



# Wetlands Bylaw Amendment

Article 58



# Current Wetlands Bylaw

## Article 58

- Adopted at 2009 Town Meeting
- Strengthened the state Wetlands Protection Act
  - Codified the 25-foot No Disturb Zone
  - Added a 100-foot buffer zone to Certified Vernal Pools
  - Included the ability to levy fines



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The amendment consists of 10 separate, unrelated changes:

Substantive changes include additional definitions and an expansion of the waivers provision

Others are procedural or provide clarification

Text proposed to be added

~~Text to be removed~~



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### Page 2: Section 3.1: Exemptions

“The following exemptions shall apply and no application or permit is required for: . . .”

(a) “Maintaining and repairing existing buildings and structures (**excluding repaving**) provided that . . .”

This provides consistency with State law.



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- Page 3: Section 4: Definitions

“The term “abutter” shall include all landowners and individual condominium owners.”

Codifies a longstanding policy



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### ■ Page 3: Section 4: Definitions

“The term “structure” shall mean any manmade component whether above, on, or below ground. It may include, but not be limited to, any new surface or sub-surface component such as buildings, foundations, sheds, garages, decks, fences, barns, tennis courts, underground tanks and irrigation systems, swimming pools, driveways, due to its potential to alter wetland resource area values.”



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- Page 4: Section 4: Definitions
- “vista pruning” amended to read: “The term ‘vista pruning’ means” [thinning of branches to improve visibility]

“Vista pruning does not include the cutting of **trees** **limbs** which would reduce the leaf canopy . . .”



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- Page 4: Section 5.3: Request for Wetland Resource Area Approval:

[Formal requests for certifying wetland delineations are done both under the bylaw and state law]

“Alternatively, the Commission may accept a Request for Determination of Applicability to determine partial resource area boundaries. The suitability of this approach will be determined by the Commission.”



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- Page 5: Section 6.1: Notice

~~“An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.”~~

This section is redundant as affidavit language is now included in another section of the application.



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### ■ Page 5: Section 6.1: Notice

“When a person filing any application is other than the owner, the request

~~... shall be sent by the Commission to the owner as well as to the person making the request. . . .”~~

... shall be sent by the person making the request to the owner . . . .”



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- Page 6: Section 7.4(b): Permits and Conditions; Specific Factors

“...unless the applicant, in addition to meeting the otherwise applicable requirements of this Bylaw, has proved by a preponderance of the **credible** evidence that ...”

Consistent with phrasing in sections 7.4(d & e) and 10.



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- Page 6: Section 7.4(e)(ii) Permits and Conditions; Setbacks

“The following shall not be subject to this setback presumption: Routine maintenance, repairs and construction on legally preexisting structures so long as there is no expansion in the structure;

the installation of public or private utilities along or within legally existing roadways and driveways; ...”



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- Page 7: Section 7.7: Permits and Conditions; Waivers
  - A. There are no other reasonable alternatives . . .
  - B. Minimization and mitigation are employed to the maximum extent feasible; and,
  - C. “The project, considered in its entirety, would result in a net benefit of resource area values; or . . .”
  - D. There is an overriding public purpose . . .



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