

ARTICLE XIII. BEACH AREA AND WETLANDS REGULATIONS

- 13.1** The purpose of this section is to provide for the reasonable protection and conservation of certain irreplaceable natural features, resources and amenities in all zoning districts of the Town for the benefit and welfare of the present and future inhabitants of the Town. For this purpose, the following terms shall have the meaning herein ascribed to them.
- a. Stream - Any natural watercourse, generally containing water, through and along which water may flow from a pond, swamp or similar body of water to another, to another stream, or to the ocean.
 - b. Tidal River - Any stream in which action of the oceanic tide causes the water to ebb and flow or the water level therein to rise and fall with some regularity, exclusive of hurricane tides or tidal waves, irrespective of any actual incursion or admixing of oceanic salt water.
 - c. Marsh - Any essentially flat, frequently wet and occasionally flooded area adjoining open water along the shores of a pond or the banks of a stream and lying between such open water and the adjacent natural or artificial upland.
 - d. Tidal Marsh - Any marsh area in which action of the oceanic tide causes a change in the water level from time to time, exclusive of hurricane tides or tidal waves and any marsh area developed and maintained by incursion of oceanic salt water or by action of the oceanic tide. Such area shall include all of the originally contiguous area geologically indefinable as tidal marsh, irrespective of the presence of artificial dykes, causeways, or the like which may have divided the original marsh area into two or more sections.
 - e. Swamp - Any depressed area of poor drainage in which the water table is generally at or above the ground level, not caused or affected by salt water or action of the oceanic tide.
 - f. Pond - Any body of water, other than a stream or the ocean, habitually more than 5,000 square feet in area.
 - g. Beach area - That area extending from the mean low water line to the inland edge of land covered by sand dunes or by beach grass.
- 13.2** Any person wishing to perform or cause to be performed, any of the following acts or operations in any zoning district of the Town shall first obtain a special permit from the Conservation Commission:
- a. Obstructing, filling, dredging, excavation or changing the course of any stream or tidal river.
 - b. Filling or excavating within any part of any marsh or tidal marsh or in or along the shore of any pond so as to alter the shore line.
- 13.3** The Planning Board may hold joint hearings with the Conservation Commission, but both the Board and Commission shall each comply with its statutory conditions as to notice, hearing and vote, and the provisions of Chapter 40A and Chapter 131, Section 40 respectively.
- 13.4** **Beach Area Regulations.** Permits for building on or use of land within a beach area as defined in Sec. 13.1, shall be issued only in accordance with this section.
- a. **Permitted Uses.** Use regulations elsewhere in this By-Law notwithstanding, structures and premises in beach areas may be constructed or used only for the following purposes, unless granted a Special Permit under Section 13.4b.
 - (1) Fishing and shellfishing, including the raising and cultivation of fish and shellfish.

ARTICLE XIII. BEACH AREA AND WETLANDS REGULATIONS (continued)

- (2) Forestry, grazing and farming, nurseries, truck gardening and harvesting of crops including but not limited to such crops as cranberries, marsh hay, seaweed, berries and shrub fruits and trees, and work incidental thereto.
 - (3) Conservation of soil, water, plants and wildlife.
 - (4) Outdoor activities including hiking, swimming, boating, nature study, fishing, trapping, and hunting.
 - (5) Drainage works which are part of local flood and mosquito control conducted by an authorized public agency.
 - (6) Uses accessory to residential or other primary uses, such as flower or vegetable gardens, lawns, pastures, or forestry areas.
 - (7) Public or publicly-authorized beach stabilization projects.
 - (8) Addition of 10% or less to the floor areas of any building as existing at the time of adoption of this section, or for repairs or alterations totaling 50% or more of the actual cash value of the structure or, if damaged, before damage occurred in each case as determined by the Building Inspector.
- b. Conditionally Permitted Uses.** The Planning Board may grant a Special Permit for the following structures and uses, subject to such special conditions and safeguards as said Board deems necessary to fulfill the purposes of Section 13.1, to assure continued dune stabilization, to maintain the ecological integrity of beach area, and to reduce the likelihood of hazards for health or safety.
- (1) Non-residential buildings or structures to be used only in conjunction with fishing, shellfishing, the growing, harvesting and storage of crops raised on the premises, and boathouses.
 - (2) Dams, changes in water courses or other drainage works only as part of an overall drainage plan constructed or authorized by a public agency except as stated in a. (5) above.
 - (3) The superficial clearing of areas of private beach and the filling or replenishment thereof in conformity with the provisions of Chapter 782 and 784, Acts of 1972 and Chapter 91 of the General Laws.
 - (4) Fabricated walks or trails, docks, and landings for private use.
 - (5) Municipal uses.
- c. Prohibited activities.** Uses other than those allowed or allowed on Special Permit in paragraphs a and b above are prohibited. Unless necessarily incidental to a use allowed under subsection a., the following activities are prohibited:
- (1) Filling, placing or dumping any soil, loam, peat, sand, gravel, rock, or other mineral substance, refuse, trash, rubbish or debris, natural or man-made.
 - (2) Excavation, dredging or removal of loam, peat, sand, gravel, or other mineral substances.
 - (3) Destruction of natural vegetation of any primary dune, or reduction of the crest height.
 - (4) Any other act or use of land in a manner which would destroy natural vegetation, substantially altering existing patterns of water flow and means of dune stabilization, or any other alteration of the natural and beneficial character of dunes or other beach land.
 - (5) Maintenance of storage areas, or tanks for chemicals or petroleum products or other potential sources of substantial pollution.