

Jan.

INLAND-WETLANDS AND WATER COURSE REGULATIONS  
OF THE TOWN OF OLD SAYBROOK

Section 1. Title and Authority.

1.1 These regulations shall be known as the "Inland Wetlands and Water Courses Regulations of the Town of Old Saybrook".

1.2 These regulations have been prepared by the Inland Wetlands Commission, in accordance with the provisions of An Act Concerning Inland Wetlands and Water Courses (Public Act 155, 1972; amended, P. A. 571, 1973), hereinafter referred to as P. A. 155, authorized by Special Town Meeting of the Town of Old Saybrook, in accordance with an ordinance adopted September 21, 1973.

1.3 Pursuant to P. A. 155, the Inland Wetlands Commission shall issue, issue with modifications, or deny permits for all regulated activities on inland wetlands and water courses within the Town of Old Saybrook.

Section 2. Definitions.

2.1 As used in these regulations: "The Commission" means the Inland Wetlands Commission of the Town of Old Saybrook.

2.2 "Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, government agencies or subdivisions thereof.

2.3 "Soil Scientist" means an individual duly qualified in accordance with standards set by the United States Civil Service Commission.

2.4 "Regulated Activity" means any operation within, or any use of, a wetland or water course involving removal or deposition of material, or any construction, obstruction, alteration or pollution, upon or of such wetland or water course, except as permitted under Section 4 of these Regulations.

2.5 "Significant Activity" means:

- (a) Any activity involving a deposition of material which will, or may, have a substantial adverse effect on the regulated area or on another part of the inland wetland or water course system, or

- (b) Any activity involving a removal of material which will or may have a substantial adverse effect on the regulated area or on another part of the inland wetland or water course system, or
- (c) Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a water course system, or
- (d) Any activity which substantially diminishes the natural capacity of an inland wetland or water course to support desirable biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, and/or provide recreation and open space.

2.6 "Deposit" includes, but shall not be limited to, fill, grade, dump, place, discharge or emit.

2.7 "Discharge" means the emission of any water, substance or material into waters within the Town of Old Saybrook, whether or not such substance causes pollution.

2.8 "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste.

2.9 "Pollution" means any harmful thermal effect or the contamination or rendering unclean or impure of any wetlands or water courses within the Town of Old Saybrook 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 wetlands or water courses.

2.10 "Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, bulldoze, dragline, or blast.

2.11 "Rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any wetlands or water courses within the Town of Old Saybrook, including but not limited to change in color, odor, turbidity or taste.

2.12 "Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any wetlands or water courses within the Town of Old Saybrook.

2.13 "Water Courses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, public or private, which are contained within, flow through, or border upon the Town of Old Saybrook, or any portion thereof, not regulated pursuant to Sections 22-7(h) to 22-7(o) inclusive, of the General Statutes, as amended.

- (a) "Swamp" means an area with a water table at or near the surface of the ground throughout most of the year and containing vegetation dominated by an association of trees and/or shrubs recognized as swamp species. Typical examples of swamp species are listed in the booklet titled "Inland Wetland Plants of Connecticut", May, 1973.
- (b) "Marsh" means an area normally covered with shallow water, subject to seasonal variations; that contains an association of herbaceous, soft-stemmed plants recognized as marsh vegetation. Typical examples of marsh species are listed in the booklet titled "Inland Wetland Plants of Connecticut", May, 1973.
- (c) "Bog" means a poorly drained area containing an accumulation of organic material and characterized by an association of plants recognized as bog species, listed in the booklet titled "Inland Wetland Plants of Connecticut", May, 1973.

2.14 "Inland Wetlands" means land including submerged land, not regulated pursuant to Sections 22A-28 to 35, inclusive, of the General Statutes, as amended, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and flood plain, by the National Cooperative Soil Survey (as may be amended from time to time), of the U. S. Soil Conservation Service.

### Section 3. Inventory of Regulated Areas.

3.1 Inland Wetlands and Water Course boundaries are shown on the official map entitled: "Official Inland Wetlands and Water Courses of the Town of Old Saybrook". The map is a part of these regulations, and copies of the map shall be available for inspection in the office of the Town Clerk, and Building and Zoning Departments of the Town of Old Saybrook. In cases where detailed soil information exists, and an applicant disputes the designation of any part of his land as a regulated area, he shall have the burden of proving that designation inapplicable. In cases where only general soil information exists, the burden of proof shall fall upon the Commission.

3.2 If any person disputes the designation or the failure to designate any inland wetland or water course as a regulated area, such person may be required to produce such information as the local Inland Wetlands Commission deems necessary to permit an informed decision.

3.3 To prove himself exempt from these regulations, the applicant may be required to present documentation by a soil scientist that the land in question, or the subject portion of it, does not have a soil type classified by the National Cooperative Soils Survey as poorly drained, very poorly drained, alluvial, or floodplain.

3.4 The Commission and/or its designated agent shall monitor and maintain general surveillance of the regulated areas within the town to ensure that no unauthorized regulated activities occur.

3.5 The Commission shall continually inventory inland wetlands and water courses and update the Official Map delineating said wetlands and water courses to be regulated.

#### Section 4. Permitted Uses.

4.1 The following operations and uses shall be permitted in inland wetland and water courses, as of right:

- (a) Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres, or less;
- (b) A residential home (i) for which a building permit has been issued, or (ii) on a subdivision lot, providing the permit has been issued or the subdivision has been approved as of the effective date of these Regulations;
- (c) Boat anchorage or mooring;
- (d) Uses incidental for the enjoyment and maintenance of a residential property, such property defined as the largest minimum residential lot site permitted anywhere in the municipality. Such incidental uses shall include maintenance of existing structures and landscaping, provided such maintenance or landscaping does not constitute a significant activity as defined in Section 2.5.
- (e) Construction and operation, by water companies, as defined in Section 16-1 of the General Statutes, or by municipal water supply systems as provided for in Chapter 102 of the General Statutes, 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 25-110 and 25-112 of the General Statutes, as amended.

4.2 The following operations and uses shall be permitted, as non-regulated uses in inland wetlands and water courses provided they do not disturb the natural and indigenous character of the land. "Disturbing the natural and indigenous character of the land" means that the activity will significantly disturb the inland wetland or water course by reason of removal or deposition of material, will cause the alteration or obstruction of water flow, or will result in the pollution of the wetland or water course:

- (a) Conservation of soil, vegetation, water, fish, shellfish and wildlife;
- (b) Outdoor recreation including play and sporting areas, golf courses, field trails, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated.

Section 5. General Requirements.

5.1 No person shall henceforth conduct a regulated activity in a regulated area of the Town of Old Saybrook without first obtaining a permit for such activity from the Commission. Subject to the provisions of Sections 4 and 4.2 hereof, regulated activities affecting Inland Wetlands and Water Courses within the Town of Old Saybrook are prohibited, except as they may be permitted by the Commission.

5.2 The Commission and its agent, or any specialists hired by the Commission to evaluate permit applications under these regulations, shall have the right of free access to such portions of the property under consideration. The property owner may require that such persons have a letter of authorization from the Chairman or Secretary of the Commission, prior to permitting such access.

5.3 By the terms of the definition of a regulated activity, the Commission shall regulate only those activities which:

- (a) remove material from
- (b) deposit material in
- (c) Construct upon
- (d) obstruct
- (e) alter, or
- (f) pollute

inland wetlands and water courses.

Section 6. Application Procedure.

6.1 Any person wishing to carry out a regulated activity, shall submit an application to the Commission, which application may only be received at a regularly scheduled meeting of the Commission. In order to be received at the next regularly scheduled meeting of the Commission, the application must be completed and submitted to the Commission office on or before the fourteenth day prior to said meeting. Said fourteen-day requirement may only be waived by vote of the Commission.

6.2 No application shall be deemed complete unless it shall be in such form and contain such information as the Commission deems necessary for a fair determination of the issues.

6.3 All information submitted in the application for review shall be considered factual, or in the case of anticipated activity, binding. A knowing failure of the applicant or any of his, her or its

agents to provide correct information, or performance exceeding the levels of activity anticipated, shall be sufficient grounds for the revocation of any permit under these regulations and/or for penalties to be imposed. Each day of violation or deception shall be considered as a separate offense.

6.4 All applications shall include the following information in writing and on a form provided by the Commission, and available from the office of the Commission Clerk:

- (a) The applicant's name, home and business addresses, and telephone numbers.
- (b) The owner's name (if applicant is not the owner of the property), home and business addresses and telephone numbers.
- (c) Applicant's interest in the land.
- (d) The geographical location of the property which is to be affected by the proposed activity, including a description of the land in sufficient detail to allow identification of the properties on the Inland Wetlands and Water Courses Map.
- (e) Purpose and description of the proposed activity..
- (f) Names and addresses of adjacent property owners.
- (g) Such additional information required by this Commission, as set forth on the application.

6.5 Declaratory Ruling: Exemptions - If the Commission finds, on the basis of the evidence before it, that a proposed activity or use does not involve any regulated activity as defined in Section 2 of these regulations, permission to proceed shall be granted forthwith. This permission shall be subject to limitation or revocation if it is later shown that a regulated activity or non-permitted use is a consequence of that proposed activity. The Commission shall state in writing its reasons for finding that a proposed activity or use does not involve a regulated activity.

6.6 Summary Ruling: Permits - If after full review of the considerations set forth in Section 7, the Commission finds that a proposed activity is a regulated activity, but does not involve a significant activity, as defined in Section 2, it may allow the activity, with or without conditions. The Commission shall state, in writing, its reasons for granting such permit.

6.7 Plenary Rulings: If the Commission finds that the activity applied for does, or may, involve a significant activity, the Commission shall request information which may include, but is not limited to, the following:

- (a) Site Plan - A map of the proposed use and the property which will be affected, drawn by a licensed surveyor or professional engineer, who must be registered in the State of Connecticut. The map shall be at a scale to be determined by the Commission. Detailed information to be included on this site plan shall be requested by the Commission according to its evaluation requirements.
- (b) Soil Sample Data - If the parcel lies within or partly within an area believed to contain poorly drained, very poorly drained, alluvial and/or floodplain soils, the data shall show precisely where each specific soil type is found. Soil types identified must be consistent with the categories established by the National Cooperative Soils Study of the U. S. Soil Conservation Service.
- (c) Biological Evaluation - If the affected property is believed to include any portion of a swamp, bog or marsh, the applicant may be required to submit an evaluation of the extent of the presence of plant species commonly associated with swamps, bogs and marshes. The applicant may also be required to submit an evaluation.
- (d) Analysis of Material to be Deposited - The applicant may be required to describe any materials to be deposited on the affected property in terms of volume, composition, and the possibility of erosion or leaching from deposited materials.
- (e) A description of the proposed construction or the erection of structures on the affected property, including blueprints, engineering and architectural plans or designs, where available or reasonably attainable. Such description should include the purposes of such construction or activity.
- (f) A list of other property owners whose rights or interests may be, or will be, affected by the proposed activity.
- (g) Stream Characteristics - If the proposed activity may affect a water course lying within, or flowing through or adjacent to the affected property, the applicant may be required to submit information relative to the present character and the projected impact of the proposed activity upon the stream.

6.8 A public hearing is required on all applications for activities which involve, or may involve, a 'Significant activity' as defined in Section 2.5 of these regulations. Public hearings are optional for activities not involving a significant activity.

<sup>publish twice</sup>  
6.9 All public hearings shall be held no sooner than thirty (30) days and no later than sixty-five (65) days after the receipt of the permit application. Notice of the hearing shall be published at least once, not more than thirty (30) days and not fewer than ten (10) days before the date set for the hearing, in a newspaper having a general circulation in the Town of Old Saybrook. All applications, maps and documents relating to this hearing shall be open for public inspection in the office of the Building and Zoning Department. Notices of hearings shall be sent to the applicant, adjacent property owners, and to the Department of Environmental Protection.

6.10 There shall be a minimum \$25.00 application fee. In the event said application involves activities determined to be significant, an additional fee may be charged, but only in accordance with a fee schedule set by the Commission. Said fee schedule may be revised by vote of the Commission.

#### Section 7. Rendering Decision.

7.1 The Commission shall consider the following in making its decision on the application:

- (a) Evidence offered at any public hearing;
- (b) Such comments as may be received by the Commission, from the following:
  1. Middlesex County Soil and Water Conservation District;
  2. Town of Old Saybrook Planning Commission;
  3. Town of Old Saybrook Zoning Commission;
  4. Town of Old Saybrook Conservation Commission;
  5. Town of Old Saybrook, or State, Department of Health;
  6. Town of Old Saybrook Building Department;
  7. Connecticut River Estuary Regional Planning Agency, or other regional organizations;
  8. Appropriate agencies in adjacent municipalities which may be affected by the proposed activity;
  9. Other agencies or organizations which may undertake additional studies or investigations. The Commission may submit all applications to and request comments from the aforementioned agencies or commissions. Failure of the receipt of comments from these agencies shall not delay the proceedings or prejudice the decision.



- (c) Information submitted with the application;
- (d) All relevant facts and circumstances as they affect inland wetlands and water courses.

7.2 A decision, in writing, shall be made on all applications within sixty-five (65) days after the completion of a public hearing, or, in the absence of a public hearing, within sixty-five (65) days of the date of the receipt of the application.

7.3 The Commission shall notify the applicant, by Certified Mail, of its decision within five (5) days of the date of the decision. In the event of a public hearing, the Commission shall cause notice of its decision to be published in a daily newspaper having general circulation in the Town of Old Saybrook.

7.4 The Commission shall file its decision with the Town Clerk and shall also cause its administrative officer to maintain a record of all applications, with the decision noted thereon.

#### Section 8. The Permit.

8.1 At the time of granting a permit, granting a permit with conditions or limitations, or denying a permit following a public hearing, the Commission shall state the reasons for its decision, in writing.

8.2 The Commission may deny a permit with or without prejudice. If a permit is denied with prejudice, the application shall not be resubmitted for one year following the date of such denial. If a permit is denied without prejudice, the applicant may modify, amend or correct his proposal. The rejection of a modified proposal shall be equivalent to the denial of an application for the purposes of Section 11, of these regulations.

8.3 If a permit is granted with conditions or limitations, and the applicant disputes such conditions or limitations, he may modify, amend or correct his proposal. Rejection of a modified, amended or corrected proposal shall be equivalent to the denial of an application for the purposes of Section 11, of these regulations.

8.4 Initiation of activity under a permit shall be within one year of the granting of the permit, unless the time period is extended in writing by the Commission.

8.5 The duration of any permit granted shall be specified and subject to the calling of an additional public hearing in the discretion of the Commission. A permit shall expire if work covered by the permit has not begun within the period of one year. All permits shall expire upon the completion of the acts specified therein. No permit shall be assigned, transferred, sublet or sold to any other person without written permission of the Commission.

Section 9. Other Permits and Licenses.

9.1 Nothing in these regulations shall obviate any requirement for the applicant to obtain any other assent, permit or license required by law or regulation by the Government of the United States, or of the State of Connecticut, or any other political subdivision thereof. The obtaining of such assents, permits, or licenses is solely the responsibility of the applicant.

Section 10. Bond and Insurance.

10.1 The applicant, upon approval of the application and prior issuance of a permit, at the discretion of the Commission may be required to file a performance bond and/or a maintenance bond in an amount and with sureties and in a form approved by the Commission.

10.2 The bond and sureties shall be conditioned on compliance with all provisions of these regulations and conditions imposed on application approval.

Section 11. Appeals.

11.1 Any person aggrieved by any regulation, order, decision or action made by the Commission pursuant to these regulations, may appeal to the Court of Common Pleas of Middlesex County, within fifteen (15) days after publication of such regulation, order, decision or action. All appeals shall follow the procedure set forth in the Inland Wetlands and Water Courses Act, as amended. The Commission shall notify the State Department of Environmental Protection of any such appeals, and enclose a copy of the regulation, order, decision or action upon which it is based.

Section 12. Enforcement.

12.1 The Commission and/or its appointed agent may inspect all activities for which permits have been issued under these regulations. Such activities shall be open to inspection at all reasonable times. The owner, applicant, or their agents shall have such permit readily available and shall produce the same for inspection by such agent of the Commission upon request.

12.2 If the Commission and/or its appointed agent shall determine that any person is engaging in any regulated activity without a proper permit, or is exceeding the conditions or limitations placed on this permit or the scope of work as set forth in the application, or has obtained a permit through deception or through inaccurate information as to either the activity or its environmental impact, or has engaged or is engaged in any other violation of these Regulations, the following action may be taken:

- (a) The Commission, or its appointed agent, may issue a cease and desist order to such a person, which order shall state the nature of the violation, and which shall provide a specified time within which such violations shall cease, and satisfactory corrective measures shall be taken by the violator;
- (b) The Commission may revoke or suspend any permit after giving the applicant an opportunity to show compliance with all lawful requirements for retention of the permit; except that where public health, safety or welfare imperatively require emergency action, the Commission, or its appointed agent, may order summary suspension of a permit, pending proceedings for revocation or other action;
- (c) The Commission may take such other action as may be permitted pursuant to the Inland Wetlands and Water Courses Act.

12.3 Any person aggrieved by any such cease and desist order or summary suspension of permit, shall have a right to a hearing before the Commission, at its next regularly scheduled meeting. After such hearing, the Commission may either affirm, modify and affirm, or rescind the order or summary suspension of the permit.

12.4 The applicant shall be notified of the Commission's decision with respect to any cease and desist order, revocation or suspension of a permit, by certified mail within five (5) days of the date of the decision. In the event of a revocation or suspension of a permit, the Commission shall cause notice of such order to be published in a newspaper having general circulation in the Town of Old Saybrook.

12.5 Any violation of these Regulations shall also be subject to such other penalties and restraints as may be provided for by the Inland Wetlands and Water Courses Act.

### Section 13. Conflict and Severance.

13.1 Where there is a conflict between the provisions of these regulations and those of any other applicable statute, ordinance or regulation, the provisions of that statute, ordinance or regulation which imposes the greatest restrictions on the use of wetlands and water courses shall govern. The invalidity of any word, clause, sentence, section, part 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.

Section 14. Effectivity.

14.1 These regulations shall become effective upon filing in the office of the Town Clerk of Old Saybrook, Connecticut, after approval thereof by the Department of Environmental Protection, and a duly held public hearing.

Section 15. Amendments.

15.1 These regulations, including the official Inland Wetlands and Water Courses Map, may be from time to time amended, changed or repealed by majority vote of the Commission after a public hearing at which parties in interest and citizens shall have an opportunity to be heard. Any such amendments shall become effective at such time as is fixed by the Commission, provided a copy of such regulations, boundary or change shall be filed in the Town Clerk's Office.

15.2 Whenever the Commission makes a change in regulations or Map boundaries, it shall state upon its records the reason why the change was made.

15.3 Amendments to these regulations, including changes in the Map boundaries, may be made by petition. All petitions requesting a change in the regulations or boundaries of regulated areas shall be submitted in writing on a form provided by the Commission. Such petition shall be considered at a public hearing. The petitioner shall be notified of the time and place of the scheduled hearing by certified mail not less than ten (10) days prior to the hearing. The Commission shall act upon the changes requested within sixty (60) days after the hearing, except that the petitioner may consent to extension to the periods provided for in this section for holding hearings and for adoption or denial of the requested change, or may withdraw the petition. Such consent or withdrawal shall be made in writing to the Commission.

15.4 The petitioner shall pay a filing fee adequate to defray the cost for the hearing, including the costs of publication of notices.

15.5 Notice of the public hearings required by Sections 15.1 and 15.3 shall be published in the form of a legal advertisement, appearing in a newspaper having a substantial circulation in the Town of Old Saybrook at least twice, at intervals of not less than two (2) days, the first not more than twenty-five (25) days nor less than fifteen (15) days, and the last not less than two (2) days, before the hearing, and a copy of such proposed regulation or boundary shall be filed in the Office of the Town Clerk for public inspection at least ten (10) days before such hearing.

15.6 Any application submitted to the Commission shall be judged according to the regulations in force on the date of its submission.

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