

## ***POLICY DIRECTIVE***

Frank DePaola (signature on original)

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ADMINISTRATOR

### **Policy for Tree Cutting or Landscaping Permit Requests**

#### **Authority**

The authority for this policy derives from M.G.L. c. 81 and M.G.L. c. 87 and regulations found at 720 CMR 13.00.

*Non-Vehicular Access Permits.* Pursuant to M.G.L. c. 81, § 21, and implementing regulations found at 720 CMR 13.00, MassDOT is authorized to issue Non-vehicular Access Permits for tree cutting or landscaping within a State Highway Layout (“SHLO”), which is defined generally in 720 CMR 13.02 as “Commonwealth property under the custody and control of [MassDOT] being used and laid out for highway purposes ...”

*Vegetation Management.* Pursuant to M.G.L. c. 87, § 8, MassDOT has exclusive authority to care and control all “trees, shrubs and growths within state highways ...” Pursuant to Chapter 87, “[no] such tree, shrub or other growth shall be trimmed, cut or removed by any person other than [MassDOT]...except upon permit in writing from the department.”

#### **Policy**

MassDOT shall deny requests to prune or remove vegetation on SHLO for purposes other than public safety or environmental quality. MassDOT shall not approve any vegetation management or landscaping work to be completed within the SHLO unless and until both the District Highway Director and the Supervisor of Landscape Design deem such management or work to be warranted.

Selective pruning, tree removal or scrub vegetation removal to provide visibility for conforming outdoor advertising that is permitted by MassDOT, may be allowed under exceptional circumstances, as described herein.

Any proposed tree cutting or landscaping with the SHLO shall not conflict with the environmental benefits offered by forested roadside buffers, which include the following:

- Important benefits for drivers and the local community: the screening of aesthetically unattractive roadside views for drivers; the screening of off-highway lighting and other distractions; and providing wind and snow breaks;
- Habitat for edge species and certain migratory bird species, as well as food and cover for wildlife movement along the roadway corridor. In addition, forested edges provide: embankment stability and erosion control; improvement of water and air quality; and the filtration of roadway trash from abutting communities; and
- Community preservation by screening aesthetically unattractive views of the roadway and maintaining a forested edge.

### **Permit Requests – Application Requirements – Additional Documentation**

Applicants proposing to prune or remove vegetation from the state highway shall be required to apply for access via a Non-vehicular Access Permit. In addition to a completed Application for Permission to Access State Highway, the applicant must also include the following documentation:

- A plan showing all trees and/or vegetation proposed for removal and/or trimming by the applicant;
- For visibility cutting, an aerial photographic plan showing location of sign or facility and all affected vegetation, with labels indicating general highway and cross-streets. This plan shall be labeled with sufficient geographic information (street labels, scale, north arrow, and coordinates) to determine location of the signs or other features and the affected highway, as well as viewpoints documented below;
- Digital photographs taken from the roadway view, indicating trees to be affected, with digital mark-up showing intended work;
- Evidence of support from municipalities that will be affected by the proposed work. All proposed work shall have documented approval, from the local conservation commission and other regulatory agencies, as required; and
- Additional documentation, such as digitally modified photographs showing before-and-after conditions, plans showing existing conditions and/or proposed modifications, or other illustrations, may be required as part of this submission.

The applicant must also demonstrate in writing that the proposed pruning/removal work is consistent with the goals outlined in MassDOT's Project Development and Design Guide, Chapter 13 (Landscape and Aesthetics) and Chapter 14 (Wildlife Accommodation). The written application must demonstrate that the proposed work does not conflict with the benefits provided by forested buffers, as listed above in the Policy.

Effects of such work shall not result in conditions that would compromise flow of traffic, increase roadway information clutter, distract or otherwise unnecessarily engage the attention of drivers.

Certain pruning and vegetation removal may require additional work and subsequent permits. MassDOT may also require compensatory fees and/or landscape restoration for any cutting.

The District Highway Director and the Supervisor of Landscape Design may request that the applicant be prepared to present its proposal to MassDOT and other affected parties as MassDOT deems appropriate in its sole discretion.

### **Approval**

If the applicant's proposal is approved by MassDOT, all of the following provisions, in addition to those set forth in 720 CMR 13.00, shall be incorporated within the Non-vehicular Access Permit(s) for tree cutting or landscaping within a SHLO:

1. The permitted work shall not exceed the extent of cutting that is described in the additional documentation. Replacement planting and maintenance at the applicant's expense may be required. Replanted tree types, sizes, quantities and locations shall be at the sole discretion of the District Highway Director in consultation with Landscape Design.
2. A performance bond for the restoration value of existing trees and vegetation.
3. All work related to MassDOT-approved tree cutting or landscaping shall be performed by, or under the direct supervision of, a current Massachusetts Certified Arborist. All pruning shall conform to current guidelines of the International Society of Arboriculture ANSI A300 Standards. MassDOT, through its District Highway Directors and the Supervisor of the Landscape Design Section, shall make the final determination that this goal is met. Repairs and restitution for excessive or improper work may be required. Note, topping is not an accepted practice. A current copy of the arborist's certificate, bonding, and insurance shall be required.
4. All work shall be subject to regular inspections or ongoing observation by the District Office, with assistance from Landscape Design, throughout the period of the permitted pruning/removal process. The applicant shall be responsible for any damage or overcutting. Overcutting, as determined by MassDOT, may require replanting or compensation.
5. Unpermitted cutting or removal of plant material is a trespass and a destruction of public property, and MassDOT will make use of all remedies available to it under the law, including seeking treble damages, if appropriate.
6. Approval from MassDOT for tree cutting or landscaping within a SHLO does not include earthwork, blasting, or grading.

7. Any work determined by MassDOT to be inconsistent with the terms of the permit and policies of MassDOT shall be stopped and the permit revoked as determined in MassDOT's sole discretion.

### **Other Approvals**

Applicants failing to secure other necessary permits from state or local agencies, or to abide by applicable statutes, regulations and policies, shall be subject to fines and/or the restoration of the affected area, and may also be subject to the revocation of the Non-vehicular Access Permit and related licenses and/or permits issued by MassDOT.