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<b>Title:</b>	Town of Yorktown Conservation Area Protection Laws
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### ***Abstract***

The Conservation Area Protection Laws regulate certain land uses to preserve the physical condition of certain real property. Specifically, the purpose of the Chapter 140 is the preservation or maintaining the scenic, open, historic, architectural, natural or open physical condition of the real property.

### ***Resource***

#### **§ 140-1. Title; overview.**

A. This chapter shall be known as the "Conservation Area Protection Law of the Town of Yorktown."

B. Section 140-7 of this chapter designates certain parcels of land as conservation areas. To be eligible to be designated as a conservation area there must be a preexisting conservation easement established by the owner. Once a parcel is designated as a conservation area, activities which negatively impact the environmental aspects of the parcel are designated as regulated acts. For the owner to thereafter engage in a regulated act, not only must a permit be obtained under this chapter, but the underlying conservation easement must be amended or released. This chapter does not change or alter the existing procedures for amending or releasing the underlying conservation easement. Section 140-15 contains an express limitation of powers to be exercised under this chapter and prohibits an attempt to alter or release any conservation easement; any attempted exercise in this regard would be voidable. Accordingly, and in view of § 140-12A(7), anyone wishing to engage in a regulated act should first seek to amend or release the underlying conservation easement, independently of this chapter and, if successful, could thereafter apply for a permit pursuant to this chapter. Section 140-12A(7) provides that one of the standards for permit decisions is whether the holder of the conservation easement and those benefited or impacted have consented to the activity.

C. Although the approval authority will not adjudicate private rights, permits cannot be issued unless the holder of the conservation easement has amended or released the easement. If such easement has been amended or released, then the approval authority may consider an application within the framework of this chapter. Given the importance and significance of conservation areas, it is anticipated that few, if any, permits will be granted as conservation area protection would serve as the last line of defense against activities permitted by the ill-advised amendment or release of conservation easements by others.

#### **§ 140-2. Enabling authority.**

This chapter is enacted pursuant to the Municipal Home Rule Law and any and all applicable laws, rules and regulations of the State of New York. Nothing contained herein shall be deemed to conflict with any such laws, rules or regulations.

#### **§ 140-3. Statement of purpose.**

The Town Board determines that in order to implement the state policy, as declared in § 4 of Article XIV of the State Constitution and Article 14 of the Parks, Recreation and Historic Preservation Law, of preserving and protecting its environmental resources and its historic, architectural and cultural amenities and resources, the preservation of open spaces and areas in their natural and scenic state, including preservation and development of agricultural and forest lands for productive use in the town's agriculture and forestry industries, is fundamental to assuring balanced growth of the town, preserving recreational opportunities, maintaining an attractive community and continuing the productive growth in both rural and urban areas of the town.

#### **§ 140-4. Legislative intent.**

It is the intent of the Town of Yorktown that activities in conservation areas conform to all applicable building codes and other regulations and that such activities not threaten public safety or welfare or the natural environment or cause nuisances.

#### **§ 140-5. Policy.**

A. It is declared to be the intent of the Town of Yorktown to control, protect, preserve, conserve and regulate the use of conservation areas within the Town of Yorktown to ensure that the benefits found to be provided by conservation areas will not be lost.

B. These regulations are enacted with the intent of providing a reasonable balance between the rights of the individual property owners and public interest in preserving the valuable functions of conservation areas.

C. It is the intent of this chapter to incorporate conservation area protection into the town's land development regulations.

#### **§ 140-6. Definitions; word usage.**

A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future and the plural includes the singular.

B. As used in this chapter, the following terms shall have the meanings indicated:

**APPLICANT** — Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof, who has a request for a permit to conduct a regulated activity before the approval authority.

**APPROVAL AUTHORITY** — The administrative board or public official empowered to grant or deny permits under this chapter, to require a posting of bonds as necessary and to revoke or suspend a permit where lack of compliance to the permit is established. The approval authority shall be the Planning Board of the Town of Yorktown, which shall act as the approval authority on all permit applications.

**AQUICULTURE** — Cultivating and harvesting products, including timber and vegetation, that are produced naturally in conservation areas, but does not include excavation fillings, dredging, mining or the construction of any buildings or any structures.

**CONSERVATION AREA** — An area of land which has been designated in § 140-7.

**CONSERVATION BOARD** — The duly appointed Conservation Board of the Town of Yorktown, as created pursuant to § 239 of the General Municipal Law. Editor's Note: See Ch. 10, Boards and Commissions, Art. II.

**DATE OF RECEIPT OF APPLICATION BY APPROVAL AUTHORITY** — An application shall be deemed received by the approval authority on the date of the first regular meeting of the approval authority following the filing of the application and supporting plans pursuant to the provisions of law.

**DEPOSIT** — To fill, grade, discharge, emit, dump or place any material or the act thereof.

**DISCHARGE** — The emission of any water, substance or material into a conservation area whether or not such substance causes pollution.

**DRAIN** — To deplete or empty of water by drawing off by degrees or in increments.

**DREDGE** — To excavate or remove sediment, soil, mud, sand, shells, gravel or other aggregate.

**ECOLOGIST/BOTANIST** — A person having special knowledge by reason of education and work experience of the physical, chemical and biological sciences related to the physiology, identification and distribution of native plants and vegetative associations and

of methods to describe, classify and delineate vegetative species and associations to a degree acceptable to the Conservation Board and to the approval authority.

**ENVIRONMENTAL CLERK** — An employee of the Town of Yorktown, or an independent contractor engaged by the Town of Yorktown, designated to perform, inter alia, the duties of the Environmental Clerk, as set forth in this chapter.

**ENVIRONMENTAL CODE INSPECTOR** — The duly appointed town official(s) charged with the duty of inspecting and enforcing the environmental laws of the Town of Yorktown, including but not limited to Chapter 165, Erosion and Sediment Control, Chapter 178, Freshwater Wetlands, and this chapter

**EXCAVATE** — To dig out and remove any material.

**GRADING** — To adjust the degree of inclination of the natural contours of the land, including leveling, smoothing and other modification of the natural land surface.

**MATERIAL** — Liquid, solid or gaseous substances, including but not limited to soil, silt, gravel, rock, clay, peat, mud, debris and refuse; organic or inorganic compound, chemical agent or matter; sewage sludge or effluent; or industrial or municipal solid waste.

**NATURAL MATERIAL** — Material existing on the site at the time the conservation easement was created, excluding plastic, paper, metals and rubber.

**PERMIT** — That form of written municipal approval required by this chapter for the conduct of a regulated activity within a conservation area.

**PERSON** — See "applicant."

**PLANNING BOARD** — The duly appointed Planning Board of the Town of Yorktown as created pursuant to § 271 of the Town Law.

**PROJECT** — Any proposed or ongoing action which may result in direct or indirect physical or chemical impact on a conservation area, including but not limited to any regulated activity.

**REMOVE** — To dig, dredge, suck, bulldoze, dragline, blast or otherwise excavate or grade or the act thereof.

**SOIL SCIENTIST** — A person having special knowledge by reason of education and work experience of the physical, chemical and biological sciences applicable to the genesis and morphology of soils as natural bodies and of the methods to describe, classify and map soil units, to a degree acceptable to the Conservation Board and to the approval authority.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) — The law pursuant to Article 8 of the New York Environmental Conservation Law providing for environmental quality review of actions which may have a significant effect on the environment.

STRUCTURE — Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground, including but not limited to buildings, tree houses, tennis courts, swimming pools, poles, fences, pipes and lines.

TOWN — The Town of Yorktown.

TOWN BOARD — The duly elected Town Board of the Town of Yorktown.

TOWN CLERK — The duly elected Town Clerk of the Town of Yorktown.

TOWN ENGINEER — Any person employed by the Town of Yorktown as the Town Engineer.

#### **§ 140-7. Conservation areas.**

Only areas which are subject to conservation easements by agreement or a grant of easement or have been designated as such on a plat or map filed with the Westchester County Clerk may be designated as a "conservation area." The following parcels of land are designated as conservation areas:

#### **§ 140-8. Applicability.**

The provisions of this chapter shall apply to all lands defined and/or designated as conservation areas.

#### **§ 140-9. Regulated acts which require permit.**

It shall be unlawful, in the absence of a specific written permit issued by the approval authority, to do any of the following activities in any conservation area, unless such activity has been permitted in § 140-7.

- A. Placement or any construction or use of any structure.
- B. Any form of draining, dredging, excavation or removal of material, either directly or indirectly.
- C. Any form of dumping, filling or depositing of material, either directly or indirectly.
- D. Installation of any service lines or cable conduits.

- E. Introduction of any form of pollution, including but not limited to the installation of a septic tank, the running of a sewer outfall or the discharging of sewage treatment effluent or other liquid wastes into or so as to drain into a conservation area.
- F. Alteration or modification of natural features and contours.
- G. Alteration or modification of natural drainage patterns and watercourses.
- H. Installation of any pipes or wells.
- I. The cutting or destruction of trees or destruction, mowing or trimming of vegetation.
- J. Plowing and/or harrowing.
- K. Grazing of horses and/or other animals.

**§ 140-10. Standards and procedures for permit applications.**

- A. The application shall contain the following information:
  - (1) The name and address of the owner.
  - (2) The street address and Tax Map designation of the property.
  - (3) A statement of authority from the owner for any agent making application.
  - (4) A statement of proposed work and the purpose thereof and an explanation of why the proposed activity cannot be located at another site.
  - (5) A list of names of the owners of record of lands adjacent to the conservation area in which the project is to be undertaken and the names of claimants of rights, which relate to any land within, or within 100 feet of the boundary of the property on which the proposed regulated activity will be located.
  - (6) Complete plans and estimates for the proposed site improvements, which shall be certified by an engineer, architect, land surveyor or landscape architect licensed in the State of New York, drawn to a scale no less detailed than one inch equals 50 feet, and showing the following:
    - (a) The location of all conservation areas, environmentally sensitive areas, wetlands and/or watercourses on the site under review and within 200 feet, as determined by a qualified ecologist/botanist and/or soil scientist, no earlier than 12 months prior to the date of filing the application.
    - (b) A description of the vegetative cover of the regulated area, including the dominant species.

- (c) A description of the soil types on-site.
- (d) The location of the construction area or area proposed to be disturbed and its relation to property lines, roads, buildings and watercourses within 250 feet.
- (e) The exact locations, specifications and amounts of all proposed fill, grading, draining, dredging and vegetation removal or displacement, including the amount computed from cross-sections, and the procedures to be used to do the work.
- (f) The location of any well(s) and depth(s) thereof and any disposal system.
- (g) Existing and adjusted contours, at two-foot intervals in the proposed disturbed area and to a distance of 50 feet beyond, and elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than 10 feet.
- (h) Details of any temporary or permanent drainage system proposed both for the conduct of the work and after completion thereof, including locations at any point discharges, artificial inlets or other human-made conveyances which would discharge into the conservation area, wetland or wetland buffer and measures proposed to control erosion both during and after the work.
- (i) Where creation of a structure is proposed, details of the construction must be provided.
- (j) A completed long-form environmental assessment form as required by the New York State Environmental Quality Review Act.
- (k) All information relating to a permit application, including but not limited to the application itself, additional required materials or information, notices, record of hearings and written comments.
- (7) Copies of all applicable county, state or federal permits or permit applications that are required for such work.

B. The approval authority may require additional information as needed. Such additional information may include, but is not limited to, the study of flood, erosion or other hazards at the site; the effect of any protective measures that might be taken to reduce such hazards; and any other information deemed necessary to evaluate the proposed use in terms or the goals and standards of this chapter.

C. An application fee in the amount of \$525 shall be charged and collected upon the filing of the application.

D. Findings shall be maintained on file in the office of the Environmental Clerk.

§ 140-11. Procedures for permits generally.

A. No regulated activity shall be conducted without the issuance of a written permit from the approval authority unless such activity has been permitted in § 140-7.

B. An application shall not be deemed complete until and unless the applicant has complied fully with the procedures of the State Environmental Quality Review Act (Article 8 of the State Environmental Conservation Law). No conservation area permit may be issued until the State Environmental Quality Review Act procedures have been completed.

C. The original and seven copies of the conservation area permit application shall be filed with the Environmental Clerk, along with an application fee in accordance with the schedule of fees on file with the Environmental Clerk. The Environmental Clerk will forward a copy of the application to the approval authority, the Town Attorney, the Planning Director and the Conservation Board.

D. The Conservation Board shall, within 45 days of receipt of an application, issue a memorandum to the approval authority addressing the completeness of the application and, if the application is complete, making a recommendation on approval, denial or approval on condition, with suggested conditions provided. Failure of the Conservation Board to issue a timely report shall be considered to constitute an objection to the application.

E. The approval authority shall, within 30 days of receipt of the Conservation Board's memorandum, make a finding of the completeness of the application. If rendered incomplete, the application shall be returned to the applicant with a list of deficiencies.

F. The approval authority shall open a public hearing within 30 days of its finding the application complete or concurrently with the public hearing on any other pending application affecting the same parcel. Public notice of such hearing shall be given at least 10 days prior to the date set for the hearing in a newspaper having general circulation in the town. The applicant shall provide prior notice of such hearing to interested parties pursuant to the provisions of Chapter 205 of the Code of the Town of Yorktown. Within 30 days of the close of the public hearing, the approval authority shall render a written decision on the application.

G. A conservation area application can be granted without conditions, granted subject to conditions or denied. Any conditions of a conservation area permit shall be in writing and shall be attached to or incorporated by reference into the written decision.

#### **§ 140-12. Standards for permit decisions.**

A. Consideration. In granting, denying or conditioning any permit, the approval authority shall consider the following:

(1) All evidence offered at any public hearing.

(2) Any reports from other commissions and/or federal, county, state or town agencies.



- (3) Additional requested information by the approval authority.
- (4) All relevant facts and circumstances, including but not limited to the following:
  - (a) The environmental impact of the proposed action;
  - (b) The alternatives to the proposed action;
  - (c) Irreversible and irretrievable commitments of resources that would be involved in the proposed activity;
  - (d) The character and degree of injury to or interference with safety, health or the reasonable use of property that is caused or threatened;
  - (e) The suitability or unsuitability of such activity to the area for which it is proposed; and
  - (f) The effect of the proposed activity with reference to the protection or enhancement functions of the conservation area and the benefits they provide which are set forth in § 140-3 of this chapter and in the Environmental Conservation Law.
- (5) The availability of preferable alternative locations on the subject parcel or, in the case of activity of sufficient magnitude, the availability of the reasonable locations.
- (6) The availability of further technical improvements or safeguards that could feasibly be added to the plan or action.
- (7) Whether the holder of the Conservation Easement and those directly benefited or impacted have consented to the activity.

B. Findings.

- (1) Permits will be issued by the approval authority pursuant to this chapter only if the approval authority shall find that:
  - (a) The proposed regulated activity is consistent with the policy of this chapter to preserve, protect and conserve conservation area functions and the benefits they provide, as set forth in § 140-3 of this chapter, by preventing the despoliation and destruction of the conservation area and regulating the development of such areas consistent with the general welfare and development of the town.
  - (b) The proposed regulated activity is compatible with the public health and welfare.
  - (c) The proposed regulated activity cannot practicably be relocated on the site so as to eliminate or reduce the intrusion into the conservation area.

(d) The proposed regulated activities are in compliance with the standards set forth in 6 NYCRR §§ 665.7(e) and 665.7(g), as amended.

(2) The applicant shall have the burden of proof with regard to the required findings set forth in § 140-12B(1).

**§ 140-13. Permit conditions.**

A. Any permit issued pursuant to this chapter may be issued with conditions to assure the preservation and protection of affected conservation area, compliance with the policy and provisions of this chapter and the provisions of the approval authority's rules and regulations adopted pursuant to this chapter. Such conditions may be attached as the approval authority deems necessary and pursuant to § 140-11.

B. Every permit issued pursuant to this chapter shall be in written form and shall contain the following conditions:

(1) Work conducted under a permit shall be open to inspection at any time, including weekends and holidays, by the approval authority, the Conservation Board, the Town Engineer, the Environmental Code Inspector or their designated representative(s).

(2) The permit shall expire on a specified date.

(3) The permit holder shall notify the approval authority and the Environmental Code Inspector of the date on which the work is to begin, at least five days in advance of such date.

(4) The approval authority's permit shall be prominently displayed at the project site during the undertaking activities authorized by the permit.

C. The approval authority shall set forth, in writing, findings and reasons for all conditions attached to any permit. These findings shall be recorded in the file maintained for each permit application. Conditions may include, but shall not be limited to, the following:

(1) Limitations on minimum lot size for any activity.

(2) Limitation on the total portion of any lot or the portion of the conservation area on the lot that may be graded, filled or otherwise noted.

(3) Modification of waste disposal and water supply facilities in conjunction with Westchester County Department of Health.

(4) Imposition of operation controls, sureties and deed restrictions concerning future use and subdivision of lands, such as preservation of undeveloped areas in open space use, and limitations to protect conservation areas.

(5) Dedication of further easements to protect conservation areas.

(6) Erosion control measures.

(7) Replanting of vegetation and construction of new areas to replace damaged or destroyed areas.

D. The approval authority shall include in the file it maintains regarding a permit application the following:

(1) A copy of any mitigation plan.

(2) All comments received.

(3) A record of any hearing held.

#### **§ 140-14. Performance bond.**

A. The approval authority may require that, prior to commencement of work under any permit issued pursuant to this chapter, the applicant or permittee shall post a bond in an amount and with surety and conditions sufficient to secure compliance with the conditions and limitations set forth in the permit. The particular amount and the conditions of the bond shall be consistent with the purposes of this chapter. The bond shall remain in effect until the approval authority or its designated agent certifies that the work has been completed in compliance with the terms of the permit and the bond is released by the Town Board or a substitute bond is provided. In the event of a breach of any condition of any such bond, the Town Board may institute an action in the courts upon such bond and prosecute the same to judgment and execution.

B. The approval authority shall set forth, in writing, in the file it keeps regarding a permit application its findings and reasons for imposing a bond pursuant to this section.

#### **§ 140-15. Other agreements, easements, laws and regulations.**

No permit granted pursuant to this chapter shall remove, alter or limit an applicant's obligation to also comply in all respects with the applicable provisions of any existing conservation easement or with any other federal, state or local law or regulation, including but not limited to the acquisition of any other required permit or approval.

#### **§ 140-16. Expiration of permit.**

A. All permits shall expire on completion of the acts specified and, unless indicated, shall be valid for a period of one year from the date of issue. No original permit granted pursuant to this chapter shall be valid for greater than a period of three years from the date of issue. The approval authority may extend the time in which the acts specified in the permit must be completed if, in its opinion, such intention is warranted by the particular circumstances thereof, for not to exceed two additional periods of 90 days each. A request for an extension

of an original permit shall be made, in writing, to the approval authority at least 30 days prior to the expiration date of the original permit, or the first ninety-day extension.

B. Should a permittee fail to complete the acts specified in the permit prior to the expiration of the second ninety-day extension, the original permit shall become null and void and a new permit must be applied for. The request for a new permit shall follow the same form and procedure as the original application, except that the approval authority shall have the option of not holding a hearing if the original intent of the permit is not altered or extended in any significant way.

C. If the approval resolution referring to the conservation area permit is re-approved by the approval authority, the conservation area permit is not implicitly re-approved; a separate re-approval for the conservation area permit must be secured on its own. Permits may be transferred to new legal owners of the affected property so long as the conditions and plans as approved remain unchanged. Notice of such transfer of permit must be filed with the Environmental Clerk within 30 days of the transfer.

#### § 140-17. Mitigation policy and plan requirements.

A. Mitigation policy. Mitigation shall be permitted as compensation only for unavoidable conservation area losses. For the purpose of this chapter, conservation area impacts are necessary and unavoidable only if all of the following criteria are satisfied:

(1) There is no feasible on-site alternative to the proposed activity, including reduction in density, change in use or revision of road and lot layout, which accomplishes the applicant's objectives;

(2) There is no feasible alternative to the proposed activity on another site that is not a conservation area; and

(3) The proposed activity is compatible with the public health and welfare and town declared public policy.

B. Mitigation plan.

(1) Upon a determination pursuant to Subsection A above that losses are necessary and unavoidable, the Planning Board shall require the preparation of a mitigation plan which shall specify mitigation measures that replace, to the greatest extent possible, the functions of the original conservation area in terms of type, ecological benefits, geographic location and setting and size.

(2) For the purposes of mitigation, on-site mitigation shall be the preferred approach; off-site mitigation shall be permitted only in cases where an on-site alternative is not possible.

(3) Adequate mitigation for intrusion into conservation areas shall provide a no overall net loss of conservation areas in terms of ecological characteristics and function, geographic

location and setting and size. A greater than 1:1 replacement may be necessary in areas where there is a strong possibility of failure. Adequate mitigation for intrusion into conservation areas shall preserve the ecological characteristics and function of the associated conservation areas.

(4) Where off-site mitigation is proposed, the same should be within the areas affected by the development. In this regard, contribution to a town-adopted conservation area plan may be considered. A town-adopted Conservation Plan shall be any plan as established upon resolution of the Conservation Board and approved by resolution of the Planning Board.

C. Mitigation plan requirements.

(1) When required under this chapter, mitigation plans shall be developed so as to fully compensate for the loss of conservation areas.

(2) Any mitigation plan, and all contents thereof, prepared pursuant to this section and accepted by the approval authority shall become part of the permit for the application.

**§ 140-18. Violations and sanctions; penalties for offenses.**

A. Administrative sanctions.

(1) Damages. Any person who undertakes any conservation area activity without a permit issued hereunder, unless permitted by § 140-7 or who violates, disobeys or disregards any provision of this chapter or any rule or regulation adopted by the approval authority pursuant to this chapter shall be liable to the municipality for civil damages caused by such violation for every such violation. Each consecutive day of the violation will be considered a separate offense. Such civil damages may be recovered in an action brought by the municipality at the request and in the name of the town in any court of competent jurisdiction.

(2) Restitution. The Town shall have the authority, following a hearing before the Town Board and on notice to the violator, to direct the violator to restore the affected conservation area to its condition prior to violation, insofar as that is possible, within a reasonable time and under the supervision of the approval authority or its designate. Further, the Town Board shall be able to require an adequate bond in a form and amount approved by the approval authority to ensure the restitution of the affected conservation area. Any such order of the Town Board shall be enforceable in an action brought in any court of competent jurisdiction. Any order issued by the Town Board pursuant to this subsection shall be reviewable in a proceeding pursuant to Article 78 of the State Civil Practice Law and Rules.

(3) Stop-work order; revocation of permit.

(a) In the event that any person holding a conservation area permit pursuant to this chapter violates the terms of the permit, fails to comply with any of the conditions or limitations set forth on the permit, exceeds the scope of the activity as set forth in the

application or operates so as to be materially detrimental to the public welfare or injurious to wetlands or watercourses, the Environmental Code Inspector, approval authority and/or Town Engineer may suspend or revoke the conservation area permit, as follows:

[1] Suspension of a permit shall be by a written stop-work order issued by the Environmental Code Inspector and delivered to the permittee or his agent or the person performing the work. The stop-work order shall be effective immediately, shall state the specific violations cited and shall state the conditions under which work may be resumed. A stop-work order shall have the effect of suspending all authorizations and permits granted by the town or any agency thereof. The stop-work order shall remain in effect until the approval authority is satisfied that the permittee has complied with all terms of the subject or until a final determination is made by the Town Board as provided in Subsection A(3)(a)[2] below.

[2] No site development permit shall be permanently suspended or revoked until a public hearing is held by the Town Board. Written notice of such hearing shall be served on the permittee, either personally or by registered mail, and shall state:

[a] Grounds for the complaint or reasons for suspension or revocation in clear and concise language.

[b] The times and place of the hearing to be held.

(b) Such notice shall be served on the permittee at least one week prior to the date set for the public hearing unless the stop-work order is issued for a violation occurring less than one week before the next regularly scheduled public meeting of the Town Board. At such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence on his behalf. At the conclusion of the hearing, the Town Board shall determine whether the permit shall be reinstated, suspended or revoked.

B. Criminal sanctions. Any person convicted of having violated or disobeyed any provision of this chapter, any order of the approval authority or any condition duly imposed by the approval authority in a permit granted pursuant to this chapter shall, for the first offense, be punishable by a fine of not less than \$1,000. For each subsequent offense, such person shall be punishable by a fine of not less than \$2,000 nor more than \$15,000 and/or a term of imprisonment of not more than 15 days. Each consecutive day of the violation may be considered a separate offense. The term "person," as used herein, shall mean a natural person or a corporate person.

C. Preexisting structures. Any structure existing at the adoption of this chapter which did not exist at the time the conservation easement was created or subdivision plat was filed and was not permitted by such easement or shown upon said plat or permitted in § 140-7

shall be removed within 90 days of the effective date of this chapter, unless a permit has been obtained.

§ 140-19. Additional remedies.

The municipality is specifically empowered to seek injunctive relief restraining any violation or threatened violation of any provisions of this chapter and/or to compel the restoration of the affected conservation area to its condition prior to the violation of the provisions of this chapter.

**§ 140-20. Review and appeal.**

A. Appeal and review.

(1) Any decision or order of the approval authority or any officer or employee thereof made pursuant to or within the scope of this chapter may be reviewed by the Town Board at the request of any interested party, provided that such review is commenced by the filing of a notice of review with the Town Board within 30 days after service of such order or filing of such decision with the Town Clerk.

(2) Any party to any proceeding before the approval authority may appeal to the Town Board from any order or decision of the approval authority or any officer or employee thereof issued or made pursuant to or within the scope of this chapter, provided that such appeal is commenced by the filing of a notice of appeal with the Town Board within 30 days after service of such order or filing of such decision with the Environmental Clerk.

B. Judicial review. Any final determination, decision or order of the approval authority may be judicially reviewed pursuant to Article 78 of the Civil Practice Law and Rules in the Supreme Court for Westchester County.

§ 140-21. Right of entry; construal of provisions.

In order to carry out the purposes and provisions of this chapter, and in addition to the powers specified elsewhere in this chapter, the following general provisions shall apply:

A. Consent. The applicant consents to the entry onto his property by any town agent, including but not limited to members of the Town Board, Planning Board, Conservation Board, the Town Engineer or Environmental Code Inspector or their agents to view and review the property in pursuance of this chapter.

B. Conflicts. Wherever this chapter is inconsistent with any other law of the Town of Yorktown, whichever imposes the more stringent restriction shall prevail.