

**TOWN OF WESTPORT REGULATIONS
FOR THE PROTECTION AND PRESERVATION OF WETLANDS AND WATERCOURSES
(March 28, 2002)**

1.0 TITLE, AUTHORITY, AND PURPOSE

1.1 These Regulations shall be known as the "Wetlands and Watercourses Regulations of the Town of Westport, Connecticut."

They provide an orderly process through which to balance the need for economic growth and land use in Westport with the need to protect its environment and ecology for the benefit and enjoyment of the people of Westport and generations yet unborn.

1.2 These Regulations have been prepared and are adopted in accordance with the provisions of Public Act 155 of the 1972 Connecticut General Assembly as amended from time to time by the Westport Conservation Commission or its successor, as authorized by ordinance adopted by the Westport Representative Town Meeting on December 5, 1972, effective December 20, 1972.

1.3 The 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 Inland Wetlands and Watercourses constitute an interrelated web of nature that is essential to maintaining an adequate supply of surface and underground water, to hydrological stability and flooding and erosion control, to the recharging and purification of groundwater and to ensuring the existence of many forms of animal, aquatic and plant life.

Since the initial adoption of these Regulations, many Inland Wetlands and Watercourses have been destroyed or are in danger of destruction due to 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 which have despoiled, polluted, and eliminated Wetlands and Watercourses. This unregulated activity has, and will continue to have, a significant adverse impact on the environment and ecology of the Town of Westport. Furthermore, it will, if unchecked, imperil the quality of the environment and adversely affect the ecological, scenic, historic and recreational value and benefits of Westport for its citizens now and in perpetuity.

1.4 The preservation and protection of 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 Westport and the State. It is therefore the purpose of these Regulations to protect the citizens of Westport by making provisions for the care, preservation, maintenance, and use of local Wetlands and Watercourses of Westport.

This purpose can be met by:

- (a) Minimizing the disturbance and pollution of Wetlands and Watercourses;
- (b) Maintaining or improving water quality in accordance with the standards set by Federal, State or Local authority;
- (c) Preventing damage from erosion, turbidity or siltation;
- (d) Preventing loss of fish and other beneficial organisms, wildlife and vegetation;
- (e) Preventing the destruction of natural habitats;

- (f) Controlling discharges and runoff to deter and inhibit pollution and flooding;
- (g) Protecting the conservation, economic, recreational and aesthetic quality of Wetlands and Watercourses to maintain their public and private uses and values; and
- (h) Protecting potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement.

2.0 COMMISSION DUTIES

The Conservation Commission shall have the following specific duties and such other duties as may be reasonably implied from those enumerated.

It shall:

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- 2.1 Carry out and effectuate the purposes and policies of Sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes, as amended, as specifically authorized by Section 22a-42 in promulgating such regulations as are necessary to protect the Wetlands or Watercourses within the limits of the Town of Westport.
- 2.2 Develop comprehensive programs in furtherance of the purposes of said statutes.
- 2.3 Advise, consult and cooperate with other agencies of the Town, State and Federal Government, and other States, and with persons and municipalities in furtherance of the purposes of said statutes.
- 2.4 Encourage, participate in or conduct studies, investigations, research and demonstrations, and collect and disseminate information relating to the purposes of said statutes.
- 2.5 Retain and employ consultants and assistants on a contract or other basis for rendering legal, technical or other assistance, and advise in furtherance of any of its purposes.
- 2.6 Inventory or index local Wetlands and Watercourses in such form, which may include pictorial representations, as the Commission deems best suited to effectuate the purposes and policies of Sections 22a-36 through 22a-45 inclusive of the Connecticut General Statutes, as amended.
- 2.7 Grant, deny, limit or modify, in accordance with the applicable provisions of these Regulations, an application for a license as defined in Section 3.6 of these Regulations. Administer requests for a Declaratory Ruling and any amendment to the Wetlands and Watercourses Map of Westport.
- 2.8 Exercise all incidental powers necessary to enforce rules and regulations and to carry out the purposes of the enabling legislation contained in the Connecticut General Statutes.
- 2.9 The Commission may delegate duties and authority to its agent, assistant, consultant or Conservation Department Staff to act as its representative in carrying out provisions contained within.

3.0 DEFINITIONS

- 3.1 Certain words, terms and phrases used in these Regulations shall have the meanings presented in this section. All words used in the present tense include the future tense, and the word "used" shall be deemed to include "designed, intended or arranged to be used."
- 3.2 "Bogs" means a poorly drained area containing an accumulation of organic material and characterized by an association of plants recognized as bog species including, but not limited to, those listed in the booklet entitled *Inland Wetland Plants of Connecticut* (May 1973).
- 3.3 "Commission" means the Westport Conservation Commission or its successor acting as the local Wetland Agency under Section 22a-42 of the General Statutes.
- 3.4 "Conservation Director" means the employee of the Town of Westport responsible for the supervision of the Conservation Department who administers the regulations and acts as agent for the Commission.
- 3.5 "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 recurs in prolonged succession.
- 3.6 "Deposit" includes, but shall not be limited to, fill, grade, dump, place, discharge, or emit.
- 3.7 "Discharge" means the emission of any water, substance, or material into waters of the Town of Westport whether or not such substance causes pollution.
- 3.8 "Feasible" means able to be constructed or implemented consistent with sound engineering principles.

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3.9 "License" means the whole or any part of a permit, certificate or approval or exemption, or similar form of permission which may be required of any person by the provisions of these Regulations or the Inland Wetlands and Watercourses Act.

3.10 "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; restriction on land use or development; construction setbacks from Wetlands or Watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of Wetlands and Watercourses; procedures for maintaining continuous stream flows; and confining construction that must take place in Watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

3.11 "Marsh" means an area normally covered with shallow water subject to seasonal variations which contains an association of herbaceous, soft-stemmed plants recognized as marsh vegetation. Typical examples of marsh species include, but are not limited to, those listed in the booklet entitled *Inland Wetland Plants of Connecticut*; (May, 1973).

3.12 "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, and refuse or waste.

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

3.14 "Pollution" means harmful thermal effect or the contamination of or rendering unclean or impure any waters of the Town of Westport 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.

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

3.16 "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 and Watercourses, but shall not include the specified activities in Section 4.0 of these Regulations. Additionally, any operation involving removal or deposition of material or any obstruction, construction, alteration or pollution within the setbacks from the Wetlands and Watercourses as set forth below shall also be considered regulated activities and shall require the licensed approval of the Commission:

	WETLANDS	WATERCOURSES
(a) subsurface sewage disposal systems	50'	50'
(b) single-family residence	35'	35'
(c) commercial structures, multi-family residences and additions to such structures	65'	65'
(d) outbuildings and additions to single-family residence	25'	25'
(e) tennis courts and swimming pools	35'	35'
(f) parking lot and driveway edge of shoulder	25'	25'
(g) limit of fill, cut, grading and other alteration	15'	15'

3.17 "Regulated Area" means both "Wetlands" and all "Watercourses", existing and future, not all of which may be

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specifically delineated at present on the maps entitled "Wetlands and Watercourses Maps; Conservation Commission, Town of Westport, Connecticut" due to the constraints of printing and mapping scale.

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

3.19 "Rendering Unclean or Impure" means any alteration of the physical chemical or biological properties of any of the waters of the Town of Westport including, but not limited to, change in odor, color, turbidity, or taste.

3.20 "Significant Impact or Major Effect" means:

- (a) Any activity involving a deposition of material which will or may have a substantial adverse effect on the regulated area or on another part of the Wetland and Watercourse system; or
- (b) Any activity involving a removal of material which will or may have a substantial adverse effect on the regulated area or on another part of the Wetland and Watercourse system; or
- (c) Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a Watercourse system; or
- (d) Any activity which substantially diminishes the natural capacity of a Wetlands or Watercourse to support desirable biological life, prevent flooding, supply water, assimilate waste, facilitate drainage and/or provide recreation and open space; or
- (e) Any activity which would result in the degrading of a Watercourse of the surface and/or ground water of a Wetland which would be consistent with the goals and purposes of these Regulations.

3.21 "Soil Scientist" means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.

3.22 "Swamp" means an area with a water table at or near the surface of the ground throughout most of the year which contains vegetation dominated by an association of trees and/or shrubs recognized as swamp species. Typical examples of swamp species include, but are not limited to, those listed in the booklet entitled Inland Wetland Plants of Connecticut; (May, 1973).

3.23 "Waste" means sewage or any substance, liquid, gaseous, solid, or radioactive, which may pollute any of the water of the Town of Westport.

3.24 "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 on the Town of Westport, or any portion thereof, not regulated as Tidal Wetlands pursuant to Section 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, as amended. "Intermittent Watercourses" shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics:

1. A defined permanent channel with the evidence of scour or deposits of recent alluvium or detritus;
2. The presence of standing or flowing water for a duration longer than a particular storm incident. Ordinarily the presence of water is supported by a component, however small, of ground water outflow or infiltration;
3. The presence of or ability to support the growth of hydrophytic vegetation.

3.25 "Wetlands" mean land, including submerged land, not regulated as Tidal Wetlands pursuant to Section 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, as amended, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as may be amended from time to time, for the Natural Resources Conservation Service of the United States Department of Agriculture.

4.0 PERMITTED USES

4.1 The following operations and uses shall be permitted in Wetlands and Watercourses, as of right when verified in

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writing by the Commission:

- (a) Grazing, farming, nurseries, gardening, and harvesting of crops and farm ponds of three acres or less essential to the farming operations, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of Wetland or Watercourse restoration or enhancement or mosquito control. The provisions of this subdivision 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, 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 purpose of sale;
- (b) Boat anchorage or mooring;
- (c) Uses incidental for the enjoyment and maintenance of a residential property, such property defined as equal to or smaller than two (2) acres and containing a house;
- (d) Construction and operation by water companies as defined in Section 16-1 of the General Statutes or by municipal water supply systems as provided for in Chapter 102 of the General Statutes of dams reservoirs and other facilities necessary for the impounding, storage and withdrawal of water in Connecticut with public water supplies, except as provided in Section 25-110 and 25-112 of the Connecticut General Statutes, as amended;
- (e) Maintenance relating to any drainage pipe which existed before the effective date of April 23, 1972, for these Regulations adopted pursuant to section 22a-42a, 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 non-regulated uses in Wetlands and Watercourses, when verified by the Conservation Commission or Department provided they do not disturb the natural and indigenous character of the Wetlands or Watercourses:

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

4.2.1 An operation or use shall be considered a disturbance of the natural and indigenous character of Wetlands and Watercourses when it involves one or more of the following activities:

- (a) Alteration of the surface, soils or topography of, in and adjacent to;
- (b) Alteration of water level or water table in or adjacent to;
- (c) Alteration or removal of vegetation in;
- (d) Alteration of the light source or penetration into;
- (e) Placement of structures, dredging or filling within; and/or
- (f) Alteration of the chemical properties of; Wetlands and Watercourses.

4.3 Any regulated activity or use legally existing as of April 27, 1973, shall be permitted to continue provided that no new additional regulated activity requiring license under these Regulations is conducted.

5.0 CRITERIA CONSIDERED BY COMMISSION

5.1 In carrying out the purposes and policies of these Regulations and Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matter relating to regulating, licensing and enforcing of the provision thereof, the Commission shall take into consideration all relevant facts and circumstances, including, but not limited to:

- (a) The environmental impact of the proposed regulated activity on Wetlands or Watercourses;
- (b) The applicant's purpose for, and any feasible and prudent alternative to, the proposed regulated activity which alternatives would cause less or no environmental impact to Wetlands or Watercourses;
- (c) The relationship between the short-term and long-term impacts of the proposed regulated activity on Wetland or

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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 resource, 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 reasonable use of property which is caused or threatened by the proposed regulated activity;
- (f) Impacts of the proposed regulated activity on Wetlands or Watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity and which may have an impact on Wetlands or Watercourses; and
- (g) The degree to which the proposed activity is consistent with all applicable goals and policies set forth in Section 1.3 of these Regulations and Section 22a-36 of the Connecticut General Statutes, as amended.

6.0 STANDARDS OF REVIEW

In accordance with the purposes of these Regulations, pursuant to Section 1.3, the Commission shall apply relevant standards including, but not limited to, the following:

6.1 GENERAL STANDARDS:

In order to determine that an activity will not have significant impact or major effect on the general character of Wetlands and Watercourses the Commission shall, as applicable, find that:

- (a) The disturbance and pollution of Wetlands and Watercourses will be minimized;
- (b) The height, width and length of structures will be limited to the minimum dimension necessary to accomplish the intended function;
- (c) Loss of fish and other beneficial organisms, wildlife and vegetation will be prevented;
- (d) Potable fresh water supplies will be protected from the dangers of drought, overdraft, pollution, misuse and/or mismanagement;
- (e) The conservation, economic, recreational and aesthetic qualities of Wetlands and Watercourse will be maintained.

6.2 WATER QUALITY:

In order to determine that an activity will not have significant impact or major effect on water quality in Wetlands and Watercourses, the Commission shall, as applicable, find that:

- (a) Flushing rates, freshwater sources, existing basin characteristics and channel contours will not be adversely altered;
- (b) Water stagnation will neither be contributed to nor caused;
- (c) Water pollution which will unduly affect the fauna, flora, physical or chemical nature of the regulated area, or the propagation and habitats of fish and wildlife, will not result;
- (d) Pollution of the ground water or a significant aquifer will not result;
- (e) All applicable state and local health codes shall be met;
- (f) Water quality will be maintained or improved in accordance with the standards set by federal, state, and local authority including Section 25-54(e) of the Connecticut General Statutes.

6.3 EROSION AND SEDIMENT:

In order to determine that an activity causing erosion and/or sedimentation will not have significant impact or major effect on Wetlands and Watercourses, the Commission shall, as applicable, find that:

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- (a) Temporary erosion control measures shall be utilized during construction and for the stabilization period following construction;
- (b) Permanent erosion control measures shall be utilized using nonstructural alternatives whenever possible and structural alternatives when unavoidable;
- (c) Spillover of material into and siltation of Wetlands and Watercourses shall be prevented;
- (d) Existing circulation patterns, water velocity, or exposure to storm and flood conditions shall not be adversely altered;
- (e) Formation of deposits harmful to aquatic life and/or wetlands habitat will not occur;
- (f) Applicable state, federal and local guidelines shall be met.

6.4 NATURAL HABITATS:

In order to determine that an activity will not have significant impact or major effect on the habitats of Wetlands and Watercourses, the Commission shall, as applicable, find that:

- (a) Critical habitat areas, such as habitats of rare and endangered floral and faunal species, shall be preserved;
- (b) The existing biological productivity of any Wetland and Watercourse shall be maintained or improved;
- (c) Breeding, nesting and/or feeding habitats of wildlife will not be significantly altered;
- (d) Movements and lifestyles of fish and wildlife will not be significantly affected;
- (e) Periods of seasonal fish runs and bird migrations shall not be impeded;
- (f) Conservation or open space easements will be deeded whenever appropriate to protect these natural habitats.

6.5 DISCHARGE AND RUNOFF:

In order to determine that an activity will not have significant impact or major effect on the flooding habits of Wetlands and Watercourses, the Commission shall, as applicable, find that:

- (a) The potential for flood damage on adjacent or adjoining properties will not be increased;
- (b) The velocity or volume of flood waters both into and out of Wetlands and Watercourses will not be adversely altered;
- (c) The capacity of any Wetland or Watercourse to transmit or absorb flood waters will not be significantly reduced;
- (d) Flooding upstream or downstream of the location site will not be significantly increased;
- (e) The activity is acceptable to the Flood and Erosion Control Board and/or the Town Engineer of the municipality of Westport;
- (f) Concentrated discharge flow will be filtered and dissipated, or spread before entering Wetlands and Watercourses;
- (g) Runoff increases will be retained or detained on-site whenever possible.

6.6 RECREATIONAL AND PUBLIC USES:

In order to determine that an activity will not have significant impact or major effect on existing or potential recreational or public uses in Wetlands and Watercourses, the Commission shall, as applicable, find that:

- (a) Access to and use of public recreational and open space facilities, both existing and planned, will not be prevented;
- (b) Navigable channels and/or small craft navigation will not be obstructed;
- (c) Open space, recreational or other easements will be deeded whenever appropriate to protect these existing or potential recreational or public uses;
- (d) Wetlands and Watercourses held in public trust will not be adversely affected.

7.0 ACTIVITIES AND AREAS REQUIRING LICENSED APPROVAL

7.1 Subject to the provisions of Section 4.0 hereof, regulated activities affecting Wetlands and Watercourses within the Town are prohibited except as they may be licensed by the Commission.

7.2 By the terms of the definitions of a regulated activity, the Commission shall regulate only those activities which involve:

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- (a) Removal of material from;
- (b) Deposit of material in or on;
- (c) Construction and reconstruction (including maintenance) within;
- (d) Obstruction within;
- (e) Alteration of; and/or
- (f) Pollution of;

Wetlands and Watercourses.

7.3 Areas of Regulated Wetlands and Watercourses are shown on the official map at such a scale that some margin of error is possible. If an applicant disputes the designation of any part of his land as a regulated area, the applicant may be required to apply for an amendment to the Wetlands and Watercourses Map by the following procedures set forth in Sections 8.3 and 8.4 of these Regulations.

7.4 Any operation involving removal or deposition of material or any obstruction, construction, alteration or pollution within the setbacks from Wetlands and Watercourse as set forth in Sections 7.5 of these Regulations shall require the licensed approval of the Commission.

7.5 To insure protection of Wetlands and Watercourses as authorized in Sections 2.1 of these Regulations, setbacks from Wetlands and Watercourses are established as follows:

	WETLANDS	WATERCOURSES
(a) subsurface sewage disposal systems	50'	50'
(b) single-family residence	35'	35'
(c) commercial structures, multi-family residences and additions to such structures	65'	65'
(d) outbuildings and additions to single-family residence	25'	25'
(e) tennis courts and swimming pools	35'	35'
(f) parking lot and driveway edge of shoulder	25'	25'
(g) limit of fill, cut, grading and other alteration	15'	15'

7.6 If the Wetlands or Watercourses are located on an aquifer, a setback of 100'/85' may be required.

7.7 New subsurface sewage disposal systems meeting the aforementioned setback requirements shall, upon consideration and review by the Conservation Director, be eligible for administrative approval pursuant to review procedures. Replacement, repair or modification of an existing but failing system, as determined by the proper Health and Sanitary Authority, shall be likewise eligible for such approval as determined by the Conservation Director on a site-by-site basis, with regard to the licensing criteria herein stated. New subsurface sewage disposal systems not meeting the aforementioned setback requirements shall be subject to summary or plenary Commission review, as provided in Section 9.0 of these Regulations.

7.8 Any activity involving the boring of "test pit" on any property unit containing a Wetland, Watercourse or other regulated area must, prior to activity commencement, first be accompanied by written notification to the Conservation Director, not less than five (5) days before such activity begins. Any test borings, or other similar investigative activity, to occur directly within a Wetland, Watercourse or other regulated area may, upon the discretion of the Conservation Director, require the on-site presence of a Conservation Staff member for monitoring purposes during the pendency of the activity and/or approval pursuant to Section 9.0 of these Regulations.

8.0 AMENDMENT PROCEDURES

8.1 Regulations and Wetland and Watercourse boundaries may occasionally be amended, changed or repealed by a majority vote of the Westport Conservation Commission or its successor.

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Such changes shall take place after a public hearing is held by the Commission, at which parties in interest and citizens shall have the opportunity to be heard. Notice for the hearing shall be published in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the municipality at least twice at intervals of not less than two days. The first publication date shall not be more than fifteen (15) days nor less than ten (10) days before such hearing and the second date shall not be less than two (2) days before the hearing.

A copy of such proposed regulations or boundary shall be filed in the office of the Westport Town Clerk for public inspection at least ten (10) days before such hearing. Regulations or boundaries or changes therein shall become effective upon their adoption at such hearing. A copy of such regulation, boundary or change shall be filed in the office of the Westport Town Clerk.

8.1.1 An application filed with the Conservation Commission which is in conformance with the applicable Inland Wetlands and Watercourses Regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in the Inland Wetlands Regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of the Commission with respect to the application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of Section 8.1.1 shall not be construed to apply (1) to the establishment, amendment or change of boundaries of Inland Wetlands and Watercourses, or (2) to any changes in regulations necessary to make such regulations consistent with the provisions of Chapter 440 of the General Statutes as of the date of such receipt.

8.2 Whenever the Westport Conservation Commission, or its successor, makes a change in regulations, except determinations of boundary map amendments, it shall state upon its record the reason why the change was made and shall approve a copy of such regulations and change to the Commissioner of Environmental Protection no later than ten (10) days after its adoption.

8.2.1 The Westport Conservation Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations or amendments thereto, except determinations of boundary map amendments, at least thirty-five (35) days before the public hearing on their adoption.

8.3 All written petitions submitted in the form prescribed by the Westport Conservation Commission, requesting a change in the Regulations or any boundaries of Wetlands and Watercourses or setbacks shall be considered at a public hearing. All petitions shall be heard in the manner provided for the establishment of Wetlands and Watercourses Regulations and boundaries within ninety (90) days after receipt of such petition. The Commission shall act upon the changes requested in such petition within sixty (60) days after the hearing. The petitioner may consent to extension of the above time period, or may withdraw such petition.

8.4 If an applicant disputes the designation of any part of his land as a regulated area, the applicant may be required to present documentation by:

- (a) a soil scientist that the land in question, or a portion of it, does not have a soil type classified as poorly drained, very poorly drained, alluvial, or flood plain, and does not conform to the definition of "Wetlands" pursuant to Section 3.18 of these Regulations;
- (b) a botanist, biologist, or other professional person competent in plant identification and ecosystem classification, that the area in questions does not contain typical examples of swamp, bog, marsh vegetation or water conditions including, but not limited to, those described in the booklet entitled *Inland Wetland Plants of Connecticut*; (May, 1973) does not conform to the definition of "Watercourses" pursuant to Section 3.17, inclusive, of these Regulations.

9.0 APPLICATION PROCEDURE

9.1 Any person wishing to carry out a regulated activity or a permitted use which may involve a regulated activity shall file an application on the form prescribed by the Commission in the Commission Office at least thirty-four (34) days prior to the regular meeting at which it is to be considered in order to be placed on the agenda of that meeting. An application will not be deemed complete nor placed on an agenda until the application fee, assessed pursuant to the Town Ordinance

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entitled: "*An Ordinance Establishing Land Use Fees*", as the same may be amended from time to time, has been paid in full.

9.1.1 The information required by the Commission shall be furnished in conformance with current application guidelines in sufficient copies to permit it to carry out its duties under these Regulations. In no case will fewer than twelve (12) copies be accepted for a final review of an application proposal for a regulated activity.

A reporting form shall be completed during the application process, which provides the Commissioner of the Department of Environmental Protection 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. The Commission shall be responsible for the remaining information and any corrections on the form prior to filing it with the State.

9.1.2 All information submitted in the application for review shall be considered factual and binding.

A knowing failure on the part of the applicant or any of his agents to provide correct or complete information during the application procedure shall be grounds for denial of the license.

9.1.3 The date of application receipt shall be deemed the date of the next regularly scheduled meeting of the Conservation Commission, immediately following the day of submission, provided such meeting is no earlier than three (3) business days after receipt or thirty-five (35) days after submission, whichever is sooner, provided the information has been submitted thirty-four (34) days before such regularly scheduled meeting.

Pursuant to Section 9.10 of these Regulations, applications for new regulated activity within property exhibiting an outstanding wetlands violation for which a Cease and Desist Order had been issued, shall not be received by the Commission until such violation has been corrected and the Cease and Desist Order has been revoked.

9.1.4 All applications shall include in addition to such other information as may from time to time be required by the Commission, the following information in writing and be on a form provided by the Commission:

- (a) The applicant's name, home and business addresses, and home and business telephone numbers;
- (b) The owner's name (if applicant is not the owner of the property), home and business addresses, telephone numbers and written consent to the proposed activity set forth in the application;
- (c) Applicant's interest in the land (if not ownership);
- (d) The geographical location of the property which is to be affected by the proposed activity, including a description of the land in sufficient detail to allow identification of the properties on the Wetland and Watercourses Map;
- (e) Purpose and description of the proposed activity;
- (f) Description of 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 of priority: restore, enhance and create productive Wetland or Watercourse resources.
- (g) Plan(s) or map(s) of the property containing sufficient detail to enable the Commission to carry out its duties under these Regulations and showing: regulated area(s) including setbacks, proposed activity(ies), including any further activities associated with, or reasonably related to, and made inevitable by the proposed regulated activity and which may have an impact on Wetlands and Watercourses;
- (h) Names and addresses of all adjacent property owners;
- (i) Stamped envelopes addressed to adjacent property owners;
- (j) Payment of application fee.

9.2 Within thirty-five (35) days following the receipt of the application, it shall be classified by either the Commission or the Conservation Director as requiring a declaratory ruling, a summary ruling or a plenary ruling pursuant to Sections 9.3, 9.4 and 9.5 of these Regulations.

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9.3 **Declaratory Ruling:** Exemptions - Any person wishing to carry out a proposed activity or use on property containing regulated areas, who believes that the proposed activity or use is not an activity requiring license shall seek a Declaratory Ruling from the Conservation Commission. Any such a request for a Declaratory Ruling shall be submitted in writing on a form supplied by the Department, and signed by the person wishing to carry out the proposed activity or use, and accompanied by a plan showing the proposal. This permission shall be subject to limitation or revocation if it is a consequence of a proposed activity. The Commission or Department shall state in writing its reasons for finding that a proposed permitted use or other activity does not involve a regulated activity pursuant to Section 7.2 of these Regulations.

9.4 The Conservation Commission may delegate to the Conservation Department the authority to approve or extend an activity or use that is not located in a Wetland or Watercourse when the Department finds that the conduct of such activity would result in no greater than a minimal impact on any Wetlands or Watercourses, provided that Staff has completed the Comprehensive Training Program developed by the Commissioner pursuant to Section 22a-39 of the General Statutes.

9.4.1 Failure to have a member of the Department Staff with training by the Commissioner's Program shall not affect the validity of any action of the Department or Commission.

9.4.2 Any person receiving such approval from the Conservation Department shall, within ten (10) days of the date of such administrative approval, publish, at the applicant's expense, notice of the approval in the newspaper having general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of the Conservation Department to the Department 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 (3) business days after receipt of the appeal. The Commission shall, at its discretion, sustain, later or reject the decision of the Department or require an application for a permit in accordance with Section 9.5 inclusive of these regulations.

9.5 **Summary Ruling:** Licenses - if the Commission finds after initial review that a proposed activity is a regulated activity, or an activity within a designated setback, not involving significant impact or major effect on Wetlands and Watercourses, it may allow the activity with or without conditions. In order to grant a license at this stage the Commission, after full review of the applicant considerations set forth in Sections 9.5.1 through 9.5.7 inclusive, shall issue an opinion presenting its reasons for granting the license with or without conditions.

9.6 **Plenary Ruling:** If the Commission finds that the activity applied does or may involve a significant or major effect on the Wetlands or Watercourses, the Commission shall conduct a public hearing and request information which may include, but is not limited to the following:

9.6.1 Site Plan - A-2 Survey - A map of the proposed use and the property which will be affected, drawn and signed by a licensed surveyor, professional engineer or professional architect, who must be registered with the State of Connecticut. The map shall be on a scale to be determined by the Commission. Detailed information to be included on this site plan may include, but not be limited to, the following information, both existing and proposed, as applicable to the particular application:

- (a) Contour intervals of no more than two (2) feet or as specified by the Commission;
- (b) Property boundaries and lines delineating the land to be used under the application, including construction limit lines, flood elevation lines, channel lines and lines delineating regulated area and applicable setbacks;
- (c) A North arrow indicating true North, date(s) of survey, certification and revision(s), and a labeled place for Commission approval;
- (d) All buildings, structures, streets, stone walls, fences, parking areas, loading areas and right-of-ways;
- (e) Location(s) of all regulated areas and existing conditions adjacent to the project site to allow identification of Inland Wetlands and Watercourses, the area(s) in acres or square feet of Wetlands or Watercourses to be disturbed, soil type(s), and wetland vegetation;
- (f) Location(s), documented by a soil scientist, of all boring and soil sample data presented by the applicant;
- (g) All drainage including curtain and footing drains, storm drainage, sanitary sewage disposal, water supply facilities and all other utilities, including applicable drainage easements;
- (h) Areas where material is intended to be deposited, removed or displaced;
- (i) All construction within the regulated or setback area(s);

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- (j) Significant vegetation which has one or more of the following functions: erosion control, terrestrial and aquatic wildlife habitat, recreational or educational significance;
- (k) Landscaping, including trees and/or shrubs, lawn, other landscape features and natural terrain not to be disturbed;
- (l) A vicinity sketch or location map showing the general location of the area in which the regulated activity is proposed in sufficient detail to allow identification of the property in the field and on the official Wetlands and Watercourses Map of the Town of Westport;
- (m) All soil erosion and sediment control practices necessary to stabilize the site during construction and for the stabilization period following the proposed activity;
- (n) Any other management practices and mitigation measures to prevent or minimize pollution or other environmental damage, to maintain or enhance existing environmental quality, or to restore and enhance existing environmental quality, or to restore, enhance and create productive Wetland or Watercourse resources.

9.6.2 Soil Sample Date - If the parcel lies within or partly within an area believed to contain poorly drained, very poorly drained, alluvial and/or flood plain soils, the applicant may be required to show where each specific soil type is found. Soil types identified must be consistent with the categories established by the National Cooperative Soils Survey of the U. S. Soil and Water Conservation Service.

- (a) Based on Soil Taxonomy, the soils of Connecticut with aquic moisture regimes are considered to be poorly drained and very poorly drained by the National Cooperative Soil Survey.
- (b) Graded, smoothed, cut, burrowed or filled land which is wet enough to exhibit an aquic moisture regime could be classified Aquic Udorthents.
- (c) Disturbed soils with aquic moisture regimes qualify as wetland soils.

9.6.3 Biological Evaluations - If the affected property is believed to include any portion of a wetland, swamp, bog or marsh, the applicant may be required to submit an evaluation of the probable effect of his proposed activity upon those plant species and upon indigenous animal life. This evaluation may include, but shall not be limited to, the following:

- (a) The dominant terrestrial and aquatic botanical species, rare or endangered species, and the height, age and density of this vegetation;
- (b) The terrestrial and aquatic animal life;
- (c) The habitat value of the Wetlands and/or Watercourses for indigenous and/or migratory, terrestrial and/or aquatic wildlife species;
- (d) Depth of water table or level of water if inundated;
- (e) Data of field determination of this data;

9.6.4 Analysis of Material to be Deposited - The applicant may be required to describe any material to be deposited on the affected property in terms of volume, composition and the possibility of erosion or leaching from deposited materials.

9.6.5 A description of the proposed construction or the erection of structures on the affected property, including blueprints, engineering and architectural plans or designs, where available or reasonably attainable. These descriptions should include the purposes of the proposed construction activity.

9.6.6 A list of adjacent and other property owners whose rights or interests may or will be affected by the proposed activity.

9.6.7 Watercourse Characteristics - If the proposed activity may affect a Watercourse lying within, partly within, or flowing through or adjacent to the affected property, the applicant may be required to submit information relative to the present character and the projected impact of the proposed activity upon the Watercourse. Such information may include, but shall not be limited to, the following specific characteristics or seasonal variations thereof:

- (a) pH (i.e. alkalinity/acidity level);
- (b) Turbidity or solids in parts per million;
- (c) Nitrate and phosphate levels in parts per million;
- (d) Temperatures;
- (e) Dissolved oxygen and carbon dioxide;

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- (f) Bacteria count in total fecal coliform per milliliter;
- (g) Tests for other biochemical constituents as specified by the Commission;
- (h) Flow, if any, in cubic feet per second;
- (i) Date of field determination of data.

9.7 All information requested by the Commission for review shall be submitted to the Conservation Department Office, Town Hall, Westport, at least twenty-one (21) days before the Commission meeting at which the information is scheduled to be reviewed. Failure to submit such information may result in postponement or denial of the application.

9.8 The Commission shall not hold a public hearing on an application unless the Commission determines that:

- (a) The proposed activity may have an adverse impact on Wetlands or Watercourses; or
- (b) A petition signed by a least twenty-five (25) persons requesting a hearing is filed with the Conservation Department not later than fourteen (14) days after the receipt of such application; or
- (c) The Commission or Department finds that a public hearing regarding such application would be in the public interest.

9.8.1 In the event the Commission does not schedule a public hearing, the Commission shall render a final decision within sixty-five (65) days from the receipt of a complete application. The Commission shall notify the applicant by certified mail of its decision within fifteen (15) days of the date of the decision, and shall publish notice of its order of issuance or denial of a license in a newspaper having a general circulation in Westport and any other town where the affected Wetland or Watercourse, or any part thereof, is located.

9.9 Public Hearings - All public hearings shall commence no later than sixty-five (65) days after receipt of a complete application.

9.9.1 Notice of the hearing shall be published at least twice, at intervals of not less than two (2) days; the first not more than fifteen (15) days and not fewer than ten days (10) days, and the last not less than two (2) days before the date set for the hearing. Notice publication shall be in the newspaper with a general circulation in Westport and any other town where the affected Wetland or Watercourse, or any part thereof, is located.

At such hearings any person or persons may appear and be heard. Notices of hearing shall be sent to the applicant, adjacent and other known affected property owners, all known interested parties and groups and to the Department of Environmental Protection. All applications, maps and documents relating to such hearing shall be open for public inspection in the Conservation Office during regular business hours.

9.9.1(a) In the case of the filing 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 Norwalk, Fairfield, Wilton or Weston, the applicant shall give written notice of the proposed activity by certified mail, return receipt requested, to the adjacent municipal Wetland Agency on the same day of filing an Inland Wetland Permit application with the Westport Conservation Commission in accordance with Section 22a through 42c of the General Statutes.

9.9.1(b) The Westport Conservation Commission shall, in accordance with the Connecticut General Statutes Section 22a-42b, notify the Clerk of said adjoining municipalities of the pendency of any application to conduct a regulated activity when:

- (1) Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of the adjoining municipality;
- (2) 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;
- (3) 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,
- (4) 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

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within seven (7) days of the date of the receipt of the application.

9.9.2 When possible, public hearings shall be completed in a single session. However, the hearing may be continued to a date certain when necessary for a full development of the evidence, for the full and adequate participation of the parties or for other substantial purposes.

In no case shall continuance be used as a device for delay. No public hearing shall be continued to a date certain which is more than thirty (30) days after the date of the originally scheduled hearing.

9.9.3 Action shall be taken on applications for which a public hearing has been held within thirty-five (35) days after the completion of the hearing or, in the absence of a public hearing, within sixty-five (65) days from the date of receipt of the application. Public hearings shall be completed within forty-five (45) days of their commencement. The Commission shall inform the applicant of its decision granting with or without conditions or in denying a license by certified mail within fifteen (15) days of the date of such decision. The Commission shall cause notice of the issuance or denial of a license to be published in a newspaper having a general circulation in the Town of Westport.

9.10 The failure of the Commission or the Conservation Department to act upon any application within the time described by these Regulations shall not be considered an approval. An application deemed incomplete by the Commission must either be withdrawn by the applicant or denied by the Commission.

9.11 Once the Commission has taken action on an application, any further consideration of the same area or activity shall be permitted only upon showing either that a change of conditions has occurred since the decision or the prior application, or that other considerations materially affecting the merits of the subject matter have intervened.

9.12 If the Commission or Department finds that an activity for which it has granted a license has had a more severe impact or effect on Wetlands or Watercourses than was projected by the applicant, or does not, in fact, involve a permitted use, the Commission may revoke such license and require the license holder to submit a new application for review.

10.0 RENDERING DECISION AFTER REVIEW

10.1 The Commission shall consider the following in making its final decision on a permit application:

- (a) All evidence offered at or before any public hearing;
- (b) Any reports from the Commission's agents, other Commissions and/or Federal or State agencies, including the Soil and Water Conservation Districts and the Connecticut Department of Environmental Protection;
- (c) Additional requested information;
- (d) All relevant facts and circumstances, including but not limited to criteria in furtherance of the purposes and policies of these Regulations set forth in Sections 5.0 and 6.0 inclusive;
- (e) The availability of preferable alternative locations on the subject parcel or, in the case of activity of sufficient magnitude, the availability of other reasonable locations;
- (f) The availability of further technical improvements or safeguards which would feasibly be added to the plan or action;
- (g) The possibility of avoiding further reduction of the Wetlands or Watercourses' natural capacity to support desirable biological life, prevent flooding, supply water, control sedimentation and/or prevent erosion, assimilate wastes, facilitate drainage, and provide recreation and open space;
- (h) The extent to which the exercise of property rights and the public benefit derived from such use may or may not outweigh or justify the possible degradation of the Wetland or Watercourse, the interference with the exercise of other property rights and the impairment or endangerment of public health, safety or welfare.

11.0 GRANTING A LICENSE

11.1 In the case of an application which has received a public hearing pursuant to a finding by the Conservation 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 record that a feasible and prudent alternative does not exist. In the making of this finding, the Commission shall consider the facts and circumstances set forth in Section 5.0, inclusive, and

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10.1. The finding and the reasons thereof shall be stated in the meeting record in writing.

11.2 In granting a license or granting a license with conditions following public hearing, the Conservation Commission or Department shall issue a written opinion presenting the reasons for granting such license. The opinion may include discussion of applicable factors listed in Sections 5.0, inclusive, and 10.1. The Commission may grant the application as filed, or upon such terms, conditions, limitations or modifications as are designed to carry out the policy expressed in the Regulations or Sections 22a-36 to 22a-45, inclusive, of the General Statutes. Such terms may include any reasonable measures, which would mitigate the impacts of the regulated activity, 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.

11.3 Any license issued under this section for the development of property for which an approval is required under Section 8-3, 8-25, or 8-26 of the General Statutes, and Sections 4.0 and 7.0, inclusive, of these Regulations shall be valid for five (5) years provided that the Commission may establish a specific time period within which any regulated activity shall be conducted. Any permits issued under this section for any other activity shall be valid for not less than two (2) years and not more than five (5) years.

11.3.1 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 (10) years.

12.0 DENYING A LICENSE

12.1 In denying a license following public hearing or denying a license in part, the Commission shall issue a written opinion presenting its reason. The opinion may include discussion of the applicable factors listed in Sections 5.0, inclusive, and 10.1.

12.2 In the case of application which is denied on the basis of a finding that there may be feasible or 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 Regulation shall not be constructed to shift the burden from the applicant to prove that he/she is entitled to the permit or to present alternatives to the proposed regulated activity.

12.3 The Commission's opinion in denying a license without prejudice, may include permission for the applicant to modify, amend or correct the proposal.

12.4 The rejection of a modified proposal shall be equivalent to a denial with prejudice for the purpose of Section 13.0 of these Regulations.

13.0 APPEALS

13.1 Any person aggrieved by any regulation, order, decision or action made pursuant to these Regulations by the Westport Conservation Commission, may, within fifteen (15) days after publication of such regulation, order, decision or action, appeal to the Superior Court for the judicial district where the land affected is located.

13.2 All appeals shall follow the procedure outlined in the Inland Wetland and Watercourses Act, 22a-36 through 22a-45 of the Connecticut General Statutes. Notice of appeal shall be served upon the Westport Conservation Commission.

14.0 OTHER PERMITS AND LICENSES

14.1 Nothing in these Regulations shall obviate any requirement for the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, of the State of Connecticut, or of any political

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subdivision thereof. The obtaining of such assents, permits, or licenses is solely the responsibility of the applicant.

15.0 ENFORCEMENT

15.1 Application or request for a license, or Watercourse and Wetland boundary change, shall constitute permission for and consent to inspections of the site described in the application on request by the Commission, Department and its representatives. Inspections will occur at any reasonable time before and after the granting of a license or the adoption of Wetland and Watercourse boundaries.

15.1.1 The owner, applicant, or their agent shall have the license readily available and shall produce it for inspection by the Commission's representative upon request.

15.1.2 The Commission shall be authorized to seek such necessary court orders as will permit it to inspect land whereupon it has probable cause to believe that regulated activity is in progress and for which no application has been filed.

15.2 The Commission may suspend or revoke a license if it finds that the applicant:

- (a) Has not complied with conditions or limitations set forth in the license;
- (b) Has exceeded the scope of the work set forth in the license;
- (c) Has performed an activity that is not a permitted use.

15.2.1 Such suspension or revocation shall occur only after giving notice to the license holder of the facts or conduct which warrant such action, and after a hearing at which he/she is given the opportunity to show compliance with the requirements for the retention of the license.

15.2.2 The applicant shall be notified of the Commission's decision by certified mail within fifteen (15) days of the date of the decision and the Commission shall cause notice of its order in revocation or suspension of a license to be published in a newspaper having general circulation in Westport.

15.3 The Commission may issue such Cease and Desist Orders as necessary to preserve the issue for hearing.

15.4 If the Westport Conservation Commission or Conservation Department finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Inland Wetlands and Watercourses Act, as amended, or of the Regulations set forth here, the Commission may issue a written order sent by certified mail to the property owner or to each person conducting such activity or maintaining such facility or condition, ordering him to immediately cease such activity or to correct such facility or condition. Within ten (10) days of the issuance of such order, the Commission shall hold a hearing to provide the person an opportunity to speak and to show cause why the order would 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 until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this Section shall not delay or bar a legal action brought by the Commission, the Town or any person to restrain a continuing violation of the Act or these Regulations.

16.0 PENALTIES

16.1 Any person who commits, takes part in, or assists in any violation of any provision of these Regulations, shall be subject to the penalties and remedies provided in the Inland Wetlands and Watercourses Act, and to such other penalties and remedies as the law may provide.

16.1.1 Sufficient grounds for penalties and remedies to be imposed, and where applicable, revocation of any license or other form of approval granted under provision of these Regulations, shall include but not be limited to:

- (a) A knowing failure of the person or any of his/her/its agents to provide correct information;
- (b) A finding of performance without license, or other form of approval, by the Commission;
- (c) A finding of performance exceeding the levels of activity licensed or approved by the Commission.

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16.1.2 The amount of any fine levied shall be imposed by the Connecticut Superior Court in action brought by the Commission. The fine shall not exceed One Thousand Dollars (\$1,000) for each offense. In assessing the damage and in establishing the amount of fine to be levied, the Commission shall consider the following criteria:

- (a) The environmental impact of the unauthorized action, facility or condition;
- (b) The irreversibility and irretrievability of the unauthorized action, facility or condition;
- (c) The character and degree of injury to, or interference with public health, safety and welfare that the unauthorized action, facility or condition has caused;
- (d) The continuance of violation after notification by the Commission or service of any order or notice within the powers of the Commission.

16.2 Each violation of said Sections shall be a separate and distinct offense and, in the case of a continuing violation, each day's continuance thereafter shall be deemed to be a separate and distinct offense.

16.3 The penalties collected pursuant to this Section shall be used to restore the affected Wetlands and/or Watercourses to their conditions prior to the violation, wherever possible.

16.4 Any fee collected shall be applied to defray the costs and expenses of the Commission in carrying out its duties under these Regulations.

16.5 All fees applicable under these Regulations are set forth in the Town Ordinance entitled "*An Ordinance Establishing Land Use Fees*" as the same may be amended from time to time.

17.0 BOND AND INSURANCE

17.1 The applicant, upon approval of the license and at the discretion of the Commission, may be required to file a performance bond in an amount and with sureties and in a form approved by the Commission.

17.2 The bond and sureties shall be conditioned on compliance with all provisions of these Regulations and conditions imposed on license approval.

17.3 The applicant may be required to certify to the Commission that he/she has public insurance against liability which might result from the proposed operation or use governing any and all damage which might occur within two (2) years of completion of such operations, in at least the following amounts:

Personal injury coverage: \$300,000.00
Property damage coverage: \$100,000.00

18.0 CONFLICT AND SEVERANCE

18.1 Where there is a conflict of interest between the provision of these Regulations and those of any other applicable statute, ordinance or regulation, the provision of the statute, ordinance or regulation which imposes the greatest restriction on the use of the Wetland or Watercourses shall govern.

18.2 The invalidity of any word, clause, sentence, section, part or provision of these Regulations shall not affect the validity of any part which can be given effect without such invalid part or parts.

18.3 If there is a conflict between any provisions of these Regulations and the provision of the State Inland Wetland and Watercourse Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes, inclusive, the provision of the State Act shall govern.

19.0 CONFORMITY WITH STATE REGULATIONS

19.1 The enforcement of these Regulations or any part thereof, including maps and amendments, shall be suspended upon

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receipt of notice from the Department of Environmental Protection that such Regulations are not in conformity with the Regulation promulgated by the Commissioner pursuant on the Wetlands and Watercourses Act. Only the operation of such nonconforming section or sections shall be suspended.

19.2 The Commission shall initiate proceedings to amend such nonconforming regulations within twenty (20) days of the receipt of the notice of nonconformance.

20.0 EFFECTIVE DATE

20.1 These Regulations, as amended, shall become effective on May 21, 1997, amended to November 25,1999.

While every attempt is made to keep this version current, it should be used for reference only. To determine the most current amendment to the Regulations for the Protection and Preservation of Wetlands and Watercourses, Westport, Connecticut please contact the Westport Conservation Department.
