or a special permit pursuant to M.G.L. c. 40A, and the development of the lot does not require a prospective Order of Conditions under the Wetlands Protection Act.

***Proponents should note that they may also need to file under the Wetlands Protection Act if their project is within Estimated Habitat for state-listed animal species, even if their project meets the MESA filing exemptions.***



**MassWildlife**