

Chapter 158 Protection of Migratory Bird Colonies on Town-Owned Lands

§ 158-2 Authority.

This chapter was adopted _____, by Special Town Meeting, under the provisions of New Hampshire RSA 31:39, I (a), which is made a part hereto.

§ 158-2 Purpose.

This chapter is adopted for the purpose of ensuring the protection of migratory bird colonies on Town-owned lands, in recognition of migratory birds' immense benefits for agriculture, pest control, and recreation. These benefits are at risk due to dramatic recent declines in migratory bird populations.

§ 158-3 Town-owned conservation land.

Town-owned conservation land as stated in this chapter includes those lands, and any structures thereupon, purchased for conservation, open space preservation, or agricultural purposes, including those under the jurisdiction of the Board of Selectmen and all boards and commissions of the Town.

§ 158-4 Migratory birds.

Migratory birds as stated in this chapter shall include all birds protected by the federal Migratory Bird Treaty Act at 16 U.S.C. 703-712. The current list of protected species may be found at 50 CFR 10.13.

§ 158-5 Bird colony.

Bird colony as stated in this chapter includes a congregation of one or more species of migratory birds that nest or roost in proximity at a particular location (e.g., herons, egrets, swallows, martins) and their nest structures, both during and outside the breeding season.

§ 158-6 Colony habitat.

Colony habitat as stated in this chapter means a specific location where a bird colony has historically existed or is likely to exist.

§ 158-7 Disturbance to bird colony or colony habitat prohibited.

Activities likely to result in disturbance to a bird colony or colony habitat on Town-owned conservation land are hereby prohibited, with the following exceptions:

(A) When the Town's Health Officer and Board of Selectmen acting together as the Town's Board of Health find the action is necessary due to a demonstrable risk to public health or safety that cannot be otherwise mitigated; or

(B) When the activity is necessary to meet the requirements of federal or state law or easement terms, and it is accompanied by mitigation using established best practices to avoid net loss to local bird populations from bird mortality or failed nesting.

§ 158-8 Severability.

Should any section or provision of this regulation be held to be invalid or unconstitutional such holding shall not affect, impair or invalidate any other section or provision of this regulation, and to such end all sections and provisions of this regulation are declared to be severable.

§ 158-9 Effective Date.

This article shall take effect upon its passage.