

# DOCKET NO. 456

## SECTION 1

### TITLE AND AUTHORITY

- 1.1 These regulations shall be known as the Inland Wetlands and Watercourses Regulations of the Town of Plymouth.
- 1.2 These regulations have been prepared by the Plymouth Inland Wetlands and Conservation Commission in accordance with the provisions of an Act concerning Inland Wetlands and Watercourses Sections 22a-36 to 22a-45 inclusive of the Connecticut General Statutes (known hereafter as CGS) and Public Act 78-571, authorized by Town Meeting of the Town of Plymouth in accordance with an ordinance adopted July 19, 1973.
- 1.3 Pursuant to said CGS and Public Act, the Plymouth Inland Wetlands and Conservation Commission shall issue, issue with modifications, and deny permits for all regulated activities on inland wetlands and watercourses within the Town.

## SECTION 2

### DEFINITIONS

- 2.1 As used in these regulations:
  - a. "Act" means the Inland Wetland and Watercourses Act, Sections 22a-36 through 22a-45 of the CGS, as amended.
  - b. "Alluvial" means the soil formed from sediment deposited by flowing water, as in a river bed, floodplain, or delta.
  - c. "Bogs" are usually watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.
  - d. "Clearcutting" means the harvest of timber which removes all trees down to a 2" diameter at breast height in an area of 1 acre or more.
  - e. "Commission" means the Inland Wetlands and Conservation Commission of the Town of Plymouth.
  - f. "Commission Member" means a member of the Inland Wetlands Commission of the Town of Plymouth.

- g. "Commissioner of Environmental Protection" means the commissioner of the State of Connecticut Department of Environmental Protection.
- h. "Continual flow" means a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.
- i. "Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge or emit.
- j. "Designated Agent" means an individual designated by the Commission to carry out its functions and purposes, ordinarily the Land Use Enforcement Officer in his/her capacity as Wetlands Enforcement Officer.
- k. "Discharge" means emission of any water, substance, or material into wetlands or watercourses whether or not such substance causes pollution.
- l. "Disturbed area" means an area where the cover is destroyed or removed, leaving the land subject to accelerated erosion.
- m. "Disturbing the Natural and Indigenous Character of the Land" means that the activity will significantly alter the inland wetland and watercourses by reason of removal or deposition of material, clearcutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.
- n. "Dry Land" means land not containing wetlands or watercourses as defined in Section 2.1 (rr. and ss.).
- o. "Essential to the farming operation" means that the proposed activity is necessary to sustain farming activities on the farm.
- p. "Erosion" means the detachment and movement of soil or rock fragments by water, wind, or ice.
- q. "Farming" shall be consistent with the definition as noted in section 1-1(q) of the CGS. (See Appendix A)
- r. "Feasible" means able to be constructed or implemented consistent with sound engineering practices.
- s. "Inspection" means the periodic review by the designated agent for compliance to these regulations and of sediment and erosion control measures shown on the site plan.

- t. "Management Practice" means a practice, procedure, activity, structure, or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected. Refer to most current edition of "CT Guidelines for Soil & Sedimentation Controls".
- u. "Marshes" are watercourses that are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.
- v. "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, sand, gravel, clay, bog, peat, mud, debris, sand, refuse or waste.
- w. "Municipality" means the Town of Plymouth, Litchfield County, Connecticut.
- x. "Nurseries" means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.
- y. "Permit" means the whole or any part of any license, certificate or approval or similar form of permission which may be required of any person by the provision of these regulations under the authority of the Inland Wetlands Commission (see Sections 22a-36 through 22a-45a of the CGS).
- z. "Permittee" means the person to whom such permit has been issued.
- aa. "Person" means any person, firm, partnership, association, corporation, company, limited liability company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- bb. "Pollution" means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and or sedimentation resulting from any filling, land clearing or excavation activity.

- cc. "Prudent" means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.
- dd. "Regulated Activity" means any operation within or use of a wetlands or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution of such wetlands or watercourse but shall not include the specified activities in Section 4.1 – 4.3 of these regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, deposition or removing of material and discharging of storm water on the land within 100 feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity. The Commission may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.
- ee. "Regulated Area" means any inland wetland or watercourse as defined in these regulations.
- ff. "Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clearcut timber, bulldoze, dragline or blast.
- gg. "Rendering unclean or impure" means any alteration to the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.
- hh. "Sediment" means solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.
- ii. "Significant activity" means any activity, including, but not limited to, the following activities which may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland wetland or watercourse system:
  - 1. Any activity involving a deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system, or
  - 2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system, or

3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space or other functions, or
  4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse; or
  5. Any activity which causes a substantial diminution of flow of a natural watercourse, or groundwater levels of the regulated area, or
  6. Any activity which causes or has the potential to cause pollution of a wetland or watercourse, or
  7. Any activity which destroys unique wetland or watercourse areas having demonstrable scientific or educational value.
- jj. "Soil erosion and sediment control plan" means a scheme that minimizes soil erosion and sedimentation and includes, but is not limited to, a map and narrative. The map shall show topography, cleared and graded areas, proposed area alterations and the location of and detailed information concerning erosion and sedimentation control measures and facilities. The narrative shall describe the project, the schedule of major activities on the land, the application of conservation practices, design criteria, construction details and the maintenance program for any erosion and sediment control facilities that are installed and the name and phone number of the person responsible for their inspection and maintenance.
- kk. "Soil Scientist" means an individual duly qualified in accordance with standards established by either the Society of Soil Scientist of Southern New England or the New England Regional Soil Scientists Association.
- ll. "Swale" refers to a low-lying stretch of land to carry surface run-off. It can be loamed and seeded, stone lined or paved.
- mm. "Swamps" are watercourses that are distinguished by the dominance of wetland trees and shrubs.
- nn. "Submerged Lands" means those lands which are inundated by water on a seasonal or more frequent basis.
- oo. "Town" means the Town of Plymouth, Litchfield County in the State of Connecticut.

- pp. "Vernal Pool" means a watercourse consisting of a confined basin depression which contains a small body of standing water, usually drying out for part of the year during warm weather. It can be natural or man-made, and usually lacks a permanent outlet or any fish population. Further, the occurrence of one or more of the obligatory species which include the fairy shrimp, spotted salamander, Jefferson salamander, marbled salamander, wood frog and eastern spadefoot toad are necessary to conclusively define the vernal pool.
- qq. "Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands and watercourses of the Town.
- rr. "Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to Section 22a-28 through 22a-35, inclusive, of the CGS. "Intermittent watercourses" shall be delineated by a defined permanent channel and bank and the occurrence of TWO or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.
- ss. "Wetlands" means land, including submerged land as defined in this section, not regulated pursuant to Section 22a-28 through 22a-35, inclusive, of the CGS, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

### **SECTION 3.**

#### **INVENTORY OF WETLANDS AND WATERCOURSES AREAS**

- 3.1 The map of regulated areas, entitled "Inland Wetlands and Watercourses Map, Plymouth, Connecticut", delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the Land Use Office. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and actual locations of watercourses. The

Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.

- 3.2 Any property owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Watercourses Map may petition the Commission to change the designation. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with Section 15 of these regulations may be required of the property owner when the Commission requires an accurate delineation of regulated areas.
- 3.3 The Inland Wetlands Commission or its designated agent(s) shall inventory and maintain current records of all regulated areas within the town. The Commission may amend its map as more accurate information regarding delineation of wetlands and watercourses within the town becomes available. Such map amendments are subject to the public hearing process outlined in Section 15 of these regulations.

## **SECTION 4**

### **PERMITTED USES AS OF RIGHT AND NON-REGULATED USES**

- 4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
  - a. Grazing, farming, nurseries, gardening and harvesting of crops, and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this section shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clearcutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;
  - b. A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by the Plymouth Planning and Zoning Commission as of the effective date of promulgation of these regulations pursuant to subsection (b) of section 22a-42a or as of July 1, 1974, which ever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subsection unless the building permit was obtained on or before July 1, 1987.

The individual claiming a use of wetlands permitted as a right under this subsection shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement;

- c. Boat anchorage or mooring;
  - d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the Town and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal, or deposition of significant amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse.
  - e. Construction and operation, by water companies as defined by Section 16-1 of the CGS or by municipal water supply systems as provided for in Chapter 102, of the CGS, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-403 of the CGS.
  - f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the CGS or July 1, 1974, which ever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris within the pipe whether by hand or machine, while the pipe remains in place.
- 4.2 The following operations and uses shall be permitted, as non-regulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse;
- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silvicultural management practices.
  - b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing and cross-country skiing where otherwise legally permitted and regulated.



- c. Normal routine maintenance by Town of Plymouth agencies of existing facilities and structures which structures or activities and the maintenance thereof do not have a significant adverse or major effect upon a regulated area as determined by the Commission in accordance with Section 2.1(gg) of these regulations. Such maintenance work shall be performed so as to cause the least change, modification, disturbance, or damage to the regulated area. Every reasonable effort, as determined by the Commission, shall be made to restore the regulated area to its original natural condition by the Town Agency conducting such necessary maintenance work.
- 4.3 Subject to review and written determination of the Commission or its designated agent that the proposed activity is not reasonably likely to significantly disturb the natural and indigenous character of the land, the following activities may be conducted in the following situations:
- a. the construction of an addition, renovation, or improvement to an existing dwelling or the existing improvements located on such residential lot.
  - b. the demolition of a residential building or improvement located on the lot of an existing residential dwelling.
  - c. the excavation and filling of soil observation holes, test pits, and borings used to determine engineering, septic, and related information pertaining to site suitability surveys.
  - d. the construction of a new structure located on a parcel of land which contains a regulated area, provided the structure, construction activities, on-site storm water detention and related site disturbance activities are all located outside of the regulated area.
- 4.4 All activities in wetlands or watercourses involving filling, excavation, dredging, clearcutting, grading and excavation or any other alteration or use of a wetland or watercourse not specifically permitted by this section shall require a permit from the Commission in accordance with Section 6 of these regulations.
- 4.5 To carry out the purposes of this section, any person proposing to carry out a permitted or Non-regulated activity or use of a wetland or watercourse, which may disturb the natural and indigenous character of the land, shall, before starting such operation or use, notify the Commission in writing, and provide the Commission with sufficient information to enable it to properly determine that the proposed activity or use is a permitted or non-regulated use of the wetland or watercourse. The Commission or its designated agent shall rule that the proposed activity or use is permitted or non-regulated or that a permit is required. Such ruling shall be in writing. The designated agent for the Commission may make such ruling on behalf of the Commission at any time.

## **SECTION 5**

### **ACTIVITIES REGULATED EXCLUSIVELY BY THE COMMISSIONER OF ENVIRONMENTAL PROTECTION**

- 5.1 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education pursuant to sections 22a-39 or 22a-45a of the CGS.
- 5.2 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the CGS as amended.
- 5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under section 22a-402 of the CGS or a permit issued by the Commissioner of Environmental Protection under sections 22a-403 of the CGS. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from a municipal wetlands commission for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.4 The Commissioner of Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under section 404 of the Federal Clean Water Act.

## **SECTION 6**

### **REGULATED ACTIVITIES TO BE PERMITTED**

- 6.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands Commission of the Town of Plymouth.
- 6.2 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Town of Plymouth Inland Wetlands Commission, or violating any other provision of these regulations, shall be subject to the

enforcement proceedings and penalties prescribed in Section 14 of these regulations and any other remedies as provided by law.

## SECTION 7

### APPLICATION REQUIREMENTS

- 7.1 Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity shall apply for a permit on a form entitled "Town of Plymouth Inland Wetlands Commission - Application for Permit." The application shall contain the information described in this section and any other information the Commission may reasonably require. Application forms may be obtained in the Plymouth Land Use Office or at [www.plymouthct.us/permits.htm#planning](http://www.plymouthct.us/permits.htm#planning).
- 7.2 If an application to the Town of Plymouth Planning and Zoning Commission for site plan approval, special permit, subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-3(g), 8-3c, or 8-26, as applicable, of the CGS, submit an application for a permit to the Plymouth Inland Wetlands and Conservation Commission in accordance with this section, no later than the day the application is filed with the Planning and Zoning Commission.
- 7.3 All applications shall contain such information that is necessary for a fair and informed determination by the Commission.
- 7.4 A prospective applicant may request the Commission to determine whether or not a proposed activity involves a significant impact activity.
- 7.5 All applications shall include the following information in writing or on maps or drawings:
  - a. Applicant's name, home and business mailing addresses and telephone numbers; if the applicant is a Limited Liability Company or a Corporation the managing member's or responsible corporate officer's name, address and telephone number;
  - b. The owner's name, mailing address and telephone number and written consent of the land owner if the applicant is not the owner of the land upon which the subject activity is proposed;
  - c. the applicant's interest in the land;
  - d. The geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of

wetlands or watercourses to be disturbed, soil type(s), and wetland vegetation;

- e. The purpose and description of the proposed activity and proposed sedimentation and erosion controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
  - f. Alternatives which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen; all such alternatives shall be diagrammed on a site plan or drawing;
  - g. A site plan showing existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
  - h. Names and addresses of adjacent land owners, including those on the opposite side of the street.
  - i. statement by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
  - j. Authorization for the members and agents of the Commission to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit;
  - k. a completed DEP reporting form; the Commission shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies;
  - l. Any other information the Commission deems necessary to the understanding of what the applicant is proposing; and
  - m. Submission of the appropriate filing fee based on the fee schedule on the application for permit. Fees will be waived for Plymouth town agencies.
- 7.6 If the proposed activity involves a significant activity as determined by the Commission as defined in Section 2.1 of these regulations, additional

information, based on the nature and anticipated effects of the activity, including but not limited to the following is required:

- a. Site plans for the proposed use or operation and the property which will be affected. The site plan shall include, but may not be limited to the following:
  1. Boundary lines, dimensions and the area of the property.
  2. Locations of all wetlands and watercourses on the property as delineated by a soil scientist and within two hundred (200) feet thereof as delineated by the Litchfield County Soil Survey.
  3. Elevations at two (2) foot contour intervals throughout the property. If filling or removal of earth materials are proposed, resulting elevations shall be shown by one (1) foot contour intervals.
  4. Locations and descriptions of all existing and proposed drainage features.
  5. Locations and descriptions of proposed activities.
  6. If the activity affects a wetland, a description of the soils, including locations of any soil borings or any test holes. Soil types shall be described in accordance with categories established by the U.S. Soil Conservation Service. The wetlands shall be delineated in the field by a soil scientist using sequentially numbered flagging, and the field delineation and the flagging numbers shall be mapped onto the site plan. The soil scientist shall sign and date the surveyed plan (original or copy) and certify that it is substantially correct. All flagging shall be in place at the time of application.
  7. A soil report prepared and certified by a soil scientist describing all soil types on the property, and the location of wetlands and watercourses that are indicated on the site plan.
  8. Existing and proposed depths of water and high water level for all inundated areas.
  9. If pollution is proposed or reasonably anticipated as a result of site activities, the applicant shall provide a description of the process generating the pollution. In addition, the applicant shall provide chemical analysis of surface water and/or ground water at the site prior to site activities and after such pollution occurs. Analysis shall include but not be limited to turbidity, pH, total and fecal coliform, temperature, extractable petroleum hydrocarbons, and leachable RCRA 8 metals. Cost for collection, handling, and testing of surface water and/or ground water shall be borne by the applicant.

10. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses;
11. Description of the ecological communities and functions of the wetlands or watercourses involved (including predominant botanical species and any rare species) with the application and the effects of the proposed regulated activities on these communities and wetland functions;
12. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application, and with each alternative, a description of why each alternative considered was deemed neither feasible nor prudent;
13. Analysis of chemical or physical characteristics of any imported fill, borrow, subsoil, or topsoil;
  - a. All imported fill, borrow, subsoil, or topsoil must comply with the regulatory limits for chemical constituents established by the Connecticut Remediation Standard Regulations (C.G.S. 22a-133k). A Connecticut Department of Health licensed laboratory shall analyze representative samples, beginning with one sample for the initial 100 cubic yards and one additional sample for each additional 350 cubic yards. Costs for sample collection, handling, and testing shall be borne by the applicant. Analysis shall include but not be limited to extractable petroleum hydrocarbons, leachable RCRA 8 metals, volatile organic compounds via EPA Method 8260, polynuclear aromatic hydrocarbons by EPA Method 8270, polychlorinated biphenyls by EPA Method 8082, and pesticides via EPA Method 8081.
  - b. Particle size analysis shall be determined using the hydrometer particle size method with size fractions based on parameters promulgated by US Department of Agriculture.
14. Measures which mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.
15. A soil erosion and sediment control plan as defined in Section 2(jj) of these regulations including the name and phone number of the person responsible for the maintenance of the erosion and sediment control plan.

16. The following statement shall appear on all site plans (as appropriate):

**"FUNCTIONAL COMPLETION OF STORM WATER DETENTION SYSTEMS SHALL PRECEDE SITE DEVELOPMENT OF AREAS, ROADS, OR LOTS CONTRIBUTING TO THESE SYSTEMS".**

17. If the proposal is in a floodplain, the FEMA (HUD) floodplain lines.

18. Site plan specifications:

- a) Sheet size not to exceed 24" x 36".
- b) Drawing scale not to exceed 40 feet per inch.
- c) Title area must include:
  - 1) Name of project and applicant with address.
  - 2) Legible signature of person drawing plans.
  - 3) Embossed seal of the surveyor and engineer.
  - 4) Date of original plan and all revisions.
- d) Location map showing surrounding streets.

b. The site plan shall be prepared by a land surveyor or professional engineer licensed in Connecticut.

c. An application for a proposed activity in a floodplain must include information certifying that:

- 1. The proposal will not obstruct flood flows or result in an adverse increase in flood elevations, significantly affect the storage or flood control value of the floodplain, cause an adverse increase in flood velocities, or an adverse flooding impact upon upstream, downstream, or abutting properties, or pose a hazard to human life, health, or property in the event of a base flood.
- 2. The proposal complies with the provisions of the National Flood Insurance Program and any floodplain zoning requirements of the Town.
- 3. Applicant must include a copy of the National Flood Insurance map showing the subject site, map number and page with the application.

d. The requirement for any of the information described in Section 7.5 or 7.6 may be waived or modified by the Commission if it determines such information is not necessary to properly evaluate the impact of the proposed activity.

e. Official sign-off authorization on the site plan must be located in the lower left-hand corner of the map with the wording as follows:

*Approved by the Inland Wetlands Commission of the Town of Plymouth*

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

- 7.7 The applicant shall certify whether:
- a. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality.
  - b. traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
  - c. Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality;
  - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- 7.8 Four (4) copies of all application materials shall be submitted to comprise a complete application or as is otherwise directed by the Commission.
- 7.9 Any application to renew or amend an existing permit shall be filed with the Commission in accordance with section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to renew or amend such an existing permit shall contain the information required under section 7 of these regulations provided;
- a. the application may incorporate the documentation and record of the prior application;
  - b. the application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
  - c. the application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
  - d. the application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued;
  - e. the Commission may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow continuation of work beyond the expiration date if, in its judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity



- 7.10 Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided that no permit may be valid for more than ten years.

## SECTION 8

### APPLICATION PROCEDURES

- 8.1 All applications shall be filed with the Land Use Office of the Town of Plymouth.
- 8.2 The Commission shall, in accordance with CGS section 8-7d(f), notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:
- a. any portion of the property affected by a decision of the agency is within five hundred feet of the boundary of an adjoining municipality;
  - b. a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
  - c. a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
  - d. water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, appeal, request or plan.

- 8.3 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 16-1 of the CGS, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands commission of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the application. The water company, through representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission.

- 8.4 The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the Commission, immediately following the day of submission to the Commission or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner.
- 8.5 At any time during the review period, the applicant shall provide such additional information as the Commission may reasonably require. Requests for such additional information shall not stay the time limitation as set forth in subsection 11.2 of these regulations.
- 8.6 All applications shall be open for public inspection.
- 8.7 Incomplete applications may be denied.

## **SECTION 9**

### **PUBLIC HEARINGS**

- 9.1 The Commission shall not hold a public hearing on an application unless the Commission determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the Commission not later than fourteen days after the date of receipt of such application or the Commission finds that a public hearing regarding such application would be in the public interest. The inland wetlands commission may issue a permit without a public hearing provided no petition provided for in this section is filed with the inland wetlands commission on or before the fourteenth day after the date of receipt of application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard.
- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.
- 9.3 A sign shall be posted on the premises which is the subject of the application at least fifteen (15) days before the hearing or any reconvening thereof and must be removed within ten (10) days after completion of the hearing or any rehearing thereof. The sign shall be so located on the property so as to be visible and

readable from each street on which the property has frontage. Sign shall also be so posted approximately every 200 feet along the street frontage (s) of the subject property. The sign must be no more than five (5) feet off the street line and must be readable for posting. The minimum size of the sign shall be 2 feet by 2 feet. Printed lettering shall be black on a yellow background. The wording and size of lettering shall be as follows:

NOTICE OF HEARING ..... (2" LETTERS)  
INLAND WETLAND APPLICATION ..... (2" LETTERS)  
PLACE: TOWN HALL ..... (2" LETTERS)  
DATE: ..... (2" LETTERS)  
TIME: ..... (2" LETTERS)

The sign shall be legible in block or printed letters not less than the sizes shown above. The sign shall be prepared and erected by the applicant at a cost to be borne by the applicant. The applicant shall notify the Land Use Enforcement Officer when the sign is installed.

- 9.4 Notice of the public hearing shall be mailed by the applicant to the owner(s) of record of abutting and adjacent land no less than fifteen days before the day of the hearing. Proof of mailing shall be supplied to the Commission.
- 9.5 In the case of any application which is subject to the notification provisions of Section 8.3 of these Regulations, a public hearing shall not be conducted until the clerk of the ad-joining municipality[ies] has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

## SECTION 10

### CONSIDERATIONS FOR DECISION

- 10.1 The Commission may consider the following in making its decision on an application:
  - a. The application and its supporting documentation;
  - b. Reports from other agencies and commissions as requested.
  - c. The Commission may also consider comments on any application from the Litchfield County Soil and Water Conservation District, the Central Connecticut Regional Planning Agency or other regional organizations, agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.

- d. Non-receipt of comments from state agencies and commissions within the prescribed time shall neither delay nor prejudice the decision of the Commission.
- e. For an application for which a public hearing is held, public comments, evidence and testimony.

10.2 Criteria for Decision. In carrying out the purposes and policies of sections 22a-36 to 22a-45, inclusive, of the CGS, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Commission shall take into consideration all relevant facts and circumstances, including but not limited to:

- a. The environmental impact of the proposed regulated activity on wetlands or watercourses.
- b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses.
- c. The relationship between the short term and long term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long term productivity of such wetlands or watercourses.
- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- e. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property which is caused or threatened by the proposed regulated activity.
- f. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.

- g. Measures which would mitigate the impact of any aspect of the proposed regulated activity[ies]. Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and would protect the natural capacity of the wetlands or watercourses to support fish and wildlife, prevent flooding, supply water, control sedimentation, prevent erosion, assimilate wastes, facilitate drainage, and to provide recreation and open space.
- 10.3 A permit shall not be issued for an application which received a public hearing for a significant activity unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Commission shall consider the facts and circumstances set forth in subsection 10.2 of this section. The finding and the reasons therefore shall be stated on the record in writing.
- 10.4 In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Commission shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.5 For purposes of this section, (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6 A municipal inland wetlands commission shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7 In reaching its decision on any application after a public hearing, the Commission shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Commission in its decision. The Commission may seek advice from its experts on information already in the hearing record, provided that no new evidence or testimony is offered by these experts. If the Commission seeks the technical advice of its experts, it should do so only after providing notice to the applicant (and any other named parties to the proceeding) and providing an opportunity to hear and/or rebut the comments or opinions of the Commission's expert.

- 10.8 The Commission may deny a permit for any regulated activity on any building lot or subdivision lot which does not have contiguous dry land in an amount equal in size to the minimum building lot specified in the applicable Plymouth zoning regulations. Said denial, if made, will be based on the criteria set forth in Section 10.2 of these regulations.
- 10.9 There shall be no earth-moving, filling, or construction activity within 100 feet of a watercourse or wetland boundary, unless the applicant can prove that there is no prudent or feasible alternative.
- 10.10 Any construction capable of causing pollution, including sedimentation, of a regulated area must use siltation controls of a suitable material as approved by the Commission.
- 10.11 Disturbed areas shall be vegetated within a period of time determined by the Commission. The Commission may stipulate the types of vegetation to be used.

## **SECTION 11**

### **DECISION PROCESS AND PERMIT**

- 11.1 The Commission or its designated agent acting pursuant to Section 12 of these regulations, may grant the application as filed; grant it upon such terms, conditions, limitation or modifications necessary to carry out the purposes of the Act; or deny it. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority, restore, enhance and create productive wetland or watercourse resources.
- 11.2 No later than sixty-five (65) days after receipt of an application, the Commission may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection, provided the total extension of all such periods shall not be longer than sixty-five (65) days, or may withdraw the application. The failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed

incomplete by the Commission shall be withdrawn by the applicant or denied by the Commission.

- 11.3 The Commission shall state upon its record the reasons and bases for its decision.
- 11.4 The Commission shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Commission will publish notice of its action in a newspaper having general circulation in Plymouth. If the notice is not published within the 15-day period, the applicant may provide for its publication within 10 days thereafter. A copy of all Commission decisions shall be forwarded to the Commissioner of Environmental Protection on a form provided by the Commissioner.
- 11.5 If the Commission denies the permit, or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Commission's satisfaction. The Commission shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the Commission shall be equivalent to the denial of an application for purposes of appeal.
- 11.6 If the Commission denies a permit, the application shall not be resubmitted unless the proposal is modified in a fashion that substantially changes the impacts which resulted in the denial. Such submittal shall take the form of a new application.
- 11.7 Any permit issued by the Commission for the development of land for which an approval is required under section 8-3, 8-25, or 8-26 of the CGS shall be valid for five years provided the Commission may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Commission for any other activity shall be valid for not less than two years and not more than five years.
- 11.8 Any application to extend a permit shall be granted upon request of the permit holder unless the Commission finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years. An application to extend the expiration date of a permit or amend a permit shall be filed with the Commission at least 65 days but no more than 90 days before the expiration date. An application for amendment or extension shall be made in accordance with this Section provided:
  - a. The application may incorporate by reference the documentation and record of the original application;

- b. The application shall state the reason why the authorized activities were not started or completed within the time specified in the permit;
  - c. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses on the property for which the permit was issued;
  - d. The Commission shall evaluate the application pursuant to these Regulations and grant the application as filed, grant it with any terms or limitations, or deny it.
- 11.9 When a permit is assigned or transferred, the Commission shall be notified in writing by the holder of the original permit.
- 11.10 General provisions in the issuance of all permits:
- a. In evaluating applications in which the Commission relied in whole or in part on information provided by the applicant, if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
  - b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of Plymouth, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the property or activity.
  - c. If the activity authorized by the Inland Wetlands permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the wetland permit may begin until such approval is obtained.
  - d. No building permit, certificate of occupancy, zoning permit, or certificate of zoning compliance shall be issued for any activity until the applicant complies with these regulations.
  - e. Before any regulated activity begins, the Commission or its designated agent must be notified to inspect the installation of erosion and sedimentation controls.
  - f. The permittee shall notify the Commission or its designated agent when the permitted activity begins.



- 11.11 If a bond is required in accordance with Section 13 of these regulations, no permit shall be issued until such bond is provided.

## **SECTION 12**

### **ACTION BY DULY AUTHORIZED AGENT**

- 12.1 The Commission may delegate to its duly authorized agent the authority to approve or extend a permit for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to section 22a-39 of the CGS. Requests for such approval shall be made on a form provided by the Commission and shall contain the information listed under Section 7.5 of these regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9 and 11 of these regulations, such agent may approve or extend such an activity at any time.

## **SECTION 13**

### **BONDS**

- 13.1 Upon approval of the application and before a permit is issued, the applicant may be required to file a bond with such surety in such amount and in a form approved by the Commission. The form shall be a regular savings account (not a surety, first mortgage, special or time account). The following individual's names will appear on the account: the applicant, the Mayor of the Town of Plymouth, and the Comptroller of the Town of Plymouth. The account shall be releasable by a combination of any two of the three individuals named above. The above conditions shall appear on the account.
- 13.2 The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit including notification to the Commission of the start of regulated activities (Section 11.10f). All erosion controls shall be maintained in a functional condition and, upon completion of the regulated activity removed once all disturbed areas have been stabilized. Any damage, sedimentation or erosion resulting from a failure to maintain or properly install erosion controls will result in issuance of a cease and desist and steps shall be taken to utilize the bond to make necessary repairs.

Size of the bond shall be estimated by the applicant's engineer or, in the case of applications which did not require an engineer, by the applicant, and shall not exceed one hundred twenty five (125%) percent of the fair market estimate of the possible repairs to bring the area back to order. The size of the bond is subject to the approval of the Director of Public Works. The minimum bond required shall be \$100.00

- 13.3 On any construction site containing wetlands or watercourses, bond will not be released or a certificate of occupancy issued, until the site has been inspected by the Commission or the designated agent.

## **SECTION 14**

### **ENFORCEMENT**

- 14.1 The Commission may appoint an agent or agents to act in its behalf with the authority to issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Commission or its duly authorized agent shall take into consideration the criteria for decision under Section 10.2 of these regulations.
- 14.2 The Commission or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued with the consent of the property owner or the authorized agent of the owner during the life of the permit.
- 14.3 In the case in which a permit has not been issued or a permit has expired, the Commission or its agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- 14.4 If the Commission or its authorized agent finds that a person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Commission or its authorized agent may:
- a. issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing, notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Commission shall publish notice of its

decision in a newspaper having general circulation in Plymouth. The original order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this section shall not delay or bar an action pursuant to Section 22a-44(b) of the CGS, as amended;

- b. issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Section 14.3 or other enforcement proceedings as provided by law.
- 14.5 The Commission may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit the Commission shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Commission shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

## **SECTION 15**

### **AMENDMENTS**

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Plymouth may be amended by the Commission in accordance with changes in the CGS or regulations of the State Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2 An application filed with the Commission which is in conformance with the applicable inland wetland regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in the inland wetland regulation, including changes to setbacks and buffers, taking

effect on or after the date of such receipt and any appeal from the decision of such Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.

- 15.3 These regulations and the Town of Plymouth Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the CGS, as amended. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except determinations of boundaries, at least thirty-five days before the public hearing on their adoption. Application forms and fee schedules shall be considered as part of the Commission regulations.
- 15.4 Petitions requesting changes or amendments to the Town of Plymouth Inland Wetlands and Watercourses Map shall contain at least the following information:
- a. The applicant's name, address and telephone number;
  - b. The address of the land affected by the petition;
  - c. The petitioner's interest in the land affected by the petition;
  - d. A map showing the geographic location of the property affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations;
  - e. The reasons for the requested action;
- 15.5 Any person who submits a petition to amend the Inland Wetland and Watercourses map shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Commission. If such person is the owner, developer, or contract purchaser of the land which is the subject of the petition, or is such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 15.4, the petition shall include:

- a. the name, address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
  - b. the names and addresses of the owners of abutting land;
  - c. documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
  - d. map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- 15.6 Watercourses shall be delineated by a soil scientist, surveyor, hydrologist, or other qualified individual.
- 15.7 A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourse Map. Notice of the hearing shall be published in a newspaper having substantial circulation in the municipality at least twice at intervals of not less than two days, the first not more than fifteen (15) days nor less than (10) days, and the last not less than two days, before such hearing. A copy of such proposed boundary change shall be filed in the office of the town clerk, for public inspection at least ten days before such hearing.
- 15.8 Within ninety (90) days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the Commission shall hold a public hearing to consider the petition. The hearing shall last no longer than forty-five (45) days. The Commission shall act upon the changes requested in the petition within sixty (60) days after the hearing ends. If the petitioner and the Commission agree, the hearing may be extended an additional 45 days. In addition, if the petitioner and the Commission agree, the time for action by the Commission may be extended an additional 60 days beyond the original 60-day time period.

Failure of the Commission to act within any of the specified time periods does not mean the Commission has approved the petition.

The petitioner may withdraw the petition at any time.

- 15.9 The Commission shall make its decision and state, in writing, the reasons why the change in the Inland Wetland and Watercourses Map was made.

## **SECTION 16**

### **APPEALS**

- 16.1 Appeal on actions of the Commission shall be made in accordance with the provisions of Section 22a-43 of the CGS, as amended.
- 16.2 Notice of such appeal shall be served upon the Commission and the Commissioner of Environmental Protection.

## **SECTION 17**

### **CONFLICT AND SEVERANCE**

- 17.1 If there is a conflict between the provisions of these regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part, subsection or provision of these regulations shall not affect the validity of any other part which can be given effect without such valid part or parts.
- 17.2 If there is a conflict between the provisions of these regulations and the provisions of the Act, the provisions of the Act shall govern.

## **SECTION 18**

### **OTHER PERMITS**

- 18.1 Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Plymouth, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

## **SECTION 19**

### **FEES**

- 19.1 All fees required by these regulations shall be submitted to the Commission at the time the application is filed.

19.2 No application shall be granted or approved by the Commission unless the correct application fee is paid in full or unless a waiver has been granted by the Commission pursuant to subsection 19.6 of these regulations.

19.3 The application fee is not refundable.

19.4 Definitions. As used in this section:

"Residential Uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.

"Commercial Uses" means activities carried out on property developed for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes, for profit or nonprofit.

"Other Uses" means activities other than residential uses or commercial uses.

19.5 Exemption Boards, commissions, councils and departments of the Town of Plymouth are exempt from all fee requirements.

19.6 Waiver. The applicant may petition the Commission to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Commission should consider in its determination under this subsection. The Commission may waive all or part of the application fee if the Commission determines that:

- a. The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, or
- b. The amount of the application fee is clearly excessive in relation to the cost of the Town for reviewing and processing the application.
- c. The applicant has shown good cause.

The Commission shall state upon its record the basis for all actions under this subsection.

19.7 The Commission will review and set fees annually to coincide with preparation of the budget to become effective at the beginning of the following fiscal year.

## **SECTION 20**

### **EFFECTIVE DATE OF REGULATIONS**

20.1 These regulations are effective upon filing in the Office of the Town Clerk and publication of a notice of such filing in a newspaper having general circulation in the Town of Plymouth.

## APPENDIX A

### Connecticut General Statute section 1-1 (q)

Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits and vegetables for market or direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoopouses and other temporary structures or other structures used primarily for the raising and, as incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other mulluscan shellfish, on leased franchised and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.