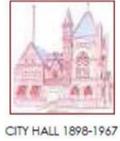




Inland Wetland Watercourse Agency



INLAND WETLAND AND WATERCOURSE REGULATIONS

The City of West Haven, Connecticut

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WEST HAVEN INLAND WETLAND WATERCOURSE AGENCY

SECTION 1 TITLE AND AUTHORITY 1.1 The inland wetlands of the State of Connecticut are an indispensable and irreplaceable fragile natural resource with which the citizens of the State have been endowed. The wetlands 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 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 other 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 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 Regulations of the CITY OF WEST HAVEN." 1.3 The Inland Wetlands Agency of the CITY OF WEST HAVEN was established in accordance with an ordinance amended June 27, 1988 and shall implement the purposes and provisions of these Regulations and the Inland Wetlands in the City of West Haven. 1.4 These Regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands Regulations. 1.5 The Agency shall enforce all provisions of the Inland Wetlands Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities on inland wetlands in the CITY OF WEST HAVEN pursuant to Connecticut General Statutes Sections 22a-36 to 22a-45, inclusive, as amended. 1.6 West Haven Commissioner Qualifications: Pursuant to the General Statutes of Connecticut Section 22a-42(d) at least one member of the inland wetlands agency or staff of the agency shall complete the Municipal Inland Wetland Commissioners Training Program.

The Inland Wetland Agency shall have the additional responsibility stated in the West Haven City code chapter 22

SECTION 2 DEFINITIONS 2.1 As used in these Regulations:

“Act” means the Inland Wetlands and Watercourses Act, Connecticut General Statutes Sections 22a-36 through 22a-45 inclusive, as amended.

“Agency” means the Inland Wetlands Agency of the CITY OF WEST HAVEN.

“Agent” is the duly authorized agent appointed by the Agency pursuant to Section 12.1.

“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 member” means a member of the Inland Wetlands Agency of the City of WEST HAVEN **“Commissioner of Energy and Environmental Protection”** means the Commissioner of the State of Connecticut Department of Energy and 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.

“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 Connecticut General Statutes Section 1-1(q) (see Appendix A). and section 4 1.a of this document

“Feasible” means able to be constructed or implemented consistent with sound engineering principles. **“License”** means that whole or any part of any permit, certificate of approval or similar form of permission, which may be required of any person by the provisions of Connecticut General Statutes Sections 22a-36 to 22a-45 inclusive.

“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 flows; 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 the dominance of soft-stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year, and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered

“Material” means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, and, refuse or waste.

“Municipality” means the CITY OF WEST HAVEN.

“Nurseries” means places where plants are grown for sale, transplanting, or experimentation.

“Permit” see license. **“Permittee”** means the person to whom a license has been issued.

“Person” means any person, firm, partnership, association, corporation, company, limited liability 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 imprudent.

“Regulated Activity” means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, and any earth moving, filling, construction, or clear-cutting trees, etc. within **100** feet of wetland or within **200** feet watercourses, but shall not include the specified activities in Section 4 of these Regulations. “Regulated area” means any wetlands or watercourses as defined in these Regulations.

“Remove” includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, drag-line 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 activity” means any activity, including, but not limited to, the following activities which may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland wetland or watercourse system:

1. Any activity involving 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;
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system;
3. 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;
4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse;
5. Any activity which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse;
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse;
7. Any activity which damages or destroys unique wetland or watercourse areas or such area shaving 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 distinguished by the dominance of wetland trees and shrubs.

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

“City” means the CITY OF WEST HAVEN.

“Waste” means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the Wetlands or Watercourses of the City.

“Watercourses” means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the City or any portion thereof not regulated pursuant to Connecticut

General Statutes Sections 22a-28 through 22a-35 inclusive. 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 hydrophilic vegetation.

“Wetlands” means land, including submerged land as defined in this Section, not regulated pursuant to Connecticut General Statutes Sections 22a-28 through 22a-35, inclusive, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquatic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

SECTION 3 INVENTORY OF INLAND WETLANDS AND WATERCOURSES

3.1 The map of wetlands and watercourses entitled “Inland Wetlands and Watercourses Map, West Haven, Connecticut” delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the office of the City Engineer or the Agency. In all cases, the precise location of wetlands and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types and location of watercourses. The Agency may use aerial photography, remote sensing imagery, resource mapping, soil 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 Agency 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. The Agency may require such person to provide an accurate delineation of regulated areas in accordance with Section 15 of these Regulations.

3.3 The Agency shall maintain a current inventory of regulated areas within the City the Agency may amend its map as more accurate information becomes available.

3.4 All map amendments are subject to the public hearing process outlines in Section 15 of these Regulations.

SECTION 4 PERMITTED USES AS OF RIGHT AND NONREGULATED USES

4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:

a. grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department Of Energy and 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, 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 Connecticut General Statutes subsection (b) of Section 22a-42a, or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the building permit was obtained on or before July 1, 1987. Any person claiming a use of wetlands permitted as a right under this subdivision shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his or her right hereunder;

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 provided that in any City where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot size shall be two acres. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse, or diversion or alteration of a watercourse;

e. construction and operation, by water companies as defined by Connecticut General Statutes Section 16-1 or by municipal water supply systems as provided for in Connecticut General Statutes Chapter 102, 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 Connecticut General Statutes Sections 22a-401 and 22a-403; and f. maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Connecticut General Statutes Section 22a-42a or July 1, 1974, whichever is earlier, provided such pipe is on the property which is zoned as residential but which does not contain hydrophilic 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 wetlands or watercourses 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;
- b. outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, waterskiing, trapping, hunting, fishing and shell fishing where otherwise legally permitted and regulated.

4.3 All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, 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 Agency 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 a permitted operation and use or nonregulated operation or use shall, prior to commencement of such operation or use, notify the Agency on a form provided by it, and provide the Agency 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 Agency or its designated agent shall rule that the proposed operation and use or portion of it is a permitted or nonregulated operation and use or that the proposed operation and use is a regulated activity and a permit is required.

SECTION 5 ACTIVITIES REGULATED EXCLUSIVELY BY THE COMMISSIONER OF ENERGY and ENVIRONMENTAL PROTECTION

5.1 The Commissioner of Energy and 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 Connecticut General Statutes Sections 22a-39 or 22a-45a.

5.2 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Connecticut General Statutes Sections 22a-28 through 22a-35, as amended.

5.3 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Energy and Environmental Protection under Connecticut General Statutes Section 22a-402 or a permit issued by the Commissioner of Energy and Environmental Protection under Connecticut General Statutes Section 22a-403. 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 dam permit.

5.4 The Commissioner of Energy and 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 Agency of the CITY OF WEST HAVEN.

6.2 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, 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 intending to conduct a regulated activity or to renew or amend a permit to conduct such activity, shall apply for a permit on a form provided by the Agency. The application shall contain the information described in this Section and any other information the Agency may reasonably require. Application forms may be obtained in the offices of the Agency. Completed application is to be submitted to the Agency no later than fifteen days prior to the next scheduled hearing.

7.2 If an application to the CITY OF WEST HAVEN Planning and Development department for subdivision or re subdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Connecticut General Statutes Section 8-3(g), 8-3c, 8-26, as applicable, submit an application for a permit to the Agency in accordance with this Section, no later than the day the application is filed with such Planning and Development department.

7.3 All applications shall contain such information that is necessary for a fair and informed determination of the issues.

7.4 The Agency, acting through its Agent, and the applicant may hold a pre-application meeting to determine whether or not the proposed application involves a significant impact activity.

7.5 All applications shall include the following information in writing or on maps or drawings:

- a.** the applicant's name, home and business mailing addresses and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation the managing member's or responsible corporate officer's name, address, and telephone number;
- b.** the owner's name, mailing address and telephone number and written consent of the landowner if the applicant is not the owner of the land upon which the subject activity is proposed;
- c.** applicant's interest in the land;
- d.** the geographical location of the property which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands to be disturbed, 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 of priority: restore, enhance and create productive wetland resources;
- f.** alternate which would cause less or no environmental impact to wetlands and why the alternative as set forth in the application was chosen; all such alternatives shall be diagrammed on a site plan or drawing;
- g.** why the proposal to alter wetlands set forth in the application was chosen;
- h.** a site plan showing the proposed activity and 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 which are made inevitable by the proposed regulated activity and which may have an impact on wetlands;
- i.** names and addresses of adjacent property owners and 500 foot radius map at a scale of 1" =100';

j. statement by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;

k. authorization for the commissioners and agents of the Agency to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit;

i. a completed DEP reporting form; the Agency 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;

m. any other information the Agency deems necessary to the understanding of what the applicant is proposing, or as required on the application form; and

n. submission of the appropriate filing fee based on the fee schedule established in Section 19 of these Regulations.

FAILURE TO COMPLETE ALL SECTIONS OF APPLICATION INVALIDATES APPLICATION

7.6(A) At the discretion of the Agency or its Agent, or when the proposed activity involves a significant impact, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, is required:

a. site plans at a Scale of 1" = 40' for the proposed activity and the land which will be affected thereby which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the State of Connecticut, or by such other qualified person unless excepted by the Agency or its Agent;

b. engineering reports and analyses and additional drawings to fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan including a construction sequence narrative and construction phasing plan;

c. mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be depicted on the site plans;

d. a description of the ecological communities and functions of the wetlands or water courses involved with the application and the effects of the proposed activity on these communities and wetland functions;

e. a 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. management practices and other measures designed to mitigate the impact of the proposed activity;

h. existing contours at 2 foot intervals;

i. existing drainage patterns (direction, flow rates and volume) on the site and how the site fits into the overall drainage pattern of the watershed basin of which the site is a part;

j. description of vegetation in the regulated area including limits of existing tree cover. Assess impact on vegetation and include a description of any areas to be cleared;

k. existing roads, buildings and other man-made features;

l. 100 year flood lines as established by the National Flood Insurance Program, Federal Government or Connecticut DEEP Maps for the CITY OF WEST HAVEN;

m. locations of ledge and bedrock outcroppings;

n. locations of steep slopes (greater than 25%);

o. evaluations of the wetlands, the **100'** setback zones. **200'** Watercourse setback zone

Address the following functions in detail:

1. flood control effectiveness;

2. visual/esthetic quality;

p. proposed alterations:

1. lot layouts;
2. locations of proposed buildings, septic systems, sewer lines, water lines and other utilities such as electric and telephone;
3. street layouts;
4. proposed contours and final grading plan;

q. impact to the site; the following must be covered:

1. changes to the existing contours;
2. describe how the existing natural features were considered in the design of the project;
3. show areas to be drained and the impact to the water table levels;
4. changes to the estimated water runoff - include calculations to show anticipated runoff changes;
5. areas that will be covered with an impervious surface and a description of that material;
6. changes in the water quality as a result of the proposed project;
7. changes in the incidence and duration of flooding on the site as well as the impact upstream and downstream from it;
8. impacts to the wetlands, the 100' setback zones or 200' watercourse setback
9. feasible and prudent alternatives. Alternative plans must be presented in the same format as the basic plan and contain equivalent information.

7.6(B) If the proposed activity involves a significant impact activity as determined by the Agency and defined in Section 2 of these Regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following MAY BE required:

- a. existing wetland and watercourse boundaries. The Agency may require the applicant to have the wetlands and watercourses delineated in the field by a licensed soil scientist with numbered flags and that the numbered flags be incorporated onto the site plans. The name and address of the soil scientist shall appear on the topographical map, along with a signed statement by the soil scientist that the mapped delineation of the wetlands is substantially
- b. reports including engineering analysis of proposed drainage modification or environmental study of the impact of the proposal on the ecological communities and functions of the wetlands and watercourses;
- c. current water quality classification;
- d. depth to the water table, approximate direction of flow, rate of flow and seasonal fluctuations by collection of on site soil data;
- e. mapping of the soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Conservation Service;
- f. depth to bedrock in the area of alterations by collection of on site soil data;
- g. test pit information - show locations and include log of soil types and depth at which water table and bedrock were encountered and date of excavation as witnessed by the Agency or its Agent;
- h. evaluations of the wetlands, watercourses and 100' setback zones; Address the following functions in detail:
 1. Ecological integrity;
 2. Wildlife habitat;
 3. Fish habitat;
 4. Nutrient retention and sediment trapping effectiveness;
 5. Educational potential;
 6. Water-based recreation suitability;
 7. Groundwater use potential;
 8. Existence of archeological sites;
- i. Proposed Alteration:
 1. drainage systems;
 2. erosion and sedimentation control plans;
 3. boundaries of land proposed for dedication to the CITY OF WEST HAVEN and Conservation Easements, if any, and locations of other required easements;
 4. Schedule of Development;

- j.** impact to the site; the following may need to be covered:
 1. earth cuts and/or fills - show depth of cuts and /or fills in cross-sections, slope of cut or fill surfaces, erosion control measures, and sedimentation ponds;
 2. provide an analysis of the chemical and physical characteristics of any proposed fill material;
 3. drainage pattern changes - show how drainage areas and how patterns will change and how drainage system will operate and identify any required maintenance;
 4. mitigation efforts, including wetland enhancements, flood-control structures, and the avoidance of the diminution of wetland functions;
- k.** provide declaration that no other feasible and prudent alternative exists, other than those presented.

*Other Noteworthiness:

Reference may be made to the D.E.E.P Bulletin No. 9, "Method for the Evaluation of Inland Wetlands in Connecticut".

7.7 The applicant shall certify whether:

- a.** any portion of the property on which the regulated activity is proposed is located within 500feet 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 drain age 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;

7.8 Seven copies of all application materials, including map sets and reports, shall be submitted to comprise a complete application unless an applicant is otherwise directed, in writing, by the Agency.

7.9 Any application to renew or amend an existing permit shall be filed with the Agency in accordance with Section 8 of these Regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to renew or amend such an existing permit shall contain the information required under Section 7 of these Regulations provided:

- a.** the application may incorporate the documentation and record of the prior application;
- b.** the application shall describe the extent of work complete at the time for filing and the schedule for completing the activities authorized in the permit;
- c.** the application shall state the reason why the authorized activity was 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 wetland or watercourses or use of the land for which the permit was issued;
- e.** the Agency may, prior to the expiration of a permit, accept an untimely application to renew such 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 renewed and the public interest or environment will be best served by not interrupting the activity;

7.10 Any application to renew a permit shall be granted upon request of the permit holder unless the Agency 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.

7.11 A reporting form shall be completed during the application process, which provides the Commissioner of the Department of Energy and Environmental Protection with information necessary to properly monitor the inventory of State wetlands. The reporting form shall be part of the application and the following information shall be provided by the applicant: name of applicant; location and name of the project; project and site description; area of wetlands and/or linear feet of watercourse proposed to be altered. The Agency shall be responsible for the remaining information and any corrections on the form and for filing it in accordance with Section 22a-39-14 of the Inland Wetlands and Watercourses Regulations of the Department of Energy and Environmental Protection.

7.12 Notification of abutting property owners - Each applicant of the Wetlands Agency shall be required to notify all property owners within 75 feet of any property lines of the pending application. It shall be the responsibility of the applicant to prepare the list of said abutting property owners from the records of the Assessor's Office as shown on the last completed Grand List by determining the names and addresses of said property owners as measured on the most recently completed Assessor's Maps as are on file in the Assessor's Office.

7.12 (a) Said property owners shall be notified by the applicant by First Class Mail of the time and place of the Public Hearing at which said application shall be heard. **Said notice letters shall be postmarked not less than ten (10) days prior to the scheduled date for said hearing and not more than 15 days prior to scheduled date for said hearing.** It shall be the applicant's responsibility to file with the Clerk of the Commission, prior to the close of the Public Hearing, a Certificate of Mailing, provided by the Post Office, listing all of the property owners to whom notice has been sent.

7.13 For any permit application 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 of 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 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 lot later than sixty days prior to the filling 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 Agency in the office of the Planning and Development /City Engineer no later than fifteen days prior to the scheduled hearing date.

8.2 The Agency shall, in accordance with Connecticut General Statutes Sections 8-7d(f) and 22a-42b, 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 on which the regulated activity is proposed is located within 500feet 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 sewerage 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, any portion of which is within the watershed of a water company as defined in Connecticut General Statutes Section 16-1, the applicant shall provide written notice of the application to the water company, The Regional Water Authority Water Company, provided such water company has filed a map showing the boundaries of the watershed on the land records of the CITY OF WEST HAVEN and with the Inland Wetlands Agency.

Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven (7) days of the date of the application. The Water Company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency.

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 Agency, immediately following the day of submission to the Agency or its agent of such petition, application, request or appeal or thirty five (35) days after such submission, whichever is sooner.

8.5 At any time during the review period, the applicant shall provide such additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in subsection 11.2 of these Regulations.

8.6 All applications shall be open for public inspection.

8.7 Incomplete applications will be denied.

PUBLIC HEARINGS

9.1 The Agency shall hold a special public hearing or hearing at the next scheduled Agency meeting on an application that 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, is requesting a hearing and is filed with the Agency not later than fourteen days after the date of receipt of such application, or the Agency finds that a public hearing regarding such application would be in the public interest. The agency may not issue any permit without a public hearing after receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard and may be represented by agent or by attorney.

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 (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each City where the affected wetland is located. c.g.s 22a-42a(c)(1)

9.3 Notice of the public hearing shall be mailed to the owner (s) of record of all land within 75 feet of any property lines of the subject property no less than fifteen (15) days prior to the day of the hearing (See Subsection 7.12) This notice requirement may be waived by the Agency for any application submitted by the City or its Agencies, Boards and/or Commissions.

9.4 In the case of any application which is subject to the notification provisions of subsection 8.3 of these Regulations, a public hearing shall not be conducted until the Clerk of the adjoining municipality(ies) has received notice of the pending of the application. Proof of such notification shall be entered into the hearing record.

9.5 ILWL Decision in a Single Public Hearing

Standard two meeting acceptance, decision requires application submission 15 days prior to a regularly scheduled Inland Wetland Watercourse public /hearing meeting.

Purpose

Applicant requesting agency decision in a single public hearing for minor activities as solely determined by the ILWL agency.

9.5.1 Limited Intended use

Pools, Non foundation supported sheds, fences or other minor related activities or disturbances as determined by the agency or its city agent. All regulations and associated permits or approvals by other city departments are required and ILWL approval does not imply approval or suspension of other regulations, permits or standards required within the City of West Haven or State of Connecticut.

9.5.2 If the proposed minor activity or disturbance is within seventy five feet of an existing house or garage structure, and within a previously developed or disturbed area (usually a lawn), and within the West Haven Inland Wetland Watercourse jurisdiction area including the upland review area as determined by West Haven Inland Wetland Watercourse regulations then the application can be reviewed at the regularly scheduled Inland Wetland Watercourse meeting and be approved at the initial application presentation meeting. It will be considered an administratively expedited decision that will not cause, in the sole determination of the ILWL agency, any impact of any significance to the Inland Wetland Watercourse area within the jurisdiction zone.

9.5.3 Inland Wetland Watercourse Agency application acceptance is dependent on a completed application submitted a minimum of 15 days prior to the next regularly scheduled ILWL meeting. Applicant acknowledges and approves ILWL agency inspection to property prior to meeting. **Applicant acknowledges and approves inspection without prior approval or property owner presence.**

9.5.4 Application must include necessary details including property details plan/sketch and photos of activity or disturbance area proposed on the application. If application is determined to be incomplete it will be rejected requiring resubmission.

9.5.5 Application fees must conform to requirements indicated on the West Haven Inland Wetland Watercourse regulations available on the City web site or City Clerks' office.

9.5.6 If the proposed minor activity/disturbance is within an upland review area, within a previously developed or disturbed area, and not within seventy five feet of an existing house or garage structure, then a standard second meeting decision for approval will be required prior to the issuance of any required building permit.

9.5.7 If the proposed minor activity/disturbance is within a wetland or an upland review area that has not been previously developed or disturbed, then a standard second meeting application decision will be required.

All regulations currently described and shown on the West Haven Inland Wetland Watercourse regulations available at the City Clerk's office or the City of West Haven web site apply.

9.6.0 Administrative Approval (**RESTRICTED USE RESIDENTIAL ONLY**)

Administrative approval allows an expedited application to be approved for limited use items. Allows the applicant to gain approval within a reasonable time span.

9.6.

1 Limited use Items:

(a) placement of a fence pole(s).

(b) small shed (limited to 8x10 placed on cinder blocks or 4x4 rails).

Where the above placement will not alter, destroy or create any impact on the vitality or function of the wetland area.

9.6.2 Sheds may not have a paved or gravel walkway leading to them.

9.6.3 ILWL Application and fees completed. Application must include necessary details including property details plan/sketch and photos of activity or disturbance area proposed on the application.

If application is determined to be incomplete it will be rejected requiring resubmission.

9.6.4 Application fees must conform to requirements indicated on the West Haven Inland Wetland Watercourse regulations available on the City web site or City Clerks' office.

9.6.5 Wetland agent or Wetland commissioner inspects location. Per section 12 of the ILWL regulations.

9.6.6 Costs for local newspaper notification paid by applicant.

9.6.7 West Haven ILWL agent gains approval/concurrence from notified ILWL commissioner.

9.6.8 ILWL agency reserves right to inspect property per section 14 of the City of West Haven ILWL regulations.

9.6.9 ILWL agency May at the discretion of the agency deny immediate approval application and require standard meeting attendance requirement.

9.7.0 ADMINISTRATIVE APPROVAL PROCESS

9.7.1 Application is submitted to the West Haven Inland Wetland Watercourse agency: The application as received will be reviewed by the agency designated Agent in the Planning and Development Department or Engineering Department when it is determined to be complete.

9.7.2 ILWL Agent Review: The Agent will determine whether the project qualifies for Administrative Approval. If it does the Agent will accept the Inland Wetland Application form from the applicant with required documents.

9.7.3 Site Visit: The Agent may need to perform a site visit prior to rendering a decision for an Administrative Approval.

9.7.4 Administrative Approval means that the applicant may proceed with the work as proposed, subject to any conditions, and no further action under the Wetlands Protection Act is required.

9.7.5 Administrative Approval requires the applicant apply for and receive a permit compliant with the West Haven Inlands Watercourse regulations before undertaking the proposed work.

9.7.6 Failure to apply and receive approval before undertaking any work subjects the applicant to fines and possible removal of unapproved work.

9.7.8 Administrative approvals will be listed for discussion during the next regular meeting

SECTION 10 CONSIDERATIONS FOR DECISION

10.1 The Agency 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 City of West Haven:

1.Conservation Commission;

2.Planning and Development Commission;

3.Building Official;

4.Health Officer;

5.City Engineer;

c. the Agency may also consider comments on any application from the adjacent municipalities and any local agency or interested party which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations;

d. non-receipt of comments from agencies and commissions listed in subdivisions 10.1.c above within the prescribed time shall neither delay nor prejudice the decisions of the Agency;

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 Connecticut General Statutes Sections 22a-36 to 22a-45, inclusive, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances, including but not limited to:the environmental impact of the proposed regulated activity on wetlands: including the effects on the inland wetland's 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;

- a.** the environmental impact of the proposed regulated activity on wetlands: including the effects on the inland wetland's 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
- c.** the relationship between the short term and long term impacts of the proposed regulated activity on wetlands and the maintenance and enhancement of long term productivity of such wetlands;
- d.** irreversible and irretrievable loss of wetland 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 resources:
- e.** the character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
- f.** impacts of the proposed regulated activity on wetlands 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.

10.3 In the case of an application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency 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 or as transcribed from audio recordings.

10.4 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 Agency 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.

10.5 The 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.

10.6 In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. However, the Agency is not precluded from seeking advice from its own experts on information already in the record of the public hearing. The Agency may charge an additional fee sufficient to cover the cost of reviewing and acting on complex applications. Such fee may include, but not be limited to, the cost of retaining experts to analyze, review, and report on issues requiring such experts. The Agency or the duly authorized Agent shall estimate the complex application fee which shall be paid within 10 days of the applicant's receipt or notice of such estimate. Any portion of the complex application fee in excess of the actual costs shall be refunded to the applicant no later than 30 days after publication of the Agency's decision.

The Agency may adjust its initial estimate and require additional funds be paid. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these Regulations and Connecticut General Statutes Sections 22a-36 to 22a-45, inclusive.

10.7 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 Agency 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 agency shall not grant the permit approval.

10.8 In case of an application where the applicant fails to comply with the provisions of subsections 7.13c or 7.13d of these Regulations, the party holding the conservation or preservation restriction may, not later than fifteen 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 reverse the permit approval upon a finding that the requested land use violates the terms of such restriction.

SECTION 11 DECISION PROCESS AND PERMIT

11.1 The Agency, or its duly authorized Agent acting 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 resources.

11.2 No later than sixty five (65) days after receipt of an application, the Agency 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 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 the 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 the application. The failure of the Agency 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 Agency shall be withdrawn by the applicant or denied by the Agency.

11.3 During the meeting "work session" commissioners shall decide which applications need field inspections prior to a public hearing. In addition, during the work session a "mutually agreed to" date and time to meet with the City Agent in order to perform said inspections shall be established by the Commission Chairperson. Commissioners may also perform the field inspections on their own if they cannot attend the scheduled field inspections. Commissioners may also field inspect any pending application, even if inspection was not deemed necessary by the majority of the Commission. A record stating the date and approximate time each Commissioner present performed their field inspection for pending applications that will be voted on shall be prepared by the Commission Chairperson prior to commencement of new business.

11.4 The Agency shall state upon its record the reasons and basis for its decision.

11.5 The Agency shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the City wherein the inland wetland lies. In any case in which such notice is not published within such fifteen day period, the applicant may provide for the publication of such notice within ten days thereafter.

11.6 If an activity authorized by the inland wetland permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, or variance or special exception, under Connecticut General Statutes Section 8-3(g), 8-3c, or 8-26 the Agency shall file a copy of the decision and report on the application with the CITY OF WEST HAVEN, Planning and Development department within fifteen days of the date of the decision.

11.7 If the Agency 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 Agency's satisfaction. The Agency shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the Agency shall be equivalent to the denial of an application for the purposes of appeal.

11.8 Any permit issued by the Agency for the alteration, removal or development of land for which an approval is required under Connecticut General Statutes Section 8-3, 8-25 or 8-26 shall be valid for two years unless the Agency has established a specific time period within which any regulated activity shall be conducted. Applicant may submit an application requesting a permit extension due to circumstances which at the sole discretion of the West Haven Inland Wetland Watercourse Agency may be approved.

11.9 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.

11.10 General Provisions in the issuance of all permits:

a. The Agency has relied, in whole or in part, on information provided by the applicant and 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 Agency are subject to and do not negate any present or future rights or powers of the Agency or the CITY OF WEST HAVEN, and convey no rights in 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 Agency's permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception under Connecticut General Statutes Sections 8.3(g), 8-3c, or 8-26, no work pursuant to the wetland permit may begin until such approval is obtained.

d. In constructing the authorized activities, 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

11.11 Any existing permit, which has not expired, shall become null and void, if the plans as submitted and approved are changed prior to or during the construction period.

SECTION 12 ACTION BY DULY AUTHORIZED AGENT

12.1 The Agency 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 when such agent finds that the conduct of such activity would result in no greater that a minimal impact on any wetlands provided such agent has completed the comprehensive training program developed by the Commissioner of Energy and Environmental Protection pursuant to Connecticut General Statutes Section 22a- 39. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under Section 7.5 of these Regulations and any other information the Agency 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. Authorized ILWL agents shall be appointed by the agency chairman from the Planning and Development department or West Haven City Engineering Department

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 City wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within fifteen days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency 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 AND INSURANCE

13.1 The Agency may require as a permit condition the filing of a bond with such surety in such amount and in a form approved by the Agency.

13.2 The bond or surety shall be conditioned on compliance with the provisions of these Regulations and the terms, conditions and limitations established in the permit.

SECTION 14 ENFORCEMENT

14.1 The Agency 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 Agency or its duly authorized agent shall take into consideration the criteria for decision under Section 10.2 of these Regulations.

14.2 The Agency or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued without the consent of the property owner or the authorized agent of the owner during the life of the permit. Consent for all future site inspections is given / implied by property owner at time of permit issuance by the Inland Wetland Agency. This inspection right/access is granted for a period of 20 years

14.3 In the case in which a permit has not been issued or a permit has expired, the Agency 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 Agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility, or condition which is in violation of the Act or these Regulations, the Agency 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 Agency 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 Agency 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 Agency 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 Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to Connecticut General Statutes Section 22a-44(b), 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 Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file an 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 subdivision

14.4 a or other enforcement proceedings as provided by law including daily fines imposed by the commission.

14.5 The Agency may suspend or revoke a permit if it finds that the permit-tee 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 Agency shall issue notice to the permit-tee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency 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 permit-tee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

14.6 In the event the landowner has been issued a cease and desist order and is required to submit an application for a permit additional application fees or surcharges maybe required in accordance with the fee schedule in Section 19.

SECTION 15 AMENDMENTS

15.1 These Regulations and the Inland Wetlands Map for the CITY OF WEST HAVEN, Connecticut may be amended, from time to time, by the Agency in accordance with the Connecticut General Statutes or Regulations of the State Department of Energy and Environmental Protection, or as new information regarding soils and inland wetlands becomes available.

15.2 An application filed with the Agency 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 after the date of such receipt and any appeal from the decision of such Agency 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 provisions of this Section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands 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 Wetlands Map of WEST HAVEN, Connecticut shall be amended in the manner specified in Connecticut General Statutes Section 22a-42a, as amended. The Agency shall provide the Commissioner of Energy and 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 pursuant to Subsection 15.4 of this Section, at least thirty five days before the public hearing on their adoption.

15.4 Petitions requesting changes or amendments to the Inland Wetlands Map of West Haven, Connecticut shall contain at least the following information:

- a. the applicant's name, address and telephone number;
- b. the address, or location, of the land affected by the petition;
- c. applicant's interest in the land affected by the petition;
- d. map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
- e. the reasons for the requested action;
- f. the names and addresses of adjacent property owners; and
- g. map(s) showing any proposed development of the land in relation to existing and proposed wetland Boundaries.

15.5 Any person, who submits a petition to amend the Inland Wetlands Map, WEST HAVEN, 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 Agency. If such person is the owner, developer or contract purchaser of the land, which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in Subsection 14.4 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;
- d. map(s) showing any proposed development of the land in relation to existing and proposed wetland boundaries.

15.6 Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.

15.7 A public hearing shall be held on petitions to amend the Inland Wetlands 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 the date set for the hearing. A copy of such proposed boundary change shall be filed in the office of the City Clerk Inland Wetland Agency for public inspection at least ten days before such hearing. All materials including maps and documents relating to the petition shall be open for public inspection.

15.8 The Agency shall hold a public hearing on a petition to amend the Regulations and the Inland Wetlands Map within sixty-five days after receipt of such petition. The hearing shall be completed within thirty-five days after commencement. The agency shall act upon the changes requested in such petition within sixty-five days after 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 days, or may withdraw such petition. Failure of the agency to act within any time periods specified in this subsection or any extension thereof, shall not be deemed to constitute approval if the petition.

15.9 The Agency shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands Map of WEST HAVEN, Connecticut was made.

SECTION 16 APPEALS

16.1 Appeal on actions of the Agency shall be made in accordance with the provisions of Connecticut General Statutes Section 22a-43, as amended.

16.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Energy and Environmental Protection.

16.3 Appeals to any ruling made by the Inland Agency can be made to the appropriate board within the City. Until such decision is changed, applicant shall stop all activity in question.

SECTION 17

CONFLICT AND SEVERANCE

17.1 If there is a conflict among the provisions of these Regulations, the provision which imposes the most stringent standards for the use of wetlands shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision or provision of these Regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.

17.2 If there is a conflict between any provision of these Regulations and the provision of the Act, the provisions of the Act 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 CITY OF WEST HAVEN, the State of Connecticut or the Government of the United States including any approval required by the Connecticut Department of Energy and Environmental Protection and the U.S. Army Corps of Engineers.

Obtaining such assents, permits or licenses is the sole responsibility of the applicant. No person shall conduct any regulated activity within an inland wetland for a proposal which requires approvals from any other agency without first having obtained said approvals.

SECTION 19 FEES

19.1 Method of Payment. All fees required by these Regulations shall be submitted to the Agency by check or money order payable to the CITY OF WEST HAVEN at the time the application is filed with the Agency.

19.2 No application shall be granted or approved by the Agency unless the correct application fee is paid in full or unless a waiver has been granted by the Agency pursuant to Subsection 19.7 of these Regulations.

19.3 Accept as provided in 19.7 fees are not refundable.

19.4 Definitions. As used in this Section:

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

“Commercial uses” 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.

“Other uses” means activities other than residential uses or commercial uses.

19.5 Fee Schedule. Application fees shall be based on the following schedule:

A.REGULATED ACTIVITIES FILING FEE: Includes: preliminary review of plans, site evaluation inspection, and final compliance inspection. (**Schedule A = Connecticut State D.E.E.P fee where required**)

SINGLE FAMILY RESIDENCE: (Plus Schedule A) \$100.00 Additional site inspections that require corrective measures by the applicant \$100.00/visit

OTHER RESIDENTIAL DEVELOPMENTS & COMMERCIAL: (Plus Schedule A) \$150.00

+50.00/1000 sq. ft. for sites less than 3,000 sq. ft. of regulated area

+45.00/1000 sq. ft. for sites of 3,000-50,000 sq. ft. of regulated area

+40.00/1000 sq. ft. for sites more than 50,000 sq. ft. of regulated area

Additional site inspections that require corrective measures by the applicant \$25.00/visit

Modification, extension, or renewal of permit \$50.00

ALL OTHER ACTIVITIES: (Plus Schedule A) Including but not limited to: Swimming pools, tennis courts, decks, building additions, accessory buildings and land alteration \$25.00

Pond cleaning or dredging with no change in size of pond (per acre or part thereof) \$25.00

Construction of new pond or enlargement of existing pond \$50.00

Stream channel/embankment work \$50.00

Permanent wetland disturbance - additional \$200.00

Modification, extension, or renewal of permit \$50.00

Expert Analysis Fee (Section 10.7 of these Regulations) – Payment in full prior to commencement of public hearing. Commission will not proceed with public hearing if expert fees are outstanding.

Public Hearing fee – single family residence and other uses to be **added to application fee. The public hearing fee added to Schedule A and ‘All Other Activities’ fees is determined by the City of West Haven Planning and Development Department.+ Continuance of Public Hearing at the request or due to/of applicant cause**
–single family residence and other uses \$50.00**Public Hearing fee** – other residential developments and commercial to be **added to application fee.**

Continuance of Public Hearing at the request or due to/of applicant cause—other residential developments and commercial \$50.00

B. PERMITTED AND NONREGULATED USES Permitted Uses as of Right See Appendix A Non regulated Uses n/a

C. REGULATION AMENDMENT PETITIONS (Plus Schedule A) \$200.00

Plus administrative costs and notification fees (Does not include Notices to or Regulation Advisories from DEP)

D. MAP AMENDMENT PETITIONS (Plus Schedule A) \$200.00

E. AFTER-THE-FACT SURCHARGE OF 200% OF FEES PAID UNDER THIS SECTION.

The total amount paid will be three times the amount that would have been due had the application not been after-the-fact. This surcharge is in addition to any other fines or penalties that may be assessed.

F. WETLAND SIGNOFFS for all building permits \$ 25.00

SCHEDULE A (Where required) Applicant is required to apply and receive required permits from the State DEEP as required by state statute. Applicant must contact the DEEP for fee schedule and appropriate permit required. (State Environment Fee - established by the State Department of Energy and Environmental Protection)

19.6 Exemption. All Federal, State and CITY of West Haven boards, commissions, councils and departments are exempt from all fee requirements. **19.7 Waiver.** The applicant may petition the Agency 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 Agency should consider in its determination under this subsection. The Agency may waive all or part of the application fee if the Agency determines that:

a. The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, or

b. The amount of the application fee is clearly excessive in relation to the cost to the City for reviewing and processing the application.

c. The applicant has shown good cause.

The Agency shall state upon its record the basis for all actions under this subsection.

SECTION 20

RECORDS RETENTION AND DISPOSITION

20.1 The Agency and the City Clerk for the CITY OF WEST HAVEN shall retain complete administrative records of Agency actions and dispose of such records in accordance with the retention/disposition schedules set forth in Subsection 20.2.

20.2 The public records administrator of the Connecticut State Library established the following new records retention/disposition schedules (REVISED 2/2005) for municipal Inland Wetlands Records.

MINIMUM RECORD TITLE RETENTION REQUIRED DISPOSITION

Application (Including supporting materials for site plan)

a. Approved 10 years after decision destroy

b. Denied or Withdrawn 2 years after denial or withdrawal destroy

c. Staff and public written testimony 10 years after decision destroy

Decision Letters 10 years after decision destroy

General Correspondence issued or received 5 years destroy

Legal Notices 1 year after decision destroy

Minutes of Public Meetings (including hearings) Permanent Maintain in municipality Tapes, audio 1 year after minutes are approved unless pending appeal then retain destroy 1 year after appeal period Text of changes adopted in Regulations Continuous update/permanent Maintain in municipality

Enforcement Actions – Notices of violations/ 10 years after correction of destroy Violation orders violation

SECTION 21

EFFECTIVE DATE OF REGULATIONS

21.1 These Regulations are effective upon filing in the Office of the City Clerk and publication of a notice of such action in a newspaper having general circulation in the CITY OF WEST HAVEN.

21.2 These regulations shall be published on the City of West Haven municipal web site.

APPENDIX A Connecticut General Statute Section 1-1(q) Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conversation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoop houses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, or leased, franchised and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority.

APPENDIX B Connecticut General Statute Section 8-7d Hearings and decisions. Time limits. Day of receipt. Notice to adjoining municipality.

- (a) In all matters wherein a formal petition, application, request or appeal must be submitted to a zoning commission, planning and development commission or zoning board of appeals under this chapter, a planning commission under chapter 126 or an inland wetlands agency under chapter 440 and a hearing is required or otherwise held on such petition, application, request or appeal, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences, unless a shorter period of time is required under this chapter, chapter 126 or chapter 440. Notice of the hearing shall be published in a newspaper having a general circulation in such 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 or less than ten days and the last not less than two days before the date set for the hearing. In addition to such notice, such commission, board or agency may, by regulation, provide for notice to persons who own or occupy land that is adjacent to the land that is the subject of the hearing.

All applications and maps and documents relating thereto shall be open for public inspection. At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney. All decisions on such matters shall be rendered within sixty-five days after completion of such hearing, unless a shorter period of time is required under this chapter, chapter 126 or chapter 440. The petitioner or applicant 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 days, or may withdraw such petition, application, request or appeal.

- (b) Notwithstanding the provisions of subsection (a) of this Section, whenever the approval of a site plan is the only requirement to be met or remaining to be met under the zoning regulations for any building, use or structure, a decision on an application for approval of such site plan shall be rendered within sixty-five days after receipt of such site plan. Whenever a decision is to be made on an application for subdivision approval under Chapter 126 on which no hearing is held, such decision shall be rendered within sixty-five days after receipt of such application. Whenever a decision is to be made on an inland wetlands application under Chapter 440 on which no hearing is held, such decision shall be rendered within sixty-five days after receipt of such application. The applicant may consent to one or more extensions of such period, provided the total period of any such extension or extensions shall not exceed sixty-five days or may withdraw such plan or application. (c) For purposes of subsection (a) or (b) of this Section and Section 7-246a, the date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of such commission, board or agency, immediately following the day of submission to such commission, board or agency or its agent of such petition, application, request or appeal -five days after such submission, whichever is sooner. If the commission, board or agency does not maintain an office with regular office hours, the office of the clerk of the municipality shall act as the agent of such commission, board or agency for the receipt of any petition, application, request or appeal.
- (c) The provisions of subsection (a) of this Section shall not apply to any action initiated by any zoning or planning and development regarding adoption or change of any zoning regulation or boundary.
- (d) Notwithstanding the provisions of this Section, if an application involves an activity regulated pursuant to Sections 22a-36 to 22a-45, inclusive, and the time for a decision by a zoning commission or planning and zoning commission established pursuant to this Section would lapse prior to the thirty-fifth day after a decision by the inland wetlands agency, the time period for a decision shall be extended to thirty-five days after the decision of such agency. The provisions of this subsection shall not be construed to apply to any extension consented to by an applicant or petitioner.
- (e) The zoning commission, planning commission, zoning and planning commission, zoning board of appeals or inland wetlands agency shall 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:
- (1) Any portion of the property affected by a decision of such commission, board or agency is within five hundred 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 on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
 - (4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request or plan.

Approved Regulations of the West Haven Inland Wetland Watercourse Agency

Chairperson Commissioner - William Kane
Vice Chairperson Commissioner - James Gilbane

Amendments to Regulations

June 16, 2015 Regulation addition for single meeting approval. Section 9.5.1 Intent, The ability for an applicant to receive a decision in one meeting vs. two. Limited to listed minor items or as determined solely by the West Haven Inland Wetland Watercourse Agency or its city agent. Single meeting limits and requirements specified in section 9.5.1. All other regulations and requirements must be complied with including those not specified in amended section 9.5.1 to 9.5.7

November 17, 2015 Regulation addition to allow administrative approval section 9.6 9.7 Intent, To allow administrative approval to be made by the Inland Wetland Watercourse agent or ILWL commissioner to allow expedited approval for minor placement of fence poles or a shed of limited size (8x10). Restrictions on walkway or paved path placement to shed, none may be placed.

June 21, 2016 Clarification to regulations for exemption to fees. Intent, to clarify exemption of federal and state agency or departments from Application fees 19.6 Exemption. All Boards, commissions, councils and departments of the CITY OF WEST HAVEN are exempt from all fee requirements. Federal or State agency's do not require an application fee. 19.5 A Intent, to clarify additional fee for public hearing added to application fees etc as shown in schedule A

January 15 2019 Clarification of required mailings. Intent , to specify dates required for adjacent property owners notification Split section 7.12 and add 7.12(a) for date addition/clarification

7.12 (a) Said property owners shall be notified by the applicant by First Class Mail of the time and place of the Public Hearing at which said application shall be heard. Said notice letters shall be postmarked not less than **ten (10) days prior to the scheduled date for said hearing and not more than 15 days prior to scheduled date for said hearing**. It shall be the applicant's responsibility to file with the Clerk of the Commission, prior to the close of the Public Hearing, a Certificate of Mailing, provided by the Post Office, listing all of the property owners to whom notice has been sent.

William Kane Chairman West Haven Connecticut Inland Wetland Watercourse Agency.