

revised 7/15/93

OLD SAYBROOK INLANDS WETLANDS REGULATIONS

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original

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SECTION 1

TITLE AND AUTHORITY

1.1 The inland wetlands and watercourses of the state of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetland and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations is to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

1.2 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Old Saybrook".

1.3 The Inland Wetlands and Watercourses Commission of the Town of Old Saybrook was established in accordance with an ordinance adopted September 21, 1973 and shall implement the purposes and provisions of the Inland Wetland and Watercourses Act in the Town of Old Saybrook.

1.4 These regulations have been adopted and may be amended, from time

to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.

1.5 The Agency shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with modifications, and deny permits for all regulated activities on inland wetlands and watercourses in the Town of Old Saybrook pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

SECTION 2

DEFINITIONS

- 2.1 As used in these regulations:
- a. "Act" means the Inland Wetland and Watercourses Act, Sections 22a-36 through 22a-45 of the General Statutes, as amended.
 - b. "Commission" means the Inland Wetlands and Watercourses Commission of the Town of Old Saybrook.
 - c. "Bogs" are usually distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.
 - d. "Clear-cutting" means the harvest of timber in a fashion which removes all trees down to a 2" diameter at breast height.
 - e. "Commission member" means a member of the Inland Wetlands and Watercourses Commission of the town of Old Saybrook.
 - f. "Commissioner of Environmental Protection" means the commissioner of the State of Connecticut Department of Environmental Protection.
 - g. "Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge or emit.
 - h. "Designated agent" means an individual designated by the agency to carry out its functions and purposes.
 - i. "Discharge" means emission of any water, substance, or material into wetlands or watercourses whether or not such substance causes pollution.
 - j. "Disturbing the natural and indigenous character of the land" means that the activity will significantly alter the inland wetland and watercourses by reason of removal or deposition of material, clear cutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.
 - k. "Farming" means use of land for the growing of crops, raising of livestock or other agricultural use.
 - l. "License" means the whole of any part of any permit, certificate of approval or similar form of permission which may be required of any person by the provisions of these regulations under the authority of the Inland Wetland Commission.
 - m. "Marshes" are areas with soils that exhibit aquatic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or

- above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.
- n. "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse or waste.
 - o. "Municipality" means the Town of Old Saybrook, Middlesex County.
 - p. "Nurseries" means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.
 - q. "Permit" means the whole or any part of any license, certificate or approval or similar form of permission which may be required of any person by the provisions of these regulations under the authority of the Inland Wetlands Commission.
 - r. "Permittee" means the person to whom such permit has been issued.
 - s. "Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
 - t. "Pollution" means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion resulting from any filling or excavation activity.
 - u. "Regulated Activity" means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution of such wetlands or watercourses, and any earth moving, filling, construction, or clear-cutting of trees within fifty (50) feet of wetlands or watercourses, but shall not include the activities specified in section 4 of these regulations.
 - v. "Regulated area" means any inland wetland or watercourse as defined in these regulations including a 50 foot setback buffer surrounding the edge of inland wetlands and watercourses.
 - w. "Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast.
 - x. "Rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.
 - y. "Significant activity" means any activity, including, but not limited to, the following activities which may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland wetland or watercourse system:
 - 1. Any activity involving a deposition or removal of material which will or may have a major effect or

- significant impact on the regulated area or on another part of the inland wetland or watercourse system, or
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system, or
 3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space or other functions, or
 4. Any activity which causes substantial turbidity, siltation or sedimentation in a wetland or watercourse, or
 5. Any activity which causes a substantial diminution of flow of a natural watercourse, or groundwater levels of the regulated area, or
 6. Any activity which causes or has the potential to cause pollution of a wetland or watercourse, or
 7. Any activity which destroys unique wetland or watercourse areas having demonstrable scientific or educational value.
- Z. "Soil Scientist" means an individual duly qualified in accordance with standards set by the Office of Personnel Management (formerly the U.S. Civil Service Commission.)
- aa. "Swamps" are areas with soils that exhibit aquatic moisture regimes and are dominated by wetland trees and shrubs.
 - bb. "Submerged lands" means those lands which are inundated by water on a seasonal or more frequent basis.
 - cc. "Town" means the Town of Old Saybrook, Middlesex County in the State of Connecticut.
 - dd. "Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the Town.
 - ee. "Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to section 22a-28 through 22a-35 of the General Statutes, as amended.
 - ff. "Wetlands" means land, including submerged land as defined in Section 2.1(bb) of these regulations, not regulated pursuant to section 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Soil Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites

which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

SECTION 3

INVENTORY OF REGULATED AREAS

- 3.1 The map of regulated areas, entitled "Inland Wetlands and Watercourses Map, Old Saybrook, Connecticut," delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the office of the Town Clerk or the Inland Wetland Agency. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses. Such determinations shall be made by field inspection and testing conducted by a soil scientist where soil classifications are required, or where watercourse determinations are required, by other qualified individuals.
- 3.2 Any property owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Watercourses Map, may petition the agency to change the designation. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with Section 14 of these regulations may be required if property owner when the agency requires an accurate delineation of regulated areas.
- 3.3 The Inland Wetland Commission or its designated agent shall inventory and maintain current records of all regulated areas within the town. The Commission may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the town. Such map amendments are subject to the public hearing process outlined in Section 14 of these regulations.

SECTION 4

PERMITTED USES AS OF RIGHT & NONREGULATED USES

- 4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
 - a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation. The provisions of this section shall not be construed to include road construction or the erection of buildings not

directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;

- b. A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, which ever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subsection unless the building permit was obtained on or before July 1, 1987. The individual claiming a use of wetlands permitted as a right under this subsection shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement;
 - c. Boat anchorage or mooring, not to include dredging or dock construction;
 - d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of substantial amounts of material from or into a wetland or watercourse, or diversion of alteration of a watercourse.
 - e. Construction and operation, by water companies as defined by Section 16-1 of the General Statutes or by municipal water supply systems as provided for in Chapter 102, of the Connecticut 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 22a-401 and 22a-410 of the General Statutes.
- 4.2 The following operations and uses shall be permitted as non-regulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:
- a. Conservation of soil, vegetation, water, fish, shellfish and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to en-

courage proper fish, wildlife and silviculture management practices.

- b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing and cross-country skiing where otherwise legally permitted and regulated.
- 4.3 All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, grading and excavation or any other alteration or use of a wetland or watercourse not specifically permitted by this section shall require a permit from the Commission in accordance with Section 6 of these regulations.
- 4.4 To carry out the purposes of this section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse, which may disturb the natural and indigenous character of the land, shall, prior to commencement of such operation or use, notify the Commission on a form provided by it, and provide the Commission with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The Commission or its designated agent shall rule that the proposed operation or use is a permitted or a nonregulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Commission following the meeting at which the request was received. The designated agent for the Commission may make such ruling on behalf of the agency at any time.

SECTION 5

ACTIVITIES REGULATED BY THE STATE

- 5.1 In addition to any permit or approval required by the Commission, the Commissioner of Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:
- a. Construction or modification of any dam pursuant to Sections 22a-401 through 22a-409 of the General Statutes, as amended;
 - b. Construction or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349 of the General Statutes, as amended;
 - c. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state pursuant to Sections 22a-359 through 22a-363 or in designated tidal wetlands pursuant to Sections 22a-28 through 22a-35 of the General Statutes, as amended;
 - d. Diversion of water in excess of fifty thousand (50,000) gallons per day or any surface waters of the state where the tributary watershed area above the

point of diversion is 100 acres or larger pursuant to Sections 22a-365 through 22a-378 of the General Statutes, as amended;

- e. Discharges into the waters of the state pursuant to Sections 22a-430 of the General Statutes, as amended;
- f. Discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.

5.2 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities and other activities, in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the state of Connecticut, except any local or regional board of education, (1) after an advisory decision on such license or permit has been rendered to the commissioner by the wetland commission of the municipality within which such wetland is located or (2) thirty-five days after receipt by the commissioner of such application, whichever occurs first.

5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the General Statutes.

SECTION 6

REGULATED ACTIVITIES TO BE LICENSED

6.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetland Commission of the Town of Old Saybrook.

6.2 The Commission shall regulate any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses and any other regulated activity, unless such operation or use is permitted or non-regulated pursuant to Section 4 of these regulations.

6.3 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Town of Old Saybrook Inland Wetland Commission, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 13 of these regulations and any other remedies as provided by law.

SECTION 7

APPLICATION REQUIREMENTS

- 7.1 Any person wishing to undertake a regulated activity shall apply for a permit on a form entitled "Town of Old Saybrook Inland Wetlands and Watercourses Commission - application for permit". An application shall include an application form and such information as prescribed by Section 7.4 and, in the case of a significant activity, by Section 7.5 of these regulations. Application forms may be obtained in the offices of the Old Saybrook Town Clerk or the Inland Wetland Agency.
- 7.2 All applications shall contain such information that is necessary for a fair and informed determination of the issues.
- 7.3 The applicant may present preliminary plans for the proposed application for informal review by the Commission. Review of a preliminary plan, is recommended to consider whether or not the proposed application involves a significant activity. Neither the preliminary plan nor the informal review by the Commission, however, shall be deemed to constitute any portion of the official and formal procedure of submitting and approving an application for a permit to conduct regulated activity under the provisions of the Connecticut General Statutes or the Old Saybrook Inland Wetlands and Watercourses Regulations.
- 7.4 All applications shall include the following information in writing:
- a. The applicant's name, home and business address and telephone numbers;
 - b. The owner's name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application;
 - c. Applicant's interest in the land;
 - d. The geographical location of the property which is to be affected by the proposed activity, including but not limited to a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, a computation of the area(s) (in acres or square feet) of wetland or watercourse disturbance, soil type(s) and vegetation;
 - e. The purpose and a description of the proposed activity;
 - f. Alternatives considered by the applicant and why the proposal to alter wetlands set forth in the application was chosen. These alternatives shall be diagrammed on a site plan or drawing and submitted to the commission as part of the application;
 - g. A site plan showing existing and proposed conditions in relation to wetlands and watercourses, together with a location plan.
 - h. Names and addresses of adjacent property owners;
 - i. Certification that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit

through deception or through inaccurate or misleading information;

- j. Authorization for the commissioners and agents of the Commission to inspect the property, at reasonable times, both before and after a final decision as been issued;
- k. Any other information the Commission deems necessary to the understanding of what the applicant is proposing;
- l. Submission of the appropriate filing fee based on the following fee schedule:
 - A. Residential - single lot\$ 65.00
 - B. Subdivision\$250.00
 - C. Commercial/Industrial\$250.00
 - D. Additional Fee for cost of technical reviewCost of Engineering Services (Actual)
 - E. Modification of Wetlands Boundary\$ 75.00
 - F. Modification of Existing Permit\$ 25.00
 - G. Permit Ownership Transfer Fee\$ 25.00

7.5 If the proposed activity involves a significant activity as determined by the Commission and defined in Section 2.1.y of these regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required:

- a. Site plans for the proposed use or operation and the property which will be affected, which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the development drawn by a licensed surveyor, professional engineer or landscape architect registered in the State of Connecticut or by such other qualified person;
- b. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses;
- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Soil Conservation Service (the Commission may require the applicant to have the wetlands delineated in the field by a soil scientist and that the field delineation be incorporated onto the site plans);
- d. Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions;
- e. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application, and with each alternative, and a description of why each alternative considered was deemed neither feasible nor prudent;

- f. Analysis of chemical or physical characteristics of any fill material;
- g. Measures which mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.

7.6 The applicant shall certify whether:

- a. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
- b. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- c. Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
- d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

7.7 A minimum of 2 copies of all application material shall be submitted to comprise a complete application or as it otherwise directed, in writing, by the Inland Wetland Commission.

7.8 Any application to extend the expiration date of a previously issued permit or amend an existing permit shall be filed with the Commission at least sixty-five (65) days prior to the expiration date for the permit in accordance with Subsections 8.4 through 8.8 of these Regulations. The Commission may, at its discretion, grant an extension of the expiration date of such permit for a period not to exceed five years beyond the initial expiration date. Any application for amendment, renewal or extension shall be made in accordance with this Section provided:

- a. The application may incorporate by reference the documentation and record of the original application;
- b. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;
- c. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or the property for which the permit was issued;
- d. The Commission may accept an untimely application to exceed the expiration date of a permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if in its judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting the activity. The application shall describe the extent of work completed at the time of filing and the schedule for

- completing the activities authorized in the permit.
- e. The Commission shall evaluate the application pursuant to Section 10 of these Regulations and grant the application as filed, grant it with any terms or limitations, or deny it.
- 7.9 A reporting form shall be completed which provides the Commission of the DEP with information necessary to properly monitor the inventory of State wetlands. The reporting form shall be part of the application and specified sections shall be completed by the applicant. These sections shall include the following: Name of applicant; name of the project, project description, area of wetlands and/or lineal feet of watercourse proposed to be altered.

SECTION 8

APPLICATION PROCEDURES

- 8.1 All applications shall be filed with the Inland Wetland Field Engineer of the Town of Old Saybrook.
- 8.2 In the case of any application where any portion of the wetland or watercourse on which the regulated activity is proposed is located within 500 feet of the boundary of Essex, Westbrook, or Old Lyme, the applicant shall give written notice, in accordance with CGS 22a-42c, of the proposed activity, certified mail return receipt requested, to the adjacent municipal wetland agency on the same day of filing an inland wetland permit application with the Old Saybrook Inland Wetland Commission. Documentation of such notice shall be provided to the Old Saybrook Inland Wetland Commission.
- 8.3 The Commission shall, in accordance with CGS 22a-42c, notify the clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:
 - a. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
 - b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - c. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or,
 - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality. Notice of the pendency of such application shall be made by certified mail, return receipt requested, and shall be mailed within seven (7) days of the date of receipt of the application.

- 8.4 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 16.1 of the General Statutes, the applicant shall provide written notice of the application to the water company, providing such water company has filed a map showing the boundaries of the watershed on the land records of Old Saybrook and with the Old Saybrook Inland Wetlands and Watercourses Commission. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission
- 8.5 The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to the Agency, provided such meeting if no earlier than three business days after receipt, or thirty-five days after such submission, whichever is sooner.
- 8.6 At any time during the review period, the Commission may require the applicant to provide additional information about the required application, or wetlands or watercourses affected by the regulated activity.
- 8.7 All applications shall be open for public inspection.
- 8.8 Incomplete applications may be denied.

SECTION 9

PUBLIC HEARINGS

- 9.1 A public hearing shall be held on all applications involving a significant activity. A public hearing may be held on applications which do not involve significant activities if the Commission determines it is in the public interest. A petition containing the signatures of twenty-five or more persons shall be considered as adequate public interest for the purposes of scheduling a public hearing. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any public hearing.
- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.
- 9.3 Notice of the public hearing shall be mailed to the owner (s) of record of abutting land no less than fifteen days prior to the day of the hearing.
- 9.4 In the case of any application which is subject to the notification provisions of Section 8.3 of these Regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality (ies) has received

- notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.
- 9.5 Upon the scheduling of a public hearing, the applicant shall erect, or cause to have erected, a sign on the premises which is the subject of the public hearing. Said sign shall be provided by the field engineer upon request of the applicant. Said sign shall be installed by the applicant no less than fifteen (15) days prior to the date of the hearing. The sign shall be securely fastened or staked, be clearly visible from the street closest to the affected property, and be maintained as such until the close of the public hearing or any adjournments thereof.

SECTION 10

CONSIDERATIONS FOR DECISION

- 10.1 The Commission may consider the following in making its decision on an application.
- a. The application and its supporting documentation;
 - b. Public comments, evidence and testimony from a public hearing;
 - c. Reports from other agencies and commissions including but not limited to the Town of Old Saybrook
 1. Conservation Commission
 2. Planning, Zoning, or Planning and Zoning Commissions.
 3. Building Official
 4. Health Officer.
 - d. The Commission may also consider comments on any application from the Middlesex County Soil and Water Conservation District, the Connecticut River Estuary Regional Planning Agency or other regional organizations; agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies of investigations.
 - e. Non-receipt of comments from agencies and commissions listed in 10.1.c above within the prescribed time shall neither delay nor prejudice the decision of the Commission.
- 10.2 Standards and Criteria for Decision.
- The Commission shall consider all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to the following:
- a. The environmental impact of the proposed action, including the effects on the inland wetland's and watercourses's capacity to support fish and wild life, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety.
 - b. The alternatives to the proposed action including a consideration of alternatives which might enhance environmental quality or have a less detrimental

- effect, and which could feasibly attain the basic objectives of the activity proposed in the application. This consideration should include, but is not limited to, the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.
- c. The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity, including consideration of the extent to which the proposed activity involves trade-offs between short-term environmental gains at the expense of long-term losses, or vice versa, and consideration of the extent to which the proposed action forecloses or predetermines future options.
 - d. Irreversible and irretrievable commitments of resources which would be involved in the proposed activity. This requires recognition that the inland wetlands and watercourses of the State of Connecticut are an indispensable, irreplaceable and fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling, and removal of material, by the diversion, diminution or obstruction of water flow including low flows, and by the erection of structures and other uses.
 - e. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property, including abutting or downstream property, which would be caused or threatened by the proposed activity, or the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses to the community.
 - f. The suitability of the activity to the area for which it is proposed. This requires a balancing of the need for the economic growth of the state and the use of its land, with the need to protect its environment and ecology for the people of the state and the benefit of generations yet unborn.
 - g. Measures which would mitigate the impact of any aspect of the proposed regulated activity(ies). Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wild life, prevent flooding, supply water, control sedimentation, prevent

erosion, assimilate wastes, facilitate drainage, and to provide recreation and open space.

- 10.3 In the case of any application which received a public hearing, a permit shall not be issued unless the Commission finds that a feasible and prudent alternative does not exist. In making this finding, the Commission shall consider the facts and circumstances set forth in Section 10 of these regulations. This finding and the reasons therefore shall be stated on the record in the decision of the Commission.
- 10.4 In reaching its decision on any application after a public hearing, the Commission shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the agency in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes and the policies of the Inland Wetlands and Watercourses Regulations of the Town of Old Saybrook and of section 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

SECTION 11

DECISION PROCESS AND PERMIT

- 11.1 The Commission may grant the application as filed; grant it upon such terms, conditions, limitations or modifications necessary to carry out the purposes of the Act; or deny it.
- 11.2 No later than sixty-five (65) days after receipt of an application, the Commission may hold a public hearing on such application. The hearing shall be completed within 45 days of its commencement and action shall be taken on such application within 35 days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within 65 days from the date of receipt of such application. The applicant may consent to one or more extensions of the period specified in this subsection for the holding of the hearing and for action on such application, provided the total extension for any such period shall not be for longer than the original period as specified in this subsection or may withdraw such application. If the Commission fails to act on any application within 35 days after the completion of a public hearing, or in the absence of a public hearing, within 65 days from the date of receipt of the application, or within any extension of any such period, the applicant may file such application with the Commissioner of Environmental Protection who shall review and act on such application in accordance with this section. Any costs incurred by the Commissioner in reviewing such application for the Commission shall be paid by the Town of Old Saybrook. Any fees that would have been paid to the Town of Old Saybrook, if

such application had not been filed with the Commissioner, shall be paid to the state. The failure of the Commission or the Commissioner of Environmental Protection to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application.

- 11.3 The Commission shall state upon its record the reasons and bases for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall incorporate a statement relative to the consideration of feasible and prudent alternatives.
- 11.4 The Commission shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the commission shall cause notice of its order in the issuance or denial of the permit, in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In the event that the Commission fails to publish notice, the applicant may publish such notice within ten days after the decision. A copy of all Commission decisions shall be forwarded to the Commissioner of Environmental Protection in such form as prescribed by the Commissioner.
- 11.5 If an activity authorized by the inland wetlands permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision and report on the application shall be filed with the Town of Old Saybrook Planning or Zoning Commission within fifteen days of the date of the decision
- 11.6 If the Commission denies the permit, or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Commission's satisfaction. The Commission shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the Commission shall be equivalent to the denial of an application for the purposes of appeal.
- 11.7 If the Commission denies a permit, the application shall not be resubmitted unless the proposal is modified in a fashion that substantially changes the impacts which resulted in the denial. Such submittal shall take the form of a new application.
- 11.8 Any permit issued under this section shall be valid for at least two years and the Commission may provide for the permit to be valid for up to five years, provided the permittee may apply for and the Commission may, at its discretion, grant a renewal of such permit for successive periods of time not to exceed an additional five years. Permit extension shall be at the discretion of the Commission and may be subject to an additional public hearing. All permits shall expire upon the completion of the acts specified therein.
- 11.9 Permits are not transferable without the prior written consent of the Commission and the submission of the appropriate filing fee based on the fee schedule established

- in Section 7.4 of these regulations.
- 11.10 If a bond or insurance is required in accordance with Section 12 of these regulations, no permit shall be issued until such bond or insurance is provided.
- 11.11 General provisions in the issuance of all permits:
- a. In evaluating applications in which the Commission relied in whole or in part on information provided by the applicant, if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
 - b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission of the Town of Old Saybrook, and convey no rights to real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the property or activity.
 - c. If the activity authorized by the inland wetland permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the wetland permit may begin until such approval is obtained.
 - d. The permittee shall take such necessary steps consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.

SECTION 12

BOND AND INSURANCE

- 12.1 Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Commission, be required to file a bond with such surety in such amount and in a form approved by the Commission.
- 12.2 The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.
- 12.3 The Commission may require the applicant to certify that it has public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount to be determined by the Commission commensurate with the regulated activity.

SECTION 13

ENFORCEMENT

- 13.1 The Commission may appoint an agent or agents to act in its behalf with the authority to inspect property except

a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations.

13.2 As a condition of a permit, the Commission or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these regulations.

13.3 If the Commission or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Commission or its duly authorized agent may:

- a. issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Commission shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this section shall not delay or bar an action pursuant to Section 22a-44(b) of the General Statutes, as amended;
- b. suspend or revoke a permit if it finds that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking any permit, the Commission shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. At the public hearing the permittee shall be given an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision;
- c. issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in

wetlands or watercourses. The Commission may request that the individual appear the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or filing a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Subsection a of this Section or other enforcement proceedings as provided by law.

SECTION 14

AMENDMENTS

- 14.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Old Saybrook may be amended, from time to time, by the Commission in accordance with the changes in the Connecticut General Statutes or regulations of the State Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 14.2 An application filed with the Inland Wetlands and Watercourses Commission which is in conformance with the applicable inland wetlands regulations as of the date of the decision of the Commission with respect to such application shall not be required thereafter to comply with any change in inland wetlands regulations, including changes to setbacks and buffers, taking effect on or after the date of such decision and any appeal from the decision of the Commission with respect to such an application shall not be dismissed by the Superior Court on the grounds that such change has taken effect on or after the date of such decision. The provisions of this subsection shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of chapter 440 of the General Statutes as of the date of the decision.
- 14.3 These regulations and the Town of Old Saybrook Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended.
- a. A public hearing shall be held. Notice of the hearing shall be published in the form of a legal advertisement, appearing in a newspaper having a substantial circulation in Old Saybrook at least twice at intervals of not less than two days, the first not more than fifteen days nor less than ten days, and the last not less than two days, before such hearing.
 - b. A copy of such regulations or Inland Wetlands and Watercourses map shall be filed in the office of the Town Clerk, for public inspection at least ten days before such hearing.
 - c. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of public hearings to consider any

proposed regulations or amendments thereto, except determination of boundaries, at least thirty-five days before the public hearing on their adoption. Application forms and fee schedules shall be considered as part of the Commission regulations.

- 14.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Old Saybrook, Connecticut" shall contain at least the following information:
- a. The applicant's name, address, and telephone number;
 - b. The owner's name (if not the applicant), address, telephone number, and a written consent to the proposed action set forth in the application;
 - c. Applicant's interest in the land;
 - d. The geographic location of the property involved in the petition including a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse areas;
 - e. The reasons for the requested action;
 - f. The names and addresses of adjacent property owners; and
 - g. A map showing proposed development of the property.
- 14.5 The Inland Wetland Commission may require the property owner to present documentation by a soil scientist that the land in question does not have a soil type classified by the National Cooperative soils survey as poorly drained, very poorly drained, alluvial, or flood plain. Such documentation includes a map of the land in question signed by a soil scientist on which the flag locations defining the boundaries of the regulated soil types are depicted.
- 14.6 Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- 14.7 Within ninety (90) days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the Commission shall hold a public hearing, in the manner specified in Section 14.3 of these regulations, to consider the petition. The Commission shall act upon the changes requested in such petition within sixty (60) days after the close of the hearing. The public hearing shall be concluded within forty-five (45) days. The petitioner may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such petition, provided the total extension for any such period shall not be for longer than the original period as specified in this subsection or may withdraw such petition. The failure of the Inland Wetlands Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.
- 14.8 The Commission shall make its decision and state, in writing, the reasons why the change in the Inland Wetland and Watercourses Map was made.

SECTION 15

APPEALS

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

SECTION 16

CONFLICT AND SEVERANCE

- 16.1 If there is a conflict between the provisions of these regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part, subsection or provision of these regulations shall not affect the validity of any other part which can be given effect without such valid part or parts.
- 16.2 If there is a conflict between any provisions of these regulations and the Connecticut General Statutes sections 22a-36 through 22a-45 as amended (The Inland Wetlands and Watercourses Act), the provisions of the Statutes shall govern.

SECTION 17

OTHER PERMITS

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

SECTION 18

EFFECTIVE DATE OF REGULATIONS

- 18.1 These regulations including the Inland Wetlands and Watercourses Map, application forms, fee schedule and amendments thereto, shall become effective upon filing in the Office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of Old Saybrook.