

MASSACHUSETTS BEAVER LAW

Beavers help create and preserve wetlands that spawn ecosystems important to our environment , but their activities can create hazards for people. Massachusetts Law M.G.L. ch. 131 s.80A and related regulation 321 CMR 2.08 give local boards of health the authority to solve beaver and muskrat problems that pose a threat to human health and safety. We can grant emergency permits to trap beaver, breach dams or alter water flow. The latter two activities are subject to the local Conservation Commission determinations and conditions.

When the Board of Health (BOH) receives an application for correction of a beaver problem, a site visit will be conducted to verify that the problem is indeed due to beaver activity and involves a threat to human health and safety. Situations that are non-health related may be solved by the landowner. M.G.L. ch.131 s.37 allows a homeowner, or his family member or a permanent employee to destroy a beaver using legal means (no Conibear trap) if the animal is on the property. The landowner should consult the BOH in such a case.

Some threats to human health and safety caused by beavers that are common in our area include:

- occupancy of a public water supply
- flooding of drinking water wells, well fields or water pumping stations
- flooding of septic systems
- flooding of a public or private way, driveway, or railway flooding or structural instability on property owned by the applicant if such problem poses and imminent threat of substantial property damage or income loss (see note below for other circumstances)

When the site visit confirms a threat to public health or safety, the BOH immediately grants the applicant a 10-day emergency permit to trap beaver, breach the dam (with Conservation Commission approval) or alter the water flow (also with Conservation Commission approval). The permit is valid for 10 consecutive days. If the problem is not corrected after the 10-day period, the applicant can apply to the BOH for an additional 10-day permit. **At the same time**, the applicant should also apply to the Department of Fish and Wildlife (DFW) for a 30-day permit.

If after the last day of the second 10-day permit (the 20th day) the problem is not alleviated and the applicant is still awaiting the 30-day permit from DFW, the applicant may again request another 10-day permit from the BOH, but only breaching the dam and altering water flow will be allowed. **Trapping will no longer be permitted.** In any case, once the corrective activities are complete, the trapper must file a follow up report with the BOH that includes the number of animals trapped.

If the beavers or muskrats causing the problem reside on a neighbor's property, the applicant must obtain permission from the neighbor to enter on his or her property. The BOH permit does not authorize trespassing onto private property.

If the BOH denies a permit, the denial document must include the specific reasons for the denial. The applicant will then be informed of the following four options:

- Appeal to the Department of Public Health (DHP).
- Appeal to DFW.

- Contact DFW for assistance with solutions covered under non-health or safety section of MGL ch.131 s. 80A.
- Contact a private contractor or non-governmental organization for assistance (eg. Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA)).

If the 30-day permit is granted by DFW, DFW shall develop, with the assistance of the BOH and the Conservation Commission, a plan to abate the beaver or muskrat problem using alternative, non-lethal management techniques in combination with water flow devices, subject to Conservation Commission determinations and conditions.

To read the entire MGL ch. 131 s. 80A state document, search mass.gov/BOH Guidebook, October 2001, Chapter 42. To download a beaver trapping application, go to the “Documents” section of this website.