RULES AND REGULATIONS
FOR
PLYMOUTH WETLANDS PROTECTION
BYLAW

Chapter 196 of the Town of Plymouth Wetlands Bylaws

2021
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FOR
PLYMOUTH WETLANDS PROTECTION REGULATIONS

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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 a significant or cumulative impact 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

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)).

SECTION 3. JURISDICTION

A. Resource Areas Subject to Protection ("Resource Area")

1. Any freshwater wetland,
   any coastal wetland,
   any marsh,
   any meadow,
   any bog,
   any swamp,
any bank, any beach, any dune, any flat, any vernal pool, any vegetated or un-vegetated 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 Sections 3A 1. and 3A 2. above.

4. Any land subject to flooding or inundation by: groundwater, surface water, tidal action, coastal action, or coastal storm flowage.

5. Land within 200 feet of the bank or Mean Annual High-Water line of any river, stream, creek continuously flowing throughout the year toward a body of water. This area shall hereafter be called the Riverfront Area.

6. Any land within 100-feet of any area identified in Sections 3A 1 through 3A.3 above, hereinafter referred to the “Buffer Zone Resource Area (BZRA)”.

7. Any land within 100 feet of a Vernal Pool (certified or uncertified).

8. In an Area of Critical Environmental Concern (ACEC) a “No adverse effect performance standard” shall apply.

**B. Activities Subject to Regulation**

1. Any activity proposed or undertaken which will constitute removing, filling, dredging, altering any area specified in Sections 3A 1. through 3A 7. above is subject to regulation and requires the filing of a Notice of Intent (hereinafter referred to as "NOI").
2. Any activity proposed or undertaken within the BZRA as defined in Section 3A 6 is subject to regulation and may require the filing of a NOI or a Request for a Determination of Applicability (RDA) or other authorization.

3. Any activity proposed or undertaken outside the areas specified in Section 3A above, shall not be subject to regulation unless, in the judgment of the Commission, said activity has resulted in the removing, filling, dredging, building upon, or altering a Resource 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 or regulation may, in writing, file a RDA with the Commission. Such a request shall be submitted pursuant to Section VIII J of the Bylaw and Section 6 of the Regulations.

SECTION 4. GENERAL PROVISIONS

A. Burden of Proof and Going Forward

1. The applicant shall have the burden of going forward with credible evidence from a competent source in support of all matters asserted by the applicant in accordance with his/her burden of proof.

2. The applicant shall have the burden of proving, by a preponderance of the evidence, that the proposed work, as described in the application and presented at the public hearing, will protect the interests of the resource areas as described in §§ 9 and 10 of these regulations. The applicant must submit credible evidence that the proposed activity will not have significant or cumulative impact on the protected resource areas. Failure to meet the Burden of Proof shall be cause for the Conservation Commission to issue a denial on the proposal and any work or activity proposed therein.

B. Special Flood Hazard Regulations

Some coastal resource areas are subject to ongoing erosion, over wash and storm alteration. As such, these areas are not suitable for construction of septic systems.

1. To ensure protection of all other interests of the Bylaw, no new or enlarged septic systems shall be allowed in the FEMA V Zone, VE Zone, and floodways where there is actively shifting sand (i.e., barrier beaches and dunes). This does not apply to any other FEMA flood zones as shown on the most recent Flood Insurance Rate Map.

2. In all circumstances, regardless of location, the Commission encourages the use of alternative waste disposal systems (e.g., composting toilets, incinerating toilets and other technologies).
C. Incorporation

Where these regulations differ from the State regulations, they shall take precedence over the State regulations. The applicant should first address the regulations in 310 CMR 10.00 et seq. and then address any and all additional or differing content of the Plymouth Wetland Regulations.

D. Reservation

These regulations should not be construed to limit the Commission's authority under the Plymouth Wetlands Bylaw. The Commission reserves the right to act in a manner consistent with the bylaw upon any matter within its jurisdiction.

E. Amendments

Amendments to these regulations shall be made in the manner set forth in Section V. of the Plymouth Wetlands Bylaw.

F. Effective Date

The effective date of these Rules and Regulations as Amended shall be April 2, 2019. (Also see Section 14)

G. Severability

Should any portion of these regulations be declared invalid by a decision of the court, the legislature or other body having jurisdiction, the remainder of these regulations shall remain in full force and effect.

SECTION 5. DEFINITIONS

The following definitions apply to the interpretation and or application of these regulations. Unless otherwise defined herein, definitions found in 310 CMR 10.00 also shall apply to these regulations:

Abutter: Persons appearing on the Town of Plymouth Assessor's most recent valuation list as owners of property within a distance of 100' of the property lines of the lot on which the jurisdictional work is to be performed.

Aesthetics: Retention or improvement of natural conditions, including natural lighting, sounds, odors, significant trees, and viewshed as at the time are experienced by the general public from public ways, including waterways. Activities in or within 100 feet of any resource area shall not have significant effects on aesthetic values.

Adaptation: Measures designed or intended to protect resource areas from the impacts of rapid climate change (RCC) and to protect the ability of resource areas to mitigate the
impacts of RCC through providing measures that enhance the interests protected by the Bylaw (the resource area values and functions).

**Administrative Review:** A process by which the Commission delegates limited authority to its Agent(s) to make binding decisions on limited matters, based on the Commission’s instructions.

**Alter:** To change the condition of any Area Subject to Protection under the Bylaw. The term "alter" shall include, but not be limited to, the following activities when undertaken to, upon, within, or affecting resource areas protected by this bylaw:

- Removal, excavation, or dredging of soils, sand, gravel, or aggregate materials of any kind;
- Changing preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics, drainage or other disturbances of surface or ground water elevations;
- Dumping, discharging or filling with any material;
- Placing of fill, or removal of material;
- Driving of piles or erection of buildings, placing of obstructions or objects in water (other than boats, fish, or shellfish traps, pens or trays used in conjunction with aquaculture, or aids to navigation);
- Destruction of plant life, including cutting of trees and brush.
- Effecting a change in water temperature, biochemical oxygen demand (BOD), or other physical or chemical characteristics of water, and use of chemicals for plant or pest control;
- Any activities, changes, or work, which may cause, contribute to, or tend to contribute to pollution or contamination of any Resource Area;
- Test pits (e.g. PERC Tests or geotechnical excavations) for the purpose of preparing an application to the Commission are excluded from the definition of "Alter" set forth in the Wetlands Protection By-Law, provided that no trees larger than 3” in diameter are removed or cut. Any disturbed area that is not within the limit of work shall be restored to its previous undisturbed condition.
- Any incremental activity that has or may have a cumulative adverse effect on the Resource Area Values protected by the Bylaw

**Exclusions:**

- Normal landscaping maintenance activities are excluded from the definition of "alter" set forth in the Plymouth Wetlands Protection By-Law. (e.g., mowing of lawns, maintenance of existing planted gardens, etc.)
- Spreading pesticide, herbicide, or lawn fertilizer, within the Buffer Zone Resource Area shall not be considered normal landscaping maintenance, without a Right-of-Way Management Plan (333 CMR 11.00).
- Changing the elevation of any area greater than 10 square feet by more than 1 foot and any incremental activities which have, or may have, a cumulative impact on
the Functions and Values of protected Resource Areas shall be considered to satisfy the definition of "Alter" set forth in the Plymouth Wetlands Protection By-Law.

Applicant: The individual filing a Notice of Intent, Request for Determination of Applicability, Request for Amended Order or Abbreviated Notice of Resource Area Delineation, or on whose behalf one is filed before the Plymouth Conservation Commission.

Aquifer: An underground layer of permeable rock, sediment (usually sand or gravel), or soil that yields water. The pore spaces in aquifers are filled with water and are interconnected, so that water flows through them and supplies water for wells and springs.

Aquaculture: Land presently and primarily used in the growing of aquatic organisms under controlled conditions, including, but not limited to one or more of the following: raising, breeding or producing a specified type of animal or vegetable life including, but not limited to, municipal shellfish propagation, finfish such as carp, catfish, black bass, flatfishes, herring, salmon, shad, smelt, sturgeon, striped bass, sunfishes, trout, whitefish, eel, tilapia; shellfish such as oysters, clams, periwinkles, scallops, mussels, squid; crustaceans such as shrimp, crabs, lobster, crayfish; amphibians such as frogs; reptiles and turtles; seaweeds such as Irish moss and dulse; and edible freshwater plants.

Normal Maintenance or Improvement of Land in Aquacultural Use means the following activities, when done in connection with the production of aquatic organisms as defined above: draining, flooding, heating, cooling, removing, filling, grading, compacting, raking, tilling, fertilizing, seeding, harvesting, filtering, rafting, culverting or applying chemicals in conformance with all state and federal laws; provided, however, that such activities are clearly intended to improve and maintain land in aquacultural use and that best available measures are used to ensure that there will be no adverse effect on wetlands outside the area in aquacultural use, and further provided that removing, filling, dredging or altering of a salt marsh is not to be considered normal maintenance or improvement of land in aquacultural use.

Area of Special Flood Hazard: The land in the floodplain subject to a one percent or greater chance of flooding in any given year (100-year flood). The area may be designated as Zone A, AE, V or VE.

Area of Critical Environmental Concern (ACECs): Places in Massachusetts that receive special recognition because of the quality, uniqueness and significance of their natural and cultural resources. These areas are identified and nominated at the community level and are reviewed and designated by the state’s Secretary of Energy and Environmental Affairs. ACEC designation creates a framework for local and regional stewardship of critical resources and ecosystems. Currently there are two (2) ACEC designated areas: Herring River ACEC and the Ellisville Harbor ACEC. As a result of such designation, it is incumbent upon the Commission to be even more diligent in its review of projects proposed within such areas. The highest standards of scrutiny as to the
impact of any proposal are required shall be exercised by the Commission. Further, close scrutiny shall be given by the Commission to any proposals within 100 feet from a resource area within an ACEC.

Avoid – Minimize – Mitigate Calculus: The methodology used by an Applicant to demonstrate that all of the alternatives to development and disturbance within a Resource Area have been considered and addressed. For example, the Applicant shall demonstrate to the Commission in the Project Narrative that every effort has been made to avoid disturbing the Wetland Resource Areas through the project design process. If the disturbance cannot be avoided, what measures the Applicant has employed to minimize the amount of disturbance within the Wetland Resource Area. Finally, if the Wetland Resource Area could not be avoided and the minimum amount of disturbance has been established, what measures the Applicant shall take to mitigate the proposed unavoidable disturbance(s).

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year (100 Year Flood).

Best Available Measures: The most up-to-date technology or the best designs, measures or engineering practices that have been developed and that are commercially available.

Best Practical Measures: Current technologies, designs, measures, or engineering practices that are in general use to protect like or similar interests.

Bog: Areas where standing or slowly running water is near or at the surface during a normal growing season and where a plant community has a significant portion of the ground or water surface covered with Sphagnum moss (Sphagnum) and where the plant community is made up of a significant portion of one or more, but not limited to nor necessarily including all, of the following plants or groups of plants: aster (Aster nemoralis), azaleas (Rhododendron canadense and R. viscosum), bog cotton (Eriophorum), wild cranberry (Vaccinium macrocarpon), high-bush blueberry (Vaccinium carymbosum), laurels (Kalmia augustifolia and K. polifolia), leatherleaf (Chamaedaphne calyculata), orchids (Arethusa, Calopagon, Pagonia), pitcher plants (Sarracenia purpurea), sedges.

Note: Cranberry Bogs under active agriculture are not included in this definition.

Bordering: As long as any one Resource Area (Section 3); touches any other Resource Area, it is bordering. Coastal Resource Areas may border on freshwater Resource Areas.

Buffer Strip: A strip of dense, vegetative cover between the development activity and the resource area to be protected, consisting of indigenous plant materials suitable for the maintenance of wildlife, both flora and fauna. The Buffer Strip shall be at least twenty-five feet (25’) and up to thirty-five (35) feet in width running along the resource area boundary as determined by the Commission.
Buffer Zone Resource Area: Any land within 100-feet of any area identified in Sections 3 A 1 through 3 A 3 above.

Coastal High Hazard Area: The area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on the most recently adopted Flood Insurance Rate Map (FIRM) as the V Zone and VE Zone.

Culvert: A drain, pipe or channel crossing under the land conveying water, usually under a road.

Cumulative Effect: An effect that is significant when considered in combination with other activities that have occurred, are going on simultaneously or that are likely to occur, whether such other activities have occurred or are contemplated as separate phases of the same project, such as the build-out of a subdivision, industrial/commercial park projects or unrelated, but reasonably foreseeable actions, including other development projects that are currently under construction, under review or that may be expected to come forward.

Development: Any manmade change to improved or unimproved real estate, including, but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Dunes: An elevated resource composed of accumulations of sand and/or over wash, or may be sediment or sand deposited by artificial (human) means, usually to serve the purpose of storm damage prevention or flood control. Dunes that are undisturbed appear as hills, mounds, or ridges of sand and are typically vegetated with beach grass and shrubs. The more or less continuous ridge of dunes parallel to, and just inland of the beach, is termed the “primary dune”.

Erosion Control Barrier (ECB): The methods and materials used to prevent the wearing away of soil or undermining of the land associated with protecting resources and adjoining land areas. Sedimentation Control refers to the control of sediments and other waterborne material which would have an adverse effect on wetland functions. The ECB is to be maintained and repaired as necessary, until the disturbed area is stabilized and revegetated. The ECB must be described in the Project Narrative and shown on the submitted Plan.

Federal Emergency Management Agency (FEMA): Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for the development in the flood hazard areas. Flood Boundary and Floodway Map: The official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway, (in Plymouth the floodway designation is included on the FIRM).
**Flood Insurance Rate Map (FIRM):** An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**Flood Insurance Study:** An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

**Functions and Values:** Resource Area functions are defined as a process or series of processes that take place within a particular Resource Area. These include the storage of water, transformation of nutrients, growth of living matter, and diversity of vegetation, and they have value for the Resource Area itself, for surrounding ecosystems, and for people. Functions can be grouped broadly as habitat, hydrologic, or water quality. For example, the value of a Resource Area for recreation (hunting, fishing, bird watching) is a product of all the processes that work together to create and maintain the Resource Area. Resource Area functions have value on several levels—internal, local, regional, and global. All Resource Area functions are internal, but the values or benefits of these functions can be internal or external to the Resource Area. Functions that provide internal values are the functions that maintain or sustain the Resource Area and are essential to its continued existence.

**Ground Water:** The water beneath the surface of the ground, consisting largely of surface water (e.g., precipitation, streams or ponds) that has seeped down and is held in pervious rocks and sediments.

**Impacts of Climate Change:** Includes but are not necessarily limited to, extreme heat, the timing, frequency, intensity, and amount of precipitation, storm surges and rising water levels, increased intensity and/or frequency of storm events or extreme weather events, and frequency, intensity and duration of droughts.

**Intermittent stream:** Means a stream channel that contains flowing water for only a portion of the year.

**Issuing Authority:** In the Town of Plymouth, both under state wetland regulations and under the local bylaw, the issuing authority is the Conservation Commission, which is responsible for:

- Making and publishing rulings on Requests for Determination of the Applicability (RDAs) of wetlands rules and regulations to proposed projects, and
- Enumerating Orders of Conditions which establish parameters for projects prior to their undertaking, following the submission and review of Notices of Intent.
(NOIs); such parameters apply to projects in process and may include elements that are permanently attached to property deeds.

**Lake**: An area filled with water, localized in a basin, surrounded by land, apart from any river or other outlet that serves to feed or drain the lake. Most lakes are fed and drained by rivers and streams. Lakes are normally much deeper than ponds and have a larger surface area. All the water in a pond is in the photic zone, meaning ponds are shallow enough to allow sunlight to reach the bottom. Lakes have aphotic zones, which are deep areas of water that receive no sunlight, preventing plants from growing.

**Lawfully Located Structure or Facility**: Such structure is one that had a building permit and any other permit required by law or regulation at the time of its construction and was constructed in accordance with state and local laws and regulations or one which, by virtue of state law or local zoning by-law, is deemed to be in compliance with applicable regulations or as to which no action may be taken to compel its removal.

**Limit of Work**: This limit is the boundary beyond which no work may take place. Permission of the Commission must be granted in advance for any work beyond the Limit of Work.

**Lowest Floor**: The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

**Lowest Structural Member**: On an elevated building, the lowest beam, joist, or other horizontal member that supports the building is the lowest horizontal structural member.

**Mean Annual High-Water Line**: With respect to a river, is the line that is apparent from visible markings or changes in the character of soils or vegetation due to prolonged presence of water and which distinguishes between predominantly aquatic and predominantly terrestrial land. The mean high tide line shall serve as the mean annual high-water line for tidal rivers.

**New Construction**: For floodplain management purposes, structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, new construction means structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

**NFIP**: National Flood Insurance Program. The National Flood Insurance Program provides flood mapping services and flood insurance programs to help reduce the socio-economic impact of floods.
No Touch Buffer Zone Resource Area (0 ft to 35 ft): An area where no development, alteration, removal, dredging or filling is allowed without a Waiver, as described in §11 of these regulations.

No Build Buffer Zone Resource Area (35 ft to 50 ft): An area where no new structure(s) is/are allowed without a Waiver, as described in §11 of these regulations.

Obstructions or Objects in Water: Structures in the water not limited to dams, weirs, sluice gates, jetties, groins, breakwaters, piers, docks, sea walls, bulkheads, pilings, dolphins, marine railways, slips and floats.

Ocean: Refers to the Atlantic Ocean and all contiguous waters subject to tidal action.

One-Hundred-Year Flood: See Base Flood.

Order: An Order of Conditions, Superseding Order or Final Order, whichever is applicable, issued pursuant to M.G.L. c. 131, s.40 or these regulations

Order of Conditions: The document issued by a conservation commission containing conditions that regulate or prohibit an activity under M.G.L. c. 131, s. 40 or these regulations.

Party: Party to any proceeding means the Applicant, the Conservation Commission and, pursuant to Section 1.05, may include the owner of the site, any abutter, any person aggrieved, or any ten residents of the town of Plymouth.

Paths: Walkways which provide pedestrian access to the resource area, scenic vista or destination. Paths are to be less than 30 inches wide for private use and less than three feet wide for public access on conservation property. (Exceptions are allowed for ADA compliance.) Paths are to be unpaved (permeable surface) with natural surfacing preferred (i.e., sand, soil or duff). No trees greater than 3" in diameter are to be cut in its construction.

Perennial Stream: A natural flowing body of running water, including those called brooks and creeks, that moves in a definite channel in the ground due to hydraulic gradient, and which flows within, into or out of an Area Subject to Protection under the By-Law (lake, pond ocean or other stream) all year long, except in years of drought.

Permit: The document issued by the Commission containing conditions, which regulate or prohibit an activity under the Town of Plymouth Wetlands Protection Bylaw, Section VIII and these regulations. The Commission in an appropriate case may combine the permit or other action on an application issued under these regulations with the Order of Conditions issued under the Wetlands Protection Act, M.G.L. c. 131, s. 40.

Person Aggrieved: Any person who, because of an act or failure to act by the issuing authority, 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 Conservation Commission to determine whether or not the person is in fact aggrieved.

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

Pond (Coastal): Ponds that form a vital buffer zone between terrestrial and marine ecosystems. Contaminants such as sediment, nitrates and phosphates are filtered out by salt ponds before they can reach the ocean. The depth, salinity and overall chemistry of these dynamic salt ponds fluctuate depending on temperature, rainfall, and anthropogenic influences such as nutrient runoff.

Pond (Inland): Any open body of fresh 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 has a surface area of 10,000 square feet or more. For purposes of this definition, extended drought shall mean any period of four or more months during which the average rainfall for each month is 50% or less of the ten year average for that same month. Basins or lagoons which are part of waste water treatment plants shall not be considered ponds, nor shall swimming pools or storm water management structures/systems or facilities that are purposely constructed in accordance with an approved plan (e.g. Definitive Subdivision, site plan etc.).

Prevention of Pollution: The prevention or reduction of contamination of surface or ground water.

Previously Disturbed Area (PDA): An area may be determined by the Commission to be a Previously Disturbed Area (PDA) where natural vegetation has been removed or otherwise legally modified and/or the soil has been removed, altered or legally modified.

- Modifications made to an area within 100 feet of a Wetland Resource Area prior to July 18, 1972 (Enactment of Wetlands Protection Act) or after July 18, 1972 with a permit from the Conservation Commission are considered to be a PDA.
- Modifications made to an area within 200 feet of a Perennial Stream prior to August 7, 1996 (Enactment of the Rivers Protection Act) or after August 7, 1996 with a permit from the Conservation Commission are considered to be a PDA.
- Areas that have not been legally modified shall not be considered PDAs for the purposes of the Town of Plymouth Wetlands Bylaw and Wetland Rules and Regulations.
- PDAs can include, but are not limited to, areas such as parking lots, established lawn areas, non-native landscaped areas, patios and areas with active agricultural
uses. Modified areas do not include areas where brush has been removed or limbs trimmed without any other modifications to the soil or the site.

- The burden of proof is on the applicant to show, by a preponderance of evidence that the area meets the Commission’s definition of a PDA. For the purposes of the Town of Plymouth Wetlands Bylaw and Wetland Bylaw Regulations, a PDA considered legally modified will cease to be legally modified PDA after three years of non-use or abandonment and will be considered non-disturbed area.

Private Water Supply: Any source or volume of surface or ground water demonstrated to be in any private use or demonstrated to have a potential for private use.

Protection of Fisheries: The protection of the capacity of a Resource Area:

- To prevent or reduce contamination or damage to fish (Fish includes all species of fresh water and saltwater fin fish and shellfish); and
- To serve as their habitat and nutrient source.

Protection of Land Containing Shellfish: Protection of the capacity of a Resource Area:

- To prevent or reduce contamination or damage to fish; and
- To serve as their habitat and nutrient source.

Note: Fish includes all species of freshwater and saltwater fin fish and shellfish.

Public Water Supply: Any source or volume of surface or ground water demonstrated to be in public use or approved for water supply pursuant to M.G.L. c. 111, s. 160 by the Division of Water Supply of the Department of Environmental Protection or shown to have a potential for public use.

Outer Buffer Zone Resource Area: The portion of the Buffer Zone located between 50 feet and 100 feet from the delineated Wetland Resource Area.

Quorum: The majority of the duly appointed members of the Conservation Commission that when duly assembled is legally empowered to transact business.

Recreation: Any leisure activity or sport taking place in, on, or within a resource area which is dependent on the resource area and its values, directly or indirectly, for its conduct and enjoyment. Recreational activities included but are not limited to the following: noncommercial fishing and shellfishing, hunting, boating, swimming, walking, painting, bird watching and aesthetic enjoyment. Structures and/or activities in or within the Buffer Zone Resource Area shall not have significant effect on public recreational values. Notwithstanding this definition, new or expanded recreational activities shall not have a significant effect on other wetland values identified in Section I of the By-law.
Remove: To take away any type of material, thereby changing an elevation, either temporarily or permanently.

Request for Determination of Applicability: A written request made by any person to the Conservation Commission for a determination as to whether a site or the proposed activity thereon is subject to the By-Law and these Regulations.

Resource Area: Synonymous with Area Subject to Protection under the Regulations, each one of which is enumerated in Section 3A of these regulations.

River: A natural flowing body of water that empties into any ocean, lake, or other river and which flows throughout the year. All water features that are shown as perennial on USGS quadrangles and which are not great ponds are included in this definition.

Riverfront Area: The land between a river's mean annual high-water line and a parallel line located 200 feet away, measured outward horizontally from the river's mean high water line. There is no Buffer Zone Resource Area associated with riverfront areas.

Salt Marsh: A coastal wetland that extends landward up to the highest high tide line, that is, the highest spring tide of the year, and is characterized by plants that are well adapted to or prefer living in, saline soils. A salt marsh may contain tidal creeks, ditches and pools.

Spring Tide: The tide of the greatest amplitude during the approximately 14-day tidal cycle. It occurs at or near the time when the gravitational forces of the sun and the moon are in phase (new and full moons).

Sedimentation Control: The prevention or reduction of the collection or concentration of sand, soil or rock fragments by the action of water, wind, ice or gravity.

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 that interest.

Significant Adverse Effect: Any activity which is determined by a vote of the Commission to be likely to result in a significant adverse effect of the functions and values of a resource area.

Special Flood Hazard Area: An area having special flood and/or flood-related erosion hazards, and shown on the currently adopted FIRM, as Zone A, AE, or VE.

Spring Tides: Those tides which occur with new and full moons and which are perceptibly higher and lower than other tides.

Start of Construction: Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the
permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, or floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. Except where demolition of an existing structure is involved the start of construction shall include all demolition activities.

Storm Damage Prevention: The prevention of damage caused by water from storms, including but not limited to; erosion and sedimentation; damage to vegetation, property or buildings; or damage caused by flooding, waterborne debris or waterborne ice.

Stream: A body of running water, including brooks and creeks, which move in a definite channel in the ground due to hydraulic gradient. A portion of a stream may flow through a culvert or beneath a bridge. A stream may be intermittent (e.g. does not flow throughout the year) or perennial (e.g. flows all year long, except during years of drought).

Structure: Something built or erected.

Vegetated Wetlands: Freshwater wetlands which do or do not border on creeks, rivers, streams, ponds and lakes, and may be isolated. It is an area of at least 500 square feet where the surface or ground water, or ice is at the surface and supports a community of wetland indicator plants.

The types of freshwater wetlands are wet meadows, marshes, swamps, and bogs. They exist where soils are saturated and/or inundated by water such that they support a predominance of wetland indicator plants. The ground and surface water regime and the vegetation community which occur in each type of freshwater wetland are specified in M.G.L. c. 131 s. 40. The boundary of Vegetated Wetlands is the line within which 50% or more of the vegetation community consists of wetland indicator plants and saturated or inundated conditions exist.

Wetland indicator plants shall include but not necessarily be limited to those plant species identified in the Act. Wetland indicator plants are also those classified in the indicator categories of Facultative, Facultative+, Facultative Wetland-, Facultative Wetland, Facultative Wetland+, or Obligate Wetland in the National List of Plant Species That Occur in Wetlands: Massachusetts (Fish & Wildlife Service, U.S. Department of the Interior, 1988) or plants exhibiting physiological or morphological adaptations to life in saturated or inundated conditions.

Areas containing a predominance of wetland indicator plants are presumed to indicate the presence of saturated or inundated conditions. Therefore, the boundary as determined by 50% or more wetland indicator plants shall be presumed accurate when:
• All dominant species have an indicator status or obligate, facultative wetland+, facultative wetland, or facultative wetland- and the slope is distinct or abrupt between the upland plant community and the wetland plant community.
• The area where the work will occur is clearly limited to the Buffer Zone Resource Area.
• The Conservation Commission determines that sole reliance on wetland indicator plants will yield an accurate delineation.

When the Plymouth Conservation Commission has a question as to whether a Resource Area delineation is accurate or to overcome the presumption, credible evidence shall be submitted by a competent source demonstrating that the boundary of Vegetated Wetlands is the line within which 50% or more of the vegetational community consists of wetland indicator plants and saturated or inundated conditions exist. The issuing authority must evaluate vegetation and indicators of saturated or inundated conditions if submitted by a credible source, or may require credible evidence of saturated or inundated conditions sufficient to support wetland indicator plants, such evidence shall include one or more of the following:

• Groundwater, including the capillary fringe, within a major portion of the root zone;
• Observation of prolonged or frequent flowing or standing surface water;
• Characteristics of hydric soils.

Where an area has been disturbed (e.g., by cutting, filling, or cultivation), the boundary is the line within which there are indicators of saturated or inundated conditions sufficient to support a predominance of wetland indicator plants, a predominance of wetland indicator plants, or credible evidence from a competent source that the area supported or would support under undisturbed conditions a predominance of wetland indicator plants prior to the disturbance.

**Vernal Pool:**

A Vernal Pool is:

• Any confined basin or depression which, at least in most years, holds water for a minimum of two consecutive months during the spring and/or summer,
• Is free of adult predatory fish populations, and
• Provides essential breeding and rearing habitat functions for amphibian, reptile, or other vernal pool community species, as well as being a source of food and water for other animals (vernal pools are extremely productive, valuable ecosystems).
• Sites confirmed as vernal pools, according to criteria used by the Natural Heritage and Endangered Species Program (the “Program”) are to be protected as resources under the local regulations even if the Program has not certified the sites as vernal pools.
**Note:** Excluded from this Vernal Pool definition are depressions occurring in existing cultivated lawns, gardens, landscaped areas, or driveways, unless indicator species are present and documented.

**Violation Notice:** The non-criminal enforcement mechanism used by the Plymouth Conservation Commission under the Plymouth Wetlands Protection By-Law (§196-11 A through E).

**Watercourse:** A stream wholly or partially man-made.

**Wet Meadow:** A wet meadow is a type of wetland with soils that are saturated for part or all of the growing season.

**Wetlands:** Resource areas specified in Section 3A.

**Wildlife:** All non-domestic animals, both vertebrate and invertebrate, and the habitat required by these animals for nesting, cover, and food; including but is not limited to species listed by state and federal agencies as endangered, threatened, or of special concern. The preservation of indigenous vegetation, including dead trees and dense understory, is essential to the support (i.e. cover, food, nesting) of wildlife populations.

**Zone A:** On the most recently adopted Flood Insurance Rate Map (FIRM), means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

**Zone AE:** On the most recently adopted Flood Insurance Rate Map (FIRM) means the 100-year floodplain where the base flood elevation has been determined.

**Zone V:** On the most recently adopted Flood Insurance Rate Map (FIRM) means a special flood hazard area along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action). Base flood elevations have not been determined.

**Zone VE:** On the most recently adopted Flood Insurance Rate Map (FIRM) means a special flood hazard area along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action). Base flood elevations have been determined.

**Note:** Flood Zones do not have Buffer Zone Resource Areas associated with them under the By-law.
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. 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, when voting on the matter.

3. 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. Applications

1. Request for Determination of Applicability (RDA)
   
   (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 certified abutters list (available from the Assessor’s Office for a nominal fee).

   (c) The Commission, at the expense of the applicant, shall publish the notice of the hearing in a newspaper of general circulation in Plymouth and mail the Abutter Notifications. In addition, notice shall be given in accordance with the Open Meeting Law.
Written notification describing the resource area shall be sent by the Applicant to the abutters on the above-described list. The Commission, at the expense of the Applicant, shall publish the notice of the hearing in a newspaper of general circulation in Plymouth and the Conservation Division shall mail a Notice to Abutters detailing the date, time and place of the public hearing. In addition, notification shall be given in accordance with the Open Meeting Law.

(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) RDA Submittal Requirements:

(i.) A completed Request for Determination of Applicability form dated and signed by the applicant or representative.

(ii.) Definitive plans, hand drawn or engineered (as required), dated and signed by the applicant or engineer, respectively.

(iii.) Locus plan: 8 1/2" x 11" section from a U.S.G.S. quadrangle map with the project circled.

(iv.) Photographic documentation showing existing conditions. One set of hardcopy images is to be submitted with the application and one set of digital images are to be provided for viewing during the Public Hearing. All images are to be titled with the Applicant's name, date of image, description of image (e.g. Northern end of coastal bank looking west).

(v.) A list of abutters to be notified of the hearing.

(vi.) A signed property access authorization form.

(vii.) The correct fee for advertisement of the notice in a Plymouth newspaper.

(viii.) The correct fee for abutter notification.

(ix.) The correct filing fee.

(x.) Two (2) paper copies and one (1) electronic copy of all submission documents (forms, plans, reports and other evidence) shall be submitted.

(f) RDA Decision

(i.) Within twenty-one days (21) after the date of receipt of a Request for Determination the Commission shall hold a public hearing on the request.

(ii.) At the public hearing the Commission will determine:

- 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
• 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.

(iii.) 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.

(iv.) Absent evidence of material changes in conditions at a site a Determination shall be valid for three years from date of issuance.

(v.) In the event of a Positive Determination, an Application for a Notice shall be filed and all of the procedures set forth in Section 6B2. (below) shall apply.

2. Notice of Intent (NOI)

(a) Complete NOI

(i.) 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 (b) and the General Instructions for Permits provided for in 310 CMR 10.00.

(ii.) Any person filing a Notice of Intent with the Commission under the Bylaw at the same time shall provide a certified list of abutters (available from the Assessor’s Office) as defined in Section 5 of the Regulations.

(iii.) Written notification of the hearing shall be sent by the applicant to the abutters on this list; The Commission, at the expense of the applicant, shall publish the notice of the hearing in a newspaper of general circulation in Plymouth and mail a Notice to Abutters detailing the date, time and place of the public hearing. In addition, notification shall be given in accordance with the Open Meeting Law.

Written notification describing the resource area shall be sent by the Applicant to the abutters on the above-described list. The Commission, at the expense of the Applicant, shall publish the notice of the hearing in a newspaper of general circulation in Plymouth and the Conservation Division shall mail a Notice to Abutters detailing the date, time and place of the public hearing. In addition, notification shall be given in accordance with the Open Meeting Law.

(iv.) 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.
General Submittal Requirements:

- A completed Notice of Intent form dated and signed by the applicant or representative.
- Proposed project plans may be hand drawn by the Applicant or professionally prepared, depending on the scope and complexity of the project, as determined by the Commission of Conservation Staff. If professionally prepared, the plan set must be wet stamped, signed and dated by the professional(s) who prepared the plans (e.g. Professional Land Surveyor for lot lines and a Professional Engineer for design elements such as grading, stormwater management).
- Locus plan: 8 1/2" x 11" section from a U.S.G.S. quadrangle map with the project area circled.
- Evidence that the appropriate documentation has been submitted to Natural and Endangered Species Program (NHESP) if the project is located within NHESP Estimated Habitat.
- Field Delineation Data Sheets for freshwater wetland resource areas.

NOTE: Winter freshwater wetland delineations shall not be accepted. The resource area(s) must be delineated between March 1st and October 1st of any given year.

- A list of abutters to be notified of the hearing place and time.
- A signed property access authorization form.
- The filing fee calculation worksheet with correct fee amount.
- The correct fee for advertisement of the notice in a newspaper of general circulation in Plymouth, MA.
- The correct fee for abutter notifications.
- The correct filing fees.
- Two (2) paper copies and one (1) electronic copy of all submission documents (forms, plans, reports and other evidence) shall be submitted.

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, photographs, 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
professional engineer and professional land surveyor 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 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.

(vii.) A narrative of the proposed activity describing 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 and an alternatives analysis must be provided. Section 10 and 11 of these Regulations lists the interests and 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. Failure to provide any of the above items may result in delays and possible rejection of the Notice or Request. In the narrative the applicant shall include an Alternatives Analysis that demonstrates that there are no practical and substantially equivalent alternatives with less adverse effects on the interests identified in Chapter 196. The applicant shall submit information to describe alternative configurations sufficient for the Commission to render a determination.

(viii.) Photographic documentation showing existing conditions. One (1) set of hardcopy images are to be submitted with the application and one (1) set of digital images are to be provided for viewing during the Public Hearing. All images are to be titled with the Applicant's name, address, date of image, description of image (e.g. Northern end of coastal bank looking west). Photo documentation is to show the existing conditions, including site flagging. Aerial or overhead images and a continuous profile sequence of the project area (e.g. coastal bank) are strongly recommended. Before images are required for any planned tree removal and vista pruning when trees are in leaf, if possible.

(b) Incomplete Notice of Intent

(i.) 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 for the following reasons, but shall not be limited to:
- The procedures in Section 6 C (1) of the Guidelines (Section 8), or the
- General Instructions of 310 CMR 10.00 have not been followed; or
- Zoning review has not been completed by the Zoning Agent; or
• A Special Permit or Variance from the Zoning Board of Appeals is required and has not been applied for.

(ii.) The Commission, at its discretion, may:
• Return the entire filing, in which case all required time periods for processing that submitted Notice of Intent shall be suspended.
• 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.
• Continue a Public Hearing, at the applicant's expense, for a period to be determined by the Commission.
• 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. Abbreviated Notice of Resource Area Delineation (ANRAD)

(a) Complete ANRAD

(i.) The Abbreviated Notice of Resource Area Delineation (ANRAD) provides a procedure for an Applicant to confirm the delineation of a Wetland Resource Area under the By-Law.

(ii.) The filing of an ANRAD is optional. However, any work within an area subject to the jurisdiction of the By-law, including Buffer Zone Resource Areas may not proceed until either a Negative Determination of Applicability or an Order of Conditions has been issued by the Conservation Commission.

(iii.) Any person filing an ANRAD with the Commission under the Bylaw at the same time shall provide a certified list of abutters (available from the Assessor’s Office) as defined in §5 of these Regulations.

(iv.) Written notification describing the resource area shall be sent by the Applicant to the abutters on the above-described list. The Commission, at the expense of the Applicant, shall publish the notice of the hearing in a newspaper of general circulation in Plymouth and the Conservation Division shall mail a Notice to Abutters detailing the date, time and place of the public hearing. In addition, notification shall be given in accordance with the Open Meeting Law.

(v.) General Submittal Requirements:
• A completed WPA Form 4 - Abbreviated Notice of Resource Area Delineation, dated and signed by the Applicant or representative.
• When undertaking Resource Area delineations, Applicants are required to use the methodologies described in the most recent version of Massachusetts DEP’s BVW Handbook: Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act.
• Applicants are required to complete the BVW Field Data Form contained in the handbook and submit it with the ANRAD Form. If detailed vegetative assessments are not required for a particular site, the reasons should be noted on the Field Data Form and described in the Narrative.
NOTE: Winter freshwater wetland delineations shall not be accepted. The resource area(s) must be delineated between March 1st and October 1st of any given year.

- ANRAD Applicants seeking to delineate a wetland resource area boundary are required to include Resource Area Delineation Plans. Such plans shall include an appropriate scale to depict all resource area boundaries for which boundary confirmation is being sought.
- Locus plan, 8 1/2" x 11" section from a U.S.G.S. quadrangle map with the project area circled shall be submitted.
- Photographic documentation showing the delineated area, including flagging, for which confirmation is being sought. One set of hardcopy images is to be submitted with the application and one set of digital images are to be provided for viewing during the Public Hearing. All images are to be titled with the Applicant's name, date of image, description of image (e.g. Northern end of coastal bank looking west).
- If the project locus is in an Estimated Habitat as described by the Natural Heritage and Endangered Species Program (NHESP) a Locus plan, 8 1/2" x 11" section from the most recent NHESP Estimated Habitat Map with the project area circled shall be submitted.
- A list of abutters to be notified of the hearing place and time.
- A signed property access authorization form.
- The filing fee calculation worksheet with correct fee amount.
- The correct fee for advertisement of the notice in a newspaper of general circulation in Plymouth, MA.
- The correct fee for abutter notifications. The correct filing fees.
- Two (2) paper copies and one (1) electronic copy of all submission documents (forms, plans, reports and other evidence) shall be submitted.

(vi.) 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 location of the Resource Area under the By-law and these Regulation. All forms, data sheets, 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 design professional(s) who shall be registered in the Commonwealth of Massachusetts.

Note: The Plymouth Conservation Commission reserves the right to request additional narrative information on the forms or other information on the plans.
(iv.) A narrative or discussion of the delineation process and any assertions to be made shall be reduced to writing and shall be included in the application package.

(b) Incomplete ANRAD

(i.) If the Commission determines that an ANRAD is incomplete or improper, it shall notify the applicant within twenty-one (21) days of the date of receipt. The Commission, at its discretion, may:
- Return the entire filing, in which case all required time periods for processing that submitted ANRAD shall be suspended.
- 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.
- Continue a Public Hearing, at the applicant's expense, for a period to be determined by the Commission.
- Hold a hearing and issue an Order of Resource Area Delineation (ORAD) rejecting the proposed Resource Area delineation(s). The ORAD shall specify the information which is lacking and why it is necessary.

4. Forms and Plans

(a) Minimum Submittal Requirements for Applications

(i.) Request for Determination
- Refer to Section 6B 1 (e) of the Regulations
- Follow these Guidelines (as they apply)
(ii.) Notice of Intent
- Refer to Section 6B 2 (v.) of these Regulations
- Follow these Guidelines (as they apply)
(iii.) Extension Permit
- Refer to Section 6F
(iv.) Certificate of Compliance
- Refer to Section 6G
- Follow these Guidelines (as they apply)
(v.) ANRAD
- Refer to Section 6B 3 (v.) of the Regulations
- Follow these Guidelines (as they apply).
- BVW and Vernal Pool delineations shall be performed between April 1st and October 1st of any given year.

(b) Standards (for completeness of Forms and Plans)

(i.) 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 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.

(ii.) Narrative

- A discussion of the proposed activity, 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 and an alternatives analysis must be provided. Section 10 and 11 of these Regulations lists the interests and 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.

- The purpose of evaluating project alternatives is to locate activities so that impacts to the protected resource areas are avoided to the greatest extent possible. The level of detail of information shall be commensurate with the scope of the project and the alternatives. As much of a project as feasible shall be sited outside the protected resource areas. If siting of a project entirely outside the resource area is not possible, the alternatives shall be evaluated to locate the project as far as possible from the resource area(s). The Commission shall not require alternatives which result in greater or substantially equivalent adverse impacts. If an alternative would result in no identifiable difference in impact, the Commission shall eliminate the alternative. If there would be no less adverse effects on the interests identified in Chapter196, the proposed project rather than an alternative may be allowed, but the criteria in (Ref) for determining no significant adverse impact must still be met. If there is a substantially equivalent alternative with less adverse effects, and the applicant refuses to modify the proposal, the Commission may deny the project without prejudice.

- Discussion of the Cumulative Effect(s) of the project on the surrounding environment.
• Completed Field Data Forms shall be submitted in the NOI and ANRAD documentation for BVW, Vernal Pools and Riverfront Resource Areas.
• Failure to provide any of the above items may result in delays and possible rejection of the Notice or Request.

(iii.) Plans
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:

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 Resource Areas.

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

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"

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 and Project Address.
- Parcel ID number.

All revisions shall be demarcated by clouding and copies of such changes shall be given by the applicant to all other Boards (if applicable). All plan sheets shall be stamped by the professional engineer who designed the project and the professional land surveyor who established the lot lines.

(iv.) 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.

• North arrow.
• 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.

- 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.
  - Buffer Zone Resource Areas.
  - Edge of all resource areas and wetlands, and flood plains 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.

- Include location, type and elevation of benchmark used for survey (NAVD 88 elevations are required).

- Structures
  - 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.
  - Stairs and paths.

- Proposed site of dumpsters and stock pile areas.

- Indicate locations, details of erosion and sedimentation control devices/barriers (ECB) (e.g. silt fences, haybales, compost socks, straw wattles, turbidity curtain etc.) and the distance from the resource areas and structure or activity on the plan.

- 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.

- Vegetated buffer of naturally occurring plant material along all wetlands and water bodies as well as the location of significant trees (>12” DBH) to be removed or pruned.

- 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."
• 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.
• Table of disturbances
• A color scheme is to be outlined on the plan for all markers or flags on the site.
• 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.

5. Calculations/Technical Data

(a) A Table of Disturbances describing the square footage of permanent and temporary disturbances within each of the Resource Areas impacted by the project (i.e. Wetland, 0-35’ No Touch Buffer Zone, 35’-50’ No Build Buffer Zone Resource Area and 50’-100’ Outer Buffer Zone Resource Area and 200-foot Vernal Pool Buffer Zone). The percent disturbance within the River Front Resource Areas (Inner and Outer Riparian Zone) as applicable.

(b) Photo documentation is required to use the conservation office template. Videos of the site as well as 3D renderings of the existing and proposed site conditions are encouraged.

(c) For Coastal Engineered Structures, the Conservation Commission requires a compensatory volume of compatible bank sediment be replaced for the anticipated erosion that may occur with the construction of an Engineered Structure.
Example:

Length of Bank x Height of Bank x Erosion Rate = Cubic Feet / 27 = Cubic Yards of Replenishment

<table>
<thead>
<tr>
<th>Length of Bank – ft.</th>
<th>100</th>
</tr>
</thead>
<tbody>
<tr>
<td>Height of Bank – ft.</td>
<td>16</td>
</tr>
<tr>
<td>Erosion Rate – ft.</td>
<td>0.445/yr.</td>
</tr>
<tr>
<td>Total yards of sand nourishment required.</td>
<td>(26.95) 50 Yd. Min.</td>
</tr>
</tbody>
</table>

All mitigation sediment used for beach nourishment shall be of a grain size compatible with the existing beach sediments. Sand shall be placed in front of the seawall as a sacrificial dune for the mitigation described above.

6. 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:

(a) 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 to identify the 35’, 50’, and 100’ buffer zones.

(b) All flags or stakes delineating resource areas, ECB and limit(s) of work shall remain in place until a Certificate of Compliance is issued or determined otherwise by the Commission or Staff.

(c) Stakes or flags are to be used to indicate the proposed road and driveway; house, garage, stairs, 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.

(d) The applicant shall delineate the limit of filling line on the site by means of easily identifiable stakes in the ground.

(e) All staked and flagged areas are to be distinctly colored and readily visible. The 35, 50 and 100 foot Buffer Zone Resource areas shall be flagged or staked.

(f) When erosion control is necessary, ECBs are to be installed (prior to construction) but do not need to be installed prior to the applicant's hearing and the Commission's onsite inspection. ECBs 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 or other appropriate technology. Where the slope is 2:1 or greater, snow fence may need to be installed up-gradient of the sediment barriers to protect them.
(g) 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 authorization has been issued by the Commission or Staff.

(h) The applicant, project engineer(s) or contractor(s) are responsible for complying with the requirements set forth in Section 8 Surety A - General of the Regulations.

(i) The Plymouth Conservation Commission reserves the right to request additional information or action at the site, if applicable to the project.

(j) Failure to comply with the requirements may result in a continued hearing or enforcement action or denial of the project for lack of information.

C. Public Hearings for RDA, NOI or ANRAD

1. A public hearing on a RDA, NOI or ANRAD shall be held by the Commission within twenty one (21) 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. Notice of the hearing shall be mailed by the Commission to the applicant, and to all abutters, as per Section 6 of the Regulations and Section VIII 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:
   (i.) Delay action until later in the hearing, or
   (ii.) Continue the hearing to another date, or
   (iii.) Act on the Request or Notice without a presentation.
   (iv.) Request that Conservation Staff make the presentation on behalf of the Applicant.

(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. 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) paper and one (1) electronic 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 or Notice, under both the Bylaw and G.L.M. c. 131, s. 40.

3. Continued Public Hearing

(a) If the Applicant does not consent to the continuance of the public hearing the Commission shall close the hearing and for an RDA issue a Positive Determination of Applicability, requiring the submission of a Notice of Intent for the proposed work or for an NOI issue a denial for lack of or insufficient information to make a decision.

(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.

(d) With the consent of the applicant if the time period exceeds thirty (30) days, 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.

D. Order of Conditions (OOC)

1. Within twenty-one (21) days of the close of the Public Hearing, the Commission shall issue its decision, in writing, to the applicant.

2. If the OOC 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 OOC shall prohibit any work or portion thereof that cannot be conditioned to protect said interests. The OOC 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 OOC 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.

3. The Commission may deny issuance of an OOC and said denial shall be for one or more of the following reasons:

   (a) For failure to meet the requirements of the Bylaw;
   (b) For failure to submit necessary information or plans requested by the Commission;
   (c) For failure to meet design specifications, performance standards or other requirements, including submittal requirements, in these Regulations;
   (d) For failure to avoid or prevent unacceptable or cumulative effects upon the wetland values protected by the Bylaw;
   (e) Where no conditions are adequate to safeguard the health, safety or welfare of individuals of the Town or the wetland values by the Bylaw.

4. An OOC shall be valid for three (3) years from the date of its issuance.

5. The OOC shall be signed by a majority of the Commission and shall be sent by certified mail or hand delivered to the Applicant.

6. A copy of the plans describing the work and the OOC shall be kept on file by the Commission and shall be available to the public at reasonable hours.

7. Prior to the commencement of any work permitted or required by the OOC 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 effected property. In the case of recorded land, the OOC 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 OOC 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 OOC. If work is undertaken without the applicant first recording the OOC, the Commission may issue an Violation Notice or may itself record the OOC at the expense of the Applicant.

8. The Commission may, for cause, revoke or modify an OOC issued under this Bylaw after public notice and public hearing and notice to the holder of the OOC.

9. The Commission in an appropriate case may combine the OOC or other action on a NOI issued under the Bylaw with the OOC issued under the Wetlands Protection Act, G.L.M. c. 131, s. 40.

10. The decision of the Commission may be appealed according to the provisions of the Massachusetts General Laws.
E. Extensions

1. The OOC may be extended for a maximum of three years 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 OOC;
   (b) Where new information, not available at the time that the OOC was issued, has become available and indicates that the General or Special Conditions are 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 General or Special Conditions or these Regulations.

3. If issued by the Commission, the Extension shall be signed by a majority of the Commission.

4. The Extension 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, the Commission may issue an Violation Notice in order to ensure compliance or stop work as necessary or record the extension at the applicant's expense.

F. Certificate of Compliance (COC)

1. Upon completion of the activity described in the NOI in accordance with the OOC, the applicant or his or her successor in interest shall request the Commission issue, in writing accompanied by an as-built plan, wet stamped and signed by a professional engineer, registered in the Commonwealth, certifying that the work conforms to the plans, or specifying how the completed work substantially complies or differs from that shown on the approved plans. Photo documentation of the completed project site is to be provided with the request, including images of authorized vista pruning.

2. Prior to the issuance of a Certificate of Compliance, a site inspection shall be made by the Commission, Staff or Representative.

3. If the Commission determines, after review and inspection, that the work has not been done in compliance with the OOC, or that the project deviates significantly
and is impacting an interest of the Bylaw, it may refuse to issue a COC and require additional actions be taken to bring the project into compliance.

4. A COC 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 OOC has not impacted an interest of the Bylaw.

5. If the OOC contains conditions that 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 signed by a majority of the Commission.

7. 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.

G. Enforcement

1. Enforcement is intended to deter activities contrary to the spirit and provisions of the Wetlands Bylaw. When the Commission determines that an activity is in violation of the Bylaw, these Regulations or a Final Order, the Commission may issue a Notice of Violation. 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 OOC;
(b) Failure to complete work described in an OOC, when such failure causes damage to the interests identified in the Bylaw; or
(c) Failure to obtain a valid OOC, 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. Any person(s) 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 and 8C as well as Chapter196-11 of the General Town By-laws. Each provision of the Bylaw, Regulations, or Permit violated shall constitute a separate offense. The fine for each offense under
non-criminal disposition shall be fifty ($50) dollars per violation per day until such time as the Violator is in substantial compliance with the provisions of the Notice of Violation.

3. 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.

4. Community Service In Lieu of Fines

Any Commercial or non-profit entity that violates any provision of the Bylaw or these Regulations or a permit condition, is subject to a fine as provided for in §6 I. 2 above. At the discretion of the Commission, the Violator may be offered the opportunity to choose Community Service as an alternative to the imposition of a fine. The Violator may choose to enter into a written binding agreement with the Plymouth Conservation Commission to underwrite (e.g. provide financial and/or logistical support) a conservation related project in the Town of Plymouth, up to, but not exceeding the amount of the fine as calculated in §6 I. 2. Fines. The actual work may be performed by a third party such as a conservation group, association, a land trust, Boy/Girl Scouts or other organization approved by the Commission.

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 Fees

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
       (i) The fee shall only be applied once for projects under both the G.L.M. 131, s. 40 and the Bylaw.
       (ii) 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
       (i) 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.
       (ii) 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.
       (iii) In lieu of paying any disputed amount of the filing fee under a Notice, the applicant may file a Request for Determination.
       (iv) The applicant may appeal pursuant to the Massachusetts General Laws.
       (v) 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

(a) 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.

(b) 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.

(c) 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.

(d) When in the opinion of the Commission or its Staff, the complexity or scope of a proposed project requires the participation of a third-party consultant to assist the Commission in rendering a decision, the expense associated with retaining the consultant, called the Project Review Fee (PRF), shall be borne by the Applicant. RDAs or NOIs that may trigger the imposition of a PRF may include, but are not limited to the following:
   • New coastal revetment or coastal engineering structures
   • Wetland alteration and replication
   • Wetland boundary delineation/confirmation of ten acres or more
   • Other project’s as determined by the Commission

(e) Where more than one type of application has been submitted for Conservation approval, only the largest of the applicable Project Review Fee (PRF) 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. The monies shall be handled in accordance with §7D.8. – Handling Project Review Fees.

(f) Specific consultant services may include but are not limited to processing said applications and requests, copying plans and technical submittals for further review, contracting for professional services, wetland survey and delineation, hydro geologic and drainage analysis, wildlife habitat, shellfish, and fisheries evaluation, plant identification and environmental or land use law.

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

(i) Processing 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.

(i.) Outside consultants retained by the Conservation Commission to assist in the review of an application shall be paid from this account.

(ii.) Project Review Fees shall be turned over to the Town Treasurer by the Conservation Commission for deposit into a 53G Account.

(iii.) 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.

- The applicant may request an accounting of an applicant’s funds held in the 53G Account at any time.
- Conservation Commission shall respond to the request in a timely fashion.
- This accounting shall include the following information:
  - 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.
  - A report of all checks authorized for issuance since that last banking statement.

(iv.) An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.

(v.) 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.

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

SECTION 8. SURETY

A. General

The Commission may require the establishment of an escrow account or other surety 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 surety 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. The Permit conditions shall be observed and/or performed before any lot may be conveyed other than by mortgage deed.

B. Replication Projects

For replication projects, the applicant shall provide an escrow bond, as outlined in Section IX of the By-laws, 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 9: ADDITIONAL REGULATIONS FOR COASTAL AND INLAND WETLANDS

Unless otherwise specified in this section, the Performance Standards set out in the Massachusetts Wetlands Protection Regulation 310 CMR 10.25 through 10.35 shall apply.

A. Land Under The Ocean
   1. No additional local performance standards

B. Coastal Beaches and Tidal Flats
   1. Any activity which is allowed on a coastal beach or tidal flat or within its Buffer Zone Resource Area shall not have an adverse effect on the coastal beach or tidal flat by:
      
      (a) Affecting the ability of waves to remove sand from the beach or tidal flat;
      (b) Disturbing the vegetative cover, if any, so as to destabilize the beach or tidal flat;
      (c) Causing any modification of the beach or tidal flat form that would increase the potential for storm or flood damage;
      (d) Interfering with the natural movement of the beach or tidal flat;
      (e) Causing artificial removal of sand from the beach.

C. Coastal Dunes
   1. Preamble
      
      All coastal dunes are significant to storm damage prevention and flood control, and all coastal dunes on barrier beaches and the coastal dune closest to the coastal beach, also known as the Primary Frontal Dune, in any area are per se significant to storm damage prevention and flood control.

   2. Presumptions
      
      The Coastal High Hazard Area or Velocity Zone extends at a minimum to the inland limit of the Primary Frontal Dune along the open coast.

      Coastal dunes are also often significant to the protection of wildlife habitat.

   3. Performance Standards
      
      a. Any alteration of, or structure on, a coastal dune or within 100 feet of a coastal dune shall not have an adverse effect on the coastal dune by:
         
         • Effecting the ability of waves to remove sand from the dune; or
         • Disturbing any of the vegetative cover on the dune; or
• Causing any modification of the dune form; or
• Interfering with the landward or lateral movement of the dune; or
• Removal of sand from the dune by any mechanical or manual means; or
• Interfering with mapped or otherwise identified bird nesting habitat.

b. When a building already exists upon a coastal dune, a project accessory to the existing building may be permitted, if it has no adverse effect on the coastal dune characteristics listed Section (2) above.

• It shall not include coastal engineering structures of any kind.
• Pedestrian walkways designed to disturb no vegetative cover on the dune nor have any adverse impact on traditional bird nesting habitat;
• Installation of sand fencing and other devices designed exclusively to increase dune development;
• When plantings are approved native species, compatible with the existing natural vegetative cover shall be part of an approved Management Plan.

D. Barrier Beaches

1. No additional local performance standards

E. Coastal Banks

1. Preamble

Coastal banks are likely to be significant not only to the interests protected under state law, i.e. storm damage prevention and flood control as cited in 310 CMR 10.30, but to other wetland functions and values protected under the Plymouth Wetlands Protection By-Law (§ 196-1) i.e. erosion and sedimentation control, fisheries, shellfish habitat, wildlife habitat, recreation and aesthetics. There are adverse impacts on these protected interests when the coastal shoreline is cut off, by revetments or other erosion control measures, from the natural systems of which it is a part.

Among these adverse impacts can be loss or lowering of beaches, or deprivation of bank sediment which would normally be moving in the littoral drift. Limited or altered access along the shoreline impacts hunting, fishing and passive and active recreational opportunities. Wildlife habitat is also destroyed or affected when natural bank vegetation is altered. The aesthetic value of a natural shoreline may also be substantially reduced.

Loss of sand from previously eroding banks may result in the gradual drowning of marshes and changes in shellfish habitat and fisheries, as well as loss of nutrients to these resources. Also, marshes which would normally follow an eroding and retreating coastal bank can be blocked by erosion control measures, and their continued growth and health limited.
2. Presumptions

(a) When a proposed project involves dredging, removing, filling or altering a coastal bank, the Conservation Commission shall presume that the area is significant to the interests protected under the Plymouth Wetlands Protection Bylaw. This presumption may be overcome by clear and convincing evidence that a coastal bank does not play a role in the protection of these interests and if the Plymouth Conservation Commission makes a written determination to that effect.

(b) The Commission further presumes a coastal bank is significant to storm damage prevention and flood control both because it is a vertical buffer to stormwaters and because it supplies sediment to coastal beaches, coastal dunes or barrier beaches. This presumption can be overcome only by a clear showing that a coastal bank does not play a role in the protection of one or more of these interests. This showing may include but may not be limited to studies of bank composition, erosion rate, destination or eroding materials and historical data.

(c) Coastal banks significant to storm damage prevention and flood control as vertical buffers and as sources of sediment to coastal beaches, dunes and barrier beaches shall be evaluated as follows:

- The Plymouth Conservation Commission has the discretion to permit such structure if, in its judgment, the proposed structure is:
  - Demonstrated to be necessary, and
  - There is no reasonable alternative method of protection to prevent storm damage to buildings constructed prior to August 10, 1978 [see 310 CMR 10.30(3)]. Buildings reconstructed subsequent to that date, but prior to the adoption of these regulations, may be permitted unless the Orders of Conditions under which such reconstruction was performed contain a special condition of approval that prohibits the construction of such a structure, including but not limited to bulkhead, revetment or seawall.
- A perpetual special condition shall be included in the Order of Conditions requiring the calculated volume of sediment be applied to the site on an annual basis.
- (d) Where a coastal bank is determined to only be significant because it supplies sediment to coastal beaches, dunes, or barrier beaches, the Plymouth Conservation Commission may, but is not required to authorize the construction of bulkheads, revetments, seawalls, gabions, groins, or other structures, provided that there is no other reasonable alternative method of protecting the building(s) constructed prior to August 10, 1978 [see 310 CMR 10.30(3)]. If approved, a perpetual special condition shall be included in the Order of Conditions.
requiring the calculated volume of sediment be applied to the site on an annual basis.

3. Definitions
As used in this Section, the following terms shall have the meanings indicated:

- **BUILDING** -- The term building includes dwellings and structures essential to commercial operations. The term does not include tennis courts, boathouses, outbuildings, etc. protection of which will be considered on a case by case basis.

- **COASTAL BANK** - 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 above the relevant 100-year flood plain elevation. The 100-year flood plain elevation shall be taken from the most recently amended Flood Insurance Rate Maps, prepared by the National Flood Insurance Program for and accepted by the Town of Plymouth.

- **COASTAL ENGINEERED STRUCTURE (CES)** – Defined as, but is not limited to, any breakwater, bulkhead, groin, jetty, revetment, seawall, weir, riprap, gabions, or any other structure that is designed to alter wave, tidal, or sediment transport processes in order to protect inland or upland structures from the effects of such processes, which shall also include gabions or other structures that effect these processes.

- **DISTANCE OF THE BUILDING FROM THE TOP OF THE BANK** - The distance from the top of the bank to the foundation of the building, not to include decks or foundations or footings under decks.

- **STRUCTURES**:
  - **SOFT STRUCTURE** – An erosion control solution comprised of materials designed to stabilize a bank and slow the rate of erosion without significantly altering wave, tidal or sediment transport processes and with minimal increase to the existing slope of the bank. Soft structures may include the use of fiber rolls, sand, and/or sandbags and should be stabilized with plantings of native vegetation as soon as practicable to minimize further erosion.
  - **HARD STRUCTURE** -- Permanent bulkheads, revetments, seawalls, gabions, groins, or other Coastal Engineered Structures (CES).

(a) The Conservation Commission puts emphasis on allowing a Coastal Bank’s natural processes to continue for as long as possible before Coastal Erosion controls are applied for. (b) Coastal Engineered Structures (CES) may be permitted only after the applicant has shown there are no feasible alternatives.
(b) The applicant may be required to show that alternatives, such as soft structures, have been tried and failed.

(c) Coastal Engineered Structures (CES) shall be as low and short as consistent with toe protection. Structures designed for complete protection against catastrophic storms, and lot line to lot line protection will be closely scrutinized.

(d) A “return” must be designed to avoid end scour on neighboring land and to prevent flanking of the structure. The Commission shall require that the return be setback from the applicant’s lot line to prevent accelerated erosion on the abutter’s property.

(e) Multiple projects: Where submitted jointly, these guidelines will be applied as closely as feasible, but with special consideration of a systems approach.

(f) Chink stone may be permitted only where the applicant can prove by clear and convincing evidence that the stone will remain in place. The applicant will be responsible for the removal of such stone that is scattered on the beach in violation of this requirement.

(g) Soft Structures that incorporate Fiber Rolls shall be required to have ID tags sewn on all coir rolls when they are installed to ensure proper ID and disposal if the rolls are dislodged from the project site.

(h) If the structure is proposed to extend to the property line between two or more owners, then the abutting land owner(s) must submit a letter to the Commission acknowledging assumption of the risk of erosion and storm damage. Otherwise the structure must be at least thirty (30) feet from the property line(s).

Letter must include the following language:

“I/We (state name[s]) have reviewed the coastal structure plans prepared by (Identify Engineer) dated (Date of plan) and acknowledge that the proposed work may cause erosion on my/our property and think that the risk is acceptable.”

5. Performance Standards

Any activity which is allowed on a Coastal Bank or within the Buffer Zone Resource Area of a Coastal Bank shall comply with the following:

(a) No new bulkhead, revetment, seawall groin or other coastal engineering structure shall be permitted on or within 100 feet of a coastal bank, except that such, a coastal engineering structure shall be permitted when required to prevent storm damage to buildings constructed prior to August 10, 1978 or constructed pursuant to a Notice of Intent (issued under MGL 131, section 40) filed prior to August 10, 1978, including reconstruction of such buildings.
subsequent to the effective date of these regulations, provided that the following requirements are met:

(b) A coastal engineering structure or modification thereto shall be designed and constructed so as to minimize, using best available measures, adverse effects on adjacent or nearby coastal resource areas due to changes in wave action, and

c) The Application shall include an evaluation of alternatives (Alternatives Analysis) considered (including a no build alternative). The evaluation shall address methods of stabilization, alternatives to rock revetment designs that would protect the pre-1978 structure and serve to avoid and minimize temporary and permanent impacts to the Coastal Bank Resource Area.

d) Details regarding the direction of overland runoff at the site and whether it is contributing to erosion of the Coastal Bank, including sources, factors and the degree to which they contribute to erosion.

e) The sediment calculation for sand replenishment shall take into account the height of the coastal Bank and include a transect outside of the proposed limit of work. The nourishment plan shall also include methods for sediment delivery to replace what will be lost as a result of the project.

(f) The Conservation Commission requires a compensatory volume of compatible bank sediment be replaced for the anticipated erosion that may occur with the construction of a hard structure.

Example:

Length of Bank x Height of Bank x Erosion Rate = Cubic Feet / 27 = Cubic Yards of Replenishment

<table>
<thead>
<tr>
<th>Length of Bank – ft.</th>
<th>100</th>
</tr>
</thead>
<tbody>
<tr>
<td>Height of Bank – ft.</td>
<td>16</td>
</tr>
<tr>
<td>Erosion Rate – ft.</td>
<td>0.445/yr.</td>
</tr>
<tr>
<td>Total yards of sand nourishment required.</td>
<td>(26.95)</td>
</tr>
<tr>
<td></td>
<td>50 Yd. Min.</td>
</tr>
</tbody>
</table>

(g) All mitigation sediment used for beach nourishment shall be of a grain size compatible with the existing beach sediments. Sand shall be placed in front of the seawall as a sacrificial dune for the mitigation described above.

(h) The applicant shall provide notice to the Conservation Office a minimum of 24 hours prior to application of beach nourishment. Notice shall be given in writing and copies of Bills of Lading shall be submitted to the Office.

(i) Protective planting designed to reduce erosion may be permitted.

(j) the applicant provides sufficient evidence that the building was constructed pursuant to a Notice of Intent filed before August 10, 1978.

(k) Any project on a coastal bank or within the Buffer Zone Resource Area of the top of a coastal bank shall not have an adverse effect due to wave action on the movement of sediment from the coastal bank to coastal beaches or land subject to tidal action or flooding and shall not have an adverse effect on the
stability of a coastal bank.

6. The Permit and the Certificate of Compliance for any project within the Buffer Zone Resource Area of the top of a coastal bank permitted by the Conservation Commission under this Bylaw shall contain the specific condition:

“The Wetlands Regulations promulgated under the Plymouth Wetlands Protection Bylaw requires that no coastal engineering structure, such as a bulkhead, revetment, groin, or sea wall shall be permitted on or within 100 feet the top of a coastal bank at any time in the future to protect the project allowed by this permit.”

F. Salt Marshes

1. No additional local performance standards

G. Land Under, or Within the Buffer Zone Resource Area of, Salt Ponds

1. No additional local performance standards

H. Land Containing Shellfish

1. No additional local performance standards

I. Banks of or Land Under the Ocean, Ponds, Streams, Rivers, Lakes, or Creeks that Underlie an Anadromous/Catadromous Fish Run

1. No additional local performance standards

J. Land Subject to Coastal Storm Flowage

1. Preamble

Land subject to coastal storm flowage - including coastal beaches, salt marshes, banks, barrier beaches, salt ponds, dunes, land containing shellfish, land under the ocean and banks of and land underlying fish runs - is important for the protection of public and private water supply, groundwater and groundwater quality, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, wildlife and wildlife habitat, fisheries, and shellfish.

The wetlands values of specific resource areas including those identified above, that lie within the area of land subject to coastal storm flowage and are otherwise addressed in the Bylaw and the regulations promulgated thereunder are incorporated in this section by reference.

Land subject to coastal storm flowage has the potential to do Plymouth a great service. In the 25 years or so that the town has escaped being hit by a significant
hurricane, the protective values of the flood plain includes land that lies at the margin between upland and land subject to average coastal wind - and water-driven processes. When coastal conditions are not the norm - during extreme high tides and hurricanes, for example - the ability of the land to absorb flood waters, to buffer more inland areas from flood and wave damage, is important.

Filling of land subject to coastal storm flowage is likely to cause displacement of flooding effects to other areas of the town.

Since the flood plain contains areas (as well as other wetland resources) in which the water table is close to the surface during a coastal storm, pollutants in the flood plain, including the contents of septic systems and fuel tanks, are likely to affect public and private water supply, groundwater quality, wildlife and wildlife habitat, fisheries and shellfish.

Storm damage prevention, as one of the interests protected under the Bylaw, also comes into play in the flood plain. Generally, direct and collateral damage to manmade structures in the flood plain area are caused by wave impacts and inundation by flood waters, and storm-driven debris.

2. Definitions

(a) "Land Subject to Coastal Storm Flowage" shall mean that land subject to tidal water or flooding and are further delineated as the 100-year flood plain (Zones, A, AE, V, and VE on the Flood Insurance Rate Maps, prepared by the National Flood Insurance Program for the Town of Plymouth, as most recently amended).

3. Any activity which is permitted on land subject to coastal storm flowage shall not have an adverse effect on the interests protected by the Bylaw by:

(a) Reducing the ability of the land to absorb and contain flood waters.
(b) Reducing the ability of the land to buffer more inland areas from flooding and wave damage.
(c) Displacing or diverting flood waters to other areas.
(d) Causing, or creating the likelihood of, damage to other structures or land within the flood plain as debris (collateral damage).
(e) Causing ground, surface or saltwater pollution triggered by coastal storm flowage.
(f) Causing unintended relocation or discharge of septic or fuel container and/or its contents.
Inland Resource Areas

K. Inland Banks (Naturally Occurring Banks and Beaches)
   1. No additional local performance standards

L. Vegetated Wetlands (Wet Meadows, Marshes, Swamps, and Bogs)
   1. No additional local performance standards

M. Land Under Water Bodies (under any creek, river, stream, pond or lake, flats or ditch)
   1. No additional local performance standards

N. Bordering Land Subject to Flooding
   1. No additional local performance standards

O. Isolated Land Subject to Flooding
   1. No additional local performance standards

P. Buffer Zone Resource Area

   1. Preamble

   The 100 Foot Buffer Zone Resource Area is important for the protection of public and private water supply, groundwater and groundwater quality, flood control erosion and sedimentation control, storm damage prevention, water pollution prevention, wildlife and wildlife habitat, fisheries, and shellfish. The Conservation Commission presumes that an undisturbed, naturally vegetated 100-foot buffer zone is necessary to protect the interests as articulated under the By-law.

   Nothing in these regulations shall prevent the Conservation Commission from prohibiting activity anywhere within the 100-foot Buffer Zone Resource Area defined by the Bylaw and these regulations without limitation.

(a) “35 Foot No-Touch Buffer Zone Resource Area” The area 35 feet landward of a delineated resource area. Any development, alteration, filling, dredging, or removal of soil or vegetation is prohibited within this undisturbed area. The above may be allowed if the Commission grants a waiver as described under §11 of these Regulations.

(b) “35 to 50 Foot No-Build Buffer Zone Resource Area” The area between 35 to 50 feet landward of a delineated resource area. Structures, buildings, sheds, in-
ground or above-ground pools, walls or fences are prohibited within this undisturbed area. The above may be allowed if the Commission grants a waiver as described under §11 of these Regulations.

(c) “50 to 100 Foot Outer Buffer Zone Resource Area” The area between 50 to 100 feet landward of a delineated resource area. The Commission may allow activities within this area provided the Applicant demonstrates that there are no practical alternatives to locating the activity within this Buffer Zone Resource Area. In the preparation of the alternatives analysis to make this showing the Applicant shall use the “Avoid – Minimize – Mitigate” calculus and describe the process in the Project Narrative. The above may be allowed if the Commission grants a waiver as described under §11 of these Regulations.

2. Proposed activities within a Previously Disturbed, 50 to100 Buffer Zone Resource Area and outside any area specified in this Section shall not be subject to regulation but are subject to notification of the Conservation Commission prior to undertaking. Minor activities include the following:

- Fencing provided it does not constitute a barrier to wildlife movement (e.g. the bottom of the fence is greater than 8” above the ground surface).
- Above ground pools which occupy less than 100 square feet.
- Planting native vegetation.
- Activities that are temporary/seasonal in nature and have negligible impacts and are necessary for planning and design purposes as determined by the Commission or their designee.

NOTE: These Minor Activities supersede the “Minor Activities” permitted under the Wetlands Protection Act and 310 CMR 10.02(2) b.
SECTION 10. SPECIFIC REGULATED ACTIVITIES

A. Replication of Bordering Vegetated Wetland

1. Preamble

There is at present no published scientific evidence to substantiate that the process of wetland replication is a viable, realistic, or reasonable substitute for a mature, established wetland. Thus, the Commission's approach to replication will be cautious until such evidence is available. The following standards are established in an attempt to insure the viability and success of any replication project in the Town of Plymouth. In addition, Section X of the town Wetland Protection By-law sets forth additional standards for the replication of bordering vegetated wetlands.

2. The Commission will make a determination as to whether the proposed wetland replication is necessary. The justification for the destruction of a wetland must be clear and convincing that there is no available alternative.

3. The edge of the proposed replicated wetland must be at least 100 feet from any property line unless written permission is granted by the adjoining property owner.

4. In areas within the Aquifer Protection District as defined in the town’s Zoning Bylaws, Ch. 205, Article VI, s.205-57, no Bordering Vegetated Wetland may be impaired or altered.

5. The applicant must provide the Commission with:
   (a) Competent and complete analysis and survey of the area being altered, drained, or filled; and the area selected for replication as it exists before replication;
   (b) A replication plan including a complete hydrological, geological, chemical, and biological survey and analysis;
   (c) A complete record of the area being replicated and the area being filled. This shall include, but not necessarily limited to, photographs, soil profiles, water elevations, and vegetative cover for the area before, during and after replication.

6. The replication area must be the same type of wetland in form and vegetative composition and hydrologically connected to the filled, dredged, or destroyed wetland.

7. The applicant must show that alteration of said area for new replication will have no adverse effect on: flood protection, protection of private or public water supply, wildlife habitat, other protective vegetation and/or adjacent properties and habitats.
8. The new wetland must be created before the existing wetland is filled, drained or destroyed (unless material from the existing wetland is to be used in the creation of the new wetland). Completion shall include at minimum the creation of a natural wetlands soil profile, grading to natural water level and planting of species as conditioned by the Commission. In no case may other activities be undertaken until the replication is complete.

9. The applicant must monitor the replicated wetland for a minimum of 5 years and submit annual reports to the Commission. These reports must assess the soil, water, and plant conditions of the replicated wetland. The applicant may be required, on an annual basis, to remedy any deficiencies at the replication site.

B. Limited Access Projects

1. Preamble

The project must be included in one of the following categories:

(a) Construction of new road drainage structures including culverts and catch basins, drainage easements, ditches, watercourses and artificial water conveyance structures to ensure flow capacity.

(b) Construction of a new roadway, through a resource area 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. Such roadway or driveway shall be constructed in a manner which does not restrict the flow of water, the recharge of groundwater or wild life migration and movement (generally interpreted as bridging the resource area).

(c) New construction of underground or overhead public utilities, such as electrical distribution or transmission lines, or communication, sewer, water and natural gas line, may be permitted, in accordance with the following general conditions and any additional conditions deemed necessary by the Commission:
   (i) The Commission may require a reasonable alternative route with fewer adverse effects.
   (ii) The best available mitigation measure shall be used to minimize adverse effects during construction.
   (iii) All surface vegetation and contours of the area shall be substantially restored.
   (iv) All sewer lines shall be constructed to minimize inflow and leakage.

(d) The construction of wildlife ponds impoundments designed to enhance the wetland values of this by-law. Proposed projects will be required to submit supporting information to verify the project’s benefit to wetland wildlife habitat values.

(e) When limited access projects are permitted a minimum replication area of twice that of the area being lost will be required.
2. Submittals:

The applicant must provide the Commission with:
(a) Written documentation from the Planning Board that the new roadway or driveway is of minimum legal and practical width acceptable to the Planning Board.
(b) Documentation of alternative accesses requested and the environmental or other reasons for denial by the Planning Board.
(c) Presentation of alternative ways of constructing and or obtaining access (e.g.: bridge, pilings), and design of access (e.g.: minimum width, height, length).
(d) Presentation of methods explored to minimize wetlands Impacts and rationale for selected design decision. Applicants should explore the use of piling supports, bridging, box culverts with vertical walls, etc.
(e) Construction methodology must be described in full. Proposals for coffer damming, type of equipment, size of equipment, etc. should be included. Construction area shall be the limits of the roadway.

C. Detention Basins

1. Preamble

For the purposes of these regulations, a detention basin is defined as a manmade, basin-like flood control structure which is designed to collect stormwater runoff and to detain it for a specified period of time during major storm events. It also is designed to minimized contaminants from leaving the project site.

The purpose of these regulations is to establish guidelines and standards for the design and construction of detention basins. Given variations in soil conditions and topography, no "standard basin" is applicable in all cases. However, design assumptions, calculation formulas and construction details can be applied to the majority of designs.

A detention basin is not the only method of controlling excess runoff from developments. Before considering the use of a detention basin, other methods of controlling runoff including, but not limited to, stormwater leaching pits and natural or man-made swales shall be investigated. A detention basin should be used only if alternate, low-maintenance methods are not feasible. The applicant shall demonstrate, through a preponderance of credible evidence, that alternative solutions have been seriously considered. Detention basins will not be allowed within a Resource Area.
D. Vernal Pools

1. Preamble

Vernal Pools may be found among land subject to flooding, and at various locations throughout the 100-year floodplain, as well as in other places. It is likely that the general area in which vernal pools are found, as well as the pools themselves, may fulfill functions in addition to those which are specific to the pools, such as providing temporary storage areas for flood water and/or ponding areas for run-off or high ground water, likely to be locally significant to flood control and storm damage prevention. Vernal pools are essential breeding areas for certain amphibians which require isolated areas that are generally flooded for at least two continuous months in the spring and/or summer and are free from fish predators. Most of these amphibians remain near the breeding pool during the remainder of their lifecycle. Many reptiles, birds and mammals also feed here.

The Commission protects both Certified and uncertified vernal pools’ ability to perform their functions of:

(a) Flood control, storm damage prevention, recharge of public, private and ground water supplies, where underlain by pervious material;
(b) Prevention of pollution, when underlain by pervious material covered by an organic layer of peat or muck;
(c) Temporary storage areas for run-off and high ground water;
(d) Provide, protect, and maintain wildlife habitat, including settings for potential vernal pools;
(e) Provide food, shelter, migratory, overwintering and breeding areas.

2. Performance Standards:

(a) A protective radius for vernal pools is established as the area within a line parallel to the boundary of the vernal pool measuring 100 feet from that boundary. Any alteration to the protective radius is presumed to be a threat to the ability of the vernal pool to perform its functions. This presumption may be overcome only by expert testimony to the contrary demonstrating that the project will not have an adverse effect on such vernal pool or its protective radius by:
   (i) Affecting the ability of the vernal pool to hold water; and/or
   (ii) Affecting the quantity or quality of the water flowing to the vernal pool; and/or;
   (iii) Affecting the ability of the vernal pool and its protective radius to provide food, shelter, overwintering and breeding areas for wildlife.
(b) Notwithstanding the above, the 100-foot protective radius shall be a No-Touch Zone.
(c) Notwithstanding the above, if a previously disturbed area (PDA) already exists within the protective radius of a vernal pool, a project may be permitted, provided that such work is conducted using best management practices, minimizes adverse
effects on the vernal pool and provides mitigation which contributes to the interests of these regulations, acceptable to the Commission.

E. Slope/Grades Near Inland Wetlands

Side slopes within a Resource Area of the Buffer Zone Resource Area 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. Buffer Strip

1. Preamble

The goal of the Commission is to maintain a strip of dense, vegetative cover between the development activity and the resource area to be protected, consisting of indigenous plant materials suitable for the maintenance of wildlife, both flora and fauna. A Buffer Strip serves to provide wildlife habitat, improve water recharge, reduce pollution and erosion and to maintain the natural appearance of our fresh and saltwater shorelines. The Commission may require that a Buffer Strip be created where none presently exists to mitigate past or present construction impacts.

2. Performance Standards

(a) The Buffer Strip shall be a minimum of twenty-five feet (25’) up to thirty-five (35) feet in width running along the resource area boundary, unless such width is unreasonable in view of the lot size or the placement of an existing structure or such other factors as the Commission may consider.

(b) The elements of the Buffer Strip should reflect the indigenous vegetation suitable to the site.

(c) Coastal banks should be protected from run off and erosion by planting adjacent areas with, at minimum, low growing salt tolerant shrubs such as roses (Rosa virginiana, Rosa Carolina), bayberry (Myrica pensylvanica) and beach plum (Prunus maritime), and/or a border of field grasses mowed only once a year between October and March to a minimum height of 3 inches.

(d) Approval may be granted to maintain dense plantings at the top of a coastal bank at a three-foot height where necessary for view preservation. Existing
shrubs, such as Rosa rugosa may be pruned to permit regrowth from the plant’s base. New plantings of Rosa rugosa is prohibited anywhere within Conservation Jurisdiction.

(e) Freshwater wetlands should retain their bordering native pond shore shrubs such as blueberry (Vaccinium corymbosum), swamp azalea (Rhododendron viscosum), sweet pepperbush (Clethra alnifolia), inkberry (Ilex glabra) and herbaceous plants that grow on the edge of the wetland and on to the bank; for example, blue joint grass (Calamagrostis canadensis), rushes (Juncus effuses, J. canadensis) and thoroughworts (Eupatorium hyssopifolium, E. perfoliatum).

(f) Plantings which require heavy watering will not be permitted, particularly adjacent to coastal banks where such watering may result in runoff and erosion.

(g) Where new plantings are permitted in the Order of Conditions, use of organic fertilizers may be allowed but only for initial planting.

(h) The use of herbicides and pesticides is prohibited in the Buffer Strip.

(i) An access path, not more than four feet (4’) wide through the strip, may be maintained by mechanical means as required, only if established under the initial Order of Conditions for new construction.

(j) The Commission may require that a Buffer Strip be created where none presently exists to mitigate past or present construction impacts.

3. Permissible Work in Buffer Strip

While it is the Commission’s intent that no work shall occur in this strip, any work which is proposed must meet a higher performance standard than work proposed elsewhere in the buffer zone and will generally be limited to habitat improvement or vista cutting.

G. Stairways Over Coastal and Inland Banks

1. Preamble

Informal access over coastal and inland banks may cause erosion and destabilization. Where access improvement is permitted to avoid erosion problems, those improvements shall be minimal and as unobtrusive as is possible with safe and environmentally sound access. Accessory structures such as recreational or storage decks will not be permitted, and the following guidelines must be observed.

A stairway or stairs is considered any single or set of steps, and any platform or landing connected thereto, connecting different levels to traverse a dune, bluff or coastal bank or other slope.

The choice of whether stairs are to be designed to be “dug into the ground” or elevated is site specific and depends on factors such as the grade of slope, composition of the substrate and the nature of vegetation. The benefits of “dug-in” stairs include their ability to allow vegetative cover, minimal visual impact, tendency
to slow the erosion effects from rainfall and their durability. Elevated stairs may at times be preferred to protect vegetation, or due to the steep slope of a bank.

The stair structure should be located where it will have the least impact on or can improve a resource area.

2. General Performance Standards

(a) The stair structure shall be no more than four feet in overall width, including but not limited to the supporting posts and handrails, if any.
(b) The structure shall remain unpainted in order to preserve as far as possible the natural appearance of the bank. If non-wood materials are used, they should be of a color that will blend in with the natural surroundings.
(c) Railings or handrails shall be allowed if deemed necessary or to conform to the applicable building code.
(d) In an ACEC the “no adverse effect” performance standard shall apply.

3. Submerged (dug into ground) Treads or Risers:

(a) A staircase that is dug into the ground shall follow the slope profile. Treads or risers must be level to prevent erosion. The stairway may be straight or serpentine.
(b) Treads or risers that are not tied into stairway side supports may be permitted with adequate switch backs to prevent erosion.
(c) Use of non-leaching material such as plastic lumber or other such building materials that do not leach pollutants into the aquatic ecosystem are preferred over CCA treated lumber. Use of treated material is allowed because they minimize the incidence of rotting in structures. Creosote-treated lumber is prohibited.
(d) Where the Commission finds, due to the height or steepness of the bank, or other factors, that a resting landing is justified, that landing shall meet the above width requirement and shall be no more than four feet (4’) by four feet (4’).

4. Elevated Stairways:

(a) A staircase shall follow the slope profile as closely as possible, provided that with the exception of the supporting posts, no portion of the proposed stairway shall be closer than one foot from the ground. Plans submitted must show the contours and how compliance will be accomplished.
(b) The stairway shall have no risers and there shall be a minimum of one-half inch spacing between deck planks in order to permit light penetration and encourage vegetation.
(c) Any wood preservative shall be non-toxic.
(d) Where the Commission finds, due to the height or steepness of the bank, or other factors, that a resting landing is justified, that landing shall meet the above width requirement and shall be no more than four feet (4’) by four feet (4’).

(e) Pile size and spacing shall not exceed 4 inches x 4 inches and should be spaced a minimum of eight feet apart to minimize the impact of installation to the underlying substrate. The use of helical or other alternate technology pilings is encouraged.

H. Walkways Coastal and Inland

1. Preamble

Informal access over coastal and inland resource areas may cause erosion and destabilization. Where access improvement is permitted to avoid current or future erosion problems, those improvements shall be minimal and as unobtrusive as is possible with safe and environmentally sound access. Accessory structures such as recreational or storage decks will not be permitted.

2. Definition

A walkway is an elevated or at-grade structure used as a walkway to traverse fresh or salt meadow, marsh, bank, dune, or beach. It differs from a dock in that it begins and terminates above mean high water, even though it may cross over a point that is below mean high water.

A walkway may not be attached to a float or structure which would facilitate its use by boat and may not be permitted in the future as a pier or a dock unless it meets all the criteria for a new dock.

3. Performance Standards

A walkway may be permitted in cases where it can be demonstrated to improve the condition of a resource area and when such demonstrated improved condition exceeds the benefit that could be reasonably expected from a restoration effort; or where it can be demonstrated that irreparable erosion and destabilization of a resource area would result from informal access. The owner of the property on which the structure is proposed should submit for review a Notice of Intent and any other required applications. In demonstrating the potential improved condition of or preventive benefit to the resource area, the following potential impacts must be addressed:

(a) The extent of existing erosion or degradation of vegetation or substrate resulting from foot traffic must be evaluated. Reasonable efforts to regenerate damaged resource areas should be fully explored and presented in the Project Narrative.
(b) The presence or absence of habitat must be determined. There shall be no loss or degradation of habitat for shellfish, finfish, birds, reptiles or other animals, or of fish runs resulting from the proposed structure.

(c) There shall be no detrimental impacts on vegetation caused by the proposed structure.

(d) There shall be no significant alteration in wind patterns and littoral processes resulting from the proposed structure.

(e) There shall be no undue detriment to public views resulting from the proposed structure.

(f) There shall be no loss or degradation of public access opportunities resulting from the proposed structure.

(g) There should be no other detrimental impact caused by the proposed structure.

(h) The cumulative effect of the proposed structure must be considered. Cumulative effects are the combined effects (3)(a) through (3)(g), as described above, of all existing structures within the same resource system.

(i) Impacts on the resource from the use of the proposed structure must be determined. The frequency, volume and intensity of use must justify the need for the structure. Shared use structures are to be encouraged as a means to provide access to the shore while minimizing the number of structures that might otherwise be permitted.

(j) Height & Width - The height of the structure at all points above the Resource Area shall be equal to or exceed the width of the deck. The height shall be measured from the Resource Area elevation to the bottom of the longitudinal support beam. The height shall not go above three (3) feet or below one (1) foot as measured from the Resource Area elevation or, in the case of a perennial or intermittent stream, mean high water. The laying of planks directly on the ground is prohibited.

The height of a structure is necessary to allow for effective light penetration to underlying vegetation, and to prevent storm damage. The height maximum is to protect the natural appearance of the resource area. Similarly, the width limitation is intended to limit adverse impacts on vegetation.

(k) Plank Spacing - No less than one-half (1/2) inch spacing is required between planks to allow light penetration for vegetation. Alternate decking material may be used if it provides a similar or greater degree of light penetration.

(l) Pile Size and Spacing - Piles shall not exceed 4 inches x 4 inches and should be spaced a minimum of eight feet apart to minimize the impact of installation to the underlying Resource Area. The use of helical or other alternate technology pilings, that can be demonstrated to minimize impacts on the Resource Area, should be encouraged.

(m) Railings - The use of railings should be avoided unless a need can be demonstrated or to conform to the applicable building code.
(n) Orientation - A north to south orientation of the structure results in maximum sunlight penetration to underlying vegetation and is preferred wherever feasible.

(o) Seasonal installation is encouraged. The term “seasonal” is intended to mean six months or, generally, May 1 through October 31. Permanent structures may be permitted in cases where the structure will be used consistently year-round, or in cases where more than one property owner is sharing use of the structure.

(p) Materials - Use of non-leaching materials such as plastic lumber and other such building materials that do not leach pollutants into the aquatic ecosystem are preferred over CCA-treated lumber. Use of treated materials is allowed because they minimize the incidence of rotting in structures. Creosote-treated lumber is prohibited.

(q) Installation - Installation should be accomplished with minimal disturbance to surrounding soils or vegetation, using methods in the applicable Order of Conditions, as determined on a case-by-case basis. A design and installation plan shall be submitted by a licensed engineer or surveyor is preferred.

(r) Storage. All removable portions of seasonal structures must be removed using practices that minimize impacts on the resource and be stored outside the 35’ No Touch portion of the Buffer Zone Resource Area, unless otherwise specified in the applicable Order of Conditions.

(s) To minimize the potential of light pollution and its impact on wildlife, no electric lighting of any kind shall be permitted.

(t) ACEC - In an ACEC the “no adverse effect” performance standard shall apply.

I. Docks - Coastal and Inland

1. Preamble

   Includes any structure, including ramps, piers, wharfs, docks or floats, which could be used to access boats or the resource area.

2. Performance Standards

   (a) Docks are to be designed and engineered by a qualified engineer, with consideration given equally to practicality, durability and minimizing the impact to the Resource Area.

   (b) In the project Narrative, the applicant shall demonstrate that all alternatives to the proposed structures’ design and construction have been investigated.

   (c) The construction and installation sequence are to be included in the Project Narrative and depicted on the Plan.

   (d) Any portion of the dock or float which extends into a delineated resource area, the 35 foot No Touch Buffer Zone Resource Area and/or areas
subject to flooding or other freshwater Resource Area shall to be deployed seasonally.

(e) All structures associated with the dock including gangways, stairs and ramps shall be removed by December 1st, stored in a location greater than 35 feet from the Resource Area and not re-installed before April 1st.

(f) The applicant must receive the appropriate licenses from the Commonwealth of Massachusetts. Proof of such licenses shall be forwarded to the Commission before a Certificate of Compliance will be issued.

(g) To minimize light pollution and its impact on wildlife, only Dark Sky compliant lighting shall be permitted.

J. Pruning, Cutting, Clearing and Planting

1. Preamble

Cutting, removal, or other destruction of aboveground vegetation within a resource area as defined in these regulations or within a Buffer Strip as defined above shall be limited. If a Buffer Strip is to be maintained in grasses or as a wildflower meadow, other appropriate vegetation removal may be approved.

View clearing in the Buffer Zone Resource Area or vista cutting and pruning in the Buffer Strip or other resource area will not be permitted until construction is completed and a specific view identified after occupancy. Applicants are encouraged to consult with the Commission before submitting the appropriate filing and when planning projects that involve the removal or replacement of vegetation in the Buffer Zone Resource Area, Buffer Strip, or wetland resource area.

2. Definitions

As used in this section the following terms shall have the meanings indicated:

CUTTING -- The removal of vegetation.

CLEAR CUTTING -- Removal, to the ground, of all woody vegetation, including mowing of understory brush down to a minimum height of three inches (3”).

SELECTIVE CUTTING -- The removal of smaller, weaker, dead and less desirable tree species, leaving the more vigorous and native trees.

VISTA CUTTING -- The removal of vegetation that blocks a view.

PRUNING -- The removal of branches or parts of branches on shrubs and trees.

SELECTIVE PRUNING -- Removal of dead, diseased, obstructing, and weak branches or parts of branches, as well as selective thinning of branches to lessen wind resistance.

LIFTING -- Lifting of the canopy by removing lower limbs from the main trunk.
3. Performance Standards

(a) Pruning

When selective pruning of trees is permitted, the removal of such branches shall be as described above for removal of dead, diseased, obstructing and weak branches as well as thinning of branches to lessen wind resistance. When pruning of shrubs is permitted, the shrubs shall retain their natural shape and features such as fruits and flowers by selecting the optimum height for the shrub and pruning different branches in alternate years. With prior approval, Top of Coastal Bank plantings may be pruned to a minimum of 4 feet above ground level yearly.

(b) Cutting

(1) When cutting of live trees for a view is proposed, the Commission will require that pruning and thinning the canopy shall be accomplished first. When cutting is the only viable option in a heavily vegetated lot the Commission may allow the removal of up to 5% of existing trees greater than or equal to (≥) 6” Diameter at Breast Height, or 10% of existing trees less than or equal to (≤) 6” Diameter at Breast Height in any 3-year period. All trees proposed to be removed must be clearly delineated on-site. Specific specimen trees may be identified by the Commission for preservation.

(2) When removal of fallen or damaged trees is requested after a storm, the Commission may allow this through either acceptance of DEP issued Emergency Regulations, or through the Administrative Review filing procedure. If storm damaged trees provide an immediate risk to the health or safety of residents, Emergency removals can be authorized by the Commission or its Agent.

(3) Dead and diseased trees may be removed if they endanger a structure or live vegetation. Flush cutting rather than uprooting will be required in some cases.

(4) When lifting is proposed, the health of the tree must be considered as well as the impact to wildlife. In no instance shall more than 1/3 of the above ground trunk height be pruned.

(5) Clear cutting of land within Conservation Jurisdiction is prohibited. The only clear cutting within Jurisdiction that shall take place will be for the clearing of land for the construction of buildings with Commission approval.

(6) The Commission may require the replacement planting of native shrubs and trees in areas proposed for tree removal.

(c) Vista Pruning

(1) When vista pruning/cutting is proposed, the Commission encourages that specific windows of view (containing top, sides and bottom and not devoid of all tree canopy species) be identified and shown on a plan. The Commission prohibits “property line to property line” cutting. Filtered Vistas are encouraged and can be normally accomplished through pruning and lifting,
although topping of trees may be permitted in specific cases. Clear cutting for a view is prohibited.

NOTE: Proposals to remove Invasive Species may be approved when accompanied by Native Species Re-planting Plans.

K. Lawns

1. Preamble

Lawn fertilization can be a major source of excess nutrients that leach into groundwater or are washed off into roads that lead to water bodies causing eutrophication, unwanted algal blooms, oxygen depletion, fish kills and foul odors. The extent of such eutrophication will depend upon the amount of nutrients added and the flushing capacity of the receiving waters. Insecticides and herbicides used to maintain lawns also contaminate our waters. The application of nitrogen and phosphorus is prohibited within 100 feet of Resource Areas. Native vegetation with fibrous root systems tend to be excellent stabilizing plants especially on steep slopes.

2. Performance Standards

(a) For all new construction of single-family homes, commercial or industrial projects the amount of lawn area within Conservation Jurisdiction shall be limited to a maximum of 5,000 square feet.

(b) For any lawns that are to be planted within Conservation Jurisdiction, a minimum of 4-6 inches of loam or compost is required prior to planting. This will improve conditions for the lawn, reduce the chances of nutrients leaching through the soil and the introduction of invasive or non-native species (e.g. Japanese Knotweed).

(c) Only native species of grass that require little or no fertilizer and those that can tolerate drier conditions are allowed within Conservation Jurisdiction.

L. Wildlife Habitat

1. Preamble

The Commission encourages the preservation of indigenous vegetation for environmental protection and because of its important function as wildlife habitat. Plants that are sometimes regarded as “trash” species are often used by wildlife for important functions such as nesting, feeding and protective cover sites. For example, fox grape and other vine-like plants are used as food sources and nesting sites by both native and migratory species. Dead trees, often considered undesirable, are used as nesting and perching sites for a variety of birds and mammals, and as a food source by insect-eating birds. Dense
understory in wooded areas may provide nesting sites, travel corridors and protective cover for a wide variety of fauna. In addition to its aesthetic value, wildlife also serves to maintain a natural “checks and balances system” within various ecological communities. A well-known example of this balance is the predation of birds acting to control the populations of various insects.

Different groups of native plants make up various habitats, such as a sand plain grassland or pond shore shrub community. These native plant communities or habitats are often overrun with non-native and/or invasive species such as bittersweet, honeysuckle, bamboo, etc. Although these species may provide some cover and food for some animals, the native wildlife is dependent on the local native plant species that these are replacing. Removing non-native plants and replacing them with native species suitable for each habitat can improve the habitat.

2. General Performance Standards

(a) Within the 100-foot Buffer Zone Resource Area only native non-invasive species may be planted. The Commission emphasizes the advantages of using native species well adapted to Plymouth’s soils and weather conditions. Supporting a greater variety of wildlife is possible by increasing food sources and providing maximum protection. Both are achievable by providing a full range of plant species types for each vegetation layer.

For example:

- The lower layer with groundcovers, grasses and wildflowers.
- The middle layer with shrubs and small trees.
- The upper layer/canopy with large trees and vines.

(b) Removal of the shrub layer or lifting all the trees would eliminate food sources, reduce protection and prevent some species from nesting or denning on the site. However, the Commission encourages the removal and replacement of invasive species with native species if it can be shown that such removal and replacement will enhance or protect wildlife habitat.

(c) No landscaping or vegetation plan associated with any application to the Conservation Commission should propose the use of non-native, invasive plants anywhere within the 100-foot Buffer Zone Resource Area.

(d) The Commission presumes that wildlife will be protected when sufficient open space is left in its natural state to support the indigenous populations of mammals, birds, reptiles, amphibians, and fish.
M. Climate Change Resilience

1. Preamble

The impacts of climate change can adversely affect each Resource Area's ability to provide and promote the resource area values protected by the Bylaw. (See definitions of "adaptation" and "alter" and "impacts of climate change" in Section 4 above). Resource Areas are critical to building a community's resilience/adaptation to the impacts of climate change due to their ability to provide for flood control, storm damage prevention, and other resource area values.

The Applicant shall, to the extent practicable and applicable, as determined solely by the Commission, integrate considerations of adaptation planning into their project to promote climate change resilience so as to protect and promote resource area values into the future. These considerations are especially important in Land Subject to Flooding (floodplain) and Riverfront Area and other Resource Areas which protect the interest of Flood Control and Storm Damage Prevention, including Adjacent Upland Resource Areas. These Resource Areas may be directly impacted by extreme weather events expected to be more prevalent or more intense due to climate change, in surface runoff of pollutants, and in wildlife habitat due to changes in temperature.

2. Performance Standards

The Applicant shall consider the project's adaptation to potential climate change impacts by addressing the following:

(a) Describe project design considerations to limit storm and flood damage during extended periods of disruption and flooding as might be expected in extreme weather events.

(b) Describe project stormwater surface runoff, which may increase due to storm surges and extreme weather events, and how this will be managed and/or mitigated to prevent pollution (including nutrients from fertilizers, roadway runoff, etc.) from entering the resource area with consideration of eliminating impervious surfaces as feasible.

(c) Describe project vegetation planting plans and other measures to improve the resiliency of the wildlife habitat of the resource area to withstand potential temperature and rainfall changes (drought and excess) due to climate change.

(d) Describe measures to protect proposed structures and minimize damage to structures due to the impacts of climate change.
N. Floating Structures

1. Preamble

Inland, non-tidal freshwater, waterways and water bodies serve a variety of functions. Inland water bodies serve to confine floodwater within a definite channel or basin during the most frequent storms. These areas also provide significant habitat to a variety of plant and animal species.

The plant community composition and structure, hydrologic regime, topography, soil composition, and water quality of land under water bodies and waterways provide important food, shelter, migratory and over wintering areas, and breeding areas for wildlife. Waterfowl and some mammals eat certain submerged rooted vegetation. Some amphibians, as well as some invertebrate species eaten by vertebrate wildlife attach their eggs to such vegetation. Some aquatic vegetation protruding out of the water is also used for nesting, and many species use dead vegetation resting on land under water but protruding above the surface for feeding and basking. Land under ponds and lakes are vital to a large assortment of warm water fish during spawning periods. Soil composition is also important for hibernation for animals, which burrow their tunnels under water. Hydrologic regime, topography, and water quality not only affect vegetation, but also determine which species feed in the area.

The physical nature of land under waterways and water bodies is variable ranging from deep organic and fine sedimentary deposits to rocks and bedrock. The organic soils and sediments play an important role in the process of detaining and removing dissolved and particulate nutrients, such as nitrogen and phosphorus from the surface water above. They also serve as traps for toxic substances such as heavy metal compounds.

2. Design specifications and Performance Standards

In order to prevent adverse impacts to these resource areas, any new floating structure proposed on any natural (e.g. not constructed) inland, non-tidal, freshwater waterway or water body shall adhere to the following standards:

(a) Pressure treated building materials, if used, shall be non-leaching materials. The use of creosote or CCA treated materials is prohibited. Alternative materials such as aluminum, bamboo, plastic, or other, approved by the Conservation Commission may be used.

(b) Floating structures shall be stored in an upland area when off-line (four (4) month interval). Proposed storage area, outside of the 35 Foot No-Touch portion of the Buffer Zone Resource Area shall be identified by the applicant and approved by the Conservation Commission during the review process.
(c) No fixed or permanent structure may be permitted by the Conservation Commission. Floating structure may be deployed for no more than eight (8) months of any year.

(d) Consideration shall be given for the ability of the structure to allow light penetration through to the bottom. Structures shall be constructed in such a way so as to minimize shading effects of the proposed structure to the maximum extent feasible. If deck planking is to be used then planks shall spaced at least ½” apart. Other alternative deck materials such as aluminum, vinyl, or fiberglass grating may also be used to allow greater light penetration.

(e) Height of the structure above the water shall also be to the maximum extent feasible to allow for angular light penetration.

(f) The bottom of the support floats is to be at least 12” above the bottom substrate and that the deck is to be at least 12” above the surface of the water. Styrofoam flotation material is prohibited.

(g) There shall be no storage of hazardous materials on the structure.

(h) The plan required for the construction of a new floating structure shall be prepared and stamped by a registered professional engineer. Plans shall provide adequate detail in terms of scale of the proposed structure and associated site, materials to be used, proposed location, water depths in the location of the proposed structure, property lines, and cross section detail of the proposed structure.

(i) A project narrative shall be prepared detailing how the floating structure will meet the performance standards and the intent of the regulation as articulated in the Preamble Section.

(j) The winter storage location for the structure and the methodology to be used for the annual removal and deployment the structure.

(k) Information shall be provided regarding the number, type, and size of watercraft that will utilize or service the proposed floating structure, including engine and engine horsepower.
SECTION 11. WAIVER

The Conservation Commission may at its discretion waive one or more of these regulations when, in the Commission's opinion, the proposed work potentially represents a significant ecological improvement when compared to existing conditions, or will not adversely affect any areas subject to protection within these regulations. A waiver may only be granted in exceptional circumstance and only upon a written request. Said request will be submitted to the Commission providing the applicant's analysis of alternatives and must demonstrate that there are no viable alternatives and that the proposed work will contribute to the interests for which the resource area is significant.

SECTION 12. SEVERABILITY

The invalidity of any section or provision of the Regulations shall not invalidate any other sections 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 that are designed to comply with any Court decision, to be presented to the next Town Meeting for adoption after such invalidation.

SECTION 13. EFFECTIVE DATE

The effective date of these Rules and Regulations shall be April 23, 1990* as voted at Annual Town Meeting. 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.

*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; amended at a meeting of the Conservation Commission on May 18, 2010; amended at a meeting of the Conservation Commission on September 14, 2010 and amended at a meeting of the Conservation Commission on April 20, 2021.
Request for Determination of Applicability (RDA)

Prepare a plan depicting the proposed project and Wetland Resource Areas

File application package:
- WPA Form 1 - RDA
- Abutters List
- Fees
- Supporting Documentation
- 3 Weeks prior to Public Hearing

Project Advertised in Local News Paper
5 days prior to Public Hearing

Public Hearing

Continued to some time in the future without a date certain

Continued to some time in the future with a date certain

Hearing Closed and a decision rendered

Positive Determination
- Lack of Information
- Inability to prove that No Adverse Effect to Resource Area(s)
- Notice of Intent (NOI) Required

Negative Determination
- With or without Conditions
- Project Proceeds under ConCom Supervision (Valid for 3 years, may be extended)
Notice of Intent (NOI)

Engage professional to prepare an engineered plan depicting the proposed project and Wetland Resource Areas

File application package:
- WPA Form 3 - NOI
- Abutters List
- Fees
- Supporting Documentation
- 3 Weeks prior to Public Hearing
- Other Department Approvals

Project Advertised in Local News Paper 5 days prior to Public Hearing

Public Hearing

Continued to sometime in the future without a date certain

Continued to sometime in the future with a date

Hearing Closed and a decision rendered

Project Denied
- Lack of Information
- Inability to prove that No Adverse Effect to Resource Area(s)
- ConCom unable to condition project to protect Resource Area(s)

Revise Project Scope & Re-file NOI

Project Approved
- Order of Conditions Issued (OOC)
- OOC Recorded at Registry of Deeds
- Project Proceeds under ConCom Supervision (Valid for 3 years, may be extended)

Request Certificate of Compliance when Project Complete

Record Certificate of Compliance at Registry of Deeds
Abbreviated Notice of Resource Area Delineation (ANRAD)

Engage professional to prepare an engineered plan depicting the Delineated Wetland Resource Areas

File application package:
- WPA Form 4A - ANRAD
- Abutters List
- Fees
- Supporting Documentation
- 3 Weeks prior to Public Hearing

Project Advertised in Local Newspaper 5 days prior to Public Hearing

Public Hearing

Continued to sometime in the future without a date certain

Continued to sometime in the future with a date

Hearing Closed and an Order of Resource Area Delineation Issued Establishes mutually agreed upon Resource Area(s) – Valid for 3 years

Proposed Project Within Jurisdiction
- A NOI must be filed and an OOC issued prior to commencing work

Revise Delineation & Re-file ANRAD

Proposed Project Outside Jurisdiction
- Project may proceed without Conservation Constraints

Appeal DEP WPA – within 10 days and Superior Court By-Law within 60 days

Record ANRAD at Registry of Deeds
## APPENDIX B: ACRONYMS

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<td>WPA</td>
<td>Wetlands Protection Act</td>
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APPENDIX C: CHANGE LOG FROM SEPT. 2010 TO APRIL 2021

The following “Changes Log” is provided as a guide to the changes made to these Rules & Regulations over numerous working sessions by several generations of Commissions. These changes do not identify all specific changes and do not address format, numbering, grammatical or typographical error changes or corrections. Note: Section references in blue refer to section numbering used in the Sept. 2010 version of these Rules & Regulations.

TABLE OF CONTENTS
Revised to sections added and relabeled.

SECTION 1. INTRODUCTION
No significant changes made.

SECTION 2. PURPOSE
No significant changes made.

SECTION 3. JURISDICTION
No significant changes made, except for the following:
3.A.7: Added “Any land within 100 feet of a Vernal Pool…”
3.A.8: Added “In an Area of Critical Environmental Concern (ACEC)…”

SECTION 4. GENERAL PROVISIONS
No significant changes, except for the following:
4.2.b: Removed “new mounded septic system” from not permitted in FEMA V or VE zone
4.2.c: Removed “…septic systems may be up-graded or improved”
4.B.2: Added “…the Commission encourages the use of alternative waste disposal systems”
4.C: Revised and consolidated the section: “Incorporation”
4.F: Revised “Effective Date”

SECTION 5. DEFINITIONS
Revised the preamble to read: “The following definitions apply to the interpretation and/or application of these regulations…”
5: Added “Adaption”
5: Added “Administrative Review”
5: Added “Alter” bullet 2 “…or other disturbances of surface or ground water elevations.”
5: Revised “Alter” bullet 8 “…tend to contribute to pollution or contamination”
5: Added “Alter” bullet 9 “Test Pits…”
5: Added “Alter” bullet 10 “Any incremental activity…”
5: Added “Alter” section “Exclusions”
• Added “Normal landscaping maintenance activities are excluded…”
• Added “Spreading pesticide, herbicide or law fertilizer... shall not be considered normal landscaping maintenance…”
• Added “Changing the elevation…”

5: Added “Area of Special Flood Hazard”
5: Added “Aquifer”
5: Revised “Aquaculture” definition and added “normal maintenance…”
5: Added “Area of Special Flood Hazard”
5: Revised “Area of Critical Environmental Concern” definition
5: Added “Avoid – Minimize – Mitigate Calculus”
5: Added “Bog” note “Cranberry Bogs under active agriculture are not included in this definition.”
5: Added “Buffer Strip”
5: Added “Culvert”
5: Added “Cumulative Effect”
5: Added “Erosion Control Barrier (ECB)”
5: Added “Functions and Values”
5: Added “Ground Water”
5: Added “Impacts of Climate Change”
5: Added “Intermittent Stream”
5: Added “Lake”
5: Added “Lowest Structural Member”
5: Added “NFIP”
5: Revised “No Touch Zone” definition
5: Revised “No Build Buffer Zone” definition
5: Revised “Obstructions or Objects in Water” to add “Structures in the water…”
5: Added “Outer Buffer Zone”
5: Added “Paths”
5: Added “Perennial Stream”
5: Added “Previously Disturbed Area (PDA)”
  • Added “Modifications... prior to July 18, 1972…”
  • Added “Modifications... within 200 feet of a Perennial Stream…”
  • Added “Areas that have not been legally modified…”
  • Added “PDAs can include…”
  • Added “The burden of proof…”
5: Added “Salt Marsh”
5: Added “Spring Tide”
5: Added “Significant Adverse Effect”
5: Revised “Structure” to read “Something built or erected.”
5: Revised “Vernal Pool” note “…unless indicator species are present…”
5: Added “Violation Notice”
5: Added “Wet Meadow”
5: Added “Zone AH and Zone AO”
SECTION 6. PROCEDURE
6.B.1.c: Added “The Commission... shall publish the notice of the hearing...”
6.B.1.e.iv: Added “Photographic documentation showing existing conditions...”
6.B.1.e.x: Revised “Two paper copies and one electronic copy of all submission documents...”
6.B.2.d: Removed “Appendix A (if applicable) if in an endangered species area...”
6.B.1.f.i: Revised “Within twenty-one days after the date of receipt...”

6.B.2.a.iii: Added “Complete NOI” note “Written notification describing the resource area...”
6.B.2.a.v: Revised bullet 2 “Proposed project plans may...”
6.B.2.a.v: Added bullet 4 “Evidence that the appropriate documentation has been submitted to National and Endangered Species Program (NHESP)...”
6.B.2.a.v: Added bullet 5 “Field Delineation Data Sheets for freshwater wetland resource areas.” and added note “Winter freshwater wetland delineations shall not be accepted.”
6.B.2.a.v: Revised bullet 12 “Two paper copies and one electronic copy of all submission documents...”
6.C.1.e.iv: Removed “Appendix A if in an endangered species area...”
6.B.2.a.vi: Added “Forms and Plans shall describe the proposed activity and its effect on...” and added note “For additional information on applications and plan guidelines...”
6.B.2.a.vii: Added “A narrative of the proposed activity describing its impact on the wetland function and values...”
6.B.2.a.viii: Added “Photographic documentation showing existing conditions...”
6.C.1.f: Revised “Upon receipt of the application... the Commission shall issue a file number”
6.C.1.g: Removed “In the event that only a portion... lies within...”
6.C.1.h: Removed “...when the Commission has determined that an activity... altered...”

6.B.3.a: Added “Complete ANRAD” with sub sections i through iv.
6.B.3.b: Added “Incomplete ANRAD” with sub section i.

6.B.4.a: Moved “Minimum Submittal Requirements for Applications” from Section 9.A Guidelines, with sub sections I through v.
6.B.4.a.v: Added “ANRAD”
6.B.4.b.ii: Added “Narrative” bullet 2 “The purpose of evaluating project alternatives...”
6.B.4.b.ii: Added “Narrative” bullet 3 “Discussion of the Cumulative Effect(s)...”
6.B.4.b.ii: Added “Narrative” bullet 4 “Completed Field Data Forms...”
6.B.4.b.iii: Added “Title Block” sub bullet 5 “Parcel ID number” and removed “Plat and log number”
6.B.4.b.iii: Added “All plan sheets shall be stamped…”
6.B.4.b.iv: Added “Elevation of benchmark used…” and “NAVD 88 elevations are required” and removed “NGVD elevations are recommended”.
6.B.4.b.iv: Added “Structure” sub bullet 4 “Stairs and paths”
6.B.4.b.iv: Added to “…details of erosion control devices/barriers (e.g. silt fences, haybales, compost socks, straw wattles, turbidity curtain etc.)…”
6.B.4.b.iv: Added to “Vegetated buffer… as well as the location of significant trees (>12” DBH) to be removed or pruned”.
6.B.4.b.iv: Added “Table of Disturbances”
6.B.5: Added “Calculations/Technical Data” with sub sections a through c.
6.B.5.a: Added “A Table of Disturbances describing…”
6.B.5.b: Added “Photo documentation is required to use…”
6.B.5.C: Added “…compensatory volume of compatible bank sediment…”
6.B.6: Added “Field Requirements” description with sub sections a through j
6.B.6.a: Added “All wetlands resources are to be flagged to identify the 35’, 50’, and 100’ buffer zones.”
6.B.6.e: Removed references to specific flag colors
6.B.6.g: Added “Sediment barriers are to remain in place and maintained until authorization has been issued by the Commission or Staff.’ and removed “…until a Certificate of Compliance is issued.”
6.B.6.g: Added “Failure to comply… may result in… denial of the project for lack of information.”
6.C: Added “Public Hearings” with sub sections 1 through 3
6.C.2.b.iv: Added “Request that Conservation Staff make the presentation…”
6.C.2.h: Revised “In the event of a minor change… two paper and one electronic copy of the revised plan…”
6.C.3.a: Added “If the Applicant does not consent to the continuance… the Commission shall close the hearing…”
6.D.4: Removed from “Order of Conditions (OOC)” in sub section 4: “The Order may be extended for one or more periods of up to three years each…”
6.E.1: Removed from “Extensions” in sub section 1: “The OOC may be extended for one or move periods of up to three years each…”, which has been replaced by “The OOC may be extended for a maximum of three years…”
6.F.1: Added “…the Commission issue a Certificate of Compliance in writing, which is to be accompanied by an as-built plan, we stamped and signed by a profession engineer…”.
6.F.1: Added “Photo documentation of the completed project site is to be provided with the request, including images of authorized vista pruning.”
6.F.3: Added “...require additional actions to be taken to bring the project into compliance.”

6.G.4: Added “Community Service In Lieu of Fines”

SECTION 7. FEES
No significant changes, except the following:
7.C.3.c: Added “Where more than one type of application has been submitted...”

SECTION 8. SURETY
No significant changes

SECTION 9. ADDITIONAL REGULATIONS FOR COASTAL AND INLAND WETLANDS
9.A: Remove Preamble, Definitions and sub sections. Added note “No additional local performance standards.”
9.B: Removed Preamble and Definitions
9.C.1: Added “…also known as the Primary Frontal Dune, in any area are per se significant to storm damage prevention and flood control.” and removed remainder of Preamble and Definition.
9.C.2: Added Presumptions “The Coastal High Hazard Area or Velocity Zone...”
9.C.3.a: Added “Performance Standards” sub bullet 6 “Interfering with mapped or otherwise identified bird nesting habitat.”
9.C.3.b: Added sub bullet 1: “It shall not include coastal engineering structures of any kind.”
9.C.3b: Added to “Pedestrian walkways” sub bullet 2: “…nor have any adverse impact on traditional bird nesting habitat”
9.C.3b: Added to “Existing natural vegetative cover” sub bullet 4 “When plantings are approved native species, compatible with the existing natural vegetative cover...”
9.D: Removed Preamble, Definitions and sub sections. Added note “No additional local performance standards.”
9.G: Remove Preamble, Definitions and sub sections. Added note “No additional local performance standards.”
9.H: Remove Preamble, Definitions and sub sections. Added note “No additional local performance standards.”
9.I: Remove Preamble, Definitions and sub sections. Added note “No additional local performance standards.”
9.J.3.f: Added “Causing unintended relocation or discharge of septic or fuel container and/or its contents.”

9.L: Remove Preamble, Definitions, Critical Characteristics and Boundary, and sub sections. Added note “No additional local performance standards.”

9.M: Remove Preamble, Definitions, Critical Characteristics and Boundary, and sub sections. Added note “No additional local performance standards.”


9.P: Update “Preamble”

9.P.1.a: Added “35 Foot No-Touch Zone” “...removal of soil or vegetation is prohibited within this undisturbed area.”

9.P.1.a: Added “35 Foot No-Touch Zone” “...The above may be allowed if the Commission grants a waiver as described under §11 of these Regulations.”

9.P.1.b: Added “35 to 50 Food No-Build Zone” “Structures, buildings, shed, in-ground or above-ground pools, walls or fences are prohibited within this undisturbed area. The above may be allowed if the Commission grants a waiver as described under §11 of these Regulations.”

9.P.1.c: Added “50 to 100 Foot Outer Buffer Zone” “In the preparation of the alternatives analysis to make this showing the Applicant shall use the “Avoid – Minimize – Mitigate” calculus and describe the process in the Project Narrative. The above may be allowed if the Commission grants a waiver as described under §11 of these Regulations.”

9.P.2: Added “Proposed activities within a Previously Disturbed, 50 to100 Buffer Zone Resource Area and outside any area specified in this Section shall not be subject to regulation but are subject to notification of the Conservation Commission prior to undertaking. Minor activities include the following:

- Fencing provided it does not constitute a barrier to wildlife movement (e.g. the bottom of the fence is greater than 8” above the ground surface).
- Above ground pools which occupy less than 100 square feet
- Planting native vegetation.
- Activities that are temporary/seasonal in nature and have negligible impacts and are necessary for planning and design purposes as determined by the Commission or their designee.”

9.P.2: Added Note “These Minor Activities supersede the “Minor Activities” permitted under the Wetlands Protection Act and 310 CMR 10.02(2) b.”

Part III.1.a: Removed and replace in its entirety, including sub section 1 through 5, including “Minor Activities”. 

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SECTION 10. SPECIFIC REGULATED ACTIVITIES

10.D.2: Revised “A protective radius for... the vernal pool measuring 100 feet”. Note: This change is required so as to be consistent with the Town of Plymouth’s Wetland Bylaw.

10.F: Added “Buffer Strip”

10.G: Added “Stairs Over Coastal and Inland Banks”

10.H: Added “Walkways: Coastal and Inland”

10.I: Added “Docks” Coastal and Inland”

10.J: Added “Pruning, Cutting, Clearing and Planting”


10.L: Added “Wildlife Habitat”

10.M: Added “Climate Change Resilience”


SECTION 11. WAIVERS

No significant changes.

SECTION 12. SEVERABILITY

No significant changes.

SECTION 13. EFFECTIVE DATE

No significant changes, with the following exception: “...amended at a meeting of the Conservation Commission on April 20, 2021.”

APPENDIX A: PROCESS FLOW CHARTS

Revised to include:

- Field Requirements
- Vista Pruning
- Site Monitoring
- Perpetual Conditions
- Annual Coastal Beach Nourishment
- Administrative Review Procedure
- Field Change Procedure
- Amended OOC Procedure

APPENDIX B: ACRONYMS

Add Acronyms and definitions:

APPENDIX C: CHANGE LOG FROM SEPT. 2010 TO APRIL 2021

Add Change Log references and descriptions