

SWAMPSCOTT CONSERVATION COMMISSION BULLETIN

Frequently Asked Questions about Encroachment on Swampscott Conservation Land

The Swampscott Conservation Commission serves as a steward for Town-owned open space and conservation properties that are under its care and custody (such as Harold King Forest, Ewing Woods, and Muskrat Pond). In maintaining these properties, the Commission monitors and takes steps to ensure that they remain free and clear of private encroachments which have the potential to impair their biological, recreational, or aesthetic values.

What's an "encroachment"?

Encroachments are intrusions and alterations to Town-owned land and include such things as:

- extension of lawns or gardens,
- clearing/cutting of underbrush or trees,
- erection of sheds, fences, or play sets,
- dumping of yard waste and debris.

Isn't clearing/cutting of underbrush and trees "improving" conservation land?

No. Cleared out woods or vegetation have little or no wildlife habitat value. Animals tend to require "messy" areas that provide shelter, nesting areas, and protection from predators.

Aren't leaves and brush natural?

Yes, they are, but large dense piles are not. They destroy the underlying vegetation, do not decompose rapidly, and prevent new trees, grasses, and shrubs from growing.

What if encroachment is suspected?

The Commission will inform the abutting land owner of any apparent encroachment, and ask the abutter to appear before the Commission to review and address the issue. The Commission will determine (in concert with abutting land owner, if possible) the boundary line as accurately as possible using surveyed bounds and markers, GPS, and/or abutting land owner information. If the landowner chooses to have the property surveyed, he/she may do so.

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What if an encroachment is confirmed?

If an encroachment is confirmed, the Commission shall, through written notice with specific timeframes, require removal of any encroachment and steps to re-naturalize or restore the affected area.

If lawn or landscaping has been extended onto Conservation land, the Commission shall require the abutting land owner to:

- (a) simply no longer mow or maintain the encroaching lawn or landscaping; or
- (b) no longer mow or maintain the encroaching lawn or landscaping, and restore the Conservation land through a native species planting plan approved by the Commission.

If structures have been erected on Conservation land (fences, walls, play sets, sheds, etc.), the Commission shall require the abutting land owner to remove the encroaching structures and restore the area through a native species planting plan approved by the Commission.

What if the encroachment was already there when I bought the property?

As a land owner, you are responsible for your actions and are ultimately responsible for any encroachments that may exist whether you originally caused them or not. You may not continue to exacerbate an encroachment, or encroach upon or utilize any portion of Conservation land.

Is an encroachment also a wetland violation?

Not necessarily. The Conservation Commission oversees conservation upland as well as wetlands. If an encroachment is also a wetland violation, you will be informed, and you will be required to take steps to comply with the Massachusetts Wetlands Protection Act. A formal Enforcement Order could be issued by the Commission.

What if I fail to cooperate?

Failure to restore Conservation land that has been altered, in accordance with the specifications and requirements of the Commission, may result in the Town taking legal action seeking removal of the encroachment and restoration of the Conservation land.

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