

**Wetland Model Ordinances**

Wetland Conservation Overlay District (Village of Trumansburg, NY)

Freshwater Wetlands and Watercourse Protection (Town of Pawling, NY)

## ARTICLE VI – OVERLAY DISTRICTS

### **Section 601. Effect of Overlay Districts.**

Overlay Districts combine with and add to the regulations of the basic districts established in this Ordinance. All uses in any Overlay District require a Site Plan Review.

**Section 602. Conservation Overlay Districts.** The intent of the Conservation Overlay Districts is to protect fragile natural areas, including stream corridors and wetlands, where changes and/or development would be adverse to the environment, community values, public health, safety and general welfare of the Village, in accordance with the Village of Trumansburg Comprehensive Plan. The provisions of this section take precedence over any other zoning section, law or code to the extent that the provisions of this section are inconsistent with the other provisions.

### **Section 603. Site Plan Review in Conservation Overlay Districts.**

Any Site Plan Review conducted within a Conservation Overlay District shall include, in addition to any other requirements of this ordinance, additional project review criteria and additional submission materials.

**Section 604. Stream Corridor Conservation Overlay District.** Section 723 of this Ordinance establishes minimum stream buffers for perennial and intermittent streams throughout the Village. Within the Stream Corridor Conservation Overlay District, additional requirements apply.

**Section 604.1. Protection Requirements for Perennial Streams.** All perennial streams shall require a riparian buffer and a setback area. All site plan applications, special permits, special approval and variance applications, building permit applications, and excavation or fill permit applications shall require the delineation of any applicable riparian buffers and setback areas. Prior to any soil-disturbing activity, the riparian buffer and setback area shall be clearly delineated on site and shall be undisturbed until the project is complete.

1. Riparian Buffer Established. The riparian buffer will begin at the top of the stream bank and extend a minimum of fifty (50) feet horizontally measured in a direction directly perpendicular to the stream bank in a horizontal plane. Should a steep slope or wetland exist within this riparian buffer the entirety of that area will be added to the measurement of the riparian buffer. In addition to those minimum requirements, Site Plan Review shall consider whether additional buffer width is appropriate along perennial streams within the Stream Corridor Conservation Overlay District to protect and promote:
  - a. Habitat and Biodiversity, by providing terrestrial wildlife habitat and travel corridors, and food and habitat in aquatic ecosystems.
  - b. Stream Stability, by attenuating flooding, stabilizing stream banks and preventing erosion of stream banks and streambeds.
  - c. Water Quality, by removing pollutants and moderating temperatures.
  - d. Financial Savings, by preventing property damage, reducing public investment and protecting public facilities from flooding or other hazards.
2. Riparian Buffer Restrictions. Riparian buffers shall maintain native vegetation in a natural state. Development may not modify or interrupt more than 10% of the entire riparian buffer area unless necessary for the protection of human health, utility usage, public infrastructure, or the betterment of the riparian corridor. Development within the riparian buffer is limited to:
  - a. Benches or seating.
  - b. Educational and scientific research.
  - c. Flood control, stormwater management structures, and stream bank stabilization measures approved by the Tompkins County Soil and Water Conservation District, Natural Resource Conservation Service, Army Corps of Engineering, or NYS Department of Environmental Conservation.
  - d. Maintenance of roadways or impervious surfaces existing at the time of the adoption of this provision.
  - e. Stream crossings necessary to access the property by driveway, transportation route, or utility line which have minimal negative impacts on the stream and riparian buffer.
  - f. Public water supply intake or public wastewater outfall structures.
  - g. Public access and public recreational facilities that must be on the water including boat ramps, docks, foot trails leading directly to the stream, fishing platforms and overlooks.

- h. Public sewer lines and/or other utility easements.
  - i. Non-paved recreational trails no wider than 10 feet that either provide access to the stream or are part of a continuous trail system running roughly parallel to the stream.
  - j. Temporary use of erosion control measures such as silt fencing.
3. Setback Area Established. The Setback Area will begin at the outward edge of the Riparian Buffer and extend an additional fifty (50) feet from the top of stream bank.
4. Setback Area Restrictions. Within the setback area development uses are restricted to the following:
- a. All development and uses permitted in the riparian buffer.
  - b. Minor recreational structures and surfaces to allow passive recreation in the setback area such as decks, picnic tables, playground equipment, and small concrete slabs, the total area of which is not to exceed 200 square feet each and in aggregate occupy no more than 10% of the setback area.
  - c. Fences, provided such structures do not impede floodwaters.
  - d. Landscaping, mowing, decorative planting or improvements that do not encroach upon or impact the integrity of the riparian buffer.

**Section 604.2. Submission Materials.** In addition to any other materials required by this ordinance, the proposed site plan shall show the location of the top of banks of any perennial stream within fifty (50) feet of the property.

**Section 604.3. Prohibited Activities.** The following activities are explicitly prohibited within any riparian buffer or setback area:

- a. Storage or placement of any hazardous materials.
- b. Purposeful introduction of invasive vegetative species that reduce the persistence of native vegetation.
- c. Waste storage, placement, or disposal, including but not limited to disposal and dumping of snow and ice, recyclable materials, manure, hazardous or noxious chemicals, inoperative automobiles or appliance structures, and other abandoned materials.
- d. Mining or removal of soil, sand and gravel, and quarrying of raw materials.
- e. Dredging, deepening, widening, straightening or any such alteration of the beds and banks of natural streams except where the New York State Department of Environmental Conservation has issued a permit expressly allowing such activities.
- f. Application of herbicide, pesticides, fertilizers, or other chemicals.
- g. Parking of motorized vehicles, except as permitted as a Special Use by the Board of Appeals.

**Section 604.4. Exemptions.** The following specific activities are exempt from the requirements of the Stream Corridor Conservation Overlay District.

- a. This section shall not apply to agricultural land use activity existing as of the effective date of this ordinance.
- b. Work consisting of the repair or maintenance of any lawful use of land that is approved for such use on or before the effective date of this ordinance.

## **605. Wetland Conservation Overlay District.**

### **Section 605.1. Buffer Requirement.**

- 1. Buffer Required. A minimum setback of 100 feet shall be required from the delineated boundaries of all wetlands of two acres or more within the Wetland Conservation Overlay District. The Planning Board may, in reviewing any site plan within the Wetland Overlay District, require greater setbacks.
- 2. Exempt activities. The following activities shall be permitted within a Wetland Overlay District without a Site Plan Review provided they do not require structures, grading, fill, draining, or dredging:
  - a. Normal ground maintenance including mowing, trimming of vegetation.
  - b. Repair of existing decorative landscaping and planting native species.
  - c. Repair of existing walkways, walls, and driveways.

- d. Public health activities, in emergencies only, of the County Department of Health and/or New York State Department of Health.
  - e. Operation of existing dams and water control devices.
3. **Prohibited activities.** The following activities are explicitly prohibited in both the setback area.
- a. Storage or placement of any hazardous materials.
  - b. Purposeful introduction of invasive vegetative species that reduce the persistence of native vegetation.
  - c. Waste storage, placement, or disposal, including but not limited to disposal and dumping of snow and ice, recyclable materials, manure, hazardous or noxious chemicals, used automobiles or appliance structures, and other abandoned materials.
  - d. Mining or removal of soil, sand and gravel, and quarrying of raw materials.
  - e. Alteration of wetlands except where the New York State Department of Environmental Conservation or the U.S. Army Corps of Engineers has issued a permit expressly allowing such activities.
  - f. Application of herbicide, pesticides, fertilizers, or other chemicals.
  - g. Parking of motorized vehicles, except as permitted as a Special Use by the Board of Appeals.

**Section 605.2. Project Review Criteria.** Site Plan Review within the Wetland Conservation Overlay District shall consider the impact of any proposed project on:

- 1. The ability of the wetland to filter harmful toxins, nutrients, and sediment from surface and stormwater runoff.
- 2. The ability of the wetland to store floodwaters and reducing the magnitude of flood events.
- 3. The ability of the wetland to provide valuable habitat for a diverse array of flora and fauna, including any existing rare, threatened, or endangered species.
- 4. The ability of the wetland to maintain surface-water flow during dry periods.
- 5. The impact of any excessive siltation resulting from surface runoff from construction sites, road, bridge, and pipeline construction and lack of erosion control on steep slopes.
- 6. The impact of pollution by road salt and chemical pollution from parking lots and treated lawns.
- 7. The impact of pollution by garbage, litter, and refuse.
- 8. The impact of a reduction in the flow of watercourses due to destruction of wetlands.

**Section 605.3. Submission Materials.** In addition to any other materials required by this ordinance, the proposed site plan shall show the boundaries of any wetland as determined by field investigation. The Planning Board may require flagging and subsequent survey by a licensed land surveyor. The Planning Board may consult and/or may require the applicants to consult with approved biologists, hydrologists, soil scientists, ecologists, botanists, legal counsel, engineers, or other experts necessary to make this determination.

**Section 719. Extraction of Natural Products.** In any district, the removal of sod, loam, sand, gravel or quarried stone for sale, except when incidental to, or in connection with, the construction of a building shall be prohibited.

**Section 720. Access to Business or Manufacturing Use.** No driveway or other means of access for vehicles, other than a public street, shall be maintained or used in any residence district for the servicing of a business or manufacturing use located in a commercial or industrial district.

**Section 721. Gas Stations.** No gasoline or oil pump, no oiling or greasing mechanism and no other service appliance installed in connection with any gasoline sales station or public garage shall be within thirty (30) feet of any street right-of-way or within fifty (50) feet of any residential zoning district.

**Section 722. Swimming Pools.** All swimming pools shall be constructed and installed in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code and require a building permit. Swimming pools shall meet the setback requirements for accessory structures. The sides of pools must be firm and not able to be bent or lowered by body weight or ladders or other point of entry equipment.

**Section 723. Stream Buffers.** This section is intended to promote the prevention of sediment, nutrient and pollutant loads from entering streams by maintaining stream buffers from the top of stream bank.

**Section 723.1. Protection Requirements for Perennial and Intermittent Streams.** All perennial and intermittent streams shall require a riparian buffer with a total width of fifty (50) feet from the top of stream bank. All site plan applications, special permits, special approval and variance applications, building permit applications, and excavation or fill permit applications shall require the delineation of any applicable riparian buffers. Prior to any soil-disturbing activity, the riparian buffer shall be clearly delineated on site and shall be undisturbed until the project is complete.

**Section 723.2. Riparian Buffer.** The riparian buffer will begin at the top of the stream bank and extend a minimum of fifty (50) feet horizontally measured in a direction directly perpendicular to the stream bank in a horizontal plane. Should a steep slope or wetland exist within this riparian buffer the entirety of that area will be added to the measurement of the riparian buffer. Riparian buffers shall maintain native vegetation in a natural state. Development may not modify or interrupt more than 10% of the entire riparian buffer area unless necessary for the protection of human health, utility usage, public infrastructure, or the betterment of the riparian corridor. Development within the riparian buffer is limited to:

- a. Benches or seating.
- b. Educational and scientific research.
- c. Flood control, stormwater management structures, and stream bank stabilization measures approved by the Tompkins County Soil and Water Conservation District, Natural Resource Conservation Service, Army Corps of Engineering, or NYS Department of Environmental Conservation.
- d. Maintenance of roadways or impervious surfaces existing at the time of the adoption of this provision.
- e. Stream crossings necessary to access the property by driveway, transportation route, or utility line which have minimal negative impacts to the stream and riparian buffer.
- f. Public water supply intake or public wastewater outfall structures.
- g. Public access and public recreational facilities that must be on the water including boat ramps, docks, foot trails leading directly to the stream, fishing platforms and overlooks.
- h. Public sewer lines and/or other utility easements.
- i. Non-paved recreational trails no wider than 10 feet that either provide access to the stream or are part of a continuous trail system running roughly parallel to the stream.
- j. Temporary use of erosion control measures such as silt fencing.

**Section 723.3. Exemptions.** The following specific activities are exempt from the requirements of this section.

- a. This section shall not apply to agricultural land use activity existing as of the effective date of this ordinance.
- b. Work consisting of the repair or maintenance of any lawful use of land that is approved for such use on or before the effective date of this ordinance.

**Section 723.4. Prohibited Activities.** The following activities are explicitly prohibited in the riparian buffer.

- a. Storage or placement of any hazardous materials.
- b. Purposeful introduction of invasive vegetative species that reduce the persistence of native vegetation.
- c. Waste storage, placement, or disposal, including but not limited to disposal and dumping of snow and ice, recyclable materials, manure, hazardous or noxious chemicals, used automobiles or appliance structures, and other abandoned materials.
- d. Mining or removal of soil, sand and gravel, and quarrying of raw materials.
- e. Dredging, deepening, widening, straightening or any such alteration of the beds and banks of natural streams except where the New York State Department of Environmental Conservation has issued a permit expressly allowing such activities.
- f. Application of herbicide, pesticides, fertilizers, or other chemicals.
- g. Parking of motorized vehicles, except as permitted as a Special Exception by the Board of Appeals.

**Section 724. Private Roads.** Any private road serving more than one lot or more than two buildings shall be constructed to meet Village specifications for right-of-way, grade and cross section, as approved by the Village Superintendent of Public Works or Village Engineer.

# Chapter 111. FRESHWATER WETLANDS AND WATERCOURSE PROTECTION

§ 111-1. Title and purpose.

§ 111-2. Legislative intent.

§ 111-3. Definitions and word usage.

§ 111-4. Applicability.

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§ 111-6. Permit applications.

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§ 111-10. Appeals.

§ 111-11. Exception.

§ 111-12. Compliance with other code and regulation provisions.

**[HISTORY: Adopted by the Town Board of the Town of Pawling 3-9-1993 as L.L. No. 4-1993. Amendments noted where applicable.]**

## **GENERAL REFERENCES**

Zoning — See Ch. **215**.

Subdivision of land — See Ch. **A230**.

### § 111-1. Title and purpose.

This chapter shall be known as the "Freshwater Wetlands and Watercourse Protection Law of the Town of Pawling." Its purpose is to regulate the dredging, filling, deposition or removal of materials, including vegetation; the diversion or obstruction of water flow; the placement of structures in, and other uses of, the ponds, lakes, reservoirs, natural drainage systems and wetlands located in the Town of Pawling; and the requirement of permits therefor, providing for the protection and control of wetlands, waterbodies and watercourses.

### § 111-2. Legislative intent.

- A. The Town Board of the Town of Pawling has determined that the public interest, health and safety and the economic and general welfare of the residents of the Town of Pawling will be best served by providing for the protection, preservation, proper maintenance and use of the town's ponds, lakes, reservoirs, waterbodies, rivers, streams, watercourses, wetlands, natural drainage systems and adjacent land areas from encroachment, spoiling, polluting or elimination resulting from rapid population growth attended by commercial development, housing, road construction and/or disregard for natural resources.
- B. The wetlands, watercourses and controlled areas adjacent to wetlands and/or watercourses in Pawling are a valuable natural resource which serve to benefit the entire Town and the surrounding region by performing one or more of the following functions:

- (1) Providing a common linkage between aquatic systems (aquifers, floodplains, wetlands, lakes, rivers, etc.).
- (2) Preventing watershed diversion of ground- or subsurface water.
- (3) Preventing uncontrolled stormwater drainage.
- (4) Providing drainage and flood control through hydrologic absorption, natural storage and flood conveyance.
- (5) Protecting subsurface water resources, watersheds and groundwater recharge systems.
- (6) Providing a critical living, breeding, nesting and feeding environment for many forms of wildlife, including but not limited to mammals, wildfowl, shorebirds, rare species, especially endangered and threatened species, and other dependent plants and animals.
- (7) Treating pollution through natural biological degradation and chemical oxidation.
- (8) Controlling erosion by serving as sedimentation areas and filter basins, capturing silt and organic matter.
- (9) Providing sources of nutrients in freshwater food cycles.
- (10) Serving as nursery grounds and sanctuaries for freshwater fish.
- (11) Providing recreation areas for hunting, fishing, boating, hiking, bird-watching, photography, camping and other uses.
- (12) Serving as an educational and research resource.
- (13) Preserving natural open space which serves to satisfy human psychological and aesthetic needs.

C. Areas adjacent to wetlands and watercourses provide essential protection by serving as mitigation from the impacts of activities taking place on surrounding lands. For the purpose of this chapter, these buffer areas are defined as controlled areas.

D. The protection of wetlands, watercourses and controlled areas is a matter of concern to the entire town. The establishment of regulatory and conservation practices for wetlands, watercourses and controlled areas serves to protect the Town by ensuring review and regulation of any activity on or along wetlands, watercourses and controlled areas that might adversely affect the town's citizens' health, safety and welfare.

- E. Wetlands, watercourses and controlled areas in Pawling and other areas form an ecosystem that is not confined to any one property owner or neighborhood. Experience has demonstrated that effective wetlands protection requires consistency of approach to preservation and conservation efforts throughout the town.
- F. Loss of wetlands or any activity along watercourses and their controlled areas can cause or aggravate flooding, erosion, sedimentation, diminution of water supply and water quality for drinking and waste treatment and may pose a threat to the health, safety and welfare of the people of Pawling and the surrounding region.
- G. Regulation of wetlands, watercourses and controlled areas is consistent with the legitimate interests of farmers to graze and water livestock, make reasonable use of water resources, harvest natural products of wetlands, watercourses and controlled areas, selectively cut timber and fuel wood and otherwise engage in the use of land for agricultural production.
- H. The State of New York has enacted legislation entitled the "Freshwater Wetlands Act," found in Article 24 of the Environmental Conservation Law, which authorizes local governments to establish their own procedures for the protection and regulation of wetlands lying within their jurisdiction. The New York State Department of Environmental Conservation has promulgated implementing regulations for local government adoption of Article 24 authority, found in Part 665 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR Part 665). It is not the intent of this chapter to regulate wetlands under NYSDEC jurisdiction.
- I. This chapter is enacted pursuant to the above-referenced law and any and all applicable laws, rules and regulations of the State of New York, and nothing contained herein shall be deemed to conflict with any such laws, rules or regulations.
- J. It is the intent of this chapter to incorporate the consideration of wetlands and watercourse protection, as well as that of their controlled areas, into the town's land use and development approval procedures, so as to provide a reasonable balance between the rights of the individual property owners to the use of their property and the rights of present and future generations.

### § 111-3. Definitions and word usage.

- A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular. The word "shall" is intended to be mandatory.
- B. As used in this chapter, the following terms shall have the meanings indicated:

## **AGRICULTURE**

All activities directly related to the grazing, growing or raising of crops or livestock, including but not limited to horticulture and fruit production, which operates on 10 acres or more and produces average annual gross sales of agricultural products valued at \$10,000 or more. Timber harvesting, pond construction, drainage or permanent alteration of wetlands, watercourses or controlled areas is not included in agricultural activities.

**[Amended 9-9-2003 by L.L. No. 1-2003]**

## **ALTER**

To change, move or disturb any vegetation, soil, drainageway or other natural material or system within a wetland, watercourse or controlled area as defined by this chapter.

## **APPLICANT**

Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof, who has a request for a permit to conduct a regulated activity before the Code Enforcement Officer or who has an application pending pursuant to § **111-6** of this chapter before the Planning Board.

## **AQUACULTURE**

Cultivating and harvesting products, including fish and vegetation, that are produced naturally in freshwater wetlands, and installing cribs, racks and other in-water structures for cultivating these products, but does not include filling, dredging, peat mining or the construction of any buildings or any water-regulating structures, such as dams.

## **CLEAN FILL**

Soil or earth free of all deleterious and/or organic matter and shall be composed of no more than 10% by volume of stone, rocks or boulders with their maximum size measuring no more than 12 inches in either length or diameter. It shall not include: (1) construction or demolition debris; (2) putrescible materials; (3) slag; (4) dredgings from waterways or water bodies; (5) more than 50% clay by weight.

**[Added 2-8-2005 by L.L. No. 1-2005]**

## **CLEAR CUTTING**

Complete cutting and removing of an entire stand of trees, replaced by natural or planted regeneration.

## **CODE ENFORCEMENT OFFICER**

The individual designated by the Pawling Town Board and charged with the enforcement of zoning, building and fire codes.

## **COMPLETE APPLICATION**

An application which has been declared to be complete by the Environmental Director or which has been deemed complete as a result of the Environmental Director's failure to evaluate it for completeness within the required time period.

## **CONSERVATION ADVISORY BOARD (CAB)**

The duly appointed Conservation Board of the Town of Pawling as created pursuant to § 239 of the General Municipal Law.

## **CONTROLLED AREA**

A buffer area surrounding a wetland or watercourse that is also subject to the regulations of this chapter, determined as follows:

- (1) For all wetlands, the "controlled area" shall extend to the greater of the following: 100 feet away from the edge of the wetland boundary, or, in cases where the wetland is bounded with a steep slope 25% or greater, the buffer shall extend 100 feet from the top of the steep slope.
- (2) The "controlled area" of a watercourse shall extend to all adjacent surfaces for 100 feet as measured from the top of the bank of the watercourse.

## **DATE OF RECEIPT OF COMPLETE APPLICATION**

A complete application shall be deemed received by the Planning Board on the date of the first regular meeting of the Planning Board following the filing of the complete application and supporting plans with the Planning Board by the Code Enforcement Officer pursuant to the provisions of § 111-6 of this chapter.

## **DAMS AND WATER CONTROL MEASURES AND DEVICES**

Barriers used to obstruct the flow of water to raise, lower or maintain the water level in wetlands.

## **DEPOSIT**

To fill, place, eject or dump any material.

**[Amended 9-9-2003 by L.L. No. 1-2003]**

## **DCSWCD**

The Dutchess County Soil and Water Conservation District.

## **ENVIRONMENTAL DIRECTOR**

The individual designated by the Pawling Town Board and charged with reviewing and evaluating the environmental impacts of all wetland permit applications as well as determining their "completeness" in accordance with the provisions of this chapter.

## **FLOOD-PRONE AREAS**

The Planning Board may, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, drainage and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the flood-prone area of any stream or drainage course. These flood-prone areas shall be preserved from any and all destruction or damage resulting from clearing, grading or dumping of earth, waste material or stumps, except at the discretion of the Planning Board.

**[Added 2-8-2005 by L.L. No. 1-2005]**

## **FRESHWATER WETLANDS MAP**

The Town of Pawling Freshwater Wetlands and Watercourse Map prepared by the Dutchess County Environmental Management Council dated February 24, 1993, was produced from digitized natural resource data of Pawling and is intended to be used as a guide. Finite wetland/watercourse boundaries shall be determined by field investigation using criteria described in this chapter.

#### **LOT AREA**

The total area within the property lines, excluding external roads. The property line adjacent to the road, for the purpose of this chapter, shall be deemed to be not less than 25 feet from the center line of a minor road, nor less than 30 feet from the center line of a collector road, nor less than 40 feet from the center line of a major road, nor less than 60 feet from the center line of an arterial highway. To calculate the lot area, not more than 10% of the minimum area required by the Town Code may be comprised of land which is under water or subject to periodic flooding.

**[Added 2-8-2005 by L.L. No. 1-2005]**

#### **MATERIAL**

Liquid, solid or gaseous substances, including but not limited to soil, silt, gravel, rock, sand, clay, peat, mud, debris and refuse; any organic or inorganic compound, chemical agent or matter, including sewage, sewage sludge or effluent; and agricultural, industrial or municipal solid waste.

#### **NYSDEC**

The New York State Department of Environmental Conservation.

#### **PERMIT OR WETLANDS PERMIT**

That form of Town approval required by this chapter for the conduct of a regulated activity within any wetland, watercourse or controlled area.

#### **PERSON**

See "applicant."

#### **PLANNING BOARD**

The duly appointed Planning Board of the Town of Pawling.

#### **POLLUTION**

The presence in the environment of human-induced conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant or animal life or to property.

#### **PROJECT**

Any action resulting in direct or indirect physical or chemical impact on a wetland, watercourse or controlled area, including but not limited to any regulated activity.

#### **REMOVE**

To dig, dredge, suck, bulldoze, dragline, blast or otherwise excavate or regrade, or the act thereof.

#### **STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)**

The law pursuant to Article 8 of the New York Environmental Conservation Law providing for environmental quality review of actions which may have a significant effect on the environment.

#### **STRUCTURE**

Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground. The term includes but is not limited to tennis courts and swimming pools.

**TIMBER HARVESTING**

Any activity which may alter the physical characteristics of any forested land, including but not limited to any activity involving or associated with the cutting of trees, except that the following activities shall not be considered to be "timber harvesting:"

- (3) The routine maintenance of roads, easements and rights-of-way and the clearing of farm fence lines; and
- (4) The clearing of approved subdivision roads, site plans and public utility easements.

**TOWN BOARD**

The duly elected Town Board of the Town of Pawling.

**TOWN CLERK**

The duly elected Town Clerk of the Town of Pawling.

**TOWN ENGINEER**

Any person or firm employed by the Town of Pawling as the Town Engineer.

**WATERBODY**

Any natural or artificial pond, lake, reservoir or other area which usually or intermittently contains water and which has a discernible shoreline.

**WATERCOURSE**

Any natural or artificial, permanent or intermittent, public or private waterbody or water segment, such as ponds, lakes, reservoirs, rivers, streams, brooks, waterways or natural drainage swales, that is contained within, flows through or borders on the Town of Pawling.

**WETLANDS**

(a) All geographic areas greater than one-fourth (1/4) acre, but not including wetlands regulated by the NYSDEC, and characterized by any or all of the following:

[1] Marshes, swamps, bogs or other areas of permanent water retention fed by springs or natural drainage systems.

[2] Soil types that are poorly drained or very poorly drained, alluvial or floodplain soils or potential hydric soils as defined by the updated Soil Survey of the United States Department of Agriculture, Soil Conservation Service, and the Dutchess County Soil and Water Conservation District, including but not limited to the following:

**Hydric Soils**

**Potential Hydric Soils\***

**Hydric Soils****Potential Hydric Soils\***

Canandaigua (Ca)

Kingsbury and Rhinebeck (Kn)

Carlisle (Cc)

Linlithgo (Ln)

Fluvaquents (Ff)

Massena A (MnA)

Halsey (Ha)

Massena B (MnB)

Hydraquents (Hy)

Punsit (Pz)

Livingston (Lv)

Udorthents (Ue)

Medisaprists (Hy)

Fredon (Fr)

Palms (Pc)

Raynham Silt Loam (Ra)

Sun (Su)

Wayland (Wy)

**NOTES:**

\*Those soils found by field determination to contain any

**[3]** Lands and submerged lands commonly called marshes, swamps, sloughs, bogs and flats, supporting aquatic or semiaquatic vegetation of the following vegetative types:

**[a]** Wetland trees, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other trees; including, among others, red maple, (*Acer rubrum*), willows (*Salix* spp.), black spruce (*Picea mariana*), swamp white oak (*Quercus bicolor*), red ash (*Fraxinus pennsylvanica*), American elm (*Ulmus americana*) and larch (*Larix laricina*);

**[b]** Wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other shrubs; including, among others, alder (*Alnus* spp.), buttonbush (*Cephalanthus occidentalis*), bog rosemary (*Andromeda glaucophylla*) and leatherleaf (*Chamaedaphne calyculata*);

**[c]** Emergent vegetation, including, among others, cattails (*Typha* spp.), pickerelweed (*Pontederia cordata*), bulrushes (*Scirpus* spp.), arrow-arum (*Peltandra virginica*), arrowheads (*Sagittaria* spp.), reed (*Phragmites communis*), wild rice (*Zizania aquatica*), bur reeds (*Sparganium* spp.), purple loosestrife (*Lythrum salicaria*), swamp loosestrife

(Decodon verticillatus) and water plantain (Alisma plantago-aquatica);

[d] Rooted, floating-leaved vegetation; including, among others, water lily (Nymphaea odorata), water shield (Brasenia Schreberi) and spatterdock (Nuphar spp.);

[e] Free-floating vegetation; including, among others, duckweed (Lemna spp.), big duckweed (Spirodela polyrhiza) and watermeal (Wolffia spp.);

[f] Wet meadow vegetation, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other open land vegetation; including, among others, sedges (Carex spp.), rushes (Juncus spp.), cattails (Typha spp.), rice cut-grass (Leersia oryzoides), reed canary grass (Phalaris arundinacea), swamp loosestrife (Decodon verticillatus) and spikerush (Eleocharis spp.);

[g] Bog mat vegetation; including, among others, sphagnum mosses (Sphagnum spp.), bog rosemary (Andromeda glaucophylla), leatherleaf (Chamaedaphne calyculata), pitcher plant (Sarracenia purpurea) and cranberries (Vaccinium macrocarpon and V. oxycoccos);

[h] Submergent vegetation; including, among others, pondweeds (Potamogeton spp.), naiads (Naias spp.), bladderworts (Utricularia spp.), wild celery (Vallisneria americana), coontail (Ceratophyllum demersum), water milfoils (Myriophyllum spp.), musk grass (Chara spp.), stonewort (Nitella spp.), waterweeds (Elodea spp.) and water smartweed (Polygonum amphibium).

(b) Finite boundaries of wetlands shall be established on each parcel or parcels by the DCSWCD or an appropriately qualified individual, as approved by the Planning Board.

#### § 111-4. Applicability.

A. Regulated acts which require a wetlands permit. Except as otherwise provided in § **111-4B** or **111-6I** below, it shall be unlawful, in the absence of a permit issued pursuant to this chapter, to do any of the following activities in any wetland, watercourse or controlled area:

(1) Place or construct any structure.

- (2) Conduct any form of draining, dredging, excavation or removal of material, either directly or indirectly.
- (3) Conduct any form of dumping, filling or depositing of material, either directly or indirectly.
- (4) Install any service lines or cable conduits.
- (5) Introduce any form of pollution, including but not limited to the installing of a septic tank, the running of a sewer outfall or the discharging of sewage treatment effluent or other liquid wastes into, or so as to drain into, a wetland or watercourse; deposit or introduce organic or inorganic chemicals, such as fertilizers, herbicides, pesticides, etc.
- (6) Alter or grade natural and/or existing man-made features and contours, alter drainage conditions or divert any flow of a wetland, watercourse or waterbody.
- (7) Construct dams, other water-control devices (including swales), pilings or bridges, whether or not they change the ebb and flow of the water.
- (8) Install any pipes or wells.
- (9) Construct a driveway or road.
- (10) Strip any area of vegetation, including clear cutting.
- (11) Conduct any other activity that impairs or may impair any of the functions that wetlands, watercourses and controlled areas perform as described in § **111-2B** of this chapter.

**B.** Acts allowed without a permit. The following acts are allowed without a permit within wetlands, watercourses or controlled areas, provided that they do not constitute a pollution or erosion hazard, interfere with proper drainage or adversely affect reasonable water use by others. Such acts must conform to Chapter **215**, Zoning, and any and all other applicable laws and statutes.

- (1) Normal ground maintenance, including mowing, trimming of vegetation and removal of dead or diseased vegetation around a residence.
- (2) Repair of existing walkways and walls.
- (3) Maintenance and repair of preexisting structures (excluding expansion of any existing facilities).
- (4) Decorative landscaping and planting, excluding those items regulated in § **111-4A**, which regulates the use of fertilizers.

- (5) Operation and maintenance of existing dams and water control devices in lakes, involving the adjustment of water elevations less than 18 inches in height for periods of less than one week, after which the water level is returned to its previous level.
- (6) Construction of wooden docks.
- (7) Public health activities, orders and regulations of the Department of Health for emergencies only.
- (8) The depositing or removal of the natural products of wetlands through recreational or commercial fishing, aquaculture, hunting or trapping where otherwise legally permitted.
- (9) Agricultural activities, as defined in § **111-3B**.

#### § 111-5. Conflicts with other laws.

If, in any case, the provisions of this chapter conflict with any other provisions of the Code of the Town of Pawling, the provisions which impose the more stringent requirement shall apply.

#### § 111-6. Permit applications.

##### A. Wetlands/watercourse permit application.

- (1) Any person proposing to conduct or causing to be conducted a regulated activity requiring a permit under this law shall file five copies of an application for a permit with the Code Enforcement Officer, together with the filing fee established by resolution of the Town Board. All costs incurred by the Town in the review of this application shall be borne by the applicant.
- (2) All permit applications must include the following:
  - (a) The name, address and telephone number of the owner.
  - (b) The street address and tax map designation of the property.
  - (c) A statement of authority from the owner for any agent making application.
  - (d) A list of adjacent landowners.
  - (e) A sketch of wetland boundaries and site soil designations.
  - (f) A description of proposed work and purpose.
  - (g) A completed Environmental Assessment Form.

(h) Copies of any correspondence and/or any Article 24 Wetland Permit from the NYSDEC with reference to an adjacent New York State regulated wetland.

B. Single application required. Where an application has been made to the Code Enforcement Officer, Town Board or Planning Board for an action that is subsequently determined to require a permit pursuant to this chapter, a copy of the said application may be submitted as the permit application.

C. Additional information. Where deemed appropriate and necessary, the applicant may be required to submit more detailed information and submit plans for the proposed site alterations. Said plans may be required to be certified by an engineer, architect, land surveyor or landscape architect licensed in the State of New York, and such additional information may include any or all of the following:

- (1) The location of construction or area proposed to be disturbed and its relation to property lines, roads, wetlands, watercourses and controlled areas.
- (2) Mapping of soils, wetlands, watercourses and controlled areas on the parcel to be disturbed.
- (3) Estimated quantities of material for excavation or fill, computed from cross sections and location of disposal sites for excavated materials.
- (4) Location of any well and the depth, if known, and any subsurface sanitary disposal system within 200 feet of the proposed disturbed area.
- (5) Existing and adjusted contours at two-foot intervals in the proposed disturbed area, to a distance of 50 feet beyond the disturbed area, and at one-foot intervals on those parts of a plan where one-foot intervals are deemed necessary in order to analyze the impact of the alteration.
- (6) Details of any drainage system proposed both for conduct of the work and after completion thereof and measures proposed to control erosion both during and after the work.
- (7) A detailed assessment of the functions and values of the affected wetlands, watercourses and controlled areas and the potential impact of the proposed project on each.
- (8) A completed Long Environmental Assessment Form (EAF).
- (9) A written narrative explaining the nature of the proposal, including any future development proposals for the property, and whether alternative locations exist for the proposed activity.

D. Fees for technical review. In the event that an application requires the Town to incur additional expenses for technical assistance in the review of an application, the applicant shall pay the reasonable expenses incurred by the town. The applicant shall be notified of the expenses and shall deposit said necessary funds prior to the cost being incurred.

E. Review of applications. The Code Enforcement Officer shall refer all applications and related plan materials to the Environmental Director within five business days of receipt. The Environmental Director may conduct such site inspections as deemed necessary in order to evaluate the application. The review of all applications by the Environmental Director shall involve a two-step process. First, within 14 days of receipt, the Environmental Director shall determine the following and submit a written report to the Code Enforcement Officer:

- (1) What additional information, described in § **111-6C** above, is required in order to process the application.
- (2) Completeness of the application. If the application is incomplete, the specific information necessary to make the application complete shall be identified.
- (3) If the application is deemed complete, this report shall include a recommendation on whether referrals should be made to the Town Engineer, the Conservation Advisory Board and/or the DCSWCD.
- (4) If the Environmental Director's report finds that the application is incomplete, then within 10 business days of the receipt of this report, the Code Enforcement Officer shall notify the applicant, in writing, of the information which must be filed in order to make the application complete. Upon the receipt of this subsequent information, the Code Enforcement Officer shall make the same referrals as specified in this section. If the Environmental Director's report finds that the application is complete, then within 10 business days of the receipt of this report, the Code Enforcement Officer shall refer the complete application and supporting documents and all referral letters to the Planning Board for its review and action. If the Environmental Director does not file a report on the application within the required time period, the application shall be deemed complete, and the Code Enforcement Officer shall process the application as provided in this section. Once the Environmental Director deems an application complete, a detailed review of the permit application will be performed. As Step 2, the Environmental Director shall make a report to the Code Enforcement Officer and Planning Board within 30 days of receipt of the application and supporting materials from the Code Enforcement Officer. The report from the Environmental Director shall address, at a minimum, the following matters:
  - (a) A recommendation of approval, disapproval or approval with conditions of the application, based upon an evaluation of the values and functions of

the wetland, watercourse and/or controlled area and the potential impact on each.

- (b) A recommendation on whether any waivers permitted under § **111-6I**, Waiver of requirements, should be granted by the Planning Board.
- (c) If deemed appropriate by the Environmental Director or the Code Enforcement Officer, the application and supporting documents may also be referred to the Town Engineer, the Conservation Advisory Board and/or the DCSWCD. If performed, all such referrals shall be made within 10 business days of an application being deemed complete. All outside agencies receiving the application materials shall submit a written report to the Planning Board within 30 days of receipt. If an application is referred to the Town Engineer, the report from the Town Engineer should address, as a minimum, the following items:

  - [1] A recommendation of approval, disapproval or approval with conditions of the application, based upon an evaluation of the values and functions of the wetland, watercourse and/or controlled area and the potential impact.
  - [2] A recommendation on whether any waivers permitted under § **111-6I**, Waiver of requirements, should be granted by the Planning Board.
  - [3] A recommendation as to the amount of the performance bond to be posted to guarantee completion of work, including stabilization and site restoration.

#### F. Duty of Planning Board.

- (1) During its review of the application, the Planning Board shall:

  - (a) Review the application to determine that the requirements of this chapter have been satisfied and to ensure that applicable State Environmental Quality Review Act (SEQRA) *Editor's Note: See Art. 8 of the Environmental Conservation Law.* regulations are met.
  - (b) Hold a public hearing on the application, unless waived in accordance with § **111-6I(1)(b)**.

**[Amended 9-9-2003 by L.L. No. 1-2003]**
  - (c) Approve, approve with conditions or deny applications, in accordance with this chapter.
  - (d) Establish the amount of a performance bond or other security as a condition of approval, the amount of such bond or other security to be approved by the Town Board, in accordance with procedures contained in

Chapter **171**, Soil Erosion, Sediment Control and Steep Slopes Protection. No more than one performance bond shall need to be posted in order to fulfill these requirements pursuant to both chapters.

(e) Mail a copy of their decision to the applicant and file a copy in the offices of the Planning Board, the Code Enforcement Officer and the Town Clerk.

(2) The Planning Board shall have the right to delegate any or all of the above-mentioned duties to the Code Enforcement Officer or Environmental Director. If the Code Enforcement Officer or Environmental Director is so delegated, he or she is subsequently responsible for all applicable written reports related to a particular delegated duty. In addition, the Code Enforcement Officer or Environmental Director shall provide a monthly written status report to the Planning Board on any applications so delegated.

**[Amended 9-9-2003 by L.L. No. 1-2003]**

G. Public hearing and notification.

(1) Within 45 days after receipt of a complete application from the Code Enforcement Officer, the Planning Board shall hold a public hearing on such application.

(2) The applicant shall notify the adjacent landowners of the public hearing via certified United States mail, return receipt requested, no less than 10 days prior to the date of hearing. At the public hearing, the applicant shall provide to the Planning Board certification of mailing of the required notice.

(3) The Planning Board shall publish notice of the public hearing in the official newspaper of the Town no less than five days prior to the date of hearing.

(4) This public hearing should be coordinated with any other public hearings required by the applicant in order to expedite the application wherever possible.

H. Wetlands and watercourses in more than one jurisdiction. Where a regulated wetland lies within two or more municipalities, the Code Enforcement Officer shall provide copies of the application to the other neighboring municipality(ies).

I. Waiver of requirements.

(1) Should the Planning Board determine, after review of said application and upon recommendation of the Environmental Director, that an action proposed for a regulated area is insignificant, the Planning Board shall have the power to:

(a) Waive any information requirements contained in § **111-6A** and **C**.

(b) Waive the public hearing required in § 111-6F(1)(b).

**[Amended 9-9-2003 by L.L. No. 1-2003]**

(c) Waive referrals to outside agencies.

(d) Waive the requirement for a performance bond.

(e) Suspend the permitting process for the action and authorize the immediate issuance of the permit.

(2) Where the Planning Board finds that any waivers are appropriate, it shall set forth its decision and reasons therefor in writing and file the same with the Code Enforcement Officer, the Conservation Advisory Board (CAB), the Office of the Planning Board and the Town Clerk.

J. Inactive applications. Applications must be diligently pursued by the applicant. Should any application before the Planning Board remain inactive for six months while awaiting receipt of information as requested by either the Code Enforcement Officer or the Planning Board, the application shall be considered abandoned. The Planning Board may consider the granting of no more than one six-month extension for the submittal of the requested information, and only upon the written request of the applicant if, in its opinion, particular circumstances warrant it. The declaration of an application as abandoned shall not prevent the submission of a subsequent new application, including fees, which shall be considered without reference to the prior application.

K. Time extensions. Any time period referenced in these regulations can be extended by mutual consent of the applicant and the Planning Board.

§ 111-7. Administration of permit application.

A. Public hearing. Within 45 days after its receipt of a complete application for a permit regarding a proposed regulated activity and after the publication of a notice of application pursuant to § 111-6G above, the Planning Board shall hold a public hearing on such application, unless waived. To the greatest extent practicable, said public hearing will be incorporated with any other hearing required by other local law or by the New York State Environmental Quality Review Act. *Editor's Note: See Art. 8 of the Environmental Conservation Law.*

B. Time to act. Within 60 days of the date of receipt of a complete application from the Code Enforcement Officer, the Planning Board must approve, approve with conditions or deny applications, in accordance with this chapter.

C. Permit decisions.

(1) In approving, denying or conditioning any permit, the Planning Board shall consider the effect of the proposed activity with reference to the protection or

enhancement of the several functions of the affected wetlands, watercourses and/or controlled areas and the benefits they provide, which are set forth in § 111-2 of this chapter and in § 24-0103 of the Environmental Conservation Law.

(2) In granting, denying or conditioning any permit, the Planning Board shall consider the following:

(a) All evidence offered at any public hearing;

(b) Any reports from other commissions and/or federal, county, state or Town agencies;

(c) Additional requested information by the Planning Board; and

(d) All relevant facts and circumstances, including but not limited to the following:

[1] The environmental impact of the proposed action;

[2] The alternatives to the proposed action;

[3] Irreversible and irretrievable commitments of resources that would be involved in the proposed activity;

[4] The character and degree of injury to, or interference with, safety and/or health or the reasonable use of property that is caused or threatened;

[5] The suitability or unsuitability of such activity to the area for which it is proposed;

[6] The availability of further technical improvements or safeguards that could feasibly be added to the plan or action;

[7] The possibility of further avoiding reduction of the wetlands', watercourse's and/or controlled area's natural capacity to support desirable biological life, prevent flooding, supply water, control sedimentation and/or prevent erosion, assimilate wastes, facilitate drainage and provide recreation and open space.

(3) No permit shall be approved by the Planning Board and issued by the Code Enforcement Officer pursuant to this law unless the Planning Board shall find that:

(a) The proposed regulated activity is consistent with the policy of this law to preserve, protect and also conserve freshwater wetlands, watercourses, associated controlled areas and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands, watercourses and

controlled areas and to regulate the development of such wetlands, watercourses and controlled areas in order to secure the natural benefits derived therefrom, consistent with the general welfare and the beneficial economic and social development of the Town of Pawling.

- (b) The proposed regulated activity is compatible with the public health and welfare.
- (c) The proposed regulated activity is reasonable and necessary.
- (d) There is no practicable alternative for the proposed regulated activity on a site which is not a freshwater wetland, watercourse or controlled area or which cannot practicably be relocated on the site so as to eliminate or reduce the intrusion into the wetland and/or controlled area.
- (e) The proposed regulated activities are in compliance with the standards set forth in 6 NYCRR Part 665.7(e) and 665.7(g).
- (4) The applicant shall have the burden of proof with regard to the required findings set forth in Subsection **C(3)** of this section.
- (5) Duly filed written notice by the state, agency or subdivision thereof to the Planning Board that the state or any such agency or subdivision is in the process of acquiring the affected area on which a proposed regulated activity would be located by negotiation or condemnation shall be sufficient basis for denial of a permit for such regulated activity. Such notice shall be in accordance with 6 NYCRR, Part 665.7(i), and may be provided at any time prior to the Planning Board's decision to issue or deny a permit for the regulated activity.
- D. Permit issuance. A permit granted pursuant to this chapter shall be issued by the Code Enforcement Officer in accordance with the decision rendered by the Planning Board.
- E. Permit conditions.

  - (1) Every permit issued pursuant to this chapter shall contain the following general conditions:

    - (a) The Planning Board, Code Enforcement Officer and/or Environmental Director have the right to inspect the project at any reasonable time, including weekends and holidays.
    - (b) The permit holder shall notify the Code Enforcement Officer of the date on which project construction is to begin at least five days in advance of such date.

- (c) The permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit.
- (d) The boundaries of the project shall be clearly staked or marked.
- (e) All permits shall be valid for a period of one year, unless otherwise indicated, but shall expire upon completion of the acts specified.
- (2) Any permit issued pursuant to this chapter may also be issued with specific conditions beyond those listed above. Such conditions may be attached as are necessary to assure the preservation and protection of affected freshwater wetlands and to assure compliance with the policy and provisions of this law and the provisions of the Planning Board's rules and regulations.
- F. Permit renewal. Upon written request of the applicant, the Code Enforcement Officer may renew a permit for a period of one year, if authorized by the Planning Board. The fee for a permit renewal will be determined by resolution of the Town Board. *Editor's Note: Specific fee amounts are on file and available for inspection in the office of the Town Clerk.*
- G. Bonding requirements. In accordance with the requirements of § **111-6F(1)(d)**, the Planning Board may require posting of a performance bond or collateral as a condition of approval.

### § 111-8. Inspection.

- A. General procedure. The Planning Board, Code Enforcement Officer and/or the Environmental Director may enter upon the lands or waters for the purpose of inspections to determine compliance with this chapter and/or for the purpose of undertaking any investigations, examinations, surveys or other activities necessary for the purposes of this chapter. When at all possible, the landowner shall be notified prior to field investigation.
- B. Inspection fee. Where the Planning Board deems inspections to be necessary, an applicant shall be required to pay an inspection fee in an amount set forth in a fee schedule established by resolution of the Town Board. *Editor's Note: Specific fee amounts are on file and available for inspection in the office of the Town Clerk.*
- C. Notification. The applicant shall notify the Code Enforcement Officer when reaching stages of the activity as may be required in the permit. No activity requiring inspection will be approved without such notification. Advance notice of at least two working days shall be given whenever possible.

### § 111-9. Penalties and corrective action.

- A. Stop-work order. The Code Enforcement Officer may issue a stop-work order when he or she finds that the permittee is in violation of the provisions of applicable laws, ordinances and/or regulations, has not complied with any term

of such permit issued pursuant to this chapter, has exceeded the authority granted in the permit or has failed to undertake or complete the project in the manner set forth in the permit. A stop-work order shall be issued by notifying the permittee performing the work to suspend all work. Any person served with a stop-work order shall forthwith suspend all activity until the stop-work order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which work may be resumed and shall be served upon the person to whom it is directed either by delivering it to the individual personally or by posting the same upon a conspicuous portion of the area and sending a copy of the same, by registered or certified United States mail, return receipt requested, to the permittee at the address shown on the permit or approval. The Code Enforcement Officer shall immediately notify the Environmental Director and the Planning Board when a stop-work order has been issued. The Environmental Director must inspect and approve corrective actions prior to any lifting of a stop-work order issued.

B. Corrective action. If, upon inspection, it is found that any of the activities have not been undertaken in accordance with the permit, the applicant shall be responsible for completing those activities according to the permit. Failure of the Code Enforcement Officer to carry out inspections shall not in any way relieve the applicant or the bonding company of their responsibilities. When any person has been found violating any provision of this chapter or conditions imposed by the Planning Board upon an approved permit and whose permit has been suspended or upon whom a stop-work order has been issued, corrective action shall be carried out as follows:

(1) When the terms of an approved permit have been violated and a stop-work order has been issued, the Code Enforcement Officer may provide a reasonable and specified time within which corrective action shall be completed by the violator to restore, insofar as possible, the affected wetland, watercourse and/or controlled area to its condition prior to the violation.

(2) When the violation of the terms of the permit is of such a serious nature that the Code Enforcement Officer has suspended the permit or recommends the revocation of the permit, the Code Enforcement Officer shall refer the matter to the Planning Board for its determination.

C. Civil sanctions. Any person who violates, disobeys or disregards any provisions of this chapter, in addition to a criminal sanction, shall be liable to the people of the Town of Pawling for a civil penalty.

D. Criminal sanctions.

(1) Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including any infraction of a condition of a permit issued pursuant to this chapter, shall constitute a violation.

(a) Any person violating any order of the Town regulating wetlands shall, for the first offense, be guilty of a violation punishable by a fine not exceeding \$350 or a term of imprisonment not to exceed 15 days.

(b) Each day's continued violation shall constitute an additional offense.

(2) A second infraction of the provisions of this chapter, as per the stipulations mentioned above, shall constitute a misdemeanor. For a second and each subsequent infraction by any person within a three-year period, the aforesaid shall be guilty of a Class A misdemeanor punishable by a fine not exceeding \$1,000 or a term of imprisonment of not less than 15 days nor more than six months, or both.

(3) The Town shall prosecute persons alleged to have violated the provisions of the law and may seek equitable relief to restrain any violation or threatened violation of its provisions.

E. Injunctions and orders to show cause. Notwithstanding any of the penalties or fines hereinabove provided, the Town of Pawling may maintain any action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the noncompliance of any provision of this law or permit issued thereunder.

### § 111-10. Appeals.

A. Any person aggrieved by any order or decision by the Code Enforcement Officer may seek relief from the Town Zoning Board of Appeals.

B. Any person aggrieved by any order or decision of the Planning Board may seek judicial review pursuant to a petition in accordance with Article 78 of the Civil Practice Law and Rules in the Supreme Court for the County of Dutchess. Such petition shall be brought within 30 days after the date of the filing of such order or decision with the Town of Pawling Town Clerk.

### § 111-11. Exception.

A. The provisions of this chapter shall not apply to any development, alteration or improvement of property for which final approval shall have been obtained and not expired and the approved work not completed prior to the effective date of this chapter.

B. As used in this section, the term "final approval" shall mean:

(1) In the case of the subdivision of land, final plat approval or conditional approval of a final plat as such terms are defined in § 276 of the Town Law.

(2) In the case of a site plan not involving the subdivision of land, adoption by the Planning Board of a resolution granting approval.

(3) In those cases not covered above, the issuance of a building permit or other authorization for the commencement of the development, alteration or improvement of property or for those developments, alterations or improvements for which the Town of Pawling does not require such permits, the actual commencement of the development, alteration or improvement of property.

§ 111-12. Compliance with other code and regulation provisions.

All development and improvement allowed by right or allowed by permit shall also conform with all rules and regulations contained in the Code of the Town of Pawling and all other applicable laws and regulations.