

The Commission is proposing the following changes to the Local Wetland Regulations. The changes formalize existing tree replacement policy and create performance standards. The new language formalizes a replacement planting ratio in respect to the size of tree removed. It sets performance standards related to replacement trees that will increase survival rates and protect existing habitat. The process, policy, and performance standards are outlined in paragraphs A through E.

The new Regulations will allow a payment in lieu of mitigation to be collected in unique circumstances when tree replacement requirements cannot be met due to site constraints. Paragraphs F and G outline the waiver process. If a waiver is granted, the property owner will make one \$500 payment. In addition, a second payment totaling \$125 times the number of replacement tree(s) not being planted as required by performance standards.

Mitigation payments collected are used on mitigation projects and nature-based improvements within areas of the South Hadley Conservation Commission's jurisdiction.

To allow the Commission to make these changes to the Wetland Regulations, a Wetland Bylaw change must be also made to give the Commission proper authority to collect mitigation payments.

The proposed new language is below.

## **Town of South Hadley Wetland Regulations**

### **New Section under Article IV Performance Standards**

#### **§ 305-29. Tree Removal and Replacement**

- A. Background.** Trees within jurisdictional areas perform ecological functions by providing habitat for wildlife, reducing flood elevations, stabilizing soil, assisting nutrient uptake that improves water quality, and providing shade that contributes to healthy vegetation and cool water. Dead trees provide habitat for cavity nesters and organic nutrients for soil. However, the Conservation Commission recognizes that a tree which is diseased, dying, dead, too close to a dwelling, or otherwise compromised can pose a danger to persons and property prompting their removal. Wetland Resource Area, Buffer Zone and Riverfront Area typically provide a barrier between developed regions and primary resource areas such as wetlands, ponds, streams, and rivers – the primary resource areas of the Conservation Commission's interest and concern – and must be maintained in as close to their natural state as is reasonable to ensure the health and viability of the primary resource areas.

**B. Purpose.** This section regulates tree removal and mitigation of tree removal within the jurisdictional areas overseen by the South Hadley Conservation Commission as defined in the Wetland Bylaw, Chapter 240. It was developed to provide consistent implementation of the Commission's tree replacement standards; recognize the ecological value of natural wooded areas close to wetlands, streams, and waterways; protect the ecological functions trees provide in jurisdictional areas; and allow landowners to maintain safety and enjoyment for people and property. It recognizes that some projects may have unique circumstances in which the standard replacement ratio is not appropriate and offers a waiver to mitigation options.

**C. Tree removal request:**

- a. Requests may be made in writing to the Conservation Department at 116 Main Street, Room U6, South Hadley, MA 01075 or via email to the Conservation Administrator.
- b. The request should include the location of the tree and reason for removal.

**D. Review and approval process:**

- a. The Conservation Commission and/or its authorized agent will conduct a site visit. Removal may be administratively approved if there are signs of disease, death or decay, or there is a clear safety risk. Administrative approval shall be confirmed in writing by an authorized agent of the Commission.
- b. Requests are reviewed at the Commission's regularly scheduled public meetings.
- c. Tree cutting requests may be granted conditionally upon the replacement of one or more trees based on the Standards below. The Commission may also require further review through the filing of a Request for Determination or Notice of Intent.
- d. Once the review is complete, a letter or email of approval or denial will be issued to the property owner.

**E. Standards for Tree Replacement.** Landowners must obtain prior permission from the Commission and/or its Administrator before work of any kind (i.e. tree or brush removal or trimming, vegetation removal or cutting, lawn expansion, soil grading and construction) is conducted in a jurisdictional area. No trees may be removed in jurisdictional areas unless permission has been granted by the Commission and/or Conservation Administrator. This policy applies to all jurisdictional areas, whether natural or landscaped. Landscaped areas are those locations comprised predominantly of lawn or landscaping shrubs. Natural areas are those areas comprised predominantly of naturally occurring vegetation.

1) Guiding Principles

a) Trees subject to this policy.

- i. All trees (living, diseased or dead) at least 3" DBH. DBH = "diameter at breast height", defined as 4.5 feet off the ground.

b) Conditions for tree removal.

- i. Limits on equipment use. The Commission requires that all tree removal equipment remain on landscaped or paved areas and outside natural areas, to the greatest extent possible.
- ii. Limited grinding of stumps. To minimize disturbance, the only tree trunks that may be ground below the surface are those in landscaped areas or outside the 50' Conservation Zone.

c) Mitigation Requirements

- i. Any tree(s) removed must be replaced at the following planting ratios:
  - a. 3"-18" DBH at a 2:1 replacement
  - b. > 18" DBH at a 3:1 replacement
- ii. Trees are to be planted as close as reasonably possible to the resource area as the cut tree(s) being replaced.
- iii. To optimize wildlife habitat value to the maximum extent practicable as well as ensure viability of the new tree plantings, replacement trees shall be native species. Species replacement must be approved by the Commission or Conservation Administrator.
- iv. Replacement plantings must be installed within 180 days of the day of the existing tree is cut.
- v. Replacement trees shall survive at least two growing seasons with a full survival rate and in healthy condition. If survival rate is not achieved, the plantings must be replaced. Species selection may be changed only with approval from the Commission or Conservation Administrator.

**F.** If a waiver for mitigation is granted, the fee(s) for mitigation must be received by the Planning & Conservation Department prior to scheduling tree removal. (See Waiver, G)

**G. Waiver.** At its discretion, the Commission may grant a waiver to §305-29. The Commission recognizes there may be circumstances where the required replacement planting ratio cannot be achieved at the site. A waiver may be granted from the planting ratio if the Commission finds any of the following apply to the site:

1. There is insufficient area to establish replacement plantings as required by this regulation due to existing vegetation.
2. There is a public utility or other similar conflict, such as with a right-of-way.
3. Other reasonable hardship site specific to the property.

If a waiver is granted, the property owner shall make one \$500 payment to the Conservation special account for mitigation. The Commission will work with the applicant to determine a reduced planting ratio that is appropriate to the project site.

In addition, a second payment shall be made to the Conservation special account for mitigation in the total of \$125 times the required number of replacement tree(s) to be waived from the replacement requirement.

The waiver fees collected shall be used on mitigation projects and nature-based improvements within areas of the South Hadley Conservation Commission's jurisdiction.