

EXPLANATION: *The current Town of Yarmouth Wetlands By-law Chapter 143 was adopted at the 4/7/1981 Town Meeting, and last revised on 4/15/1987. This by-law requires substantial revisions and is proposed for replacement in its entirety with the updated bylaw dated September 22, 2023. The original by-law has not been substantially changed since its adoption in 1981. As a result, the amendments needed to modernize the language and update the content are considerable and warrant a complete replacement. Both the proposed bylaw and the original by-law are available at the Town Clerks Office and the Town Website as of September 22, 2023.*

The proposed bylaw was generated utilizing the model articles from the Massachusetts Association of Conservation Commissions and the Cape Cod Commission. The significant changes include adding jurisdiction to vernal pools and the coastal resilience zone. The amendment moves certain provisions from the Wetland Protection Regulations to the General Bylaw to strengthen authority; adds vernal pools as a jurisdictional area to improve protection of this important wildlife habitat; adds riverfront area as a jurisdictional area to provide consistency with the state wetlands protection regulations (310 CMR 10.00); and, adds the coastal resiliency zone as a jurisdictional area with the goal of avoiding, minimizing, and mitigating the risk of environmental damage, loss of natural resources, human suffering, and the loss of life and property resulting from storms, flooding, erosion, and continuing sea-level rise, by promoting greater resiliency within areas subject to coastal flooding currently and as sea levels rise.

Chapter 143
WETLANDS

§ 143-1 Purpose.

The purpose of this chapter is to protect and preserve the wetlands, water resources, natural resources, flood prone areas, and adjoining upland areas in the Town of Yarmouth for current and future generations by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect on resource area values, including but not limited to the following:

public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention including coastal storm flowage, water quality, prevention and control of pollution, fisheries, shellfisheries, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, aquaculture, climate change ecological and community adaptation and resilience, and recreation values deemed important to the community (collectively, the “resource area values protected by this bylaw”).

This chapter is intended to utilize the Home Rule authority of this municipality so as to protect the resource areas under the Wetlands Protection Act (G.L. Ch.131 §40; the Act) to a greater degree, to protect additional resource areas beyond the Act recognized by the Town as significant, to protect all resource areas defined herein for their additional values beyond those recognized in the Act, and to impose additional standards and procedures stricter than those of the Act and the DEP Regulations thereunder (310 CMR 10.00) subject, however, to any applicable rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Yarmouth.

§ 143-2 Jurisdiction

- A. Except as permitted by the Conservation Commission no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas:
1. any freshwater or coastal wetlands, marshes, wet meadows, bogs, swamps, vernal pools and vernal pool habitat, springs, banks, reservoirs, lakes, ponds of any size, beaches, dunes, estuaries, the ocean, lands under water bodies; and intermittent streams, brooks and creeks;
 2. lands adjoining these resource areas listed in § 143-2(A)(1) out to a distance of 100 feet, known as the buffer zone;
 3. perennial rivers, streams, brooks and creeks; lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area;
 4. lands subject to flooding or inundation by groundwater or surface water;
 5. lands subject to tidal action;
 6. lands subject to coastal storm flowage;
 7. the coastal resilience zone;
 8. and portions of land within Coastal Watershed Areas and Lake and Pond Recharge Areas as mapped by the “Water Resources Protection Study” for the Town of Yarmouth, dated August, 1988 by I.E.P. and Wright Pierce (collectively, the “resource areas protected by this bylaw”).
- B. Said resource areas shall be protected whether or not they border surface waters.
- C. Because the purpose of this article of the Bylaw is to protect the function of wetland resources, including those within the coastal resiliency zone, any requirements for the siting and elevation of buildings and other structures included in the performance standards are intended to protect the

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wetland resource values of the coastal resiliency zone and are not provided for the purpose of regulating construction materials and methods, since those requirements are governed by the Massachusetts State Building Code (MSBC).

§ 143-3 Exemptions and Exceptions

- A. The jurisdiction of this bylaw shall not extend to primary and accessory uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aquacultural uses as defined by the Wetlands Protection Act regulations, found at 310 CMR 10.04.
- B. The applications and approvals required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.
- C. The applications and approvals required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public or the environment, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided further that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided further that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided further that within 21 days of commencement of an emergency project an appropriate permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.
- D. Other than stated in this bylaw, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) shall not apply under this bylaw.

§ 143-4 Applications and Fees

- A. A written application shall be filed with the Conservation Commission for approvals required to perform activities altering or affecting resource areas protected by this bylaw. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.
- B. The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so.
- C. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination of Applicability (RDA) or Abbreviated Notice of Resource Area Delineation (ANRAD) shall include information and plans as are deemed necessary by the Commission. When a person requesting a determination is other than the owner, a copy of the request shall be sent to the owner as well as to the person making the request.

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- D. At the time of an application, the applicant shall pay a filing fee specified in the regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act and regulations. Failure to pay such fee shall warrant denial of the application.
- E. Pursuant to G.L. Ch. 44 §53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.
 - 1. Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account, and expenditures may be made at the sole discretion of the Commission. Any consultant hired under this provision shall be selected by, and report exclusively to, the Commission. The Commission shall provide applicants with written notice of the selection of a consultant, identifying the consultant, the amount of the fee to be charged to the applicant, and a request for payment of that fee. Notice shall be deemed to have been given on the date it is mailed or delivered. If the Applicant chooses not to pay the consultant fee, the applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or expenses.
 - 2. The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment shall be cause for the Commission to declare the application administratively incomplete and deny the permit without prejudice. The Commission shall inform the applicant and Department of Environmental Protection (DEP) of such a decision in writing.
 - 3. The applicant may appeal the selection of an outside consultant to the Board of Selectmen, who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue, or a related field. The applicant shall make such an appeal in writing, and must be received within ten (10) business days of the date that request for consultant fees was made by the Commission. Such appeal shall extend the applicable time limits for action upon the application.

§ 143-5 Notice and Hearings

A. Notice

- 1. Any person filing a notice of intent with the Conservation Commission and application hereunder at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivery, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall state a brief description of the project or other proposal, the date of any Commission hearing or meeting date if known, and where copies of the applications may be examined and obtained by abutters.
- 2. Any person filing a request for determination of applicability will be required to give written notice thereof to only direct abutters. The notice requirements are stated in § 143-5(A)(1). When a person requesting a determination is other than the owner, the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

B. Hearings

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The Commission shall conduct a public hearing on any permit application with written notice given at the expense of the applicant, said notice being provided at least five business days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission shall commence the public hearing within 21 days from receipt of a completed application unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion.

C. Permit Issuance

The Commission shall issue its permit, approval, order or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch.131 §40) and regulations (310 CMR 10.00).

§ 143-6 Coordination with Other Boards

If requested by the Commission, a person filing a permit application, or request for determination with the Conservation Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the any or all of the following: Select Board, Planning Board, Board of Appeals, Board of Health, Town Engineer, and Building Commissioner. A copy shall be provided in the same manner to the Conservation Commission of the adjoining municipality, if the application or request for determination pertains to property within 100 feet of that municipality. The Commission shall not take final action until the above boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

§ 143-7 Permits and Conditions

- A. If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities.
- B. If it issues a permit, the Commission may impose conditions which the Commission deems necessary or desirable to protect said resource area values, and all activities shall be conducted in accordance with those conditions. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

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- C. The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements as may be set forth in its regulations that may be promulgated hereunder, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation. Waiver of this bylaw is not permitted.
- D. In reviewing activities within the buffer zone, the Commission shall presume the buffer zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from alteration, construction and/or use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including required setbacks, no-disturb areas, no-build areas, and other work limits for protection of such lands, including without limitation strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.
- E. To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation to the satisfaction of the Commission. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.
- F. The Commission may reasonably require a wildlife habitat study of the project area, to be paid for by the applicant, regardless of the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual or possible presence of rare plant or animal species in the area. The study shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).
- G. A permit, other order or determination shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue an order of conditions expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any order of conditions may be renewed, at the Commission's discretion, for up to an additional three-year period, provided that a request for a renewal is received in writing by the Commission at least 30 days prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.
- H. For good cause the Commission may revoke any permit, determination or any other order, determination or other decision issued under this bylaw after notice to the holder, the public, abutters, and town boards, pursuant to § 143-5 and § 143-6 and after a public hearing.
- I. Amendments to permits or determinations shall be handled in the manner set out in the Wetlands Protection Act regulations and policies thereunder.

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- J. The Commission in an appropriate case may combine the decision issued under this bylaw with the Order of Conditions, permit, determination, or Certificate of Compliance (COC) issued under the Wetlands Protection Act and regulations.
- K. No work proposed in any application shall be undertaken until the permit, or ORAD issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therewith, either at the time of recording or as a condition precedent to the issuance of a COC.

§ 143-8 Regulations

After public notice and public hearing, the Conservation Commission may promulgate rules and regulations to effectuate the purposes of this bylaw, effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum these regulations shall reiterate the terms defined in this bylaw, define additional terms not inconsistent with the bylaw, and impose filing and consultant fees. The Commission may amend such regulations from time to time, with each amendment being filed with the Town Clerk.

§ 143-9 Definitions

The following terms shall have the meaning set forth below for purposes of the Bylaw.

Act – the Wetlands Protection Act, G.L. Ch. 131, Section 40.

Agriculture - shall refer to the definition as provided by G.L. Ch. 128 §1A.

Alter - shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water, excluding permitted moorings
- H. Destruction of plant life including cutting or trimming of trees and shrubs
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater

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K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

Bylaw – the Wetland Protection Bylaw of the Town of Yarmouth.

Coastal Flood Risk Area – any land which is subject to any inundation caused by coastal storms up to and including that predicted to be caused by the 1% annual storm for the Target Year, as defined by the best available coastal flooding model.

Coastal Resilience Zone (CRZ) – shall include the following resources areas: (a) any Land Subject to Coastal Storm Flowage; (b) any Coastal Flood Risk Area; and (c) the buffer zone of any Other Coastal Wetland Resource located in whole or in part within (a) or (b). The CRZ may include within its boundaries one or more of the following subareas: Velocity (V) Zone; Moderate Wave Action Area (MoWA); Highly Developed Area; and Special Transitional Area.

DEP Regulations – the Wetlands Protection Regulations adopted by the Department of Environmental Protection, 310 CMR 10.00, pursuant to the Act.

Highly Developed Area – as defined in the DEP Regulations, or if not defined there, include multi-site town centers, commercial areas, and other similar areas where buildings and impervious surfaces have replaced most natural surfaces, and to be applied for the purposes of this Bylaw to any applicable subareas within the CRZ

Local Regulation – a regulation adopted by the Conservation Commission, pursuant to the Bylaw.

Moderate Wave Action Area (MoWA) – a subarea of LSCSF, with wave heights < 3 feet and ≥ 1.5 feet, as defined in the DEP Regulations. If the best available coastal flooding model projects a broader extent of the MoWA than that defined in the DEP Regulations, the Conservation Commission may adopt such modified projection by Local Regulation

Person - shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

Special Transitional Area – subareas within the CRZ that are located immediately landward of coastal beaches, coastal dunes, barrier beaches, coastal banks, or salt marshes, and extending in a direction perpendicular from the nearest adjoining land under water to the interior boundary of the CRZ

State Building Code – the Massachusetts State Building Code (MSBC), 780 CMR.

Target Year – The year specified by the Conservation Commission for projections of sea level rise and flood risk. If the Best Available Coastal Flooding model is based on a single target year, then the Conservation Commission shall adopt that year as the Target Year. If the model includes multiple target years, then the Conservation Commission shall adopt, by Local Regulation, the Target Year for the Best Available Coastal Flooding model.

Velocity (V) Zone – a sub-area of LSCSF, with wave heights above 3 feet, as defined in the DEP Regulations. If the best available coastal flooding model projects a broader extent of the V Zone than that defined in the DEP Regulations, the Conservation Commission may adopt such modified projection by Local Regulation

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Except as otherwise provided in this bylaw or in associated regulations of the Conservation Commission, the definitions of terms and the procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00).

§ 143-10 Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Conservation Commission may, in its discretion, require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:

A. By a proper bond, tripartite agreement, deposit of money, or other undertaking of financial responsibility in an amount and form sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a COC for work performed pursuant to the permit.

B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

§ 143-11 Enforcement Definitions

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Conservation Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission, its agents, officers, and employees shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Board of Selectmen and Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, may be punished by a fine of not less than \$100 or not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations with the foregoing penalties pursuant to the non-criminal disposition procedure set forth in G.L. Ch. 40 §21D, which has been adopted by the Town in § 25 of the general bylaws.

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§ 143-12 Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

§ 143-13 Right of Entry

The Commission, its agents, officers and employees may enter upon the land on which the proposed work is to be done in response to a request for a prior determination or for the purpose of carrying out its duties under this chapter and make or cause to be made such examination or survey as it deems necessary. In the event that any applicant or subject of an enforcement proceeding shall refuse such entry, the Commission may deny relief or act accordingly based upon the lack of sufficient information.

§ 143-14 Appeals

Pursuant to Chapter 570 of the Acts of 1981, any and all appeals of actions or inactions of the Conservation Commission shall be to First Barnstable Division of the Trial Court, as follows: A. If the Conservation Commission has failed to hold a hearing within 21 days of filing of a notice of intent under this chapter, or if the Commission, after holding such hearing, has failed within 21 days therefrom to issue an order, or if the Commission, upon a written request by any person to determine whether this is applicable to any work, fails within 21 days to make said determination or where an order does not issue from said Commission, the applicant, any person aggrieved by said Commission's order or failure to act or any 10 residents of the Town of Yarmouth may, within 21 days of the Commission's order or failure to act, appeal therefrom to the First Barnstable Division of the Trial Courts of the commonwealth.

B. An appeal shall be perfected by filing a complaint with the First Barnstable Division of the Trial Courts of the commonwealth and by sending a copy thereof by certified mail, return receipt requested, to the Town Clerk and the Conservation Commission of the Town of Yarmouth and, if the appellant is other than the petitioner, to the petitioner, all within 21 days of said order or failure to act. The Court shall hear all evidence pertinent to the authority and findings of the Commission and determine the facts and, upon the facts so determined, annul such decision if found to exceed the authority of the Commission or make such other decree as justice and equity may require.

§ 143-15 Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) thereunder. It is the intention of this bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

§ 143-16 Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued.