

## **Article 25:Land Alteration Amendment:**

To see if the Town will vote to amend the Zoning Bylaws, Article 11, Regulations Governing Earth Removal by deleting and replacing with the following new Article 11, Regulations Governing Land Alteration

### **ARTICLE 11 Regulations Governing Land Alteration**

#### **§ 300-11.1 Purpose and Intent**

To promote land development and site planning practices which are responsive to character of Cohasset's topography without preventing the reasonable development of land. This land alteration article regulates (i) clearing activities and (i) earth removal associated with land development.

This land alteration article is in addition to and works with the (i) Cohasset's Wetlands Bylaw (General Bylaws, Part II, Chapter 260), whose purpose is to protect wetlands, related water resources, and adjoining land areas and the (ii) Stormwater Management Bylaw (General Bylaws, Part II, Chapter 223), whose purpose is to prevent and reduce existing and future flooding, protect water quality, increase groundwater recharge, reduce erosion and sedimentation, and promote environmentally sensitive site design practices.

#### **§ 300-11.2 Activities Subject to a Special Permit**

All clearing activities proposed to take place on any lot in any zoning district that exceed the limits set forth below must obtain a Special Permit from the Planning Board, unless specifically exempted herein.

Clearing activity means the complete removal of trees 4" in diameter or greater, measured at 5 feet above existing grade. Percent of lot area will be measured by square feet of disturbed earth from clearing activities divided by total square feet of the lot.

- A. All lots with an area of 18,000 square feet or less shall be exempt from this requirement.
- B. In the OS District or all lots with Land Use Code 200 (Open space as defined by Massachusetts Department of Revenue Property Type Classification Codes), clearing of the lot is prohibited unless necessary for permitted or grandfathered use.
- C. On an undeveloped lot (Land Use Code 130, 131, 132, 390, 391, 392, 393, 431, 440, 441, 442 017, 0186, 086, as defined by Massachusetts Department of Revenue Property Type Classifications Codes), clearing is not permitted in excess of:
  - (1) 70% of lot area in the RA, RB, and RC Districts.
  - (2) 85% of lot area in the HB, LI, TB, DB, VB, & WB Districts.
- D. When residential developed lots (Land Use Code 101 as defined by Massachusetts Department of Revenue Property Type Classifications Codes) are subdivided or reconfigured into multiple lots for redevelopment clearing activity is not permitted in excess of 70% of lot area in the RA, RB & RC Districts.
- E. There shall be no further clearing, beyond the above thresholds, for those undeveloped lots (as defined in §300-11.2C transitioned to developed lots for a period of ten (10) years after the final certificate of occupancy is issued for structures constructed upon it.
- F. The following activities are exempt from having to obtain a Special Permit, in all districts:
  - (1) Routine maintenance or removal of hazardous trees (a tree with a structural defect or disease).

- (2) Temporary work relative to emergency storm events or emergency repairs to any utilities (gas, water, sewer, electric, telephone, etc.), including situations that pose an immediate danger to life and/or property
- (3) Activities conducted in accordance with Forest Stewardship Plan approved by the Massachusetts Department of Conservation & Recreation.
- (4) Construction and maintenance of public and private streets and utilities within town-approved roadway layouts and easements or in connection with a subdivision approved in accordance with the Town's Subdivision Rules & Regulations.
- (5) Exploratory work associated with the siting of a new or replacement sewage disposal system, and which is otherwise being monitored by the appropriate Town boards and departments having jurisdiction.
- (6) Agricultural activities in existence at the time this bylaw was adopted, work conducted with approved Natural Resource Conservation Service Agricultural Plan or agricultural uses on parcels of land of more than five acres as specified in MGL c. 40A, section 3.
- (7) Work conducted in accordance with any prior and still-valid earth removal or building permit issued pursuant to the predecessor version of this Article 11 or other sections of the Cohasset Zoning Bylaw.

### **§ 300-11.3 Other Land Alteration Activities**

Earth removal means the extraction of materials, including soil, loam, sand, gravel, or stone.

These materials shall not be removed from any lot within the Town unless such removal will constitute an exempt operation as hereinafter provided or is subject to a valid Building Permit, Special Permit, or Stormwater Bylaw Permit.

A. The following activities are exempt:

- (1) The removal of not more than 10 cubic yards of material in the aggregate from one lot.
- (2) The transfer of material from one part of the lot to another part of the same lot.
- (3) The removal of material from land in use by the Town or other governmental agency.
- (4) Where earth removal was necessarily excavated in connection with the lawful construction of a building, structure, sewage system, or other utility, provided that the quantity of material removed does not exceed that actually displaced by the portion of the building, structure, road, driveway, sidewalk, or path below finished grade.

### **§ 300-11.4 Application, Review & Decision**

- A. No land alteration activities described herein shall begin prior to issuance of Building Permit by the Town, written approval by the Planning Board or Conservation Commission, or the issuance of a Clearing Activities Special Permit Per §300-11.2 above and/or a Stormwater Bylaw Permit per General Bylaws, Part II, Chapter 223 from those respective boards if required.
- B. All applications for a Special Permit hereunder, and the review of and decision regarding same, shall follow the provisions of §300-12.4 of the Zoning Bylaws and the Subdivision Rules and Regulations process as are applicable. The Planning Board may, by rule and regulation, supplement those bylaws with specific filing requirements.
- C. The Planning Board may require a performance guarantee in a form acceptable to it to cover the costs associated with compliance with this Article in the same manner and on the same conditions as are applicable to performance guarantees related to subdivision projects.
- D. When a Special Permit application per §300-11.2 is submitted to the Planning Board, the Open Space & Recreation Committee shall also be notified, and it may submit comments within 14 days of receipt.

## Select Board for ZONING BYLAW WORKING GROUP

*INFORMATIONAL SUMMARY: To promote land development and site planning practices which are responsive to the scenic, historic, and aesthetic character of Cohasset without preventing the reasonable development of land, by: regulating clearing activities, earth removal, ledge removal, and grading associated with land development. The proposed bylaw would limit alteration of natural topography prior to development review. The purpose of the proposed Land Alteration Bylaw is to promote land development and site planning practices which are responsive to character of Cohasset's topography without preventing the reasonable development of land. This proposed article regulates (i) clearing activities and (i) earth removal associated with land development.*

*The clearing activities in § 300-11.2 is new language. Any land alteration work in excess of the thresholds stated in the bylaw is not absolutely barred but subject to a Special Permit process administered by the Planning Board to discourage the wholesale alteration of lot without public review. The slightly revised language for earth removal activities in § 300-11.3 makes the language in the bylaws more relevant to present day land uses. The existing exemption for earth removal activities related to valid Building Permit, Special Permit or Stormwater Permit remains.*

*The Land Alteration Bylaw was developed and informed by input from public hearings and Annual Town Meeting deliberations on similar 2017 & 2020 bylaws, discussions with planning organizations such as the MAPC and the Cape Cod Commission, and benchmarking done on similar bylaws in nine (9) Massachusetts communities. Most importantly in the Master Plan, the Historical & Cultural chapter articulates the goal of protecting Cohasset's community character through establishment of land alteration management programs in Strategy 2.3.*

*Examples of detrimental land alteration related to development in Cohasset were identified as part of the "problem statement work" completed by the Zoning Bylaw Working Group. Over 70% of the examples relate to undeveloped land and under 30% of the examples relate to re-development of lots where a larger parcel is sub-divided for additional lots. Much care has been given to distinguish existing developed lots from undeveloped lot, the proposed Land Alteration Bylaw limits the clear activities section to (i) undeveloped lots and (ii) the redevelopment of developed lots when subdivision of existing land into smaller lots occurs (not all lots in residential and commercial districts).*