

# DRAFT

## Article ## Zoning

~~Strikethrough~~ = Language to be deleted

Underline = Language to be inserted

To see if the Town will vote to amend the Eastham Zoning Bylaw, **SECTION 6 PROHIBITED USES** by adding a new **SUBSECTION 6.11 CLEAR CUTTING** as follows:

### **6.11 Clear Cutting**

#### Purpose:

To encourage the preservation and protection of trees during demolition and construction activity. To enhance the desirability and sustainability of residential neighborhoods and protect the rural character of the town and its sensitive environment. To balance the rights of individual property owners to develop their properties in accordance with existing local and State laws with the public good of the overall health, safety and welfare interests of the community.

The following activities are prohibited in all zoning districts:

Undeveloped Lots: No person shall undertake Clear Cutting and/or removal of Legacy Trees as defined in this bylaw for construction and/or site development purposes on an undeveloped lot without first obtaining a foundation permit or a building permit from the Eastham Building Department.

Developed Lots: No person shall undertake Clear Cutting and/or removal of Legacy Trees as defined in this bylaw within a six (6) foot wide perimeter of the lot (*see zoning bylaw section 7.2.6 and section 10.1.4.4*) without the approval by the Town of Eastham Planning Board or its designee.

If after obtaining all necessary permits and approvals, such work is commenced and then abandoned, all areas of the site which were disturbed during construction or site preparation shall be re-vegetated in a manner sufficient to avoid erosion.

#### **6.11.1 Exemptions**

The provisions of this by-law shall not apply to the following circumstances or activities:

1. Active, existing commercial operation of agricultural and horticultural uses, including (but not limited to), tree nurseries, orchards, and botanical gardens are exempt but new operations must obtain site plan approval from the Planning Board before commencing clearing or removal of trees.
2. Routine maintenance of vegetation and removal of hazardous trees, dead or diseased limbs necessary to maintain health of cultivated plants, to contain noxious weeds and/or vines.
3. Normal maintenance and improvement of land in current agricultural use as defined in the Massachusetts Wetlands Protection Act regulations 310 CMR 10.04.
4. Maintenance to prevent or reduce the risk of fire per order of the Fire Department.
5. Any work of projects approved by the Planning Board and/or Conservation Commission for which necessary local approvals and permits have been issued prior to the effective date of this by-law.
6. Maintenance of public and private streets or town-approved roadway layouts and easements.
7. Maintenance of public utilities.

8. Removal of trees as part of a Habitat Restoration Plan approved by the Conservation Commission, The Department of Ecological Restoration and/or MA NHESP.
9. Site work reasonably necessary for conducting land survey or tests required as a condition precedent to the issuance of any permit or approval, provided such site work does not result in removal of more than 50% of existing vegetation.
10. Solar exemptions under applicable state building and energy codes.

or take any action relative thereto.

By Eastham Planning Board

Summary:

The Bylaw amendments are intended to encourage the preservation and protection of trees during demolition and construction activity and to balance the rights of individual property owners to develop their properties in accordance with existing local and State laws with the public good of the overall health, safety, and welfare interests of the community.

BOARD OF SELECTMEN RECOMMENDATION:

FINANCE COMMITTEE RECOMMENDATION:

PLANNING BOARD RECOMMENDATION:

*(2/3 vote required)*