

Guidance for Living with Beavers in Topsfield

Beaver activity in Topsfield should not be interrupted unless the activity constitutes a threat to public health and/or safety. Massachusetts General Laws, Chapter 131, Section 80A defines “a threat to human health and safety” to include (but not be limited to) one or more of the following activities:

- beaver occupancy of a public water supply;
- beaver-caused flooding of drinking water wells, well fields or water pumping stations;
- beaver-caused flooding of sewage beds, septic systems or sewage pumping stations;
- beaver-caused flooding of public or private ways, driveways, railways, airport runways or taxi-ways;
- beaver-caused flooding of electrical or gas generation plants or transmission or distribution structures, telephone or communications facilities, or other public utility structures or facilities;
- beaver-caused flooding affecting the public use of hospitals, emergency clinics, nursing homes, homes for the elderly or fire stations;
- beaver-caused flooding affecting hazardous waste, incineration, or resource recovery facilities, or other facilities where flooding may result in the release of hazardous or noxious materials or substances;
- damage (gnawing, chewing, entering or other damage) to electric or gas facilities, transmission or distribution equipment, cable, alarm systems, or facilities, caused by beavers; or
- beaver-caused flooding or structural instability property if such animal poses an imminent threat of substantial property damage or income loss of the following types:
 - ⌘ flooding of residential, commercial, or industrial facilities;
 - ⌘ flooding of or access to commercial agricultural lands which prevents normal agricultural practices from being conducted;
 - ⌘ reduction in the production of an agricultural crop caused by flooding or compromised structural stability of commercial agricultural lands; and

- flooding of residential lands in which the Topsfield Board of Health, its chair or agent or the state or federal department of health has determined a threat to health and safety exists.

Procedure for Alleviating a Threat on Your Property

In the event of such a threat to public health and/or safety, any person may apply to the Topsfield Board of Health (“BOH”) for an emergency permit to immediately alleviate the threat. If the BOH determines that such a threat exists, it shall issue a 10-day emergency permit authorizing the applicant to remedy the threat in one of three ways:

- (1) use of Conibear or box- or cage-type traps (subject to Massachusetts Division of Fisheries and Wildlife regulations);
- (2) breaching of dams, dikes, berms (subject to determinations and conditions of the Topsfield Conservation Commission (“TCC”)); or
- (3) use of any non-lethal management or water-flow devices (subject to determinations and conditions of the TCC).

If denied, the applicant may appeal to the Massachusetts Department of Public Health (“DPH”) for a determination as to the existence of the threat or to the Massachusetts Division of Fisheries and Wildlife (“DFW”) if there is a question as to the cause (i.e., type of wildlife) of the threat. If the appeal is denied, the applicant may then apply to both the DFW for a non-emergency permit and the TCC for a Notice of Intent.

Trapping

Trapping is highly regulated in Massachusetts. Applicants that plan on alleviating threats by using Conibear or box- or cage-type traps must adhere to the DFW regulations, which dictate the licensing requirements of trappers and restrict the setting and placing of such traps. See 321 CMR 2.08, et seq. The regulations require, that all trapping be performed by a licensed trapper with traps that have been registered with the DFW. The regulations also state that it is against the law to capture and release a beaver into another area. See 321 CMR 2.15, et seq. Therefore, all trapped beavers must be slaughtered.

Topsfield Conservation Commission Emergency Certification

Applicants that plan on alleviating threats by breaching dams or using any non-lethal management or water-flow devices must obtain approval of these activities from the TCC, since such activity takes place within resource areas that are protected by the Wetlands Protection Act (M.G.L. c.131, §40) and the Topsfield Wetlands General Bylaw, Chapter 62. Resource areas likely to be altered by a dam breaching or water management proposal include banks, freshwater wetlands, land under water bodies, land subject to flooding, and riverfront areas. The interests served by these resource areas include: protection of public and private water supplies; protection of groundwater supplies; flood control; storm damage prevention; prevention of pollution; protection of fisheries; and protection of wildlife habitat.

To expedite the process, applicants should apply to the TCC for an *Emergency Certification* to abate the immediate public health threat simultaneously with their application to the BOH for a 10-day emergency permit. Applications to the TCC should describe, with as much specificity as possible, the threat caused by beaver activity. If known, the request should also include flood elevations and a general description of the frequency and duration of flooding. The TCC will likely conduct a site inspection to determine how to properly condition the work so that the interests of the Wetlands Protection Act and Topsfield Wetlands General Bylaw are protected. An Emergency Certification will remain valid for 30 days and will condition the activity to limit the alterations to the minimum necessary to abate the immediate public health threat and safeguard the interests protected by the Wetlands Protection Act and Topsfield Wetlands General Bylaw.

Longer term projects, such as those that exceed the time authorized by the BOH and require plans developed as part of the DFW 30-day extension permit (discussed in more detail, *infra*), or activities beyond those necessary to abate the immediate public health threat will require a Notice of Intent filing. Proposals to alleviate beaver-related problems that are not determined by the BOH to be threats to public health and safety will also be handled through the Notice of Intent process.

Extension Permits

The applicant “in conjunction with the Board of Health” may apply to the DFW for a 30-day extension permit. If the extension is granted, the DFW shall develop, with the assistance of the applicant, the BOH, and the TCC, a plan to abate the beaver problem using alternative, nonlethal management techniques in combination with water-flow devices, subject to TCC determinations and conditions. The plan may include box and cage type-traps, if necessary, subject to all applicable permitting requirements, including, but not limited to, any permits required by the DFW.

Tips for Preventing and/or Resolving Conflicts with Beavers

Tolerance

People who learn to tolerate a certain amount of beaver influence on their land generally find that co-existing with beavers provides far more benefits than perceived harm. In creating habitat for themselves, beavers also create or enhance habitat for numerous other species. Beaver ponds provide opportunities for wildlife viewing, nature study, and photography in addition to many educational opportunities.

Exclosures

Fencing can provide a long-term solution, while preserving the beneficial aspects of beavers. The most effective way to protect specific trees and shrubs is to construct exclosures around them. Exclosures should be constructed of heavy-gauge fencing, be a minimum of four feet tall, and be flush with the ground. To protect larger areas, such as orchards or nurseries, standard fencing is usually sufficient since

beavers are poor climbers, rarely burrow under fences, and generally do not chew fencing unless it is wrapped tightly around trees or shrubs.

REFERENCES

Statutes:

- M.G.L. c.131, §80A.
- M.G.L. c.131, §40.

Regulations:

- 321 CMR 2.08, *et seq.*
- 321 CMR 2.15, *et seq.*

Guidance Documents:

- Massachusetts Department of Environmental Protection, *Guidance for Conservation Commissions Implementing G.L. c.131, s.80A Threats from Beaver and Muskrat-Related Activities* (February 1, 2001).
- Massachusetts Executive Office of Health and Human Services
Department of Public Health, *Guidance for Boards of Health Implementing M.G.L. c.131, s.80A Threats from Beaver and Muskrat-Related Activities* (February 14, 2001).
- Massachusetts Division of Fisheries & Wildlife, *Beavers and the Law: A Citizen's Guide to Addressing Beaver Conflicts* (February 2010).
- Massachusetts Division of Fisheries & Wildlife, *Living with Wildlife – The Beaver in Massachusetts* (November 2009).
- The Trustees of Reservations, *Beaver Management Guidelines* (March 2005).