



TOWN OF WAYLAND  
MASSACHUSETTS  
01778  
**CONSERVATION COMMISSION**

TOWN BUILDING  
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**Wayland's Wetlands and Water Resources Bylaw**  
**CHAPTER 194 (D-768)**  
**Town-wide**  
**November 15, 2010**

**Project Description:** The Wayland Conservation has made an application filed under the Wayland Wetlands and Water Resources Bylaw – Chapter 194 seeking to create a general guideline and streamlined approval during the permit period for the removal by owners of lots with existing residences of up to three trees not less than 4" and not more than 18 inches diameter at breast height (dbh) and of up to four trees less than 4 inches dbh where those trees are located in the buffer zone, land subject to flooding and inundation, and/or riverfront area subject to jurisdiction of the Conservation Commission. **Any cutting of trees within 100 feet of the mean annual high water mark of a perennial stream, or within a vegetated or bordering vegetated wetland (BVW) and the required vegetated (15' or 30' as applicable) no disturb of a vegetated wetland and/or bordering vegetated wetland is specifically excluded from the scope of this Permit.**

**Decision:** The Wayland Conservation Commission approves the proposed work, as conditioned herein pursuant to Wayland's Wetland and Water Resources Bylaw, Chapter 194. This decision is based upon the findings listed below and subject to the **20 conditions** noted thereafter. The Conservation Commission finds that the conditions are necessary, in accordance with the provisions of Chapter 194, to protect those interests noted in the findings.

**Plan Reference/s:** **There is no plan.**

The Conservation Commission hereby finds that the following conditions are necessary to protect those interests noted herein. The Commission orders that all work shall be performed in accordance with said conditions.

**Special Conditions Issued by the Wayland Conservation Commission:**

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause for enforcement action by the Conservation Commission against the property owner and/or hired contractors. Failure to comply with the conditions shall result in the imposition of a non-criminal penalty, not less than \$300, and other action as deemed appropriate by the Conservation Commission.
2. Anyone using this Permit to conduct work shall have a copy available at the property and shall provide a copy to any contractor used for the cutting or planting work.

3. All written submissions or correspondence to the Conservation Commission related to work approved by this Permit shall include: the date, reference File Number D-740, and the property address where the work will be conducted.
4. Application for Coverage in Advance of Cutting - This decision applies to a property owner seeking to remove a limited total number of trees located outside the 15' or 30' as applicable no-disturb buffer area surrounding wetland resource areas cumulative over the 5 year period of this Permit. The use of this Permit must be done with advance notice in writing to the Conservation Commission through the office as conditioned herein. The notice must be submitted not less than two business days prior to commencing cutting indicating with a sketch plan where the tree(s) to be removed is (are) located, tree size measure by diameter at breast height measured 5 feet above grade and, as applicable, the number, type(s) and location(s) where replacement plantings will be installed.
5. Preservation of Undisturbed Vegetative Buffer and 100-Foot Riverfront - In the event there is any question on delineation of the bordering vegetated wetlands (BVW) and the associated buffer zone, or cutting work is being proposed within 50 feet of BVW or within the first 100 feet of a perennial stream (Riverfront), the property owner must also request a site inspection with the advance notice of work above. The Commission will issue a decision with confirmation in writing, in advance of the work, whether a cutting of a particular tree(s) within 50 feet of BVW or within Riverfront will be allowed under this Permit.
6. Limited Approval - This Permit approves cutting of not more than a total of three trees that are equal to or greater than four (4") inches in diameter at breast height (dbh) and less than 18 inches dbh on any property with an existing residence during the 5 year period of this Permit. Cutting of trees equal to or greater than 18 inches dbh is not allowed by this Permit and will require a project-specific permit. Cutting of trees less than 4 inches dbh is limited to less than four during the Period. The above limits for tree cutting under this Permit apply to the property without regard to ownership at the time of the work.
7. Maintenance of Habitat – A tree 6 inches or greater in size that is cut with a remaining tree trunk that is 15 feet tall above grade (called a snag) does not require installation of replacement plantings. This option may be preferred where a large tall tree threatens a structure but is within a naturalized area. These stumps provide habitat and food for wildlife.
8. Replacement Plantings – If a tree is cut down without leaving the snag, the tree shall be replaced with new plantings according to the schedule below:

Existing dbh Size Of Tree to be Cut	Minimum Number of Replacement Trees 2.5 inch dbh or greater in size per tree cut	Number of Replacement Native Shrubs 3' in height or greater in height size per tree cut
Less than 6 inches	1	2
6 inches to less than 12 inches	2	5
12 inches to less than 18 inches	3	8

9. Replacement Plantings – New plantings shall be a native species or cultivar of a native species that has been approved in advance. Replacement plantings must be installed within 180 days of the day when the existing tree is cut. Replacement plantings that do not survive for at least two growing seasons must be replaced.
10. Equipment for tree cutting, stump grinding, or planting shall not pass through or operate within the no-disturb zone or within any wetland. Stumps may be ground using a stump grinder if not being preserved as a snag.
11. There is no filling, grading, or earthwork (other than that needed to plant the required plantings) permitted by this application.
12. Landscaping other than the limited cutting and replacement plantings done within wetland resource areas including the 100-foot buffer zone of vegetated wetlands is not allowed by this Permit and shall be subject to separate formal application and approval by the Conservation Commission.
13. Upon completion of the cutting and installation of required plantings, the applicant shall notify the Conservation Commission, in writing, that the work has been completed in accordance with the conditions of this Permit. The letter shall include a request for an on-site inspection to be held with the applicant, the Conservation Commission or agent of the Commission to verify compliance.
14. This decision does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
15. The Permit does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
16. Equipment shall not be refueled or serviced within 100-feet of the wetlands.
17. All cutting debris shall be properly disposed of by the party doing the work within thirty (30) days of the tree being cut. Such cutting debris shall not be accumulated or stored within 50 feet of BVW.
18. There is to be no cutting allowed within a wetland.
19. No automatic sprinkler systems, whether connected to the municipal water or private water supply, shall be used to irrigate the lawns or grounds located within the 100-foot buffer zone.
20. By acceptance of this Permit and commencement of work authorized herein, the applicant, owner, and their respective agents, assign, and successors in title agree to indemnify, defend and hold harmless the town for any damages that might occur on or off the subject property, or any legal claims which may be attributable to any alterations undertaken or construction performed on the subject property pursuant to this Permit. Issuance of this Permit does not in any way imply or certify that the subject property or downstream or adjacent properties will not be subject to flooding, storm damage, or any

other form of water damage that might result from alterations undertaken or construction performed on the subject property pursuant to this decision.

***This decision is not valid without a signature sheet.***

**This Permit expires on November 17, 2015.**

**Findings:**

- a. Chapter 194 requires filing an application for any work to be done in a resource area – work is proposed in a resource area for this project.
- b. Resource areas include: riverfront area, land subject to flooding and inundation, 100-year floodplain, vegetated wetlands and the Buffer Zone.
- c. There is no plan on record for this application. The Commission's decision does not define property lines nor grant permission to the applicant to work on the property of others.
- d. This decision does not define the limits of resource areas regulated by the Bylaw.
- e. This allows limited and selective tree cutting in riverfront area more than 100 feet from the mean annual height water mark so as to not have significant adverse environmental impact to Riverfront, land subject to flooding and inundation, or buffer zone to wetlands.
- f. The resource areas identified have values relating to: the protection of public and private water supplies, prevention of pollution, wildlife habitat, prevention of flooding, prevention of storm damage, protection of ground water, unusual plants, wildlife, wildlife habitat, and passive recreation.
- g. The public meeting on this application under the Wayland Wetlands and Water Resources Protection Bylaw, Chapter 194 was opened on September 16, 2010.
- h. The Wetlands Bylaw provides greater protection of the buffer zone – a resource area defined within Chapter 194.
- i. The Conservation Commission finds that the buffer zone and wetlands is critical to wildlife, wildlife habitat, and passive recreation.
- j. There is a negative Determination of Applicability ("DOA") issued by the Conservation Commission pursuant to the Wetlands Protection Act.
- k. The requirements and findings of this decision are consistent with the provisions of Chapter 194 and are intended to be more stringent than the DOA. As noted above, the buffer zone is a resource area as defined by Chapter 194.
- l. Buffer zones are critical to the protection of a wetland or other resource areas regulated by Chapter 194.
- m. The Conservation Commission has considered information including the report "Buffer Zones and Beyond – Wildlife use of Wetland Buffer zones and their Protection under the Massachusetts Wetland Protection Act", by Lynn Boyd, Department of Natural Resources Conservation, University of Massachusetts, July, 2001 and: "Wetland Buffers: Use and Effectiveness" prepared for the Washington State Department of Ecology, February 1992.
- n. The Conservation Commission considers the installation of sprinkler systems within the buffer zone to have the potential impact of increasing hydraulic loading on the site and to the wetland thus altering local hydrologic conditions.
- o. The Conservation Commission considers the installation of sprinkler systems within the buffer zone to have the potential impact of increasing the elution (washing) of applied fertilizers (nutrients) and pesticides (toxic substances) from the lawn into the wetland resource area.

- p. To protect wetland areas from disturbance by invasive plants, the Conservation Commission requires that landscaping be achieved with native noninvasive plants according to *The Vascular Plants of Massachusetts: A County Checklist* by Bruce A. Sorrie and Paul Somers for work in a resource area or buffer zone. Cultivars may be accepted as a substitute plant on a case-by-case basis.
- q. Tree cuttings must be properly disposed outside of wetland resource areas.
- r. Nothing in this decision is intended to permit an increase in rate or volume of water discharged from the applicant's property onto the property of others as a result of work being permitted by this decision.
- s. The Conservation Commission's decision is not intended to confer property rights of any abutting property owners.
- t. A growing season, for the purposes of interpreting this Permit, is considered April through October of any given year.
- u. During the tree removal precautions must be taken to avoid accidental spills of oils or hazardous materials in or near the wetlands or other resource areas. Precautions include limiting where equipment is serviced and refueled, having spill containment kits at the site, and taking steps to avoid spills and accidents.
- v. **Any deviation from these findings and conditions will require a formal determination by the Conservation Commission as to whether an individual application is required.**
- w. Section 194-9 of the Wetlands and Water Resources Bylaw permits the Commission secure the performance and observance of the conditions imposed herein by a proper performance guarantee or deposit of money or negotiable securities. **Failure to comply with the conditions of this permit is a violation of the Wetlands Bylaw. Violations of Chapter 194 may result in the imposition of non-criminal penalties in the amount of \$300 in addition to other remedies available. Each day the violation exists may be considered a separate violation of the Bylaw.**
- x. Any required approval by the Conservation Commission will be provided within 21 business days unless additional information is requested.
- y. Any required approval or action by the Conservation Administrator will be taken within 12 business days unless additional information is requested.
- z. The Commission has not imposed a performance guarantee at the present time. However, if there is a change in the project, the Commission may elect to impose a bond at that time.