Chapter 3
Regulatory Issues

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REGULATORY ISSUES

3.1 INTRODUCTION

This chapter identifies and briefly discusses the environmental regulations effecting wastewater facilities in the Town of Eastham at the time this report was prepared. Federal, state, regional, and Town of Eastham departments and governmental agencies have enacted environmental regulations, which relate to the collection and treatment of wastewater and the recharge of the treated water. The federal regulations are contained in the Code of Federal Regulations (CFR) and are enforced by the United States Environmental Protection Agency (USEPA). The Massachusetts regulations are contained in the Code of Massachusetts Regulations (CMR) and are enforced by MassDEP. The Cape Cod Commission has adopted a Regional Policy Plan, which provides guidance and goals for development and environmental protection on Cape Cod. The Town of Eastham has adopted Board of Health regulations and Town bylaws to protect the citizens of Eastham, and a Local Comprehensive Plan to provide growth management and environmental protection for the future. These regulations, plans, bylaws, and guidance documents are intended to protect public health and the natural environment, and are briefly reviewed in this chapter.

Following is a brief summary of some of the regulations that are most applicable for this project. This is not intended to be a comprehensive list of all laws involved in the various regulations. For details on any of the requirements, refer to the actual law or regulation.

3.2 FEDERAL AND STATE REGULATORY ISSUES

A. **Acts and Executive Orders.** The USEPA and MassDEP have been working most recently in two areas applicable to this Project. The first of these efforts is regarding the establishment of Total Maximum Daily Loads (TMDLs) for non-point sources to coastal embayments, and the second is the National Pollutant Discharge Elimination System (NPDES) permitting program for

stormwater. The following is a brief description of each of these regulatory requirements and other state and federal regulatory issues.

1. **TMDLs.** The Federal Clean Water Act (Act) requires states to develop a list of impaired waters, which are waters that are unable to meet state-established water quality standards for their intended use (i.e., drinking water supply, fishing, recreational swimming and boating, or healthy ecosystems for plants and animals). States are then required to develop TMDLs for the impaired waters that are affected by pollutants. A TMDL is a determination of the maximum amount of pollutants that a body of water can withstand.

In 1998, the USEPA required all states to submit strategies for completing TMDLs within 8 to 13 years. Massachusetts submitted a strategy consisting of two stages. The first stage would make use of existing studies and information by working to implement corrective actions where feasible; develop a pilot program to define data collection needs and procedures to be used for TMDL development; and develop and standardize TMDL determination methods for pollutants that did not have well-established protocols. The second stage will focus on developing the TMDLs, beginning with those for pollutants with well-established determination methods.

Once TMDLs are determined, MassDEP develops a draft TMDL report, followed by a public review and comment period. After addressing public comments, MassDEP submits the TMDL report to USEPA for formal approval. The TMDL development process requires that communities develop plans to restore the health of water bodies and then make progress toward implementation of the plans. MassDEP monitors the progress of communities in achieving TMDLs. Restoration of water bodies is an extended process, so MassDEP looks for reasonable progress; if no reasonable progress is being made, enforcement actions may be taken.

The Act requires states to monitor the quality of their water resources to determine if the water meets the standards for intended uses. This information is reported to the USEPA in the Integrated List of Waters. Category 5 of the Integrated List itemizes water bodies that are "impaired or threatened for one or more uses and requiring a TMDL." Therefore, this list becomes the basis for determining the water bodies for which TMDLs will be established.

The water bodies within Eastham that are listed in the Integrated List as Category 5, Waters Requiring a TMDL include Boat Meadow River, Great Pond, Rock Harbor Creek, Town Cove, and Wellfleet Harbor. The pollutants requiring TMDLs for these water bodies are primarily

pathogens, with Great Pond citing nutrients and organic enrichment/low Dissolved Oxygen (DO). Of the water bodies listed, only Town Cove (Nauset-Town Cove Recharge Area), Rock Harbor Creek Watershed, and Wellfleet Harbor (Recharge Area) areas have been evaluated or are planned for evaluation as part of the Massachusetts Estuaries Project. These three estuaries have been identified out of 89 for southeastern Massachusetts. Great Pond is within the Freshwater Pond System Watershed (identified in Chapter 4) along with several other ponds.

2. **Stormwater and Wastewater Discharges.** Discharges to surface waters are regulated by the USEPA through the NPDES permit program, authorized by the Act. The NPDES program is intended to control water pollution by requiring discharge permits for any point source (i.e., stormwater systems, wastewater system(s)) that discharges pollutants to waters of the United States. In Massachusetts, application is made to both the USEPA and the MassDEP. USEPA issues the permit after the MassDEP certifies that the discharge meets water quality standards. Eastham was required to obtain an NPDES permit approval under Phase II of the NPDES Stormwater Program by 2003. Progress reports (describing progress on established goals to improve water quality) are submitted on an annual basis. The Town of Eastham has completed its NPDES Phase II Year 5 reporting for the MS4 permit.

In addition, a USEPA NPDES Stormwater Permit for Construction Activities will be required as the Project progresses into the construction phase. USEPA has issued a final 2008 Construction General Permit that covers discharges of stormwater from certain construction sites and requires the development and implementation of Stormwater Pollution Prevention Plan(s) for construction projects beyond one-acre.

3. **NEPA.** The National Environmental Policy Act of 1970 (NEPA) provides the basis for the protection of the environment. This Act ensures that environmental information is provided to the public for use in the decision making process for projects that might affect the environment. According to regulations, the "NEPA process is intended to help public officials make decisions that are based on an understanding of environmental consequences; and take actions that protect, restore, and enhance the environment." This policy has been established to eliminate redundancy and combine NEPA requirements with other concerned agencies' requirements. The NEPA process is the forerunner of similar environmental review processes adopted by state and regional agencies; it allows for the assessment and identification of alternatives for projects concerning the environment.

The Town of Eastham is not expected to need to enter into the NEPA process because, if they proceed with a Comprehensive Wastewater Management Plan (CWMP) project, it would be regulated by the Massachusetts Environmental Policy Act (MEPA) and the Cape Cod Commission's Development of Regional Impact (DRI) review process as described in following sections; but the NEPA regulations could become an important factor for this project if wastewater (or water) facilities are proposed for federal lands, such as on or adjacent to the Cape Cod National Seashore.

4. **Effluent Discharge at an Ocean Outfall.** The Massachusetts Ocean Sanctuaries Act (Massachusetts General Law (M.G.L.) Section 13, c132A) regulations establish state environmental policy to be enforced in the five Massachusetts Ocean Sanctuary areas; consisting of the Cape Cod Ocean Sanctuary, the Cape Cod Bay Ocean Sanctuary, the Cape and Islands Ocean Sanctuary, the North Shore Ocean Sanctuary, and the South Essex Ocean Sanctuary. These areas are special resources and the goal of the Act is to protect them from any "exploitation, development, or activity that would seriously alter or otherwise endanger their ecology or appearance."

The Town of Eastham is located within the Ocean Management Planning Areas of the Cape Cod Bay Ocean Sanctuary (OS) and the Cape Cod OS. Municipal wastewater direct discharges into ocean sanctuaries are specifically precluded under these regulations, unless the discharge was approved and licensed prior to December 1971. A variance from these policies would require state approval and possible legislation stating that a special variance was needed to protect public health due to a limited number of feasible treated water recharge (to groundwater) alternatives.

The Massachusetts Oceans Act of 2008 signed by Governor Deval Patrick on May 28, 2008, is legislation that will require Massachusetts to develop the first-in-the-nation comprehensive plan to manage development in its state waters, balancing natural resource preservation with traditional and new uses, including renewable energy. The new ocean management plan must be completed by December 31, 2009 and will modify the Massachusetts Ocean Sanctuaries Act (Massachusetts General Law (M.G.L.) Section 13, c132A) with respect to renewable energy facilities only.

5. **Governor Kings Executive Order No. 181 on Barrier Beach Areas.** This Executive Order defines barrier beach areas and sets several state policies to restrict and discourage development in these areas. One policy states that no state funds and federal grants

for construction projects shall be used to encourage growth and development in hazard-prone barrier beach areas. This policy has been used by the state to restrict government-funded projects in hazard-prone areas, such as Velocity Zones.

Discussions with members of the Massachusetts Office of Coastal Zone Management indicate that the state will discourage development in a Velocity Zone and withhold state funding for such a project. This development would include the construction of a treatment facility or collection system in a Velocity Zone. This policy could affect any proposed planning area in the vicinity of a barrier beach.

B. **Regulations.**

1. **MEPA Environmental Review.** CWMP projects in Massachusetts include an environmental review process that is governed by the Massachusetts Environmental Policy Act (MEPA) and Cape Cod Commission's DRI review process. In general, the MEPA process, as described in **301 CMR 11.00**, establishes thresholds, procedures, and timetables for a multi-level review process. If a project exceeds review thresholds or if state funding is requested for a project, the project proponent begins the review process by preparing and filing an Environmental Notification Form (ENF) with the Secretary of Environmental Affairs. A 30-day review period follows, during which the Secretary of Environmental Affairs receives agency and public comments and holds a site visit and consultation session. At the close of the ENF review period, the Secretary of Environmental Affairs determines whether an Environmental Impact Report is necessary and issues a MEPA certificate. If an Environmental Impact Report is required, it is prepared by the proponent and submitted to the Secretary of Environmental Affairs. The Environmental Impact Report is reviewed at both draft and final stages by agencies and the public. After completion of the Secretary's review, state agencies may act on the project.

The Town will be expected to enter the MEPA process as part of a full CWMP.

2. **Wetlands Protection.** The Wetlands Protection Act (M.G.L. c.131, s.40) and parallel state regulations (**310 CMR 10.00**) were enacted to safeguard wetlands, associated resource areas, and floodplains from overdevelopment. The Wetlands Protection Act covers any wet area where the groundwater level is at or near the surface of the ground for a long enough period during the year to support a community of wetland-type vegetation. Wet areas include any salt or fresh-water marsh, meadow, swamp, or bog.

Areas subject to protection under the Wetlands Protection Act are referred to as resource areas. Resource areas are protected by a surrounding 100-foot buffer zone in which landscape alterations are regulated. The Wetlands Protection Act also covers construction on land subject to flooding or coastal storms. Generally, the regulations apply to two types of floodplain: those lands bordering directly on bodies of water, and those lands subject to flooding (called "Isolated Land Subject to Flooding") which do not border bodies of water.

The state regulates activities that involve filling, dredging, or excavating in or near a wetland or water body. The regulations govern additional construction activities, including site preparation, the removal of trees or bushes, vista pruning, and the changing of land contours.

A Notice of Intent must be filed for work in any resource area. The Notice of Intent requires a detailed description of the planned activity, and the applicant must show that if the resource area will be altered, the benefits will outweigh the damage. For work outside the resource areas but within a 100-foot buffer zone around a bordering vegetated wetland, bank, dune, or beach, the owner has the option of filing a "Request for Determination" to show that the work will not alter a resource area. If the Conservation Commission agrees, it will issue a "Negative Determination," permitting the work as presented. If the Conservation Commission decides that the work will alter a resource area, it will issue a "Positive Determination" and require a full hearing and the filing of a Notice of Intent.

At the time this report was written, proposed revisions were drafted (May 2008) and stormwater revisions promulgated (January 2008) for 310 CMR 10.00. Refer to revision where applicable.

3. **Massachusetts Rivers Protection Act.** This law is an amendment to the Wetlands Protection Act and establishes a Riverfront Area, which is included in the resource areas protected by the Wetlands Protection Act. The law authorizes conservation commissioners to regulate activities that occur within the Riverfront Area and establishes protection of the natural integrity of rivers as a state priority.

Permits for work in Riverfront Areas will be denied if a significant adverse impact would result or if there is a "practicable and substantially equivalent economic alternative" that will have less impact on the resource area. Certain activities are exempt from the Rivers Protection Act,

including renovation of abandoned cranberry bogs and activities associated with wastewater treatment plants and their related structures, conveyance systems, and facilities.

4. **On-Site Treatment and Discharge.** Title 5 of the Massachusetts State Environmental Code provides minimum standards for the "protection of public health, safety, welfare and the environment by requiring the proper location, construction, upgrade, and maintenance of on-site sewage disposal systems and appropriate means for the transport and disposal of septage." The regulations contained in **310 CMR 15.00** come under the jurisdiction of the MassDEP and are enforced in conjunction with local health departments through permits, inspections, and financial penalties.

As defined by the regulations, an individual sewage disposal system is "a system or series of systems for the treatment and disposal of sanitary sewage below the ground surface." Systems typically consist of a septic tank, a distribution box, and a soil absorption system. These systems may also include tight tanks, shared systems, or alternative systems if allowed by local and state regulations. The design considerations for Title 5 systems include minimum setbacks, minimum separation from groundwater, sizing guidance, and soil requirements.

The regulations are generally enforced by local health departments. The local Board of Health, due to specific problems or concerns, can and may impose more stringent requirements. Individuals and/or communities can receive a variance from the regulations; however, it must be in accordance with 310 CMR 15.00.

5. **Water Resources, Treatment and Supply of Potable Water.** The Safe Drinking Water Act of 1974 is federal legislation that dictates the regulation of potable water in the United States. Major amendments were made to the Safe Drinking Water Act in 1986 and mandate that 25 additional contaminants come under regulation every 3 years. This legislation is incorporated into the regulations of 40 CFR 141, 142, and 143, which are maintained and enforced by USEPA.

Massachusetts is a primacy state for the regulation of potable water, which means that MassDEP is the primary agency for maintaining and enforcing the drinking water regulations. Massachusetts' regulations contained in **310 CMR 22.00** closely parallel the federal regulations and establish the maximum contaminant level (MCL) of the regulated contaminants in drinking water.

The Safe Drinking Water Act provides guidelines on the establishment of wellhead protection programs, which Massachusetts has established in 310 CMR 22.21. The program delineates three zones around each public water supply. The Zone I delineation is the area immediately around the well or well field which must be owned by, or in the control of, the water purveyor. The Zone I for a well producing 100,000 gpd or greater has a minimum diameter of 800 feet. The Zone II delineation is the area of an aquifer that contributes water to a well under the "most severe pumping and recharge conditions that can be realistically anticipated." The regulations define these conditions as 180 days of pumping at safe yield with no recharge from precipitation. Zone II areas are typically determined by a hydrogeologic study involving particle-transport computer modeling. The Zone II is bounded by the groundwater divide and by the contact of the aquifer with less permeable material. The Zone III delineation is the area beyond the Zone II from which surface water and groundwater drain into the Zone II.

The allowed land use within each zone is regulated by the wellhead protection program. Land use activities within Zone I areas must be related to the water supply or have no significant adverse impact on water quality. The following land uses are prohibited from being sited in a Zone II area:

- Landfills or open dumps.
- Landfilling of sludge or septage.
- Automobile graveyards and junkyards.
- Stockpiling of contaminated snow or ice.
- Petroleum, fuel oil, and heating oil bulk stations and terminals.
- Treatment or disposal works for wastewater other than sanitary sewage.
- Facilities that generate, treat, store, or dispose of hazardous materials.
- Floor drainage systems in hazardous waste and hazardous material processing or storage facilities.

There are exceptions to the prohibition of wastewater treatment plants listed as the sixth bullet above. These exceptions are reviewed by MassDEP on a case-by-case basis.

6. **Regulations for the Land Application of Sludge and Septage.** The land application of sludge and septage, as well as the distribution of compost material made from WWTF sludge, are regulated by MassDEP in **310 CMR 32.00** and the July 2005 federal standards contained in 40 CFR Part 503. Current state regulations are more stringent.

Under the MassDEP regulations, sludge, septage, and compost (collectively called "material") are classified as Type I, II, or III, depending upon chemical, pathogen, organic content, and sludge stabilization processes used. The sludge classification determines how the material is ultimately used or disposed of. Type I material can be used on any site and requires no further MassDEP regulations, while Type II and III materials require additional regulation on the ultimate use, the application site, and allowable application rates. Compost must be classified as Type I to be sold or otherwise distributed to the public.

7. **Clean Water State Revolving Fund Program.** This regulation give the Commonwealth the authority and responsibilities to select, approve and regulate water pollution abatement projects receiving financial assistance under the State Revolving Fund Program. In 2006, modifications to the regulations were proposed and then promulgated in 2007, integrating smart growth principles into the regulations. Eligible projects include comprehensive wastewater management planning or the design and construction costs associated with implementing planning recommendations for water pollution abatement.

8. **Surface Water Discharge Permitting.** The Massachusetts Surface Water Discharge Permit Program described in **314 CMR 3.00** regulates all discharges of pollutants to surface waters located in Massachusetts. These include point sources for public and privately owned treatment works and stormwater discharges. Discharge of treated wastewater to surface waters in Eastham (except ponds with no surface outlets, which fall under the Wetlands Protection Act described below) would not be allowed due to the Massachusetts Oceans Act described previously.

9. **Surface Water Quality Standards.** In addition to the limitations imposed by the Massachusetts Oceans Act of 2008, the Massachusetts Surface Water Quality Standards define the activities that are prohibited in various class-designated surface water bodies. The water in Rock Harbor Creek, Boat Meadow River, and Herring River are designated SA for "Shellfishing, Outstanding Resource Water" (**314 CMR 4.06**). This is the top salt-water ranking and means that the water is suitable for all types of water recreation. Any actions that would prevent swimming, fishing, or other recreational activities in these waters are strictly prohibited.

An additional summary of water quality is provided in the Integrated List of Waters, also known as the 303(d) list. The classification of water within the Town is discussed later in this chapter.

10. **Groundwater Discharge Permitting.** The proposed revisions to the Ground Water Discharge Permitting Program Regulations (the "Ground Water Regulations"), **314 CMR 5.00**, make a number of changes to streamline the existing permitting process and reduce the time it takes for an applicant to obtain a groundwater discharge permit. In addition to 314 CMR 5.00, there is another set of regulations aimed at protecting ground water quality, specifically the Ground Water Quality Standards, **314 CMR 6.00**. MassDEP is proposing changes to 314 CMR 5.00 that incorporate the provisions of this regulation that provide important protection to groundwater quality. These changes will eliminate the need for 314 CMR 6.00. The Ground Water Regulations currently contain a list of specific effluent limits. These limits are based on the maximum contaminant limits set forth in the Drinking Water Regulations at the time MassDEP promulgated the Ground Water Regulations. To simplify the regulations, MassDEP is eliminating the list of specific effluent limits and replacing the list with a requirement that except as otherwise provided, all discharges must meet the standards set forth in the Drinking Water Regulations.

The proposed regulations also provide that the MassDEP may issue an individual groundwater discharge permit that authorizes the reuse of effluent from permitted sewage treatment facilities in accordance with the proposed Wastewater Reuse Regulations, **314 CMR 20.00.** This change eliminates the need for the Wastewater Reuse Policy and allows the Department to issue one permit that authorizes a groundwater discharge of effluent resulting from the treatment of sewage at a facility and the reuse of this effluent as reclaimed water. The proposed Wastewater Reuse Regulations are also discussed below.

11. **Sewer System Extension and Connection Permit Program. 314 CMR 7.00** establishes the program whereby sewer system extensions and connections are regulated and permitted by the Department and was adopted to insure proper operation of wastewater treatment facilities and sewer systems within the Commonwealth.

12. **Toxic/Incompatible Discharges to Wastewater Collection Systems.** In the early 1980s, the USEPA established nationwide industrial pretreatment standards contained in 40 CFR 403, General Pretreatment Regulations for Existing and New Sources of Pollution, to regulate the discharge of industrial pollutants to Publicly Owned Treatment Works (POTWs). The general goals of this program are to limit those toxic/incompatible discharges, which could: (1) pass through a plant inadequately treated; (2) harm a plant's treatment processes, thereby

preventing the plant from complying with its permit; or (3) reduce opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

When these regulations were established, all communities with POTW flows greater than 5 mgd were required to establish local industrial pretreatment programs. The programs are needed by larger plants that receive significant industrial and commercial wastewater flows.

Massachusetts's pretreatment regulations (**314 CMR 12.00**) parallel the federal regulations. Paragraph 12.09.2 of the Massachusetts regulation states that the Director of the MassDEP may require a POTW with a design flow of 5 mgd or less to establish a pretreatment program in order to meet the goals listed above.

13. **Privately Owned Sewage Treatment Facilities and Publicly Owned Treatment Works.** Privately owned sewage treatment facilities (PSTFs) are the private version of the publicly owned treatment works. POTWs are defined in **314 CMR 12.02** as "any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial waste of a liquid nature which is owned by a public entity. A POTW includes any sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment." In Massachusetts, there are detailed requirements at the State level, which apply stringent requirements on the location and operation of PSTFs.

Current MassDEP regulations require the use of a PSTF or POTW for any residential or commercial discharge greater than 10,000 gpd. MassDEP reviews the performance of these facilities under its Groundwater Discharge Permit (GWDP) Program (314 CMR 5.00).

14. **Reclaimed Water Use.** The proposed Reclaimed Water Permit Program and Standards Regulations (the "Reclaimed Water Regulations"). **314 CMR 20.00**, are a new set of regulations governing the use of reclaimed water in Massachusetts. Reclaimed water is defined as domestic wastewater that is treated to a level such that it is suitable for beneficial reuse. Eliminating or reducing the concentrations of microbial and chemical constituents of concern through treatment and/or limiting public or worker exposure to the water via design or operational controls achieves making reclaimed water suitable and safe.

The draft regulations establish a system of classification and standards specific to the proposed use. The highest standards apply to those proposed uses with greatest potential for exposure to

the public. These draft regulations do not include standards for indirect aquifer discharge. Those standards are included in the proposed revisions to the Groundwater Discharge Permitting Program Regulations in 314 CMR 5.00.

3.3 REGIONAL REGULATORY ISSUES

A. **The DRI Review Process.** In accordance with the Cape Cod Commission Act, Chapter 716, the Cape Cod Commission has the authority to review and regulate DRIs. This review is carried out by the Commissioners and the Cape Cod Commission staff in accordance with Administrative and Enabling regulations.

The Town will be expected to enter the MEPA and DRI process as part of a full CWMP. The review process will be a joint review.

B. **Cape Cod Commission Regional Policy Plan.** The Cape Cod Commission Act calls for an update to the plan every five years (previous editions were released in 1991, 1996, and 2002). The current Regional Policy Plan went into effect October 30, 2008.

The minimum performance standards and other development review policies of the Regional Policy Plan are intended to be used by both the Cape Cod Commission and local regulatory authorities once they have adopted a Local Comprehensive Plan and it has been certified by the Cape Cod Commission. The goal of the water resources minimum performance standards is to preserve the high quality of the groundwater (the source of Cape Cod's drinking water) as well as the marine and fresh surface waters, which are connected to and dependent on the groundwater for ecological health and sustenance. The water resources classification system includes the following: drinking water, coastal embayments, ponds, sewage treatment facility standards, stormwater management standards, and natural resources standards. The reader is directed to the most current Regional Policy Plan for further information specifically relating to the minimum performance standards developed for each goal. Overall, the water resources minimum performance standards state a maximum nitrogen load of 5 parts per million unless there will be no adverse impacts on resources.

3.4 TOWN OF EASTHAM REGULATIONS AND BYLAWS

The Town of Eastham has adopted the following regulations and bylaws that pertain to treatment of sanitary wastewater and recharge of the treated water.

A. **Town of Eastham Local Comprehensive Plan.** The Town of Eastham's most current version of the Local Comprehensive Plan (LCP) is the October 2002, Second Edition. The community vision statement is as follows, "A diversified community which honors its past as a fishing and agricultural settlement, and current character as a modest residential, community which accommodates workers, vacationers and retirees"

Eastham's overall goals and related needs include the following with respect to water quality and the protection of natural resources. Some of the goals of the LCP are summarized as follows:

- Protect/improve water quality and supply;
- Improve sewage disposal systems;
- Protect natural features and open space;
- Protect wetlands and plant habitat/wildlife areas;
- Encourage recreational and commercial marine activities; and
- Protect coastal areas from degradation.

B. **Eastham Board of Health Regulations: Local Amendments to Title V.** In accordance with Massachusetts General Laws, Chapter III, Section 31, the Eastham Board of Health has adopted the following regulation to supplement the provisions of 310 CMR 15.00: State Environmental Code - Title V: Minimum Requirements for the Subsurface Disposal of Sanitary Sewage. The Board feels that such a regulation for the Town of Eastham is necessary because there is no town water available. Effective July 2005, the Board of Health regulations identify several provisions that are stricter than the revised Title 5 (March 31, 1995). Requirements exist within the local amendments for nitrogen reducing septic systems which are required as a condition of variances in any lot determined to be an environmentally sensitive area. Chapter 4 has additional discussion of environmentally sensitive areas.

C. **Section XIX of Zoning By-laws: Open Space Residential Subdivision Development**. As discussed in the Eastham Zoning By-laws, this regulation offers an alternative development design by special permit for subdivisions to promote, "the permanent preservation of open space, wildlife habitat and other natural resources, including the aquifer, groundwater recharge areas and wetlands, in a manner that is consistent with the Eastham Local Comprehensive Plan and to minimize sprawl…" The by-laws also include setback requirements specific to zoning districts.