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September 21, 2020  
WG and DP edits

## DEFINITIONS TO BE ADDED TO SECTION II OF REGULATIONS.

**Clear Cutting** means the removal, to the ground, of all ~~woody~~ vegetation, ~~includes mowing of under story brush~~ down to a minimum height of two (2) inches.

**Cutting** means the removal of vegetation within an Area Subject to Protection under the Bylaw.

**DBH** means diameter at breast height. ~~It is also referred to as the trees caliper size.~~  
Whit said this should be defined. He would like to delete this and suggest 4 feet that establishes itself. I don't understand this comment.

**Invasive Plant** means a plant that is not indigenous or native ~~to a particular area, is able to establish on many sites, grow quickly,~~ and expands to the point of disrupting plant communities or eco-systems.

**Lifting** means the lifting of the canopy by removing lower limbs from the main trunk. The process is performed by cutting back to either a central branch or the main trunk. Cuts made back to the main trunk should be made to just outside the branch collar and not flush to the trunk. This allows the cut wound to heal faster.

**Native plant** for purposes of these regulations, means a native plant ~~is one~~ that occurs naturally in eastern Massachusetts as identified on the *Massachusetts Coastal Zone Management Coastal Landscaping in Massachusetts Plant List* or as found in *The Flora of Dukes County*.

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**Non-native plant** for purposes of these ~~regulations a non native plant is~~ means a plant that is non-indigenous and not naturally occurring to the region as identified on the *Massachusetts Coastal Zone Management Coastal Landscaping in Massachusetts Plant List* or as found in *The Flora of Dukes County*.

**Pruning** means the act of removal of dead, diseased, obstructing, and weak branches, as well as selective thinning of branches to lessen wind resistance, reduce a hazard or to improve plant structure or health.

**Selective Cutting** means the removal of smaller, weaker trees and less desirable tree species, leaving the more vigorous trees, and the removal of dead trees within an Area Subject to Protection under the Bylaw.

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**Selective Pruning** means limited pruning of tree branches and brush.

**Flush Cutting** means cutting a tree or bush to ground level while leaving roots.

**Stump Grinding** means mechanical grinding to a depth below grade.

**View Channel** means an area designated on a landscape plan and flagged in the field where vista pruning may occur.

**Vista Pruning** means the selective thinning of tree branches or understory shrubs to establish a specific “window” to improve visibility. Vista Pruning does not include the cutting of trees, which would reduce the leaf canopy to less than 90% of the existing crown cover and does include the mowing or removal of understory brush. Whit would like to delete this. I think it should stay because it is the definition of Vista Pruning in the state regulations and it should be consistent or more stringent.

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## **SECTION ZZZ PRUNING, CUTTING, AND CLEARING OF TREES AND VEGETATION MANAGEMENT**

### **A. Filing Requirements**

No cutting, pruning, lifting, clear-cutting of any trees and/or other vegetation shall occur within a Resource Area or the Buffer Zone unless an application has been filed with, and approved by, the Commission. In making its determination, the Commission will take into consideration the size and characteristics of the property, the type and health of the trees, and related circumstances.

Applicants are encouraged to consult with the Commission before filing a Request for Determination or a Notice of Intent for projects that involve the removal and/or replacement of any vegetation in a Resource Area or Buffer Zone.

The permit application shall include a written narrative of the proposed cutting or pruning, along with a landscape plan and photographs of the site. The view channel must be defined, shown on the project or landscape plan, and flagged in the field. The dimensions of the top, bottom and sides perimeter of the view channel must be included.

On site, the trees must be marked with landscape tape to delineate the proposed work: trees proposed for removal (red tape) and trees proposed to be saved and/or pruned (green tape). The specific requirements will be based on the complexity of the project.

Trees that present a hazard to structures will be reviewed by the Board Administrator.

When removal of fallen or damaged trees is desirable after a storm, the Commission may allow this removal through either acceptance of emergency regulations issued by the Massachusetts Department of Environmental Protection (DEP), or through the normal Administrative Review filing procedure. If storm damaged trees provide an immediate risk to the health or safety of residents, emergency removals can be authorized by the Commission or its Administrator.

## **B. Characteristics**

**Trees** Trees provide shade, absorb carbon dioxide, filter pollutants, provide windbreaks, stabilize soils, provide wildlife habitat and provide privacy. ~~A buffer of mature trees can absorb up to 14 times more water than the equivalent area of grass. Organic litter within naturally vegetated buffers can remove 50% to 100% of sediments carried in run-off.~~ The roots of trees (and shrubs) hold the banks of ponds and streams in place and protect against erosion from heavy rains, wave action, and flooding. Trees with treatable diseases or pests can often be saved with the help of professional arborists.

Trees provide important functions not provided by any other type plant. Trees provide shade to moderate water temperatures, levels of dissolved oxygen and water flow. They serve as windbreaks to moderate wind stress and shear during storms, and provide nesting, roosting, and perching areas for birds and other wildlife.

~~An estimated 80% of the island tree canopy are oaks.~~ Six local oak species and their associated hybrids create rich, biodiverse habitats. ~~Native oaks~~ are a major food source for a host of animal species, including rare moths, butterflies and numerous songbirds.

**Shrubs** Appropriate vegetation in coastal locations (including the flood zone) provides many valuable services. Appropriate vegetation is native or naturalized with strong root systems and the ability to tolerate wind, salt spray, and storm and flood water.

Strong root systems hold sand and soil in place and protect against erosion and storm damage. Roots filter pollutants that would otherwise end up in the nearby water body. Appropriate vegetation helps preserve the character of the coastal environment and provides habitat for wildlife. It also has lower maintenance needs than other shrubs – they require less water and little to no use of fertilizer to keep it healthy. Appropriate vegetation on the beach, bank, dune, and in the flood zone and buffer zone helps stabilize the site and protects structures from loss or damage due to flooding, coastal erosion and storm damage.

Naturally vegetated buffer zones reduce adverse impacts to the wetlands by adjacent/upland land uses. A buffer of land in a naturally vegetated condition protects the adjacent wetland, in part, by reducing run-off, absorbing nitrates, phosphorous and other chemical pollutants, by filtering suspended sediments, and by stabilizing banks and channels. Buffer zones are critical to maintaining the health and productivity of the wetlands. Buffer zones act as habitat corridors that help protect rare plants and animals, and support their continued reproduction, preserving and enhancing biodiversity.

**Lawns:** Lawns consisting of shallow-rooted turf grasses do not help control erosion and storm damage or filter pollutants. Lawn irrigation wastes large amounts of water. ~~Lawns are also devoid of biodiversity and wildlife habitat.~~ Maintenance of lawns with chemical treatment pollutes ground and surface water. Predominantly fescue lawns, including but not limited to rye and clover, are drought tolerant and insect-resistant, and will survive in sunny or shady areas. They are easier to maintain than other grass types because they require less water and fertilizer. (Bluegrass needs twice as much nitrogen and watering).

Reducing lawn size benefits the environment. Low maintenance, non-invasive shrubs, trees, and perennials add variety, provide wildlife habitat, supports pollinators, provide filtration, and require less maintenance and fossil fuel use.

### C. Presumption of Significance

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When a proposed activity involves the removing, filling, dredging, degrading, discharging into, building upon, or altering of a Buffer Zone, the Commission shall presume the Buffer Zone is significant to the protection of all the resource values protected by the Bylaw. These presumptions may be overcome only upon a clear showing that the Buffer Zone does not play a role in the protection of those interests. No work will be permitted in the Buffer Zone that has a significant adverse impact upon the interests given above and only upon a specific written determination to that effect by the Commission.

#### **D. Performance Standards**

Where the presumption set forth above is not overcome, any proposed work in the Buffer Zone to establish a view channel or otherwise prune, cut and/or clear trees and other vegetation shall not destroy or otherwise impair any portion of said area.

**General Please review one more time. Whit commented that the two highlighted sections contract the second bullet. I'm not sure that they do.**

- No vista pruning will be allowed in a wetland in the No-Disturbance Zone, except by waiver from the provision of Section IV.
- Clear cutting is prohibited, as is the topping of trees. The opening of specific view channel ~~window of view~~ is the preferred approach.
- The height and width of the view channel will depend on site conditions. The width of a view channel (or of two or more view channels combined) may not exceed one-third 1/3 of the distance between the points where the property lines intersect with the edge of the wetland. Placement of the view channel(s) will be decided on a case-by-case basis.
- If a view channel already exists, it may not be enlarged without the written permission of the Commission.

Under most circumstances, one view channel may be cut that is no more than 15 feet from top to bottom by 25 feet wide depending on the existing view.

- -Vista pruning, if being done in connection with the construction of a new single-family dwelling or guesthouse, will not be permitted until construction is sufficiently complete (windows and doors are in their final location) and a specific desired view can be determined.
- Pruning shall be done by a professional landscaper and/or certified (ISA) arborist unless the Commission determines that the work is minimal and uncomplicated. Proof of contractor certification shall be supplied to the Commission upon request.
- -Pruning must preserve vegetative layers, habitat, and bio-diversity.
- If adverse impacts occur to the adjacent Resource Areas (s) as a direct result of the vista pruning, the Commission will require immediate mitigation. The activity may be subject to enforcement actions and fines.
- The Commission may require the replacement planting of native shrubs and trees in an area proposed for tree removal. When mitigation for any proposed alteration within the Buffer Zone is allowed or required, replacement trees must be at least 36 inches tall, unless otherwise approved by the Commission, and be a native species as identified on the *Coastal Zone Management Coastal Landscaping in Massachusetts Plant List* or in *The Flora of Dukes County*

## Trees

- The tree canopy will not be reduced to less than 90% of the existing crown cover. (See definition of Vista Pruning.)

No tree with a diameter greater than 3 inches DBH shall be cut down. Exceptions to tree or limb removal must be approved by the Commission or Administrator.

Whit would like this to be 4 feet?

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When the cutting of live trees for the purpose of a view is proposed, the Commission shall require that pruning and thinning of the canopy shall be accomplished before considering any removal. When the removal of specific trees on a heavily-vegetated lot is the only viable option to obtain a view, the Commission may at its own discretion allow the removal of up to 5% of existing

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trees on the lot greater than or equal to ( $>$ ) 4" DBH, or 10% of existing trees less than or equal to ( $<$ ) 4" DBH within a 3-year period. Proposed trees to be removed must be clearly flagged on site.

- When pruning is permitted, the removal of branches may include those on the main trunk as well as those inside the leaf area. However, all major branches to be removed that are four (4) inches or larger must be identified for review (Class 4 pruning). Allowable canopy reductions will be assessed on a case-by-case basis. Too much canopy removal may increase the amount of invasive plant establishment, depending on existing ground cover and ultimately lead to tree death if not performed in a professional manner. TB.
- If permitted, trees shall be removed by flush cutting not digging. If possible, cut trees or limbs should be left in the Buffer Zone to provide habitat. Transport of cut wood or branches outside of the buffer zone shall be by hand only. Stump grinding is not permitted.
- Deadwood should be preserved whenever possible, especially trees four inches or greater in DBH, to retain potential feeding areas and nesting cavities for bird. Deadwood located in a wetland shall not be removed.
- The removal of dead or diseased trees may be allowed at the discretion of the Commission if those trees are deemed to endanger life or property.
- If saplings of **three inches in DBH** or less comprise the majority of the proposed view channel, selective removal shall be specified by the Commission.
- Limiting Pruning of lower branches is limited to no more than fifteen percent (15%) on an individual tree.
- Green briar and other climbing vines may be removed by hand ~~pulling or~~ clippersing around the base of a tree.

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### Shrubs

- In view channels on slopes, shrubs often do not need to be pruned at all.

- Shrubs shall be trimmed by varying heights to mimic natural growth.
- Shrubs must retain their natural shape and features such as fruits and flowers by selecting the optimum height and pruning different branches in alternate years.
- Green briar and other climbing vines may be removed by hand pulling or clipping around the base of the tree is permitted.

### **Herbaceous Layer/ Ground cover**

Within a view channel, no disturbance of ground cover is permitted. One unpaved pedestrian walkway less than 30 inches wide for private use and less than 3 feet wide for public use on conservation lands shall be permitted. The walkway should meander so as not to increase runoff or erosion.

### **Time of Year**

- Pruning shall be done between December 1 and April 15 in order to see the full structure of the tree.
- Herbaceous, shrub and hardwood pruning shall be done outside the typical nesting times, (April 1 to August 1).
- Vista pruning shall be limited to a time of year restriction from November 1 to March 1 of each calendar year so as not to interfere with nesting birds. The Commission may extend the vista pruning time frame if adverse weather conditions make pruning impossible during the allowable time period.

### **Invasive Species**

- In some instances, removal of invasive plants root structure may cause more harm to the Buffer Zone and/or Resource Area than leaving the root structure in place and will not be permitted.
- Some invasive species may have values that benefit the interests protected in the Bylaw (Phragmites for nitrogen removal and sea level rise adaptation,



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for example-). The Commission may consider projects that propose management of invasive species for resource area protection and to advance the interests under the Bylaw. (Interests are those protected under the Bylaw such as wildlife habitat). Only stated interests can be protected).

- Invasive vines growing up trees or over shrubs may be cut using hand tools and properly disposed of off-site.

### **Maintenance:**

- Drip irrigation with rain sensors is allowed for newly planted vegetation. Once the vegetation is stabilized (one or two years) the system shall be removed. Plants that do not survive through the end of the second growing season shall be replaced before a Certificate of Compliance will be issued.
- The use of chemical fertilizers, pesticides, herbicides, and sodium-based projects is prohibited within the Buffer Zone in order to reduce the impact of these products on the resource areas when transported by storm water or by leaching through the soil. The Applicant shall abide by the West Tisbury Board of Health Regulations for the application of fertilizers on this property outside the Buffer Zone.
- Vegetation removal and vista pruning once completed may be maintained in a consistent manner over time. Ongoing maintenance provisions will be determined on a case- by- case basis. The Commission must be notified before work is started.

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