

Voted at the April Town Meeting, April 23, 1990, Article 27:

To see what action the Town will take regarding the adoption of certain Rules and Regulations promulgated by the Conservation Commission as they relate to the Wetlands Protection By-law (adopted April 1989). Amended at the Annual Town Meeting, April 4, 1994; amended at the Annual Town Meeting, April 4, 1998; amended at the Annual Town Meeting, April 8, 2001; amended at the Annual Town Meeting on April 5, 2005.

***RULES AND REGULATIONS
FOR
PLYMOUTH WETLANDS PROTECTION BYLAW***

SECTION 1. INTRODUCTION

These Rules and Regulations (hereinafter referred to as the "Regulations") are promulgated by the Town of Plymouth Conservation Commission and adopted by Town Meeting pursuant to Section V of the Town of Plymouth Wetland Protection Bylaw (hereinafter referred to as the "Bylaw"). These Regulations shall complement the Bylaw, and shall have the force of law upon their effective date.

SECTION 2. PURPOSE

The Bylaw sets forth a public review and decision making process by which activities having an impact or cumulative effect upon Areas Subject to Protection under the Bylaw are to be regulated in order to ensure the protection of wetlands interests, functions and values including, but not limited to:

- public and private water supply
- groundwater and groundwater quality
- flood control
- erosion and sedimentation control
- storm damage prevention
- water pollution prevention
- wildlife habitat
- fisheries
- shellfish habitat
- endangered plant species
- agriculture and aquaculture
- recreation
- aesthetics

Amended April 2005

The purpose of these Regulations is to define and clarify that process by establishing standard definitions and uniform procedures by which the Plymouth Conservation Commission (hereinafter referred to as the "Commission") may carry out its responsibilities under the Bylaw. In instances where these Regulations are more stringent than 310 CMR 10.00, these local Regulations shall prevail (see 310 CMR 10.01 (2)). Significant points of interest or differences between these Regulations and 310 CMR 10.00 are indicated by a (□).

SECTION 3. JURISDICTION

A. Resource Areas Subject to Protection Under the Bylaw

1. Any freshwater wetland,
any coastal wetland,
any marsh,
any meadow,
any bog,
any swamp,
any bank,
any beach,
any dune,
any flat,
any vegetated or unvegetated wetland;
2. Any lake,
any pond,
any river,
any creek,
any stream,
any surface water body,
any estuary,
or the ocean.
3. Any land under any of the water bodies set forth in Section 3A (3) above.
4. Any land subject to flooding or inundation by:
groundwater,
surface water,
tidal action,
coastal action
or coastal storm flowage;

B. Activities Subject to Regulation under the Bylaw

1. Any activity proposed or undertaken which will constitute removing, filling, dredging, altering any area specified in Section 3A above is subject to regulation under the Bylaw and requires the filing of a Notice of Intent (hereinafter referred to as "Notice").
2. Any activity proposed or undertaken within one hundred (100) feet of an area specified in Section 3 A above (hereinafter referred to as the "Buffer Zone") is subject to regulation and requires the filing of a Notice.
3. Any activity proposed or undertaken outside the areas specified in Section 3A above, or the Buffer Zone, shall not be subject to regulation under the Bylaw unless, in the judgement of the Commission, said activity has resulted in the removing, filling, dredging, building upon, or altering an area specified in Section 3A above.
4. Any person who wishes to know whether or not a proposed activity or an area is subject to the Bylaw may, in writing, file a Request for Determination of Applicability (hereinafter referred to as a Request) with the Commission. Such a Request shall be submitted pursuant to Section VIII J of the Bylaw and section 6B of the Regulations.

SECTION 4. DEFINITIONS

The definitions in Section 4 of these Regulations and Section III of the Bylaw are for terms as used therein. To the extent not defined herein or in the Bylaw, words used in the Bylaw or in these Regulations shall have the definitions contained in the Massachusetts Wetlands Protection Act (the Act, G.L.M. Chapter 131 Section 40) and the Regulations (310CMR 10.00) promulgated thereunder.

Abutter

An owner of land in any direction sharing a common boundary with the site of the proposed activity, including any land located directly across a street, way, river, stream, brook, creek, pond or other wetland. For the purpose of notification, as related to the filing of a Notice or Request, abutters to abutters within 300 feet of the property shall be notified, unless they are located across a street or way, in which case only the owner(s) of land immediately adjacent and opposite the street or way shall be notified.

Activity

Any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; the erection, building, reconstruction, expansion or demolition of any buildings or structures; the driving of pilings; the construction, alteration or improvement of roads and other ways; the changing of runoff characteristics; the intercepting or diverting of ground or surface water; the repair or installation of drainage, sewage and water systems; the discharging of pollutants; the destruction of plant life; and any other changing of the physical characteristics of land, through change of use, within an area subject to protection or review by the Commission, or changing of the physical, biological, or chemical characteristics of water.

Alter

The term "alter" includes, but is not limited to, the following activities when undertaken to, upon, within or affecting resource areas protected by this Bylaw:

- a. Removal, excavation or dredging of soil, gravel, sand, clay, minerals, or aggregate materials of any kind;
- b. Changing of pre-existing 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, construction, erection, repair or demolition of buildings or structures of any kind;
- g. Placing of obstructions or objects in water;
- h. Destruction of plant life including cutting of trees, shrubs, or non-woody vegetation;
- i. Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- j. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater.

Applicant

Any person who files a Request, Notice or other application, or on whose behalf said forms are filed.

Areas Subject to Protection

Land areas and/or water bodies subject to protection under the Bylaw, as set forth in Section 3A of the Regulations and Section III of the Bylaw.

Bank (Coastal)

The seaward face or side of any elevated land form, other than a coastal dune, which lies at the landward edge of a coastal beach, land subject to tidal action or storm flooding, or other wetland. Any minor discontinuity of the slope notwithstanding, the top of the bank shall be the top of the face of the bank or the break in slope above the relevant 100-year flood plain elevation. A bank may be partially or totally vegetated, or it may comprise exposed soil, gravel, stone or sand. A bank may be naturally occurring, created in part or entirely by man, and/or made of man-made materials. The 100-year flood plain elevations shall be taken from the Flood Insurance Rate Maps and the Flood Boundary and Floodway maps as amended and defined by the Federal Emergency Management Act and designated as Zone A, A1-A30, V1-V30 and Zone B, for the Town of Plymouth, Massachusetts. Notwithstanding the above, in some cases an onsite inspection may be necessary in order to determine the actual top of the bank. Coastal banks are likely to be significant to wildlife habitat, storm damage prevention, and flood control.

Bank (Inland)

The portion of land surface which abuts and confines a water body. A bank may be partially or totally vegetated, or it may be comprised of exposed soil, gravel, stone, sand, or man-made materials, and/or created by man. The physical characteristics of a bank, as well as its location, are critical to the protection of wetland interests. The upper boundary of a bank is the first observable break in the slope above the one-year flood level, as defined by the FEMA Flood maps, as calculated by an engineer or as determined by the Commission. The lower boundary of a bank is the water body. A bank may be created by man and/or made of man-made materials. An un-vegetated inland bank is synonymous with an inland beach. Notwithstanding the above, in some cases an onsite inspection may be necessary in order to determine the actual top of the bank.

Beach (Coastal)

Unconsolidated sediment subject to wave, tidal or coastal storm action which forms the gently sloping shore of a body of salt water, including land which is separated from other land by a body of water or a marsh system, i.e. tidal flats. Beaches extend from the mean low-water line landward to the dune line, coastal bank line, or the seaward edge of existing man-made structures, when these structures replace one of the above lines, whichever is closest to the ocean.

Beach (Inland)

Unconsolidated sediment subject to wave, wind, ice or storm action which forms the gently sloping shore of a body of fresh water. Beaches extend from the mean high water line landward to the inland bank line, or the fresh waterbody edge of existing man-made structures, whichever is closest to the waterbody. An inland beach is synonymous with unvegetated inland bank.

Blow Out

A deep cut or gully erosion occurring on banks or dunes, however caused, including but not limited to those disturbances to their natural resistance to wind and water erosion; or by disturbances to their stability.

Boundary

The boundary of Area Subject to Protection under the Bylaw, as set forth in Section 3A of the Regulations and Section III of the Bylaw.

Building Upon

Any action, or preparation for, or reasonably likely to result in the construction of any kind of structure, whether on land or in water; (see also Alter and Activity).

Buffer Zone

That area of land extending one hundred (100) feet horizontally outward from the boundary of any resource area as specified in Section 3A of the Regulations or Section IV of the Bylaw.

Bylaw

Article 27 of the Town of Plymouth Bylaws, as amended, entitled Plymouth Wetlands Protection Bylaw.

Certificate of Compliance

A written determination by the Commission that the proposed work has been completed as required by an Order of Conditions or Determination issued by the Commission. The Commission, in an appropriate case, may combine this form with a form issued under G.L.M. c. 131, s. 40.

Conservation Commission(same as Commission)

That body comprised of members lawfully appointed pursuant to G.L.M. c. 40, s. 8C. For the purposes of the Bylaw and Regulations it shall mean the Plymouth Conservation Commission.

Contamination

See pollution.

Cumulative

Increasing in effect, size, quantity, etc. by successive additions; increasing in severity by repetition of activity or by other various activities affecting the interests protected under the Bylaw. The Commission may require a plan indicating the completed project in order to determine the cumulative effect of said project.

Decision

See Order of Conditions or Permit.

Department

The Massachusetts Department of Environmental Protection (DEP), formerly known as the Department of Environmental Quality Engineering (DEQE).

Determination of Applicability

A written finding by the Commission as to whether a site or activity proposed thereon is subject to the Bylaw. The Commission may, in an appropriate case, combine this determination with the Determination issued under G.L.M. c. 131, s. 40. (Also referred to as a Determination).

Endangered Plant Species

Those plant species listed as endangered, threatened, or of special concern by the Massachusetts Natural Heritage Program. Same as rare plant species.

Existing

Lawfully begun or completed prior to the date of the plan or prior to any activity on the site.

Extension Permit

A written extension of time within which the authorized activity shall be completed, as permitted by Section VIII N of the Bylaw. The Commission may, in an appropriate case, combine this extension with the extension permit issued under G.L.M. c. 131, s. 40.

Fisheries

Any area for catching or taking all species of freshwater and saltwater finfish and shellfish.

Floodplain

Any land susceptible to being inundated by a flood having a 1% chance of being equaled or exceeded in any given year. This area can be calculated using a 100-year storm event, or the area may be depicted on the FEMA Flood Insurance Rate Maps. Whichever is greater shall be used for purposes of the Bylaw or Regulations.

Hydraulic Connection

A link between two wetlands which consists of water, whether stationary, moving, or intermittent, and which provides a direct exchange of surface or sub-surface water resource areas.

Hydrology

The effect on water, through its pattern or directional flow, quality or quantity, recharge or discharge, and/or temperature, as pertaining to surface, surface groundwater, or sub-surface groundwater.

Interests

The wetland functions and values (collectively, the interests protected by this Bylaw) specified in Section I A-D of the Bylaw and Section 2 of the Regulations.

Notice (of Intent)

The written notice required to be filed by any person intending to remove, fill, dredge, build upon, alter or in any way change the physical or chemical properties of areas subject to protection under the Bylaw and G.L.M. c.131, s.40. (Also referred to as "Notice".)

Objects or Obstructions (in water)

Any item not naturally occurring in water including but not limited to dams, weirs, sluice gates, jetties, groins, breakwaters, piers, docks, seawalls, bulkheads, pilings, dolphins, marine railways, slips, and floats.

On-site Inspection

A review of a project at its location (in the field) by members of the Commission, agent, and/or assistants to the Commission.

Order of Conditions

The document issued by the Commission containing conditions which regulate or prohibit an activity under the Town of Plymouth Wetlands Protection Bylaw, Section V III H. The Commission in an appropriate case may combine the permit or other action on an application issued under the Bylaw with the Order of Conditions issued under the Wetlands Protection Act, G.L.M. c. 131, s. 40. Also referred to as Order, Permit or Decision.

Person Aggrieved

Any person who, because of an act by the Commission may suffer an injury in fact which is different either in kind or in magnitude from that suffered by the general public and which is within the scope of the interests identified in the Bylaw. Such person must specify in writing sufficient facts to allow the Commission to determine whether or not the person is in fact aggrieved.

Plans

Data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the Commission to describe the site and the proposed activity; to determine the applicability of the Bylaw; or to determine the impact of the proposal upon the interests identified in the Bylaw.

Pollution

Contamination of land or surface- or groundwater with materials not normally present, or with elevated levels of naturally occurring materials, including a change in the physical or chemical characteristics of the same. See also Contamination.

Pond

Any open body of fresh or salt water, either naturally occurring or man-made by impoundment, which is never without standing water due to natural causes except during periods of extended drought, and the land under the water body. (See also definition of unvegetated wetland resource areas in Section III of the Bylaw.)

Request for Determination of Applicability

A written request to the Commission for a determination as to whether a site or the proposed activity thereon is subject to the Bylaw. The Commission may, in an appropriate case, combine this Request with the Request under G.L.M. c. 131, s. 40. (Also referred to as a Request.)

Resource Area

Synonymous with Area Subject to Protection under the Bylaw, as defined in Section 3A of the Regulations and Section I of the Bylaw.

Sediment

Material such as silt, sand, gravel or large rock fragments deposited by water, wind or glaciers.

Significant

Plays a role. A resource area is significant to an interest identified in the Bylaw when it plays a role in the provision or protection, as appropriate, of the interest. This standard is used by the Commission in determining what condition, if any, it deems necessary to protect the public interest under the Bylaw. The standard that shall be considered to establish significance shall include but is not limited to one or more of the following factors:

- a. any actual or potential contamination to public, private, or groundwater supply including aquifers or recharge areas, land containing fisheries, including the biological life necessary to support a fresh or salt water ecosystem.
- b. any reduction of the flood storage capacity of a wetland, river, stream, or creek.
- c. any alteration of a river, stream, creek, vernal pond or wetland that results in any increase in the volume or velocity of water which may cause flooding.
- d. any actions which will remove, fill, dredge or alter any area subject to the Bylaw and will result in any threat to the health, welfare or safety of the individual or the community.
- e. any alteration of a river, stream, creek, vernal pond or wetland or land subject to flooding or any area subject to the Bylaw which will result in any threat to wildlife or erosion control.
- f. any change in function or characteristics of a wetland which alters the hydrologic regime by decreasing or increasing flow rates.

Stream

A body of running water, and the land under the water, including but not limited to brooks, creeks, and man-made water courses, which moves in a definite channel in the ground due to hydraulic gradient. A portion of a stream may flow through a culvert, pipe, or beneath a bridge. A stream may be intermittent (i.e. does not flow throughout the year).

Wetland Scenic Viewshed

Those areas which provide important visual linkage for the public with scenic wetlands that are vistas typical of the unique Plymouth environment. Scenic wetlands include but are not limited to the following features: expansive open space, large areas of natural features, placement and sizing of both natural and man-made features, or mix of colors and textures created by interactions among water, sand and different types of vegetation. Visual linkage for the public is not restricted to views from public ways, but also views from areas used by the public, such as private and public conservation land, great ponds, beaches, harbors, and the ocean.

Wildlife Habitat

Areas having plant community composition and structure, hydrologic regime, or other characteristics sufficient to provide shelter, nutrient sourcing, growing conditions, nesting or breeding sites conducive to the propagation and preservation of wildlife.

SECTION 5. PERFORMANCE STANDARDS

In carrying out its duties under the Bylaw and Regulations, the Commission shall apply the following Performance Standards, which the Bylaw seeks to protect. Those Standards, not listed herein, shall be found in the Wetlands Protection Act Regulations (310 CMR 10.00). They are, without limitation:

A. Banks

Proposed work on a bank shall not adversely affect the following:

1. Stability of bank
2. Capacity of channel to convey water
3. Ground water & surface water quality
4. Capacity of bank to provide fisheries and wildlife habitat
5. Natural resistance to wind and water erosion

B. Land Under Water

Proposed work on land under water shall not adversely affect the following:

1. Water storage or carrying capacity of the waterbody
2. Ground water and surface water quality
3. Capacity of said land to provide fisheries and wildlife habitat
4. Water circulation and distribution of sediment grain size.

C. Land Subject to Flooding

Proposed work on land subject to flooding shall not adversely affect:

1. The flood control capacity of said area,
2. Pollution prevention capacity,
3. Wildlife habitat.

D. Wetlands

1. Any proposed work in a wetland shall not destroy or otherwise impair any portion of said area.
2. The Commission may issue an Order of Conditions permitting work which results in the loss of not more than (5000 square ft.) of wetland provided the following requirements are met:
 - a. There is no reasonable alternative to the proposed project.
 - b. All design mitigations have been utilized to minimize the alteration of wetlands.
 - c. A revegetation plan has been submitted describing the construction of the amount of recreated wetland necessary to compensate for that portion which is proposed to be destroyed.
 - d. Compensatory wetland area will be provided, which in the judgment of the Commission will adequately replicate all of the wetland function to be lost.

3. The project must be included in one of the following categories:
 - a. Construction of new road drainage structures including culverts and catchbasins, drainage easements, ditches, water courses and artificial water conveyances to ensure flow capacities.
 - b. Construction of a new roadway or driveway of minimum legal and practical width acceptable to the Planning Board, where reasonable alternative means of access from a public way to an upland area of the same owner is unavailable.
 - c. New construction of underground and overhead public utilities, such as electrical distribution or transmission lines, or communication, sewer, water and natural gas lines, may be permitted, in accordance with the following general conditions and any additional conditions deemed necessary by the Commission:
 1. The Commission may require a reasonable alternative route with fewer adverse effects.
 2. The best available mitigating measures shall be used to minimize adverse effects during construction.
 3. All surface vegetation and contours of the area shall be substantially restored.
 4. All sewer lines shall be constructed to minimize inflow and leakage.
 - d. The construction of wildlife pond impoundments designed to enhance the wetland values of this Bylaw. Proposed projects will be required to submit supporting information to verify the project's benefit to wetland wildlife values.

E. Side Slope Grades Near Inland Wetlands

Side slopes within 100 feet of a resource shall have a finished grade according to the following:

1. No greater than a 3:1 slope for grassed and mulched slopes.
2. No greater than a 2:1 slope for all stone rip-rapped slopes. Stone used for rip-rap will be hard, durable, angular in shape; resistant to weathering, free from overburden, spoil shale and organic material, and shall be from 4 inches to 8 inches in diameter. Neither breadth nor thickness of a single stone should be less than one-third its length. Round stone is not acceptable. The Commission strongly encourages a 3:1 slope unless the rip-rapped slope will eliminate the proposal for wetland filling.

F. Roadway Crossings of Wetland Areas

Proposed roadway crossings of wetland areas shall include the following:

1. Wetland replication which in the determination of the Commission will compensate for the wetland to be lost with respect to wetland values and area.
2. Headwalls shall be required to minimize the amount of wetland alteration.
3. Such roadway or driveway shall be constructed in a manner that does not restrict the flow of water.

G. Wetlands Replication

When unavoidable wetland alteration is proposed, the Commission may allow the project to proceed as proposed as long as compensatory wetlands are proposed. The Commission may require replacement of more, but not less than 100% of the altered wetland if it is judged to be necessary to replace the altered wetland value. (See Section X of the Bylaw for more specific performance standards.)

H. Buffer Zone Protection

1. Bordering any wetland, the Commission may require a zone of natural vegetation of sufficient width to assure that silt, soil, fertilizer in solution, organic chemicals, herbicides, organic manures, oils or petroleum products which may be carried by surface runoff, shall not reach that wetland, but instead will be trapped by the natural mulch, soil and roots. Under most conditions, a zone width of 25 feet would be considered sufficient to accomplish this purpose, however, the distance would depend on slope, soil type, ground cover and the project proposed. In addition to the above, the Commission may require a zone of natural vegetation of sufficient width, in areas with mapped endangered species, that the habitat is protected and the species requirements are met. Under most conditions, a zone width of fifty (50) feet would be considered sufficient to accomplish this purpose, however, that width would depend on the type of habitat for plant species, and the vegetation types and area needed by the animal species for food, shelter, breeding, migration and/or overwintering. The Commission shall encourage stabilization of upgradient areas beyond the 100-foot line.

2. Notwithstanding the provisions of Section 5(A) through (S) and in particular Section 5(H)(1), certain activities are allowed provided the activity is not conducted within any resource area if:
- (a) Alteration within the buffer zone is less than 5000 square feet or 10% of the buffer zone on the lot, whichever is less;
 - (b) At a minimum, a 50-foot wide area of undisturbed vegetation in the buffer zone along the resource area is provided;
 - (c) The buffer zone does not contain estimated wildlife habitat of rare species;
 - (d) Stormwater is managed accordingly to MA DEP standards;
 - (e) Erosion and sedimentation controls are provided at the limit of work to protect the resource area;
 - (f) The buffer zone does not border an Outstanding Resource Water, vernal pool, public water supply or ACEC;
 - (g) A site visit is conducted to verify the project is limited to the buffer zone and the criteria are met.

I. Erosion and Sedimentation Control

Disturbed soil areas within 100 feet of resource areas shall be stabilized and protected from the erosive forces of wind and water. Measures to prevent erosion shall be maintained in functional condition until natural vegetation has, in the Commission's judgement, developed sufficiently.

J. Stormwater Runoff

Any change in stormwater runoff characteristics which may result in increased flooding off the site must be mitigated by on-site controls. Such controls may include, but are not limited to:

- 1. Stormwater detention facilities.
- 2. Stormwater retention facilities.
- 3. A vegetation plan using trees, shrubs and/or non-woody vegetation

K. Wildlife Habitat

Projects proposing to alter natural wetland areas suitable for wildlife habitat shall be required to submit documentation describing the alternatives and the proposed means of compensating for lost wildlife habitat values, such as food, shelter, migrating and breeding areas, and over-wintering areas.

L. Public and Private Water Supply

Projects proposed in areas significant to public and private sources of water supply will be required to demonstrate that there will be no adverse impact on the water resources.

Projects proposed within an area subject to protection and within recharge area or cone of depression of a municipal well shall comply with the provisions of the Plymouth Zoning Bylaw, Aquifer Protection District, section 401.17.

M. Aesthetics

Proposed projects shall be designed to retain or improve natural conditions including natural lighting, sounds, odors, significant trees and viewsheds experienced by the general public from public ways including waterways.

N. Recreation

Proposed projects shall not significantly affect public recreational values dependent either directly or indirectly on the resource area or within 100 feet of the resource area.

O. Agriculture and Aquaculture

(reserved)

P. Endangered Plant and Animal Species

Notwithstanding any provision of the Bylaw or Regulations, the Commission shall not approve any proposed activity on any area or habitat of rare plants or animals, as determined by the Massachusetts Natural Heritage Program, to have any short or long term adverse effects on such species or habitat. The Commission may approve projects with the requirement of a zone of natural vegetation of sufficient width to assure that habitat is protected and species requirements are met. Refer to Section 5 Performance Standards(H) for general buffer width requirements.

Q. Shellfish Habitat

Projects proposing to alter areas significant to land containing shellfish shall not change the productivity of such land caused by alterations of:

1. Water circulation,
2. Elevations and relief elevations,
3. Compacting sediment by vehicular traffic,
4. Alterations in distribution in sediment grain size,
5. Alterations in the natural drainage from adjacent land,
6. Changes in water quality including, but not limited to, other than natural fluctuations and levels of salinity, dissolved oxygen, nutrients, temperature or turbidity, or the addition of pollutants.

R. Fisheries
(reserved)

S. Surface and Groundwater Pollution

Where projects are proposed in areas significant to surface and/or groundwater the applicant will be required to demonstrate that there will be no adverse pollution impacts and how any impacts will be mitigated.

SECTION 6. PROCEDURES

A. General

1. Time Periods

All time periods of ten days or less specified in the Bylaw and the Regulations shall be computed using business days only. In the case of a Determination or Application for Permit, such period shall commence on the first day after the date of issuance and shall end at the close of business on the tenth business day thereafter. All other time periods specified in the Bylaw and the Regulations shall be computed on the basis of calendar days, unless the last day falls on a Saturday, Sunday or legal holiday, in which case the last day shall be the next business day following.

2. Actions by Commission

Where the Bylaw states that particular action (except receipt of a Request for Determination, Notice or other request submitted) is to be taken by the Commission, that action is to be taken by more than half the members present at a meeting of at least a quorum. A quorum is defined as a majority of the members then in office. Where the Bylaw states that a permit or notification shall be issued by the Commission, that action is to be taken by a majority of the members then in office, who need not convene as a body in order to sign said permit or notification, provided they met pursuant to the open meeting law, G.L.M. c. 39, s. 23A-23C, when voting on the matter.

Where the Bylaw states that the Commission is to receive a Request for Determination, Notice, or other request submitted, such documents and/or requests shall be deemed to be received if they are presented at a Commission meeting or submitted to the Commission or the staff at its office during the Commission's regular business hours.

B. Determinations of Applicability

1. Requests for Determination of Applicability

- a. Any person who desires a determination as to whether the Bylaw applies to a site or to an activity that may affect an Area Subject to Protection Under the Bylaw, may submit to the Commission by certified mail or hand delivery a Request for Determination of Applicability.
- b. Any person filing a Request for Determination with the Commission at the same time shall provide a list of abutters of the property, as defined by Section 4 of the Regulations.
- c. The Commission shall send written notification of the hearing at the expense of the applicant, to the abutters on this list, to the Planning Board, and Board of Health. The Commission also, at the expense of the applicant, shall publish the notice of the hearing in a newspaper of general circulation in Plymouth. In addition notice shall be given in accordance with the open meeting law, G.L.M. c. 39, s. 23B.
- d. The Commission in an appropriate case may accept as the Request for Determination and plans under this Bylaw, the Request for Determination and plans filed under the Wetlands Protection Act, G.L.M. c. 131, s. 40.

- e. Submittal Requirements:
 - a. A completed Request for Determination of Applicability form, dated and signed by the applicant or representative
 - b. Definitive plans, hand drawn or engineered (as required), dated and signed by the applicant or engineer, respectively
 - c. Locus plan: 8 1/2" x 11" section from a U.S.G.S. quadrangle map with the project circled
 - d. Appendix A (if applicable) if in an endangered species area (not including plants)
 - e. A list of abutters to be notified of the hearing
 - f. A signed property access authorization form
 - g. The correct fee for advertisement of the notice in a Plymouth newspaper
 - h. The correct fee for abutter notification
 - i. The correct filing fee
 - j. Two copies of all forms and plans submitted

2. Determination of Applicability

- a. Within thirty days (30) after the date of receipt of a Request for Determination the Commission shall hold a public hearing on the request.
- b. At the public hearing the Commission will determine:
 - a. Positively: that the area and the activity proposed thereon are subject to protection under the Bylaw and that the activity is deemed to affect one or more of the interests protected in the Bylaw, or
 - b. Negatively: that the area in which the proposed activity is to take place is not subject to protection under the Bylaw or that the proposed activity is not deemed to affect one or more of the interests protected by the Bylaw.
- c. The Determination shall be signed by a majority of the Commission and shall be sent by the Commission to the person making the Request within 30 days of the close of the public hearing or any continuance thereof.
- d. Absent evidence of material change of conditions at a site a Determination shall be valid for two years from date of issuance.
- e. In the event of a positive Determination, an Application for a Notice shall be filed and all of the procedures set forth in Section 6C (below) shall apply.

C. Order of Conditions

1. Notice of Intent

- a. Any person who proposes to do work that will remove, fill, dredge, build upon or alter any Area Subject to Protection Under the Bylaw shall submit, by certified mail or hand delivery, a Notice of Intent and other application materials in accordance with the submittal requirements in this section, Guidelines for Completing Applications for Permits provided in Section 8 and the General Instructions for Permits provided for in 310 CMR 10.00.
- b. Any person filing a Notice of Intent with the Commission under the Bylaw at the same time shall provide a list of abutters as defined in Section 4 of the Regulations.
- c. Written notification of the hearing shall be sent by the Commission, at the expense of the applicant, to the abutters on this list; to the Planning Board; Board of Health; and by publishing the notification in a newspaper of general circulation in Plymouth. In addition, notification shall be given in accordance with the open meeting law, M.G.L. c. 39, s. 23B.
- d. The Commission in an appropriate case may accept as the Notice of Intent and plans under this Bylaw the Notice of Intent and plans filed under the Wetlands Protection Act, M.G.L. c. 131, s. 40.
- e. Submittal Requirements:
 1. A completed Notice of Intent form, dated, signed by the applicant or representative
 2. Definitive plans, hand drawn or engineered (as required), dated, signed by the applicant or engineer, respectively
 3. Locus plan: 8 1/2" x 11" section from a U.S.G.S. quadrangle map with the project area circled
 4. Appendix A form (if applicable), if in an endangered species area (not including plants).
 5. A list of abutters to be notified of the hearing place and time
 6. A signed property access authorization form
 7. The filing fee calculation worksheet with correct fee amount
 8. The correct fee for advertisement of the notice in a newspaper of general circulation in Plymouth
 9. The correct fee for abutter notifications
 10. The correct filing fee
 11. Two copies of all forms and plans submitted

- f. Upon receipt of the application materials referred to in Section 6 C(1) above the Commission shall issue a file number. The designation of a file number shall not imply that the plans and supporting documents have been judged adequate for the issuance of a Permit but only that copies of the minimum submittal requirements contained in the General Instructions have been filed. A sign of not less than two square feet or more than three square feet in size shall be displayed at the site bearing the words "Plymouth Conservation Commission, File Number _____".
- g. In the event that only a portion of a proposed project or activity lies within an Area Subject to Protection Under the Bylaw, all aspects of the project must be described in the detail called for by the Guidelines and General Instructions of 310 CMR 10.00, provided also that in such circumstances the Notice shall also contain description and calculation of peak flow and estimated water quality characteristics of discharge from a point source (both closed and open channel) when the point of discharge falls within an Area Subject to Protection Under the Bylaw.
- h. Notwithstanding the foregoing, when the Commission has determined that an activity outside the Areas Subject to Protection under the Bylaw has in fact altered an Area Subject to Protection under the Bylaw, it may require such plans, supporting calculations, and other documentation as are necessary to describe the entire activity.

2. Incomplete Notice of Intent

- a. If the Commission determines that a Notice of Intent is incomplete or improper, it shall notify the applicant within thirty (30) days of the date of receipt. A Notice of Intent may be considered incomplete if:
 - 1. The procedures in Section 6 C(1) the Guidelines (Section 8), or the General Instructions of 310 CMR 10.00 have not been followed; or
 - 2. Zoning review has not been completed by the Zoning Agent; or
 - 3. A Special Permit or Variance from the Zoning Board of Appeals is required and has not been applied for.

- b. The Commission, at its discretion, may:
 - 1. Return the entire filing, in which case all required time periods for processing that submitted Notice of Intent shall be suspended.
 - 2. Require that additional information or materials be submitted within a specified time period which shall be no longer than the date of the scheduled Public Hearing.
 - 3. Continue a Public Hearing, at the applicant's expense, for a period to be determined by the Commission.
 - 4. Hold a hearing and issue an Order of Conditions prohibiting the project. The Permit or Order shall specify the information which is lacking and why it is necessary.

3. Order of Conditions (same as permit or decision)

- a. Within thirty (30) days of the close of the Public Hearing, the Commission shall issue its decision, in writing, to the applicant.
- b. If the Permit is issued, it shall impose such conditions as are necessary for the protection of one or more of the interests identified in the Bylaw. The Permit shall prohibit any work or portion thereof that cannot be conditioned to protect said interests.

The Permit shall impose conditions upon work or the portion thereof that will in the judgment of the Commission, result in the removing, dredging, filling, building upon or altering an Area Subject to Protection Under the Bylaw. The Permit shall impose conditions setting limits on the quantity and quality of discharge from a point or non-point source both closed and open channel when said limits are necessary to protect the interests identified in the Bylaw.

- c. If the Permit is denied, it shall be for one or more of the following reasons:
 - 1. For failure to meet the requirements of the Bylaw;
 - 2. For failure to submit necessary information or plans requested by the Commission;
 - 3. For failure to meet design specifications, performance standards or other requirements, including submittal requirements, in these Regulations;
 - 4. For failure to avoid or prevent unacceptable or cumulative effects upon the wetland values protected by the Bylaw;
 - 5. Where no conditions are adequate to safeguard the health, safety or welfare of individuals of the Town or the wetland values by the Bylaw.

- d. A Permit shall be valid for three (3) years from the date of its issuance. The Order may be extended for one or more periods of up to three years each by a majority vote of the Commission. An extension must be requested thirty (30) days prior to the expiration date of the Permit.
- e. The Permit shall be signed by a majority of the Commission and shall be sent by certified mail or hand delivered to the applicant.
- f. A copy of the plans describing the work and the Permit shall be kept on file by the Commission and shall be available to the public at reasonable hours.
- g. Prior to the commencement of any work permitted or required by the Order of Conditions or Permit, the Permit shall be recorded in the Plymouth County Registry of Deeds or Land Court for the district in which the land is located within the chain of title of the affected property. In the case of recorded land, the Permit shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Permit shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done. Certification of recording shall be sent to the Commission on the form at the end of the Permit. If work is undertaken without the applicant first recording the Permit, the Commission may issue an Enforcement Order or may itself record the Permit at the expense of the applicant.
- h. The Commission may, for cause, revoke or modify a Permit issued under this Bylaw after public notice and public hearing, and notice to the holder of the Order of Conditions or Permit.
- i. The Commission in an appropriate case may combine the Permit or other action on a Notice issued under the Bylaw with the Order of Conditions issued under the Wetlands Protection Act, G.L.M. c. 131, s. 40.
- j. Appeal: The decision of the Commission may be appealed according to the provisions of the Massachusetts General Laws (see also Section VIII H of the Bylaw).

D. Public Hearings for a Request or Notice

1. A public hearing on a Notice or Request shall be held by the Commission within thirty (30) days of receipt of the minimum submittal requirements set forth in Section 8 of the Regulations and shall be advertised at the expense of the applicant seven (7) working days prior to the hearing in a newspaper of general circulation in the Town of Plymouth and in accordance with the requirements of the open meeting law, G.L.M. c. 39, s. 23B. Notice of the hearing shall be mailed by the Commission to the applicant, the Planning Board, Board of Health and to all abutters, as per Section 6 B(1) and 6 C(1) of the Regulations and Section VIII D and E of the Bylaw.
2. The public hearing generally shall be conducted as follows. However, the order and conduct of any hearing is subject to the Commission's discretion.
 - a. The chairman, or vice-chairman, or a designated public hearing officer, (hereinafter referred to as hearing officer), shall call the meeting to order, and shall read the notice as published.
 - b. The applicant and/or representative (hereinafter referred to as applicant) shall make a presentation of the proposed project. In the absence of the applicant, the hearing officer may opt to:
 1. Delay action until later in the hearing, or
 2. Continue the hearing to another date, or
 3. Act on the Request or Notice without a presentation.
 - c. The Commissioners shall question the applicant.
 - d. The Conservation Agent and other assistant members to the Commission (Consultants) shall question the applicant, through the hearing officer.
 - e. Questions from other town boards shall be addressed to the applicant, through the hearing officer.
 - f. Questions from the public to the applicant shall be addressed, through the hearing officer.
 - g. The hearing officer shall have the option, if applicable, to amend or modify the above outlined procedures.
 - h. The hearing shall then be continued or closed by vote of the Commission.

- i. Any changes in the plans or the proposed work made by the applicant during the course of the public hearings, shall be submitted in the form of a revised plan and shall be filed by the applicant with the Commission. The Commission may require that all boards and agencies be allowed to review said changes prior to the closing of the public hearing. In the event of a minor change in the plan which the Commission deems should not prevent closure of the public hearing, two (2) copies of the revised plan shall be submitted to the Conservation Office prior to the issuance of an Order of Conditions, unless the Commission opts to request such plan in the Order of Conditions. The applicant shall send two (2) copies of the final revised plan to DEP if the plan is intended to apply to a Request, Notice, or Certificate under both the Bylaw and G.L.M. c. 131, s. 40.
3. Public hearings may be continued as follows:
 - a. Without the consent of the applicant to a date certain, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant, deemed necessary by the Commission in its discretion, or comments and recommendations of other local or state boards and officials;
 - b. With the consent of the applicant, to an agreed-upon date, which shall be announced at the hearing; or
 - c. With the consent of the applicant for a period not to exceed thirty (30) days after the submission of a specified piece of information or the occurrence of a specified action. The date, time and place of said continued hearing shall be publicized at the expense of the applicant in accordance with the Bylaw, and notice shall be sent to any person at the hearing who so requests in writing.

E. Forms

Applicants must use forms provided by the Commission. Forms under the Bylaw or Regulations may be combined with those of the Wetlands Protection Act G.L.M. c. 131, s. 40, and 310 CMR 10.00 Regulations or used separately. In either case, the Commission may create, amend or modify such forms and adopt them under the Bylaw or Regulations at a public hearing.

F. Extensions of Permits

1. The Permit may be extended for one or more periods of up to three years each by a majority vote of the Commission. Requests for extension shall be made to the Commission in writing at least thirty (30) days prior to the expiration of the Permit.
2. The issuing authority may deny the request for an extension and require the filing of a new Notice of Intent for the remaining work in the following circumstances:
 - a. When work is not completed or commenced to the satisfaction of the Commission within three (3) years of the issuance of the Permit;
 - b. Where new information, not available at the time that the Order of Conditions was issued, has become available and indicates that the Permit is not adequate to protect the interests identified in the Bylaw;
 - c. Where incomplete work is causing damage to the interests identified in the Bylaw; or
 - d. Where work has been done in violation of the Permit or these Regulations.
3. If issued by the Commission, the Extension Permit shall be signed by a majority of the Commission.
4. The Extension Permit shall be recorded in the Land Court or the Plymouth County Registry of Deeds, whichever is appropriate. Certification of recording shall be sent to the Commission, on the form at the end of the Extension Permit. If work is undertaken without the applicant so recording the Extension Permit, the Commission may issue an Enforcement Order in order to ensure compliance or stop work as necessary or record the extension at the applicant's expense.

G. Certificate of Compliance

1. Upon completion of the activity described in the Notice of Intent in accordance with the Order of Conditions, the applicant or his or her successor in interest shall request the Commission issue, in writing, a Certificate of Compliance stating that the work has been satisfactorily completed in compliance with all conditions set forth in the Order of Conditions. If the original Notice required engineered plans, said request, if required by the Commission, shall be accompanied by an as-built plan certified by a professional engineer, registered in the Commonwealth, certifying that the work conforms to the plans, or specifying how the completed work differs from that shown on the submitted plans. The certificate of Compliance shall be signed by a majority of the Commission.
2. Prior to the issuance of a Certificate of Compliance, a site inspection shall be made by the Commission.
3. If the Commission determines, after review and inspection, that the work has not been done in compliance with the Order of Conditions, or that the project deviates significantly and is impacting an interest of the Bylaw, it may refuse to issue a Certificate of Compliance.
4. A Certificate of Compliance may be issued in the above case, if the applicant either:
 - a. Corrects the deviation; or
 - b. Scales down the project; or
 - c. Restores the area affected to pre-existing conditions; or
 - d. Shows the Commission, to its satisfaction, that the deviation from the Order of Conditions has not impacted an interest of the Bylaw.
5. If the Permit contains conditions which continue past the completion of the work, such as maintenance or monitoring, the Certificate of Compliance shall specify which, if any, of such conditions shall continue. The Certificate shall also specify to what portions of the work it applies, if it does not apply to all the work regulated by the Permit.
6. The Certificate of Compliance shall be recorded in the Land Court or the Plymouth County Registry of Deeds, whichever is appropriate. Certification of recording shall be sent to the Commission on the form at the end of the Certificate of Compliance.

H. Enforcement Orders

1. When the Commission determines that an activity is in violation of the Bylaw, these Regulations or a Final Order, the Commission may issue an Enforcement Order. Violations include, but are not limited to:
 - a. Failure to comply with a Final Order, such as failure to observe a particular condition or time period specified in the Order;
 - b. Failure to complete work described in a Final Order, when such failure causes damage to the interests identified in the Bylaw; or
 - c. Failure to obtain a valid Final Order, or Extension Permit, prior to conducting an Activity Subject to Regulation Under the Bylaw as defined in Section 3 B of the Regulations; or
 - d. Failure to record the Order of Conditions, or Extension Permit, when they are issued as applicable.
2. The Commission may also use any of the enforcement measures, as listed in Section XI of the Bylaw. These include, but are not limited to:
 - a. Any person who violates any provision of the Bylaw Regulations thereunder, or Permits issued thereunder, shall be punished by a fine as provided for in G.L.M. c. 40, s. 21. Each provision of the Bylaw, Regulations, or Permit violated shall constitute a separate offense. This fine may be in addition to any levied under the Wetlands Protection Act, G.L.M. c. 131, s. 40. The fine for each offense under non-criminal disposition shall be fifty (\$50) dollars per day.
 - b. Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this Bylaw or in violation of any Permit issued pursuant to this Bylaw shall forthwith comply with any such order or restore such land to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such person unless commenced within three (3) years following the date of acquisition of the real estate by such person.

SECTION 7. FEES

A. Purpose

The purpose of the fee system is to defray the costs of administering the Bylaw, provide engineering and consultants services, requests for action from the Commission, or to secure and ensure satisfactory performance of work required by any Permit.

B. Authority

1. The filing fee schedule and abutter notification fees are promulgated pursuant to Sections V and VIII of the Bylaw.
2. The project review mechanism of Section VIII of the Bylaw is enabled by Chapter/Article XIII of the Town Bylaws, as amended.
3. The escrow account, performance bond, or other security mechanism used to ensure satisfactory performance of work is detailed in G.L.M. c. 41, s. 81U.

C. Filing Fee Schedule

1. Procedure

a. Time of Payment

At the time of submission of a Notice of Intent, Request for Determination, or request for Certificate of Compliance, Extension Permit the applicant shall pay a filing fee specified below. This fee is in addition to any required by the Wetlands Protection Act, G.L.M. c. 131, s. 40, unless a fee is presently being used, in which case only the state fee will be collected.

b. Waivers of Fee

1. The fee shall only be applied once for projects under both the G.L.M. c. 131, s. 40 and the Bylaw.
2. The Commission shall waive this filing fee for a Notice, Request, or other request for action filed by a government agency.

- c. Disputes over Filing Fees
 - 1. Whenever the Commission determines that an inadequate fee has been paid, the time period for the Commission to act shall be stayed until the balance of the fee is paid.
 - 2. If the applicant disputes all or a part of the balance of the fee, the Commission, if in agreement, shall refund the money owed to the applicant.
 - 3. In lieu of paying any disputed amount of the filing fee under a Notice, the applicant may file a Request for Determination.
 - 4. The applicant may appeal pursuant to the Massachusetts General Laws.
 - 5. In any case, the applicant may bring the matter to the Commission at a regular meeting, prior to filing an application or other request for Commission approval.
- d. Amendments

These fees may be amended as allowed under Section V of the Bylaw.

2. Filing Fee Schedule

The fee amounts for each category or project shall be listed in the "Plymouth Wetlands Bylaw Filing Fee Schedule", as amended, and as adopted pursuant to Section V of the Bylaw. Copies shall be available at the Conservation Office.

The fee schedule shall apply and shall be used to calculate all fees (exclusive of design review fees by expert engineers and consultants) and shall be paid at the time that an application or other request for Commission approval is filed with the Commission.

D. Consultant and/or Design Review Fees

1. In addition to any filing fee imposed, the Conservation Commission may impose reasonable fees for the employment of outside consultants, for specific expert services deemed necessary by the Commission to come to a final decision on an application submitted to the Conservation Commission pursuant to the requirements of the Wetlands Protection Act (GL Ch. 131 § 40), the Plymouth Wetlands Protection Bylaw, Conservation Commission Act (GL Ch. 40 § 8C), as provided by GL Ch. 44 § 53G, bylaw or regulation, as they may be amended or enacted from time to time.
2. Funds received by the Conservation Commission pursuant to these rules shall be deposited with the town treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Conservation Commission as provided in GL Ch. 44 §53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.
3. Fee Waivers

The Commission may waive this design review fee for an application filed by a government agency. The Conservation Commission may waive or reduce any Consultant Fee, if, in the opinion of the Board, unusual circumstances exist regarding the subject property or the applicant.
4. Schedule of Project Review Fees

The following schedule applies to the types of applications to the Conservation Commission set forth below. This schedule supersedes all previous schedules as they may have appeared in the Wetlands By-Laws and any listings, which may have been compiled from time to time for the benefit of applicants. Where more than one type of application has been submitted for Conservation approval, only the largest of the applicable Project Review Fees shall be collected for deposit into the 53G Account, and not the sum of those fees.

The following applications may require an initial consultant fee of \$3,500 charged to reimburse the Commission for reasonable costs and expenses:

 - a. New coastal revetment or coastal engineering structures
 - b. Wetland alteration and replication
 - c. Wetland boundary delineation/ confirmation of ten acres or more
 - d. Other project's as determined by the Commission
5. Specific consultant services may include but are not limited to processing said applications and requests, copying plans and technical submittals for further review,

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contracting for professional services, wetland survey and delineation, hydro geologic and drainage analysis, wildlife habitat, shellfish, and fisheries evaluation, and environmental or land use law.

6. Replenishment

When the balance in an applicant's 53G Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed above, the Conservation Commission shall consider whether to require a supplemental Project Review Fee to cover the cost of the remaining project review.

7. Inspection Phase

After receiving Conservation approval, the Board may require a Supplemental Project Review Fee for the purpose of ensuring the availability of funds during the inspection phase of the review process.

8. Handling of Project Review Fees

The Project Review Fee is to be deposited into a special account as set forth in M.G.L. Ch. 44, §. 53G.

- a. Outside consultants retained by the Conservation Commission to assist in the review of an application shall be paid from this account.
- b. Project Review Fees shall be turned over to the Town Treasurer by the Conservation Commission for deposit into a 53G Account.
- c. A copy of the latest statement from the banking institution handling the 53G Account shall be forwarded from the office of the Town Treasurer to the Conservation office as soon as it is received for timely and accurate accounting.
- d. The applicant may request an accounting of an applicant's funds held in the 53G Account at any time.
 1. The Conservation Commission shall respond to the request in a timely fashion.
 2. This accounting shall include the following information:
 - a. The latest statement from the banking institution handling the account, which should include an accurate, accumulated interest portion to the closing date of the statement if such statements are subdivided into individual applicants' accounts. Otherwise, a statement of principal and interest, prepared by the office of the Conservation Commission, based on the latest statement from the banking institution.
 - b. A report of all checks authorized for issuance since that last banking statement.

- e. An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.
- f. Excess fees in the 53G Account, shall be returned to the applicant or the applicant's successor in interest, at the conclusion of the review process, as defined below. For the purpose of this section, any person or entity claiming to be an applicant's successor in interest shall provide the Commission with documentation establishing such succession in interest.

9. Delinquent Accounts

The following rules apply to fees owed to the Conservation Commission by applicants:

Monthly Interest Charge

All fees past due by one month from the date of invoice shall be subject to a monthly interest charge based upon an annual interest rate of 14%.

Costs of Collection

All costs of collection associate with past due accounts shall be borne by the applicant.

Current Delinquents

All applicants owing fees to the Conservation Commission at the time of any amendment to these provisions of the regulations shall be sent the following:

- a. A duplicate notice of the amount past due.
- b. A copy of the applicable sections of these regulations with all amendments clearly indicated.
- c. Notice of a 30-day grace period before the commencement of any changes in interest rates or charges.

E. Performance Bond

1. Security

The Commission may require the establishment of an escrow account or other security running to the municipality, and sufficient as to form and surety in the opinion of the Commission's Counsel, to secure faithful and satisfactory performance of work required by any permit, in such sums and upon such conditions as the Commission may require.

Notwithstanding the above, the amount of such escrow account or security shall not exceed the estimated cost including inflation of the work required or the restoration of affected lands and properties if the work is not performed as required, whichever is greater. Forfeiture of any such escrow account or security shall be as detailed in Massachusetts General Laws, c. 41, s. 81U.

The Permit conditions shall be observed and/or performed before any lot may be conveyed other than by mortgage deed.

2. For replication projects, the applicant shall provide an escrow bond, as outlined in Section VIII, for the duration of a monitoring program plus one (1) year to cover correction of any deficiencies revealed by the program. Said bond shall, at a minimum, be equal to the initial cost of the replication.

SECTION 8. GUIDELINES (FOR FORMS AND PLANS)

A. Minimum Submittal Requirements for Applications

1. Request for Determination

- a. Refer to Section 5B of the Regulations
- b. Follow these Guidelines (as they apply)

2. Notice of Intent

- a. Refer to Section 6C of these Regulations
- b. Follow these Guidelines (as they apply)

3. Extension Permit

- a. Refer to Section 6F

4. Certificate of Compliance

- a. Refer to Section 6G
- b. Follow these Guidelines (as they apply)

B. Standards (for completeness of Forms and Plans)

1. General

Forms and Plans shall describe the proposed activity and its effect on wetlands, flooding, and off site runoff.

The following items are set out as a minimum standard, and are not intended to be a complete and final presentation as to what the form or plan should include. The applicant may submit, or be required to submit, to the Commission any further information which will assist in the review and which is deemed necessary to determine the proposed effect on the interest protected by this Bylaw. All applications should include the original material and one (1) copy.

All forms, plans, drawings, sketches, and calculations shall be dated, and signed by the person(s) responsible for their preparation. Plans and drawings involving the practice of surveying or engineering shall be stamped and signed by the appropriate (emphasis added) design professional(s) who shall be registered in the Commonwealth of Massachusetts.

Note: For additional information on applications and plan guidelines, consult the General instructions for completing the "Notice of Intent" form, 310 CMR section 10.99 of the Wetlands Protection Act Regulations.

The Plymouth Conservation Commission reserves the right to request additional narrative information on the forms or other information on the plans.

2. Forms

a. Narrative

A discussion of the proposed activity and its impacts on the wetlands functions and values (or interests) as provided for in Section I of the Bylaw and Section 2 of these Regulations must be provided. Section 5 of these Regulations lists several of the interests and some of the Performance Standards which must be addressed. One word answers such as "none" or "minimal" may not be accepted. If the applicant contends that there will be no effect on the interests which the Bylaw protects, the applicant must demonstrate to the Commission's satisfaction why there will be no effect.

b. Failure to provide any of the above items may result in delays and possible rejection of the Notice or Request.

3. Forms

a. Format:

Plans shall be of adequate size, scale and detail to completely and accurately describe the site and the work proposed. The following guidelines are provided to encourage uniformity:

1. Sheet sizes:

- Maximum 24" x 36".
- Where more than one sheet is required to describe the proposed work, provide an additional sheet indexing all other sheets and showing a generalized composite of all work proposed within the Buffer Zone and Areas Subject to Protection Under the Bylaw.

2. Scale:

- Not more than 1" = 50' (1" = 40" is recommended).
- Where plans are reduced, display graphical scales.

3. Margins:
 - For 8.5" x 11" plans, at least 1" left margin for binding, and all other margins at least 1/2 "
 - For plans larger than 8.5" x 11", at least a 2" left margin for binding and all other margins at least 1/2"
4. Title Block:
 - Included on all plans.
 - Located at the lower right-hand corner, oriented to be read from the bottom when bound at the left margin.
 - Include original date, all revision dates, and nature of each revision (inclusive).
 - Applicant's name.
 - Plat and lot number.
5. All revisions shall be demarcated by clouding and copies of such changes shall be given by the applicant to all other Boards (if applicable).

b. Information

Plans shall contain the following information which shall be identified and referenced in a legend, to be included only as applicable, and subject to amendment, waiver or exemption by the Commission.

1. North arrow.
2. Contour Lines.
 - Existing contour lines: broken lines shall be used; the contour interval of such shall be no greater than two feet, up to and beyond the abutters' property lines, as necessary to identify the resource area and upland slopes.
 - Proposed contour lines: solid lines shall be used; the contour interval of such shall be no greater than two feet up to and beyond the abutters' property lines, as necessary to identify the resource area and upland slopes.

3. Resource areas.
 - The vegetated wetland line (indicating type of resource, consecutively numbered and flagged), shall be delineated by color on the plans to be presented at any public hearing.
 - Edge of all resource areas and wetlands, flood plains, and 100-foot buffer to all resource areas shall be clearly identified by lines of different colors on the plans to be presented at any public hearing.
 - Water bodies, including vernal ponds, shall be clearly identified by color on the plans to be presented at any public hearing.
 - Resource areas to be altered in any way shall be clearly identified including cross section showing existing and proposed replication area slopes, elevations, bank and bottom conditions. Cross section areas shall be indicated on the plans.
4. Include location, type and elevation of benchmark used for survey (NGVD elevations are recommended).
5. Structures, etc.
 - Existing stone walls, buildings, rock ridges and out-croppings should be indicated.
 - Location, extent and area of all existing and proposed stockpiles of fill, structures, roadways, paved areas, septic systems, wells, tanks and utility or right of way easements, soil logs for septic systems and detention areas (including water table and aquifer flow directions).
 - Proposed lowest elevations for cellars or floors.
6. Indicate locations, details of erosion and sedimentation control devices (i.e. - silt fences, haybales, etc.) and the distance from the resource areas and structure or activity on the plan.
7. Outward limits of work or activity, if different from the haybales or silt fence line, will be designated via proposed staked, and/or flagged areas, or construction fence.
8. Vegetated buffer of naturally occurring plant material along all wetlands and water bodies. A minimum buffer width of 25' is recommended.

9. The following NOTE should be included on the plan: "Attention: The work proposed on this plan is allowed by an Order of Conditions issued by the Plymouth Conservation Commission which includes strict standards and requirements. No work is to proceed until the contractor has reviewed and agreed to abide by all conditions therein by notation on said plan."
10. In addition to a top (or plan) view, the Commission recommends that a cross sectional plan view be submitted showing all relative elevations (proposed and existing) and distances to the resource area.
11. A color scheme is to be outlined on the plan for all markers or flags on the site.
12. Additional requirements: The Commission may require additional information which it deems relevant to any review under the Bylaw and the Regulations including, but not limited to:
 - Existing and proposed location, rim elevation and invert elevation of all catch basins, drains, culverts and other drainage structures immediately upstream and downstream of the site, as well as on-site.
 - Include proposed on-site pollution control devices, such as oil absorption pillows, hooded catch basins, flow dissipaters, detention basins with baffled headwall, gas traps, retention basins and vegetative buffers.
 - The drainage basin in which the site is located should be delineated on the locus plan as well as any municipal water supply well within that drainage basin.
 - Calendar dates and locations of measurements and samplings including but not limited to groundwater tests, soil borings, habitat evaluations and water testing.
 - Indicate soil characteristics in representative parts of property as identified in the Plymouth County Soil Conservation Survey.

4. Calculations/Technical Data
(reserved)

C. Field Requirements

Prior to the Commission's pre-hearing onsite inspection, the following onsite preparation requirements shall apply unless amended, waived or exempted by the Commission:

1. The wetland or resource boundary or bordering vegetated wetland (BVW) line shall be delineated by consecutively numbered, initialed flags or stakes at intervals of no greater than 50'; each flag or stake number being incorporated on the submitted plan. All wetlands resources are to be flagged or staked.
2. All flags or stakes delineating the BVW or other resource area shall remain in place until a Certificate of Compliance is issued by the Commission.
3. Stakes or flags are to be used to indicate the proposed road and driveway; house, garage and deck corners; other proposed structures and septic systems; and the limits of work including landscaping and grading. They also must correspond to the plan submitted.
4. The applicant shall delineate the limit of filling line on the site by means of easily identifiable stakes in the ground.
5. All staked and flagged areas are to be distinctly colored and readily visible.

The Commission recommends the following:

- Florescent orange flags for the delineation of the resource area boundary or the bordering vegetated wetland (BVW) line.
 - Florescent yellow flags or stakes to designate the outward limits of excavation, activity, or disturbance to the area. Can also be used to mark the haybale line if both are identical and haybales have not been installed.
 - Blue flags or stakes to mark the corners or limits of houses, garages, decks, septic systems, driveway, roads, etc.
6. When erosion control is necessary, sediment barriers are to be installed (prior to construction) but do not need to be installed prior to the applicant's hearing and the Commission's on site inspection. Barriers shall include, but not be limited to double staked haybales properly secured and back filled, or sediment filter fabric staked and properly back filled or toed in. Where the slope is 2:1 or greater, snow fence may need to be installed upgradient of the sediment barriers to protect them.

7. A haybale/silt fence combination is recommended for surrounding sediment stockpiles, steep slopes or large areas of unstable areas. Sediment barriers are to remain in place and maintained until a Certificate of Compliance is issued by the Commission.
8. The applicant, project engineer(s) or contractor(s) are responsible for complying with the requirements set forth in Section 8C of the Regulations.
9. The Plymouth Conservation Commission reserves the right to request additional information or action at the site, if applicable to the project.
10. Failure to comply with the requirements may result in a continued hearing or enforcement action.

SECTION 9. ADDITIONAL REGULATIONS FOR COASTAL WETLANDS
(reserved)

SECTION 10. ADDITIONAL REGULATIONS FOR INLAND WETLANDS
(reserved)

SECTION 11. SEVERABILITY

The invalidity of any section or provision of the Regulations shall not invalidate any other section or provision thereof, nor shall it invalidate any Permit or Determination which previously has been issued.

If any Court of competent jurisdiction shall invalidate any provision of the Bylaw or of the Regulations, the Commission shall promulgate additional regulations which are designed to comply with any Court decision, to be presented to the next Town Meeting for adoption after such invalidation.

SECTION 12. EFFECTIVE DATE

The effective date of these regulations shall be on April 23, 1990 as approved at the Annual Town Meeting 1990. The provisions of these Regulations shall apply to all work performed, and all Requests, Notices, or other actions filed or requested of the Commission related thereto, on or after this date.

SECTION 13. EXEMPTIONS

(Amended at April Town Meeting, April 4, 1998)

Exempt from these Rules and Regulations are alterations of land in connection with existing single family and two-family dwellings (residences) and additions thereto on any lot of record as of the effective date of these Rules and Regulations (April 23, 1990), provided such impact to a wetland resource is otherwise lawful under Massachusetts General Law Chapter 131, Section 40, as amended. This Exemption does not authorize so called “clear cutting” or the removal of vegetation in a wetland resource area, or the buffer, thereto.