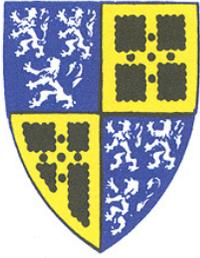


**INLAND WETLANDS &
WATERCOURSES REGULATIONS**
of the
Town of Old Saybrook, Connecticut



Old Saybrook
Inland Wetlands & Watercourses Commission



TOWN OF OLD SAYBROOK
Inland Wetlands & Watercourses Commission

**INLAND WETLANDS
& WATERCOURSES
REGULATIONS**

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Table of Contents

SECTION 1	Title and Authority	1-1
SECTION 2	Definitions	2-1
SECTION 3	Inventory of Regulated Areas	3-1
SECTION 4	Uses As-of-right and Non-regulated Uses	4-1
SECTION 5	Activities Regulated by the State	5-1
SECTION 6	Regulated Activities to be Licensed	6-1
SECTION 7	Application Requirements	7-1
SECTION 8	Application Procedures	8-1
SECTION 9	Public Hearing	9-1
SECTION 10	Considerations for Decision	10-1
SECTION 11	Decision Process and Permit	11-1
SECTION 12	Action By Duly Authorized Agent	12-1
SECTION 13	Bond and Insurance	13-1
SECTION 14	Enforcement	14-1
SECTION 15	Amendments	15-1
SECTION 16	Appeals	16-1
SECTION 17	Conflict and Severance	17-1
SECTION 18	Other Permits	18-1
SECTION 19	Application Fee	19-1
SECTION 20	Effective Date of Regulations	20-1

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 *wetlands* 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 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 Wetlands 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 *Commission* shall enforce all provisions of the Inland Wetlands and Watercourses Act

and shall issue permits, issue permits with terms, conditions, limitations, or modifications, and deny permits for all regulated activities 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:

Act means the Inland Wetland and Watercourses Act, Sections 22a-36 through 22a-45 of the General Statutes, as amended.

Bogs are watercourses distinguished by evergreen trees and shrubs underlain by peat *deposits*, poor or very poor drainage, and highly acidic conditions.

Clear-cutting means the harvest of timber in a fashion which removes all trees down to a two-inch diameter at breast height.

Commission means the Inland Wetlands and Watercourses Commission of the Town of Old Saybrook.

Commission member means a member of the Inland Wetlands and Watercourses Commission of the Town of Old Saybrook.

Commissioner of Environmental Protection means the Commissioner of the State of Connecticut Department of Environmental Protection.

Continual flow means a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.

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

Designated agent means an individual designated by the *Commission* to carry out its functions and purposes.

Discharge means emission of any water, substance, or *material* into waters of the state whether or not such substance causes *pollution*.

Essential to the farming operation means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.

Farming shall be consistent with the definition as noted in section 1-1(q) of the Connecticut General Statutes.

Feasible means able to be constructed or implemented consistent with sound engineering principles.

Habitat means the natural environment where a particular organism or species population

normally occurs. Habitats provide resources such as food, water, shelter, temperature, oxygen, and minerals necessary for a particular species existence.

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 sections 22a-36 to 22a-45, inclusive, (*of the CT General Statutes*).

Management practice means a practice, procedure, activity, structure or facility designed to prevent or minimize *pollution* or other environmental damage or to maintain or enhance existing environmental quality. Such *management practices* include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from *wetlands* or *watercourses*; proper disposal of waste *materials*; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flow; confining construction that must take place in *watercourses* to times when water flows are low and fish and wildlife will not be adversely affected.

Marshes are watercourses 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 ground surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.

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*.

Municipality means the Town of Old Saybrook, Middlesex County.

Nursery means places where plants are grown for sale, transplanting, or experimentation.

Permit see License

Permittee means the *person* to whom a *permit* has been issued.

Person means any person, firm, partnership, association, corporation, limited liability company, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

Pollution means harmful thermal effect or the contamination or *rendering unclean or impure* of any waters of the state by reason of any *waste* or other *materials discharged or deposited* therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.

Prudent means economically and otherwise reasonable in light of the social benefits to be derived from the proposed *regulated activity* provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is prudent.

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*, but shall not include the activities specified in Section 4 of these regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removal of *material* and discharging of storm water on the land within 100 feet measured horizontally from the boundary of any wetland or watercourse is a *regulated activity*.

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

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.

Significant impact 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;

- A. Any activity involving a deposition or removal of *material* which will or may have a substantial effect on the *wetland or watercourse* or on wetlands or watercourses outside the area for which the activity is proposed.
- B. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
- C. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support aquatic, plant, or animal life and habitats, prevent flooding, supply water, assimilate *waste*, facilitate drainage, provide recreation or open space or perform other functions.
- D. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
- E. Any activity which causes a substantial diminution of flow of a natural watercourse, or groundwater levels of the *wetland or watercourse*.
- F. Any activity which is likely to causes or has the potential to cause *pollution* of a wetland or watercourse.
- G. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

Soil scientist means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.

Swamps are watercourses that are dominated by wetland trees and shrubs.

Submerged lands means those lands which are inundated by water on a seasonal or more frequent basis.

Town means the Town of Old Saybrook, Middlesex County in the State of Connecticut.

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*.

Watercourse means rivers streams, brooks, waterways, lakes, ponds, *marshes, swamps, bogs,* and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the *Town* or any portion thereof not regulated pursuant to section 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes. Intermittent *watercourses* shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or *deposits* of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

Wetland means land, including submerged land as defined in this section, 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 Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

Wetlands or Watercourses includes aquatic, plant or animal life and habitats in wetlands or watercourses.

SECTION 3

Inventory of Regulated Areas

- 3.1 The map of wetlands and watercourses, 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 Wetlands Commission. 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*. The *Commission* may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and *watercourses*.
- 3.2 Any person may petition the Commission for an amendment to the map. 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 bear the burden of proof regarding the proposed map amendment. Such proof may include, but not be limited to aerial photography, remote sensing imagery, resource mapping or other available information. Documentation in accordance with Section 15 of these regulations may be required of such person when the Commission requires an accurate delineation of regulated areas.
- 3.3 The Inland Wetlands Commission shall maintain a current inventory of all regulated areas within the *town*. The Commission may amend its map from time to time as more accurate information becomes available.
- 3.4 All map amendments are subject to the public hearing process outlined in Section 15 of these regulations.

SECTION 4

As-of-right & Non-regulated Uses

- 4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
- A. Grazing, *farming*, nurseries, gardening and harvesting of crops and farm ponds of three acres or less *essential to the farming operation* and activities conducted by, or under the authority of, the Department of Environmental Protection for purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subsection 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.
 - C. Boat anchorage or mooring;
 - D. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the *municipality*. 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 or alteration of a *watercourse*.
 - E. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut 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-403 of the Connecticut General Statutes.
 - F. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes or July 1, 1974, which ever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, maintenance means the removal of

accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.

- 4.2 The following operations and uses shall be permitted as nonregulated uses in *wetlands* and *watercourses*, provided they do not disturb the natural and indigenous character of the wetland or *watercourse* by removal or deposition of *material*, alteration or obstruction of water flow or *pollution* of the *wetland* or *watercourse*:
- A. Conservation of soil, vegetation, water, fish, shellfish and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and 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, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated.
- 4.3 All activities in *wetlands* or *watercourses* involving filling, excavation, dredging, clear cutting, or grading or any other alteration or use of a *wetland* or *watercourse* not specifically permitted by this section and otherwise defined as a *regulated activity* by these regulations shall require a permit from the Commission in accordance with Section 6 of these regulations, or for certain regulated activities located outside of wetlands and watercourses from the duly authorized agent in accordance with section 12 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*, 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 shall rule that the proposed operation or use or portion of it 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 Commission at any time.

SECTION 5

Activities Regulated Exclusively by the Commissioner of Environmental Protection

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

SECTION 6

Regulated Activities to be Licensed

- 6.1 No person shall conduct or maintain a *regulated activity* without first obtaining a permit for such activity from the Inland Wetlands Commission of the Town of 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 Wetlands Commission, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these regulations and any other remedies as provided by law.

SECTION 7

Application Requirements

- 7.1 Any person wishing to undertake a *regulated activity* or to renew or amend a permit to conduct such activity, shall apply for a permit on a form entitled Town of Old Saybrook Inland Wetlands and Watercourses Commission - Application for Permit. The application shall contain the information described in this section and any other information the *Commission* may reasonably require. Application forms may be obtained in the offices of the Old Saybrook Town Clerk or the Inland Wetlands Commission.
- 7.2 If an application to the Town of Old Saybrook Planning , or Zoning Commission involves land containing or affecting a *wetland* or *watercourse* , the applicant shall, in accordance with Section 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the *Commission* in accordance with this section, no later than the day the application is filed with such planning, or zoning commission.
- 7.3 All applications shall contain such information that is necessary for a fair and informed determination of the issues.
- 7.4 A prospective applicant may request the Commission to determine whether or not a proposed activity involves a significant impact activity. 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.
- 7.5 All applications shall include the following information in writing or on maps or drawings:
- A. The applicant's name, home and business address and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation the managing member's or responsible corporate officers' name, address, and telephone number.
 - 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 wetland vegetation.
 - E. The purpose and a description of the proposed activity and proposed erosion and

sedimentation controls and other *management practices* and mitigation measures which may be considered as a condition of issuing a permit for the proposed *regulated activity* including, but not limited to, measures to (1) prevent or minimize *pollution* or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order or priority: restore, enhance and create productive *wetland* or *watercourse* resources.

- F. Alternative which would cause less or no environmental impact to wetlands or watercourses and why the alternative as 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* and identifying any further activities associated with, or reasonably related to, the proposed *regulated activity* that are made inevitable by the proposed *regulated activity* and that may have an impact on *wetlands* or *watercourses*.
 - H. Names and addresses of all adjacent property owners.
 - I. Statement by the applicant that the applicant is familiar with all the information provided in the application and is aware that there are substantial 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, during the pendency of an application and for the life of the permit.
 - K. A completed DEP reporting form; the Commission shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies;
 - L. Any other information the *Commission* deems necessary to the understanding of what the applicant is proposing.
 - M. Submission of the appropriate filing fee based on the fee schedule established in Chapter 118 of the Town Code.
- 7.6 No detention or retention ponds shall be allowed in wetlands if alternative sites are available. If there are no alternative sites, and no alternative solution to stormwater management exists, detention or retention ponds in a wetland may be considered with the following stipulations:
- A. An effective maintenance program of such ponds shall be developed and performed by the property owner. Bonding to assure compliance may be required by the *Commission*.
 - B. Access to such pond for maintenance shall be kept opened by the property owner

and shall not have an adverse impact on the wetland. The *Commission* or its Agent shall have access to any such area for reasonable periodic inspections.

- 7.7 At the discretion of the Commission or its agent, or when the proposed activity involves a significant activity 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*, a minimum of four (4) points and their Connecticut State Plane Coordinate Grid System locations (NAD83) distributed on the perimeter of the Subdivision, and other pertinent features of the land drawn by a licensed surveyor, professional engineer or landscape architect registered in the State of Connecticut or by such other qualified person deemed acceptable to the *Commission*.
 - B. Engineering reports, analyses, and additional drawings to describe fully the proposed project and any filling, excavation, drainage or hydraulic modifications to *watercourses* and the proposed erosion and sedimentation control plan.
 - 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 activities on these communities and *wetland* functions. To ensure confirmation of a vernal pool (*watercourse*), assessments and biological inventories of vernal pools need to be conducted during the appropriate time of year and under appropriate environmental conditions (*e.g.* not conducted during drought years). Confirmation of vernal pools during the dry season (mid-summer through winter) is impossible; however, the likelihood of a vernal pool can be assessed through dry season indicators.
 - 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 each alternative, which would cause less or no environmental impact to wetlands or watercourses, 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, *best management practices*, 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.

- 7.8 The applicant shall certify whether:
- A. Any portion of the property on which the *regulated activity* is proposed is located within five hundred feet (500') 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*.
- 7.9 A minimum twelve (12) copies of all application materials shall be submitted to comprise a complete application or as otherwise directed, in writing, by the Inland Wetlands Commission.
- 7.10 Any application to renew, extend the expiration date of a previously issued permit, or amend an existing permit, shall be filed with the *Commission* prior to the regularly-scheduled meeting before the expiration date for the permit in accordance with Subsections 8.2 through 8.6 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 describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
 - C. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;
 - D. The application shall describe any changes in facts or circumstances involved with or affecting *wetlands* or *watercourses* or the property for which the permit was issued;
 - E. The *Commission* may, prior to the expiration of a permit, 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.
- 7.11 A reporting form shall be completed which provides the *Commissioner* 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 or lineal feet of *watercourse* proposed to be altered.

- 7.12 Any application to renew a permit shall be granted upon request of the permit holder unless the *Commission* finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the *regulated activity* for which the permit was issued provided no permit may be valid for more than ten years.
- 7.13 For any permit involving property subject to a conservation restriction or preservation restriction, the following shall apply:
- A. For purposes of this section, “conservation restriction” means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural farming, forest or open space use.
 - B. For purposes of this section, “preservation restriction” means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to preserve historically significant structures or sites.
 - C. No person shall file a permit application, other than for interior work in an existing building or for exterior work on an existing building that does not expand or alter the footprint of an existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limited to, any state agency that holds such restriction, not later than sixty (60) days prior to the filing of the permit application.
 - D. In lieu of such notice pursuant to subsection 7.13c, the applicant may submit a letter from the holder of such restriction or from the holder’s authorized agent, verifying that the application is in compliance with the terms of the restriction.

SECTION 8

Application Procedures

- 8.1 All petitions, applications, requests or appeals shall be submitted to the Inland Wetlands and Watercourses Commission of the Town of Old Saybrook.
- 8.2 The *Commission* shall, in accordance with CGS-8-7d(f), notify the clerk of any adjoining *municipality* of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:
- A. Any portion of the property affected by a decision of the Commission is located within five hundred feet (500') 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, petition, appeal, request or plan.

- 8.3 When an application is filed to conduct or cause to be conducted a *regulated activity* upon an inland *wetland* or *watercourse*, any portion of which is within the watershed of a water company as defined in Section 25-32a of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said Commissioner, provided such water company or said commissioner has filed a map showing the boundaries of the watershed on the land records of Old Saybrook in which such application is made 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 not later than seven days of the date of the application. The water company and Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the *Commission*.
- 8.4 The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the *Commission*, immediately following the day of submission to the *Commission*, or its agent of such petition, application, request or appeal or thirty-five days after such submission , whichever is sooner.
- 8.5 At any time during the review period, the *Commission* may require the applicant to provide additional information about the application, or *wetlands* or *watercourses* affected by the

regulated activity. Request for such additional information shall not stay the time limitations as set forth in subsection 11.2 of the regulations.

- 8.6 All applications shall be open for public inspection.
- 8.7 Incomplete applications may be denied.

SECTION 9

Public Hearings

- 9.1 The Inland Wetlands Commission shall not hold a public hearing for an application unless the *Commission* determines that the proposed activity may have a significant impact on *wetlands* or *watercourses*, a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the *Commission* not later than fourteen days after the date of receipt of such application or the *Commission* finds that a public hearing regarding such application would be in the public interest. The Commission may issue a permit without a public hearing provided no petition provided for in this section is filed with the Commission on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All application 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 provision of subsection 8.2 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 In any matter before the *Commission* requiring a public hearing, the applicant shall cause to be posted a temporary sign or signs visible from the street notifying the public of said hearing. The sign(s) shall be the responsibility of the applicant and posted subject to the following conditions.
- A. The sign shall be posted at least seven (7) days prior to the day of the hearing. It shall be firmly secured to the ground or structure to prevent vandalism. If there is more than one frontage of the parcel on a street or streets, one sign for each frontage shall be posted.
 - B. The composition of the sign(s) shall be of a durable material such as wood or metal, 40 x 40 in size painted white with black lettering having a minimum height of 4 with a letter stroke of 1.
 - C. The sign(s) shall advertise the date, time and place of the public hearing of the wetlands activity or boundary change.

- D. Format of the sign(s) shall be obtained from the office of the *Commission*.
- E. Any proponent who fails to display the sign shall be required to file a new application.
- F. The sign(s) shall be taken down within one week after the public hearing is completed.

SECTION 10

Considerations for Decision

- 10.1 The *Commission* may consider the following in making its decision on an application.
- A. The application and its supporting documentation;
 - B. Reports from other agencies and Commissions including but not limited to the Town of Old Saybrook Conservation, Planning or Zoning Commissions; building official; or health officer.
 - C. 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.
 - D. Non-receipt of comments from agencies and commissions listed in 10.1.b and c of this Section, within the prescribed time, shall neither delay nor prejudice the decision of the *Commission*.
 - E. For an application for which a public hearing is held, public comments, evidence and testimony.

10.2 CRITERIA FOR DECISION

In carrying out the purposes and policies of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the *Commission* shall take into consideration all relevant facts and circumstances, including but not limited to:

- A. The environmental impact of the proposed *regulated activity*, including the effects on the inland *wetlands'* and *watercourses'* capacity to support fish and wildlife, 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 applicant's purpose for, and any *feasible* and *prudent* alternatives to, the proposed *regulated activity* which alternatives would cause less or no environmental impact to *wetlands* or *watercourses*. Such alternatives should include, but not necessarily limited to, requiring actions of different nature which would provide similar benefits with different location for the activity;
- C. The relationship between the short term and long term impacts of the proposed *regulated activity* on *wetlands* or *watercourses* and the maintenance and enhancement of long-term productivity of such *wetlands* or *watercourses*;

- D. Irreversible and irretrievable loss of *wetland* or *watercourse* resources which would be caused by the proposed *regulated activity*, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a *permit* for such activity including, but not limited to, measures to (1) prevent or minimize *pollution* or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive *wetland* or *watercourse* resources;
 - E. The character and degree of injury to, or interference with, safety, health or the reasonable use of property, including abutting or downstream property, which would be caused or threatened by the proposed *regulated 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. Impacts of the proposed *regulated activity* on *wetlands* or *watercourses* and of the regulated area outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed *regulated activity* which are made inevitable by the proposed *regulated activity* and which may have an impact on *wetlands* or *watercourses*.
- 10.3 A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.4 In the case of any application which received a public hearing pursuant to a finding by the *Commission* that the proposed activity may have a significant impact on *wetlands* or *watercourses*, a *permit* shall not be issued unless the *Commission* finds on the basis of the record that a *feasible* and *prudent* alternative does not exist. In making this finding the *Commission* shall consider the facts and circumstances set forth in subsection 10.2 of this section. The finding and the reasons therefore shall be stated on the record in writing.
- 10.5 In the case of an application which is denied on the basis of a finding that there may be *feasible* and *prudent* alternatives to the proposed *regulated activity* which have less adverse impact on *wetlands* or *watercourses*, the *Commission* shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the *permit* or to present alternatives to the proposed *regulated activity*.
- 10.6 For purposes of this section, (1) “wetlands and watercourses” includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) “habitats” means areas or environments in which an organism or biological population normally lives or occurs.

- 10.7 In reaching its decision on any application after a public hearing, the *Commission* shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Commission in its decision.
- 10.8 In the case of an application where the applicant has provided written notice pursuant to subsection 7.13c of these regulations, the holder of the restriction may provide proof to the Inland Wetlands Commission that granting of the permit application will violate the terms of the restriction. Upon a finding that the requested land use violates the terms of such restriction, the Inland Wetlands Commission shall not grant the permit approval.
- 10.9 In the case of an application where the applicant fails to comply with the provisions of subsections 7.13 C. or 7.13 D. of these regulations, (1) the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the Inland Wetlands Commission, subject to the rules and regulations of such agency relating to appeals. The Inland Wetlands Commission shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction; or (2) the state agency that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the inland wetlands agency, subject to the rules and regulations of such agency relating to appeals. The inland wetlands agency shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.
- 10.10 Nothing in subsections 7.13 C. or 7.13 D. of these regulations shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit application will occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction.

SECTION 11

Decision Process and Permit

- 11.1 The Commission, or its duly authorized agent pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the *regulated activity* designed to carry out the purposes and policies of the *Act*, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the *regulated activity* and which would (a) prevent or minimize *pollution* or other environmental damage (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive *wetland* or *watercourse* resources.
- 11.2 No later than sixty-five (65) days after receipt of an application, the *Commission* may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on ~~such~~ applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of such application. The applicant may consent to one or more extensions of the periods specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such application. The failure of the *Commission* to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the *Commission* shall be withdrawn by the applicant or denied by the Commission.
- 11.3 The *Commission* shall state upon its record the reasons and bases for its decision.
- 11.4 The *Commission* shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the *Commission* 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 Chapter 118 of the Town Code.
- 11.10 If a bond or insurance is required in accordance with Section 13 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 under sections 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, 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

Action by Duly Authorized Agent

- 12.1 The *Commission* may delegate to its duly authorized agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any *wetlands* or *watercourses* provided such agent has completed the comprehensive training program developed by the *Commissioner of Environmental Protection* pursuant to section 22a-39 of the CGS. Requests for such approval shall be made on a form provided by the *Commission* and shall contain the information listed under Section 7.5 of these regulations and any other information the *Commission* may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9 and 11 of these regulations, such agent may approve or extend such an activity at any time.
- 12.2 Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the *Commission* within fifteen (15) days after the publication date of the notice and the *Commission* shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such *Commission* or its agent of such appeal. Any person may appear and be heard at the meeting held by the *Commission* to consider the subject appeal. The *Commission* shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a *permit* in accordance with Section 7 of these regulations.

SECTION 13

Bond

- 13.1 The Commission may require as a permit condition the filing of a bond with such surety in such amount and in a form approved by the *Commission*.
- 13.2 The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.

SECTION 14

Enforcement

- 14.1 The *Commission* may appoint an agent or agents to act in its behalf with the authority to issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the *Commission* or its duly authorized agent shall take into consideration the criteria for decision under section 10.2 of these regulations.
- 14.2 The *Commission* or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued with the consent of the property owner or the authorized agent of the property owner during the life of the permit.
- 14.3 In the case in which a permit has not been issued or a permit has expired, the *Commission* or its agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- 14.4 If the *Commission* or its duly authorized agent finds that any *person* is conducting or maintaining any activity, facility or condition which is in violations 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. Issue a notice of violation to such *person* conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the *Commission*, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in *wetlands* or *watercourses*. The *Commission* may request that the individual appear at the next regularly scheduled meeting of the *Commission* to discuss the unauthorized activity, 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.

- 14.5 The Commission may 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 or suspending any permit, the *Commission* shall issue notice to the *permittee*, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Commission shall hold a hearing to provide the *permittee* an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The *permittee* shall be notified of the *Commission's* decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The *Commission* shall publish notice of the suspension or revocation in a newspaper having general circulation in the *municipality*.

SECTION 15

Amendments

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of 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.
- 15.2 An application filed with the *Commission* which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or the date of such receipt and any appeal from the decision of such *Commission* with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provision of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland *wetlands* or *watercourses* or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 15.3 These regulations and the Town of 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. The *Commission* shall provide the *Commissioner of Environmental Protection* with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five days before the public hearing on their adoption.
- 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.
- 15.4 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.
- 15.5 Any *person* who submits a petition to amend the Inland Wetlands and Watercourses Map, Old Saybrook, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the *Commission*. If such *person* is the owner, developer or contract purchaser of the land which is subject to the petition, or if such *person* is representing the interests of such owner, developer or purchaser, in addition to the information required in subsection 15.4, the petition shall include:
- A. The name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
 - B. The names and mailing addresses of the owners of abutting land;
 - C. Documentation by a *soil scientist* of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the *soil scientist* documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the *soil scientist* and defining the boundaries of wetland soil types; and
 - D. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- 15.6 *Watercourses* shall be delineated by a *soil scientist*, geologist, ecologist or other qualified individual, deemed acceptable to the *Commission*.
- 15.7 A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having general circulation in the *municipality* where the land that is the subject of the hearing is located 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. All materials including maps and documents relating to the petition shall be open for public inspection. A copy of such

proposed boundary change shall be filed in the office of the town clerk for public inspection at least ten days before such hearing.

- 15.8 The *Commission* shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and Watercourses Map within sixty-five days after receipt of such petition. The hearing shall be completed within thirty-five days after commencement. The *Commission* shall act upon the changes requested in such petition within sixty-five days after the completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days or may withdraw such petition. Failure of the *Commission* to act within any time period specified in this subsection or any extension thereof, shall not be deemed to constitute approval of the petition.
- 15.9 The *Commission* shall make its decision and state, in writing, the reasons why the change in the Inland Wetland and Watercourses Map was made.

SECTION 16

Appeals

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

SECTION 17

Conflict and Severance

- 17.1 If there is a conflict between the provisions of these regulations, the provision which imposes the most stringent standards for the use of wetlands and *watercourses* shall govern. The invalidity of any word, clause, sentence, section, part, subsection or provision of these regulations shall not affect the validity of any other part which can be given effect without such valid part or parts.
- 17.2 If there is a conflict between 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 18

Other Permits

- 18.1 Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits or *licenses* required by law or regulation by the Town of 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 19

Fees

19.1 METHOD OF PAYMENT

All fees required by these regulations shall be submitted to the *Commission* by cash, check, or money order payable to the Town of Old Saybrook at the time the application is filed with the *Commission*.

19.2 No application shall be granted or approved by the *Commission* unless the correct application fee is paid in full or unless a waiver has been granted by the *Commission* pursuant to subsection 19.7 of these regulations.

19.3 The application fee is not refundable.

19.4 DEFINITIONS

As used in this section:

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

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

19.5 FEE SCHEDULE

Application fees are set forth in Chapter 118 of the Town Code.

19.6 EXEMPTION

Boards, commissions, councils and departments of the Town of Old Saybrook are exempt from all fee requirements.

19.7 WAIVER

The applicant may petition the *Commission* to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the *Commission* should consider in its determination under this subsection.

Section 20

Effective Date of Regulations

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