Inland Wetlands and Watercourses Regulations of the Town of Washington, Connecticut

Town of Washington
Inland Wetlands and Watercourses Commission

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IWC Regulations

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FOREWORD

The Purpose and History of These Regulations

Of all the watchdog and regulatory responsibilities performed by town commissions in Connecticut, only those overseeing inland wetlands and watercourses are mandated (rather than simply permitted) by state statute. The reasons for mandating local wetlands and watercourses regulations are simple:

First, wetlands and watercourses are crucial parts of the system that produces the water we drink.

Second, wetlands and watercourses are the primary flood control systems present in the landscape.

Third, wetlands and watercourses are important segments of the whole environment, supporting everything from the air we breathe to the wildlife around us.

Fourth, wetlands and watercourses are major resources for public and private recreation.

Fifth and applying to all the above, wetlands and watercourses do not respect political boundaries; actions taken in wetlands and watercourses in one community may well produce severely adverse effects in other communities.

Thus, the Inland Wetlands and Watercourses Act of 1974 (Section 22a-36 to 22a-45 of the Connecticut General Statutes, as amended) states that because wetlands and watercourses perform many valuable functions, they are to be protected from random, unnecessary, undesirable, and unregulated uses and disturbances and destruction. The Act requires that the State Department of Energy and Environmental Protection, (DEEP,) and each Connecticut municipality:

---Minimize the disturbance and pollution of wetlands and watercourses;

---Maintain and improve water quality;

---Prevent damage from erosion and water turbidity and siltation;

---Prevent the loss of aquatic, vegetable, and animal life;

---Deter and inhibit the danger of flood and resulting pollution;

---Protect the quality of wetlands and watercourses for the sake of conservation, economics, aesthetics, recreation, and other uses;

---Protect potable fresh water supplies from drought, over-draught, pollution, and other misuse and mismanagement.

The Act further requires, and provides the basis for, an orderly regulatory process that balances the need for economic growth and need to use the land and water with the need to protect the environment for the sake of generations to come.

The Town of Washington, in anticipation of the passage of the Inland Wetlands and Watercourses Act of 1974, authorized the preparation of Inland Wetlands and Watercourses Regulations and the establishment of an Inland Wetlands and Watercourses Commission at a Town Meeting on October 1, 1973. Its first regulations were promulgated on June 14, 1974; ten days after the Act became law. They have been amended from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act of the State of Connecticut.

All Connecticut municipalities were required to regulate wetlands and watercourses as of July 1, 1988. After a public hearing, the State Department of Energy and Environmental Protection may revoke the regulatory authority of a municipal wetland agency if it finds that such agency has consistently failed to perform its duties; costs of review of such revocation shall be borne by the municipality.

The Washington Inland Wetlands and Watercourses Commission invites written suggestions for improving the clarity, efficiency, fairness, and orderliness of these Regulations and its regulatory processes.

Copies of the State Statutes are available for inspection in the office of the Washington Town Clerk.

IWC Regulations

SECTION 1

TITLE AND AUTHORITY

1.01 These Regulations shall be known as the “Inland Wetlands and Watercourses Regulations of the Town of Washington."

1.02 Pursuant to the Inland Wetlands and Watercourses Act, (Sections 22a-36 to 22a-45) inclusive, of the Connecticut General Statutes as amended, The Washington Inland Wetlands and Watercourses Commission shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with special provisions, or deny permits for all regulated activities affecting inland wetland and watercourses within the Town of Washington.

1.03 The use of all regulated areas and any areas on which regulated activities are conducted in the Town of Washington shall be subject to these Regulations.

IWC Regulations

SECTION 2

DEFINITIONS

As used in these Regulations and the Inland Wetlands and Watercourses Commission's (IWC's) deliberations:

DEFINITIONS USED IN THESE REGULALTIONS ARE IN ALPHABETICAL ORDER:

2.01 "Act" means the Inland Wetlands and Watercourses Act, **Sections 22a-36 through 22a-45**, inclusive, of the Connecticut General Statutes, as amended.

2.02 "Agency" means the Inland Wetlands and Watercourses Commission of the Town of Washington.

2.03 "Aquic" means a mostly reducing soil moisture regime nearly free of dissolved oxygen due to the saturation by groundwater or its capillary fringe and occurring at periods when the soil temperature at 50 centimeters (19.685 inches) is above 5C (41F).

2.04 "Best 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.

2.05 "Boat Anchorage" means a structure where boats and/or vessels are anchored or secured in place, including but not limited to, a dock, pier, wharf, or bulkhead.

2.06 "Bogs" are watercourses that are generally characterized by the presence of surface water, poor or very poor drainage, deposits of peat, and highly acidic conditions.

2.07 "Clear cutting" means the harvest or removal of 50% of trees that are larger than two (2) inches in diameter measured at a height of four and one half feet.

2.08 "Clearing" means the removal of vegetation in a manner that significantly alters the natural or indigenous character of a regulated area.

2.09 "Commissioner of Energy and Environmental Protection" means the commissioner of the State of Connecticut Department of Energy and Environmental Protection (DEEP.)

2.10 "Continual Flow" means a flow of water, which persists for an extended period of time; this flow may be interrupted during periods of drought.

2.11 "Deposit" means, but shall not be limited to; fill, grade, dump, place, discharge, or emit.

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

2.13 “Disturb the Natural and Indigenous Character of the Land” means that the activity will significantly alter inland wetlands and/or watercourses.

2.14 “Duly Authorized Agent” means an individual designated by the Commission to assist in the carrying out of its functions and purposes.

2.15 "Essential to the Farming Operation" means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.

2.16 "Farming" shall be consistent with the definition as noted in **Section 1-1(q)** of the Connecticut General Statutes, as amended. (See Appendix A)

2.17 “Feasible” means able to be constructed or implemented consistent with sound engineering principles and best management practices.

2.18 “Fire Ponds” means ponds, which are watercourses under these Regulations, created for the specific purpose of fire protection. The ponds must have a capacity of at least sixty thousand (60,000) gallons of available water storage and the natural capability of refill through springs or streams. They must be located so as to provide easy access for the Washington Fire Department.

2.19 “Flood Plain” means a normally dry land area that is subject to inundation by the overflow of inland water and/or the unusual and rapid accumulation of runoff or surface waters from any source.

2.20 “Forestry” means silviculture and the harvesting or logging of trees for sale as firewood, poles, lumber, chips, or mulch.

2.21 “Hydrophilic Vegetation” means plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

2.22 “Informed Judgment” means judgment based on reference to these Regulations and on past regulatory experience of members of the Commission; it may also include judgment informed by professional advice, reports, publications, and documents.

2.23 “Intermittent Watercourse” means a watercourse delineated by a defined channel and bank and the occurrence of two (2) or more of the following characteristics: (a) evidence of scour or deposit 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.

2.24 *"*Invasive Species*"* means plants that have the ability to become established and abundant in areas to which they are not native and that can thereby damage existing ecosystems or displace native species.

2.25 "Inventory Map*"* means the map entitled, "Soil Survey**,** Town of Washington**,** Litchfield County, Connecticut." The map is available for inspection in the Land Use office.

2.26 **"**IWC" means the Inland Wetlands and Watercourses Commission of the Town of Washington, Ct.

2.27 "License" means the 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 sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended. The IWC uses the terms, "Permit," and "License" interchangeably throughout these Regulations and in its deliberations.

2.28 **"**Limited Impact Development" (LID) means a site design strategy intended to maintain or replicate predevelopment hydrology through the use of small scale controls integrated throughout the site to manage runoff as close to its source as possible.

2.29 "Marshes" means watercourses that are distinguished by a scarcity or absence of trees and shrubs and the dominance of soft stemmed herbaceous plants. The water tables in marshes are at or above the ground surface throughout the year and areas of open water six (6) inches or more in depth are common, but seasonable water table fluctuations are encountered.

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

2.31 "Mitigation Measures" means activities designed to render less harsh or offset the impact of a regulated activity on a wetland or watercourse. Mitigation activities may be required as a condition of permit approval.

2.32 "Municipality" means the Town of Washington, Connecticut.

2.33 **"**Native Plant" means a plant species that is indigenous to a specific region; for the purpose of these Regulations, the region is New England.

2.34 "Nurseries" means places where plants are grown for sale, transplanting, or experimentation.

2.35 "Owner" means a holder of an interest in the subject property, as recorded in the Town of Washington land records.

2.36 "Permit" see "License."

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

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

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

2.40 “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.

2.41 "Regulated Activity" means any operation within or use of a wetland or watercourse involving draining, removal, or deposition of material, or any obstruction, construction, alteration, or pollution of such wetlands or watercourses, but shall not include the specified activities in **Section 22a-40 of the Connecticut General Statutes**. Furthermore, any clearing (including clearing of understory), grubbing, filling, grading, paving, excavating, constructing, depositing, or removing of material, discharging of stormwater, and/or the use of pesticides and herbicides without a pesticide management permit from the DEEP in or upon wetlands, watercourses, or upland review areas is a regulated activity. The IWC may rule that any activity located in an upland review area or in any other non-wetland or non-watercourse area that is likely to impact or affect wetlands and watercourses is a regulated activity.

2.42 “Regulated Area” means any inland wetland, watercourse, or upland review area located within the Town of Washington, regardless of whether such area is delineated on the Inventory Map. Upland review areas are only regulated in so far as activities therein impact wetlands and watercourses.

2.43 “Regulated Setback” see definition for “Upland Review Area”.

2.44 "Remove" means, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut, bulldoze, operate a dragline, and/or blast.

2.45 "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, which in the informed judgment of the Commission is a deleterious alteration.

2.46 "Significant Impact" means a perceptible change in physical, biological, or chemical characteristics of a wetland or watercourse that may reduce or alter any of the desirable functions of the wetland or watercourse. Activities that may cause a significant impact include, but are not limited to:

a) Any activity involving deposition or removal of material that will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.

b) Any activity that substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.

c) Any activity, which substantially diminishes the natural capacity of an inland wetland or watercourse to: support aquatic, plant or animal life and habitats, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space, or perform other functions.

d) Any activity that is likely to cause or has the potential to cause substantial turbidity, siltation, or sedimentation in a wetland or watercourse.

e) Any activity that causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.

f) Any activity that is likely to cause or has the potential to cause pollution of a wetland or watercourse.

g) Any activity that damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

2.47 "Soil Scientist" means a certified individual duly qualified in accordance with standards set by the federal Office of Personnel Management.

2.48 “Submerged Lands" means those lands that are inundated by water on a seasonal or more frequent basis.

2.49 "Swamps" are land areas that are distinguished by the dominance of wetland trees, shrubs, and herbaceous plants.

2.50 "Town" means the Town of Washington, Connecticut.

2.51 “Understory” means the vegetative cover, usually consisting of young trees, bushes, and shade tolerant plants that grow under tree canopies in wooded areas and includes the lower branches of larger trees.

2.52 **“**Upland Review Area” means the land within one hundred (100) feet, measured horizontally, of the boundary of any wetlands or watercourse. Furthermore, the IWC may rule that any activity located within such upland review area or in any other non-wetland or non- watercourse area, which is likely to impact or affect wetlands or watercourses is a regulated activity.

2.53 “Vernal Pool” means a seasonal, generally shallow body of water in a defined depression or basin, with or without egress, that lacks a fish population and, in most years, supports the breeding and development of amphibian or invertebrate species recognized as obligate to such bodies of water.

2.54 "Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, that may pollute or tend to pollute any of the wetlands and watercourses of the Town.

2.55 "Watercourses" is defined as rivers, streams, brooks, waterways, lakes, ponds, seeps, marshes, swamps, bogs, and all other bodies of water; natural or man made**,** vernal or intermittent, public or private, that are contained within, flow through, or border upon the Town or any portion thereof not regulated pursuant to **Sections 22a-28 through 22a-35**, inclusive, of the Connecticut General Statutes, as amended**.** Man made swimming pools are specifically excluded from this definition.

2.56 "Wetlands" is defined as land, including submerged land as defined in this section, not regulated pursuant to **Sections 22a-28 through 22a-35**, inclusive, of the Connecticut General Statutes, as amended, that 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 U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites that possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

2.57 **"**Wet Meadow" means an area of herbaceous vegetation characterized by moist to saturated soils with standing water present only for brief periods during the growing season.

2.58 Further Definitions: Any terms not defined within these Regulations shall be defined by common usage.

2.59 The words and phrases defined above need not be capitalized in these Regulations in order for the definitions to apply.

IWC Regulations

SECTION 3

INVENTORY OF INLAND WETLANDS AND WATERCOURSES

3.01 The Inventory Map delineates the general location and boundaries of inland wetlands and the general location of watercourses, but is not a comprehensive inventory of wetlands and watercourses. However, areas designated as wetlands or watercourses on the Inventory Map shall be presumed to be wetlands and watercourses, respectively, unless the IWC makes a contrary finding based on evidence it receives. 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 IWC may use aerial photography, remote sensing imagery, resource mapping, soils maps, mapping by a certified soil scientist, site inspection observations, or other information in determining the location of the boundaries of wetlands and watercourses.

3.02 Any person may petition the IWC 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 relevant information. The IWC may require such person to provide an accurate delineation of regulated areas in accordance with **Section 16** of these Regulations.

3.03 The IWC shall maintain a current inventory of regulated areas within the Town. The IWC may amend its Inventory Map as more accurate information becomes available.

3.04 All map amendments are subject to the public hearing process outlined in **Section 16** of these Regulations.

IWC Regulations

SECTION 4

PERMITTED USES AS OF RIGHT & NONREGULATED JURISDICTIONAL USES AS DETERMINED BY THE IWC'S DECISION

Section 22a-40 of the Connecticut General Statutes contains a list of operations and uses that are either nonregulated or permitted in inland wetlands and watercourses as of right. For informational purposes, the operations and uses allowed by that statute as of the date of enactment of these Regulations are set forth in Sections 4.01 and 4.02 shall be deemed to be coextensive with, and not any more or less inclusive than, those specified in that statute, as it may be amended.

4.01 The following operations and uses shall be permitted in inland wetlands, and upland review areas 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, the mining of top soil, peat, sand, gravel, or similar material from wetlands or watercourses for the purposes of sale.

b) A residential home for which 1) a building permit has been issued or 2) on a subdivision lot, provided the permit has been issued or the subdivision lot has been approved by a municipal Planning, Zoning, or Planning and Zoning Commission as of the effective date or promulgation of the municipal regulations pursuant to **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 subsection unless the permit was obtained on or before July 1, 1987;

c) Boat anchorage or mooring.

d) Uses incidental to the enjoyment and maintenance of residential property, such property defined as 3 acres or less. Such incidental uses shall include maintenance of existing structures and existing landscaping, but shall not include removal or deposition of significant amounts of material from or onto a wetland, watercourse, or upland review area, or diversion or alteration of a watercourse.

e) Construction and operation, by water companies as defined by **Section 16-1** of the Connecticut General Statutes, as amended, or by municipal water supply systems as provided for in **Chapter 102** of the Connecticut General Statutes, as amended, of dams, reservoirs, and other facilities necessary to the

impounding, storage, and withdrawal of water in connection with public water supplies except as provided in **Sections 22a-401 and 22a-403** of the Connecticut General Statutes, as amended.

f) Maintenance relating to any drainage pipe that existed before the effective date of any municipal regulations adopted pursuant to **Section 22a-42a** of the Connecticut General Statutes, as amended, or July 1, 1974, whichever is earlier, provided such pipe is on 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.

g) Withdrawals of water for emergency purposes.

4.02 The following operations and uses shall be permitted as nonregulated uses in wetlands and watercourses provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow, or pollution of the wetland or watercourse:

a) Conservation of soil, vegetation, water, fish, shellfish, and wildlife.

b) Outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing, and shell fishing where otherwise legally permitted and regulated.

c) The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, "Dry Hydrant" means a non-pressurized pipe system that a) is readily accessible to fire department apparatus from a proximate public road, b) provides for the withdrawal of water by suction to such fire department apparatus, and c) is permanently installed into an existing lake, pond, or stream that is a dependable source of water

d) Any dredging or any erection, placement, retention, or maintenance of any structure, fill, obstruction, or encroachment, or any work incidental to such activities, under **Sections 22a-28 TO 22a-35, inclusive, or Sections 22a-259b to 22a-363f, inclusive,** shall not require any permit or approval under **Sections 22a-36 TO 22a-45, inclusive.**

4.03 All activities in wetlands, watercourses, and/or upland review areas involving filling, excavating, dredging, clear cutting, clearing, or planting**,** 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 IWC 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.

4.04 To carry out the purposes of this section, any person proposing a permitted “as of right” operation and use or a nonregulated operation and use shall, prior to commencement of such operation and use, notify the IWC on an application form provided by it, and provide the IWC with sufficient information to enable it to properly determine whether the proposed operation and use is a permitted or nonregulated use of a wetland or watercourse. The IWC 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. If the IWC finds the proposed operation to be “as of right” or a nonregulated use, all fees paid, if any**,** will be returned to the applicant.

IWC Regulations

SECTION 5

ACTIVITIES REGULATED EXCLUSIVELY BY THE COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION

State law delegates to the Commissioner of Energy and Environmental Protection the exclusive authority to regulate certain types of activity that may affect inland wetlands or watercourses. For informational purposes, Sections 5.01 through 5.04 describe certain categories of activities for which the IWC understands that such a delegation has been made to the Commissioner. It is the intention of the IWC that the categories of activities described in Sections 5.01 through 5.04 shall be deemed to be coextensive with, and not any more or less inclusive than, the activities for which state law, as it may be amended, has actually delegated such authority to the Commissioner.

5.01 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.

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

5.03 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 **Section 22a-402** of the Connecticut General Statutes, or a permit issued by the Commissioner of Energy and Environmental Protection under **Sections 22a-403** of the Connecticut General Statutes. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from the IWC for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.

5.04 For activities regulated by the U.S. Army Corps of Engineers under Section 404 of the federal Clean Water Act, 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.

SECTION 6

REGULATED ACTIVITIES TO BE PERMITTED

6.01 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the IWC of the Town of Washington, Connecticut.

6.02 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the IWC or its authorized agent, or violating any other provision of these Regulations, shall be subject to the enforcement proceedings and penalties prescribed in **Section 15** of these Regulations and any other remedies as provided by law.

IWC Regulations

SECTION 7

PRE-APPLICATION ADVISORY PROCEDURE

7.01 Any person proposing to carry out a regulated activity is encouraged to: a) discuss the proposed application and supporting material with the Land Use Office staff prior to appearing before the IWC or b) appear before the IWC at a regularly scheduled meeting to discuss a proposed permit application and the supporting material required by the IWC.

7.02 A written request for pre-application advice must be received by the IWC three (3) business days before a scheduled meeting in order to be assured that the proposal will be included on the meeting agenda.

7.03 In each pre-application procedure, the IWC will attempt to detail all the information and supporting material it will require as part of the eventual application. However, it is not foreclosed from requiring additional information and supporting material when it later considers the application. To facilitate the application process, the applicant should supply as much information as possible during the pre-application procedure so as to make the IWC fully aware of the character of the property in question and the scope of the proposed regulated activity.

7.04 Under no circumstances is the pre-application procedure to be considered a formal application to the IWC**.**

7.05 No filing fees are required for the pre-application advisory procedure.

7.06 The IWC may, on the basis of the information before it, recommend that the applicant file a request for a declaratory ruling, pursuant to **Section 4.04,** that the proposed uses are nonregulated or permitted as of right.

7.07 Neither the applicant nor the IWC and its agents shall be legally bound in any way by any comments made during any pre-application discussions.

SECTION 8

APPLICATION REQUIREMENTS

8.01 Any person intending to conduct a regulated activity or to correct a violation shall apply for a permit on a form provided by the IWC. The application shall contain the information described in this section and any other information the IWC may reasonably require. Application forms may be obtained in the Land Use office.

8.02 When an application is submitted to the Town of Washington Planning or Zoning Commission for subdivision, resubdivision, or a first cut of land and involves land containing wetlands or watercourses, the applicant shall, in accordance with **Sections 8-3(g), 8-3c, or 8-26**, as applicable, of the Connecticut General Statutes, as amended, submit an application to the IWC in accordance with this section, no later than the day the application is submitted to such commission.

8.03 The application shall contain such information as is necessary for the IWC to make a fair and informed determination as to the potential impact on wetlands and/or watercourses of any proposed subdivision, resubdivision, Zoning activity, or other regulated activity.

8.04 An applicant may request that the IWC determine whether or not a proposed activity would be likely to cause or create a substantial risk of a significant impact on wetlands or watercourses.

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

a) The name, home and business addresses, and telephone numbers of (i) the owners of record; (ii) the applicants (if different from the owners); and (iii) an individual person who will be the principal contact for the IWC with respect to the conduct and completion of any regulated activities for which a permit is issued. In the event of any change in the identity of the owners of record or of the contact person, the current owners must file with the IWC a written statement identifying the new owners and/or contact person, with the home and business mailing addresses and telephone numbers of all such persons. The failure of the current owners to file such a notice shall operate to suspend consideration of the permit, and no regulated activities may be conducted until such notice has been filed with the IWC. The failure to provide the required notice before the deadline for a decision on any pending application shall result in the application being denied as incomplete..

b) If the applicants are not the owners of record of the property, the nature of the interest the applicants have in the property (e.g., lease or option or contract to purchase), and the signature of the owner or the owner's agent or other legal representative, signifying knowledge of and consent to the application.

c) Identification of any duly authorized agent of the owner and, for each application, written authorization from the owner for said agent to act on his or her behalf.

d) The geographical location of the land, which is the subject of the proposed activity, and a description of the land in sufficient detail to allow identification of the inland wetlands, watercourses, and upland review areas, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s), and wetland vegetation.

e) Certification by the applicant whether:

1) Any portion of the property on which the regulated activity is proposed is located within five hundred (500) feet of the boundary of an adjoining municipality.
2) Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site.
3) Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality.
4) Water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.

f) An 8 ½" x 11" photocopy of the pertinent section of the USGS Topographic quadrangle (on the same scale) with the project site outlined or pinpointed. Copies of the USGS Topographic map are available in the Land Use Office.

g) 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 or watercourse resources.

h) Alternatives that would result in less or no environmental impact to wetlands or watercourses than the proposed plan and an explanation why they were not selected. The IWC may require such alternatives to be diagramed on a site plan or drawing.

i) A site plan showing the proposed activity, existing and proposed conditions in relation to wetlands and watercourses and upland review areas, and identifying any further activities associated with, or reasonably related to, the proposed regulated activity that are made inevitable by the proposed regulated activity and that may have an impact on wetlands or watercourses.

j) A detailed construction sequence and construction schedule.

k) 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.

l) A completed DEEP reporting form. The IWC shall revise or correct as necessary the information provided by the applicant and submit the form to the Commissioner of Energy and Environmental Protection in accordance with

Section 22a-39-14 of the Regulations of Connecticut State Agencies, as amended.

m) A completed mandatory Conservation Easement form.

n) Any other information the IWC deems necessary to the understanding of what the applicant is proposing.

o) Submission of the appropriate filing fee based on the fee schedule established in **Section 20** of these Regulations.

Notwithstanding the foregoing provisions, the IWC may excuse compliance with any specific requirement of this Section 8.05 if it finds that the information is not necessary to enable the IWC to determine whether the proposed activities will cause or create the risk of detrimental impacts to wetlands or watercourses.

8.06 At the discretion of the IWC or when the proposed activity involves a potential significant impact, additional information based on the nature and anticipated effects of the activity, including but not limited to the following, is required:

a) Names and mailing addresses, Assessor's map, block, and lot numbers of adjacent property owners.

b) Site plans for the proposed activity and the land that will be affected thereby; the plans should show existing and proposed conditions, wetland and watercourse boundaries, land contour intervals, 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, or by such other qualified person as the IWC may find appropriate.

c) 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.

d) Delineation of wetlands and watercourses on the site by a certified soil scientist and their depiction on the site plan. The soil scientist's report and sketch map or a statement by the soil scientist verifying the location of wetlands and watercourses shown on the site plan shall be submitted.

e) A description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions.

f) 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.

g) Analysis of chemical or physical characteristics of any fill material.

h) Best management practices and other measures designed to mitigate the impact of the proposed activity.

8.07 For any permit application involving a 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 the 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 on an existing building, that does not expand or alter the footprint of such existing building, relating to property that is subject to a conservation restriction or preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limited to, any state agency that holds such restriction, not later than sixty days prior to the filing of the permit application.

d) In lieu of such notice pursuant to Section 8.07, 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.

(See also Sections 11.08 and 11.09.)

8.08 Two (2) copies of all application materials shall be submitted to comprise a complete application unless an applicant is otherwise directed by the IWC.

8.09 Renewal or Transfer of Existing Permit.
Any written request to renew an existing permit shall be filed with the IWC in accordance with **Section 9** of these Regulations prior to the expiration date of the permit and shall be made on the form, “Request to Renew an Approved Permit,” available in the Land Use Office. (See Section 22.) Any application to renew such an existing permit shall contain the information required under **Section 8** of these Regulations and shall:

a) Incorporate the documentation and record of the prior application.

b) Detail the reasons for and nature of all proposed amendments.

c) Describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit.

d) State the reason why the authorized activity was not initiated or completed within the time specified in the permit.

e) Describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued.

8.10 The IWC may, prior to the expiration of a permit, accept a written request 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.

8.11 Any written request to renew a permit shall be granted upon request of the permit holder unless the IWC finds that there has been a substantial change in circumstances that require 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, and further provided that any permit issued prior to July 1, 2011 that did not expire prior to May 9, 2011 shall be valid for no more than fourteen (14) years.

8.12 Modification of Existing Permit.
Any application to modify an existing permit shall be filed with the IWC in accordance with Section 9 of these Regulations. The application shall be made on the form, "Application to Modify an Approved Permit," available in the Land Use Office. (See Section 21.)

8.13 The IWC has the discretion to determine whether the application for the modification of a permit constitutes a modification acceptable within the boundaries of the existing approval or whether it requires the submission of a new application.

IWC Regulations

SECTION 9

APPLICATION PROCEDURES

9.01 Except as provided in Section 13 of these Regulations, all petitions, applications for regulated activities or to correct violations, applications to modify approved permits, and requests to renew or transfer approved permits shall be submitted to the IWC by 5:00 p.m. the day before the next regularly scheduled meeting to be accepted by the IWC at that meeting. However, applicants are urged to submit their applications and written requests well ahead of such meetings to allow IWC staff to check them for completeness and, if necessary, to allow applicants time to submit missing information.

9.02 The IWC shall, in accordance with **Section 8-7d(f)** of the Connecticut General Statutes**,** as amended, notify the clerk of any adjoining municipality of the pendency of any application, petition, request, or plan concerning any project on any site in which:

a) Any portion of the property affected by a decision of the IWC is within five hundred (500) feet of the boundary of an adjoining municipality.

b) A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site.

c) A significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality.

d) 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.

9.03 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in **Section 25-32a,** the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said Commissioner, provided such water company or said Commissioner has filed a map showing the boundaries of the watershed on the land records of the Town and with the IWC. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven (7) days after the date of the application. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the IWC.

9.04 When an application to conduct a regulated activity or to modify an approved permit, or a request to renew an approved permit has been received, the IWC or its authorized agent may make regular inspections of the property and of such activities at reasonable hours. Nothing herein shall be deemed to prevent the IWC or its authorized agent from conducting inspections of such activities without the

owner's consent, to the extent and in the manner by which such inspections may otherwise be allowed by law.

9.05 The date of receipt of an application, petition, or written request shall be the day of the next regularly scheduled meeting of the IWC, immediately following the day of submission to the IWC or its agent of such application, petition, or written request or thirty-five (35) days after such submission, whichever is sooner.

9.06 At any time during the review period, the applicant shall provide such additional information as the IWC may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in **Section 10** of these Regulations.

9.07 All applications shall be open for public inspection.

9.08 The IWC may postpone consideration of or deny an incomplete application.

IWC Regulations

SECTION 10

PUBLIC HEARINGS/TIME DEADLINES

10.01 The IWC may issue a permit without a public hearing provided no petition provided for in **Section 10.03** is filed with the IWC on or before the fourteenth day after the date of receipt of the application.

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 period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw the application. The failure of the IWC to act within the 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 IWC shall be withdrawn by the applicant or denied by the IWC**.**

10.02 No later than sixty-five (65) days after receipt of an application, the IWC 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 an agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on the application within thirty-five (35) days after completion of the public hearing. 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 IWC to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application.

10.03 The IWC shall not hold a public hearing on an application unless 1) the IWC determines that the proposed activity may have a significant impact on wetlands or watercourses or 2) a petition requesting a hearing and signed by at least twenty-five (25) persons who are eighteen (18) years of age or older and who reside in Washington, CT is filed with the IWC not later than fourteen days after the date of receipt of such application or 3) the IWC finds that a public hearing regarding such application would be in the public interest. Such hearing shall be held no later than sixty-five (65) days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection.

10.04 Notice of a public hearing shall be published in a manner that comports with state law requirements for the publication of legal notices at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days, before the date set for the hearing.

10.05 It shall be the responsibility of the applicant to send written notification of the pending public hearing using a form provided by the Land Use Office, to all property owners within two hundred (200) feet of the subject property. The notification form provided by the Land Use Office shall be mailed by certificate of

mailing and shall be postmarked no later than ten (10) days prior to the starting date of the hearing. The applicant shall submit to the IWC a list of names and addresses of all notified property owners and all certificate of mailing receipts prior to the commencement of the hearing.

10.06 If a public hearing is to be held on any application for a permit, all documentary evidence in support of the application shall be filed with the IWC and available for public inspection no less than fifteen (15) days prior to the day of the hearing or any reconvening thereof. All other persons wishing to present documentary evidence in the proceeding should file such evidence on or before the date on which the public hearing is commenced. Nothing in this Section shall prohibit the IWC, in the exercise of its discretion, from receiving evidence from any person at a later time. However, the IWC may refuse to consider any information and documentary evidence, including but not limited to any proposed modifications to the applicant's site plans or regulated activities, that is submitted after the aforesaid dates if it determines that the IWC's members, staff, or consultants would not have sufficient time to review such information or evidence properly or thoroughly before the public hearing is closed.

IWC Regulations

SECTION 11

CONSIDERATIONS FOR DECISION

11.01 The IWC may consider the following in making its decision on an application:

a) The application and its supporting documentation.

b) Reports from other agencies and officials including but not limited to the Town of Washington:

1) Conservation Commission
2) Planning Commission
3) Zoning Commission
4) Building Department Official
5) Health Department Official
6) Volunteer Fire Department

c) The IWC may also consider comments on any application from the Northwest Conservation District and/or other regional, state, and federal organizations, and also agencies and officials in adjacent municipalities that 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 state agencies and commissions listed in **Section 11.01b and 11.01c** above within the prescribed time shall neither delay nor prejudice the decision of the IWC.

e) For an application for which a public hearing is held, public comments, evidence, and testimony.

f) Advice from IWC staff or IWC consultants regarding evidence or testimony submitted during the public hearing. Any such advice received after the close of the hearing shall not include the submission of additional new factual information.

11.02 Criteria for Decision. In carrying out the purposes and policies of **Section 22a-36 to 22a-45**, inclusive, of the Connecticut General Statutes, as amended, including matters relating to regulating, permitting**,** and enforcing of the provisions thereof, the IWC shall take into consideration all relevant facts and circumstances, including but not limited to:

a) The environmental impact of the proposed regulated activity on wetlands or watercourses.

b) The applicant's purpose for and any feasible and prudent alternatives to the proposed regulated activities, which alternatives would cause less or no environmental impact to wetlands or watercourses.

c) The relationship between the short term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long term productivity of such wetlands or watercourses.

d) Irreversible damage to and/or irretrievable loss of wetland or watercourse resources that 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 that may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to 1) prevent or minimize pollution or other environmental damage, 2) maintain or enhance existing environmental quality, or 3) in the following order of priority: restore, enhance, and create productive wetland or watercourse resources.

e) The character and degree of injury to, or interference with the reasonable use of property that is caused or threatened by the proposed regulated activity.

f) Impacts due to the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to the proposed regulated activity, that are made inevitable by the proposed regulated activity and that may have an impact on wetlands and watercourses.

11.03 In the case of an application, which received a public hearing pursuant to a finding by the IWC that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the IWC finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the IWC shall consider the facts and circumstances set forth in **Subsection 11.02** of this section. The finding and the reasons therefore shall be stated on the record in writing.

11.04 In the case of an application that is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity that have less adverse impact on wetlands or watercourses, the IWC shall propose on the record in writing the types of alternatives that 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.

11.05 For purposes of Section 11:
a) “wetlands and watercourses” include aquatic, plant, or animal life and habitats in wetlands and watercourses, and
b) “habitats” means areas or environments in which an organism or biological population normally lives or occurs.

11.06 A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.

11.07 In reaching its decision on any application after a public hearing, the IWC 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 IWC in its decision. However, the IWC is not precluded from seeking advice from its own experts concerning information already in the record of the public hearing.

11.08 In the case of an application where the applicant has provided written notice pursuant to Section 8.07.C of these Regulations, the holder of the restriction may provide proof to the IWC that the 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 IWC shall not grant the permit approval.

11.09 In the case of an application where the applicant fails to comply with the provisions of Sections 8.07.C or 8.07.D of these Regulations,

a) The party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later that fifteen days after receipt of actual notice of permit approval, file an appeal with the IWC, subject to the rules and regulations of such agency relating to appeals. The IWC shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction or
b) The state agency that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the IWC, subject to the rules and regulations of such agency relating to appeals.

The IWC shall immediately reverse such permit approval if the Commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation and preservation restriction.

11.10 Nothing in Section 8.07.C or 8.07.D of these Regulations shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit application will

a) Occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction and
b) Is shown to be unlikely to have a significant impact on any wetlands or watercourses found in the conservation easement area.

SECTION 11A

SPECIAL CRITERIA FOR APPLICATIONS INVOLVING REGULATED ACTIVITIES AROUND LAKE WARAMAUG AND OTHER MAJOR WATER BODIES AND WATERCOURSES

11A.01 Purpose and Goals.

a) The purpose of this Section 11A is to protect and enhance the ecological systems of Lake Waramaug and other major water bodies and watercourses in the Town of Washington, which represent important components of the Town's natural endowments and contribute significantly to its biodiversity.

b) Lacustrine studies have shown that undisturbed shoreline left in its natural state is critical to the long-term ecological health of large bodies of water such as Lake Waramaug. Such shorelines often provide an "ecotone transition" area between two ecosystems (lake and land), which areas are typically very important wildlife habitats: the near shore shallows are a critical spawning area and food source for many aquatic and land-based species; hydrophytes, (plants adapted to grow in water), and wetland vegetation provide canopy and essential habitat for many of these species, as well as some measure of protection against shoreline erosion. For these reasons, activities within the immediate shoreline areas should be minimized to protect their ecological value, while still allowing reasonable use of the lakes.

c) Prior to the enactment of the 1974 Connecticut Inland Wetlands and Watercourses Act, a significant portion of Lake Waramaug's shoreline had seen the erection of vertical stone and cement retaining walls. Such structures are not an efficient lake-land transition area, especially when they abut natural shallows. As noted above, they eliminate a key interface zone between water and land habitats and often do not intercept the nutrients and pollutants that flow into the lake from lakeshore runoff areas. Shoreline walls also hamper wave energy dissipation, restrict the flow of groundwater into lake waters, and their underpinnings are often subject to erosion and scouring. In spite of these shortcomings, such structures that currently exist around Lake Waramaug and other major water bodies have been grandfathered and are allowed to stand if they are not in serious disrepair.

11A.02 Scope.

The provisions of this Section 11A shall apply to all activities within a horizontal distance of 100 feet from Lake Waramaug and other water bodies and watercourses. Landowners are reminded that regulated activities in these areas include, but are not limited to, all clearing of vegetation and all beach maintenance activities.

11A.03 Prohibited Activities.

The following activities shall be <u>prohibited</u> unless the Commission finds, based upon all evidence presented in connection with a proper application that such activities are needed to allow reasonable access to the lake, protection of

lakefront property, or proper maintenance of such property, and that no feasible and prudent alternatives to such access, protection, or maintenance exist.

a) The erection of new shoreline retaining walls. Dissipation of wave energy and/or mitigation of erosion damage should generally be handled with the positioning of large rocks to strengthen the natural shoreline, permeable riprap to create a gentle slope to the water's edge, or the use of vegetated "soft engineering" techniques such as the planting of deciduous or evergreen low-growing shrubs along the banks.

b) The creation of new sand beaches, because of the likelihood of erosion of beach material and sedimentation into the lake.

c) To minimize the leaching into Lake Waramaug of substances dangerous to its ecology and water quality, the use of pressure or chemically treated wood for decking, stair treads, handrails, fencing panels, containers, or any other open-air structure, is prohibited over the water, on the shoreline, and within 100 feet of the lake. Pressure treated wood may be used for posts, framing, and other structural components.

11A.04 Additional Criteria for Regulated Activities.

a) If a regulated activity subject to this Section 11A is being proposed to prevent or mitigate erosion damage, the applicant shall present evidence from a qualified engineer or other suitable expert regarding the likely nature and severity of damage that might be caused or facilitated in or by the absence of the proposed activities.

b) Existing vegetative cover, including trees, shrubs, and groundcover, shall be preserved to the greatest extent possible and its expansion encouraged around the lake to help with bank stabilization and to enhance the availability of habitat for aquatic and land-based species.

c) The clearing of any type of vegetation shall be no greater than necessary to achieve the applicant's specific goals in seeking approval of the regulated activity.

d) Failing retaining stone walls may be partially or completely rebuilt to their pre-existing height, length, and width if half or more of the original wall is still standing and base stones are firmly set in the lake bottom Failing concrete structures may be removed but must be replaced only with stonewalls of similar height and length.

e) Maintenance activities for existing private and public beaches shall be no more extensive than reasonably necessary to accomplish their purposes.

f) When considering applications for shoreline dock or float anchors, anchoring methods other than the use of large concrete blocks are preferred as they have been shown to have less overall impact on lake ecology. If such an alternative method is not selected, shore anchor block size, material, and weight must be defined along with proposed anchoring methods. The proper weight and size of such shore anchor blocks shall be determined by an engineer to be the minimum

needed for safe anchoring purposes, based on the size of the proposed dock, the material to be used, and the fact that the dock has to be designed to be removable as required under standing Zoning Regulations. The specifications of out-water mooring blocks must also be provided.

g) Applications for regulated activities around Lake Waramaug shall be detailed enough so that motions of approval can define precisely what work has been approved. In addition to an overall site map, drawings showing a) precise horizontal and profile elevation detail of the work envisaged, b) the relation of this work to the existing shoreline, and c) identified fixed points of reference are required. A proposed time line for project completion, material lists, and sequence of activities must also be included.

IWC Regulations

SECTION 12

DECISION PROCESS AND PERMIT

12.01 The IWC or its authorized agent may, in accordance with **Sections 11 and 13** 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 that would mitigate the impacts of the regulated activity and that would

a) prevent or minimize pollution or other environmental damage,
b) maintain or enhance existing environmental quality,
c) in the following order of priority: restore, enhance, create productive wetland or watercourse resources, or
d) such terms may include restrictions as to the time of year in which a regulated activity may be conducted, provided the IWC or its agent determines that such restrictions are necessary to carry out the purposes of CGS Sections 22a-36 through 22a-45, inclusive.

12.02 The IWC shall state upon its record the reasons and basis for its decision.

12.03 The IWC 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 IWC 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 Town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten days thereafter.

12.04 If an activity authorized by an inland wetlands permit also involves an activity, which requires a zoning or subdivision approval, special zoning permit, or special exception, under **Sections 8-3(g), 8-3c, or 8-26** of the Connecticut General Statutes, as amended, the IWC shall file a copy of the decision and report on the application with the Town of Washington Planning or Zoning Commissions or Zoning Board of Appeals within fifteen (15) days of the date of the decision thereon.

12.05 Any permit issued by the IWC for the development of land for which an approval is required under **Chapter 124, 124b, 126, OR 126a** of the Connecticut General Statutes, as amended, shall be valid until the approval granted under such chapter expires or for ten years, whichever is earlier. Any permit issued by the IWC for any activity for which an approval is not required under Chapter **124, 124b, 126,** or **126a** shall be valid for not less than two (2) years and not more than five (5) years. If the IWC does not specify a duration for the permit, the duration shall be deemed to be two (2) years.

12.06 Notwithstanding the provisions of **Section 12.05** of these Regulations, any permit issued by the Agency prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.

12.07 In the event any change is made in the identity of the owners of record or the contact person designated on the application form under which the permit was issued, and the current owners have not filed with the IWC a written statement identifying the new owners and/or contact person pursuant to Section 8.05 of these Regulations, the permit shall automatically be suspended, and no further regulated activities may be conducted until such notice is filed with the IWC. (See **Section 8.05.**)

12.08 If a bond is required in accordance with **Section 14** of these Regulations, the IWC may withhold issuing the permit until such bond is provided.

12.09 General provisions in the issuance of all permits.

a) The IWC 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 IWC are subject to and do not derogate any present or future rights or powers of the IWC or the Town of Washington, 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 subject land or activity.

c) If the activity authorized by the IWC's permit also involves an activity, which requires other municipal, state, and/or federal approvals, no work pursuant to the wetland permit may begin until such approval is obtained.

d) In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control stormwater discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.

e) Permits are not transferable without the prior written consent of the Commission.

SECTION 13

ACTION BY DULY AUTHORIZED AGENT

13.01 The IWC delegates to its duly authorized agent the authority to approve or extend a permit for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetland or watercourse provided such agent has completed the comprehensive training program developed by the Commissioner of Energy and Environmental Protection pursuant to **Section 22a-39** of the Connecticut General Statutes, as amended. Applications for such approvals shall be made using the form, "Application for Approval by Inland Wetlands Agent for Regulated Activity Outside Wetlands Areas," (See Section 22) shall be submitted to the authorized Wetland agent, and shall contain the information necessary to make an informed decision. After carrying out the site inspection, the reason for denial or approval of the application shall be recorded in writing by the authorized agent and submitted to the IWC for review and filing. Notwithstanding the provisions for receipt and processing applications prescribed in **Sections 9, 10 and 12** of these Regulations, such agent may approve or extend such an activity at any time. The Agent retains the right to refer any application filed under this section to the IWC for a determination. The Agent shall notify the applicant by certified mail/return receipt requested of any decision made under this section.

13.02 Any person (applicant) receiving such approval from such agent shall, within ten (10) days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the Town of Washington and submit proof to the Land Use Office that this has been done. Any person may appeal such decision of such agent to the IWC within fifteen days after the publication date of the notice and the IWC shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three (3) business days after receipt by such IWC or its agent of such appeal. Any person may appear and be heard at the meeting held by the IWC to consider the subject appeal. The IWC shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with **Section 8** of these Regulations.

SECTION 14

BONDING

14.01 The IWC may require as a permit condition the filing of a bond in such amount and in a form approved by the IWC for the following purposes:

a) A performance bond may be required for activities where large areas of land are disturbed or when such activities carry the risk of significant adverse impacts to wetlands and/or watercourses. In the event the permittee were to abandon the project or the work carried out did not comply with the specifications of the approved permit, the funds would be used to prevent further deterioration and erosion of the area. The amount of the bond may be determined by the IWC or a professional engineer. If a professional engineer is retained, the cost is borne by the applicant. A performance bond must be deposited with the IWC before work is begun. If any portion of the bond is used by the Commission, the permittee shall replenish the bond to the original amount before work may continue. All unused funds will be returned to the permittee when the IWC or its agent has determined that the activity has been successfully completed per the terms of the approved permit.

b) A consultant bond is required when a professional consultant such as, but not limited to, a certified wetland or soil scientist, professional engineer, landscape architect, etc. is needed to assist the IWC in determining the best execution of a project. A consultant may also be retained by the IWC to review a complex proposal or to monitor a project during its development and implementation. The consultant will estimate the cost of such activity and the permittee will deposit one and a half times the estimated cost with the IWC. When 75% of the consultant bond is expended, the permittee will be notified and the initial amount must be replenished within two weeks in order that work may continue. Failure to comply will result in a stop work order. All unused funds will be returned to the permittee when the IWC or its agent has determined that the activity has been successfully completed per the terms of the approved permit.

Funds from the performance bond and the consultant bond may not be used interchangeably by the IWC.

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

14.03 All bonds shall be in a form and of a type approved in accordance with the Town's bonding policies and procedures and approved by the Town or IWC attorney. The IWC reserves the right to require a letter of credit or cash bond and to reject a surety bond and/or surety company.

14.04 No work shall commence on any of the activities included in the permit until the bond is received by the IWC**.**

SECTION 15

ENFORCEMENT

15.01 The IWC may appoint an agent or agents to act on its behalf with the authority to issue notices of violation and cease and desist orders and to carry out other actions or investigations necessary for the enforcement of these Regulations. In carrying out the purposes of this section, the IWC or its duly authorized agent shall take into consideration the criteria for decision under **Section 11.02** of these Regulations.

15.02 When a permit has been issued to conduct regulated activities or a permit has been modified, the IWC or its authorized agent may make regular inspections of the property and of such activities at reasonable hours. Nothing herein shall be deemed to prevent the IWC or its agent from requiring, as a condition of approval of any permit, the opportunity to inspect and monitor any permitted regulated activities or from conducting inspections of such property and activities without the owner's consent, to the extent and in the manner by which such inspections may otherwise be allowed by law.

15.03 When a permit to conduct regulated activities has expired or regulated activities have been conducted without a permit, the IWC or its duly authorized agent, upon receiving the consent of the owner or authorized agent of the owner of the affected property, may inspect such activities at reasonable hours. Nothing herein shall be deemed to prevent the IWC or its agent from conducting inspections of such property and activities without the owner's consent, to the extent and in the manner by which such inspections may otherwise be allowed by law.

15.04 If the IWC or its duly authorized agent finds that any person is conducting or maintaining any activity, facility, or condition that is in violation of the Act or these Regulations, the IWC or its duly authorized agent may:

a) Issue a dated Violation Advisory Notice to the property owner conducting such an activity including a summary description of the violation and notification to stop all activities related thereto and the date of the next IWC regularly scheduled meeting where it will be considered.

b) 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. Violation of a Cease and Desist Order is subject to a fine of $150 per day. Within ten (10) calendar days of the issuance of such order the IWC 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 IWC shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the property owner 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 IWC 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 IWC affirms, revises, or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to

Section 22a-44 (b) of the Connecticut General Statutes, as amended.

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

15.06 Any cease and desist order or notice of violation on the terms of any permit, or of the revocation of any permit, shall be filed upon the Land Records of the Town.

SECTION 16

AMENDMENTS

16.01 These Regulations and the Inventory Map for the Town of Washington may be amended, from time to time, by the IWC in accordance with changes in the Connecticut General Statutes, or a regulation of the Connecticut Department of Energy and Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.

16.02 An application filed with the IWC**,** 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 IWC 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 subsection shall not be construed to apply 1) to the establishment, amendment, or change of boundaries of inland wetlands or watercourses or 2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.

16.03 These Regulations and the Inventory Map shall be amended in the manner specified in **Section 22a-42a** of the Connecticut General Statutes, as amended. The IWC 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, at least thirty-five (35) days before the public hearing on their adoption.

16.04 Any person who submits a petition to amend the Inventory Map shall bear the burden of proof for any requested map amendment. Petitions requesting changes or amendments to the Washington Inventory Map shall contain at least the following information:

a) The petitioner's name, mailing address, and telephone number,

b) The address or location of the land affected by the petition,

c) The name, mailing address, and telephone number of the owner(s) of such land and owner(s) agent or other representative.

d) The petitioner's interest in the land affected by the petition.

e) The names and mailing addresses of the owners of abutting land.

f) Map(s) showing, in accurate detail, the geographic location of the land affected by the petition with existing and proposed wetlands and watercourse boundaries on such land together with the documentation supporting such proposed boundary locations.

g) Supporting documentation by a certified soil scientist of the distribution of wetland soils on said land.

h) The reasons for the requested action.

16.05 Watercourses may be delineated by a certified soil scientist, geologist, ecologist, or other qualified individual.

16.06 A public hearing shall be held on petitions to amend the Inventory Map. Notice of the hearing shall be published in a newspaper having a general circulation in the Town of Washington at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days, nor less than ten (10) days, and the last not less than two (2) days before the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.

16.07 The IWC shall hold a public hearing on a petition to amend these Regulations or the Inventory Map within sixty-five days after receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The IWC shall act upon the changes requested in such petition within sixty-five (65) 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 (65) days, or may withdraw such petition. Failure of the IWC to act within any time period specified in this subsection or any extension thereof, shall not be deemed to constitute approval of the petition.

16.08 The IWC shall make its decision and state, in writing, the reasons why the change in the Inventory Map or the Regulations was made.

IWC Public Copy

SECTION 17

APPEALS

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

17.02 Notice of such appeal shall be served upon the IWC and the Commissioner of Energy and Environmental Protection.

IWC Regulations

SECTION 18

CONFLICT AND SEVERANCE

18.01 If there is a conflict among the provisions of these Regulations, the provision, which imposes the most stringent standards for the use of wetlands and watercourses, shall govern. The invalidity of any word, clause, sentence, section, part, subsection, 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.

18.02 If there is a conflict between the provisions of these Regulations and the provisions of the Act, the provisions of the Act shall govern.

IWC Regulations

SECTION 19

OTHER PERMITS

19.01 Nothing in these Regulations shall obviate the requirements for the applicant to obtain any other assents, permits, or licenses required by law or regulation by the Town of Washington, 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 property owner. If the activity authorized by the IWC's permit also involves an activity that requires other municipal, state, and/or federal approvals, no work pursuant to the Wetland permit may begin until after such approval(s) is obtained.

IWC Regulations

SECTION 20

FEES

20.01 Method of Payment: All fees required by these Regulations shall be submitted to the IWC by cash**,** check, or money order payable to the Town of Washington at the time the application is filed with the IWC.

20.02 No application or written request shall be granted or approved by the IWC unless the correct application fee is paid in full or unless a waiver has been granted by the IWC pursuant to **Section 20.07** of these Regulations.

20.03 The application fee is not refundable except as specified in **Section 4.04** of these Regulations.

20.04 Definitions. As used in this section:

a) "Residential Uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.

b) "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.

c) "Other uses" means activities other than residential uses or commercial uses.

20.05 Fee Schedule.

a) Copy of IWC Regulations… $10.00

b) Pre-application advice or review ..... no charge

c) State of Connecticut surcharge **$60.00**
(Must be submitted with all permit and review applications)

d) Application for ruling of As-of-Right or Nonregulated Uses (see **Section 4.04**)
…….…… No Fee

e) Application for a permit to conduct regulated activities, modify an approved permit, or correct a violation:

1) Residential Uses: Activity directly impacting and/or disturbing wetlands, watercourses, and/or upland review area..... $60.00

2) Commercial:

Activity directly impacting and/or disturbing wetlands, watercourses, and/or upland review area $100.00

3) All Other Uses… $60.00

f)Application for review of subdivision with or without wetlands or watercourses $60.00

g) Repair of septic system (application required) $25.00

h) Written requests for Renewals or transfers of approved permits $40.00

i) Public Hearing Fee..... $250.00
(Payable prior to the publication of the legal notice)

j) Fee for Petition to Amend the Regulations or Inventory Map
(Refer to Section 16) $250.00

k) Consultant Coverage Fee… ..... To be determined

The IWC may, in accord with **Section 8-1c,** Connecticut General Statutes, as amended, charge an additional, estimated fee for consultants and/or attorneys that the IWC finds it necessary to retain to provide review, analysis, and recommendations to the IWC concerning information submitted by an applicant. Said fee shall be paid within ten (10) days of the applicant's receipt of notice of such estimate. Any portion of the fee in excess of the actual cost shall be refunded to the applicant no later than thirty (30) days after publication of the IWC's decision. If specified as a condition of approval, the applicant shall be required to pay for the services of a consultant to monitor the project. Should the actual cost of the consultant and/or attorney exceed the estimated amount paid by the applicant, the additional cost shall be paid by the applicant prior to the issuance of the permit.

20.06 Exemption: Boards, commissions, councils, and departments of the Town of Washington are exempt from all fee requirements under these Regulations.

20.07 Waiver: The applicant may petition the IWC 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 IWC should consider in its determination under this subsection. The IWC may waive all or part of the fee if the IWC 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.
b. The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application, or
c. The applicant has shown good cause.

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

SECTION 21

EFFECTIVE DATE OF REGULATIONS

21.01 These Regulations are effective upon filing in the Office of the Town Clerk and publication of a notice of such filing in a newspaper having general circulation in the Town of Washington.

IWC Regulations

SECTION 22

APPLICATION FORMS

IWC Regulations

SECTION 23

TOWN ORDINANCE #720

A. PURPOSE

1. The purpose of this Ordinance shall be to encourage compliance with the Washington Inland Wetlands and Watercourses Regulations and to discourage violators from engaging in additional violations by increasing the penalties for such additional violations.

B. ISSUANCE OF CITATIONS

1. Pursuant to the authority vested in municipalities under Connecticut General Statutes Section 22a – 42g, as amended, any person authorized by the First Selectman of the Town of Washington may issue a citation for any violation of Washington's Inland Wetlands and Watercourses Regulations in the manner provided by this Ordinance. Any person so authorized shall be designated a Wetlands Citation Officer.

2. The Town shall maintain copies of all citations issued pursuant to this Ordinance for a period of no less than ten (10) years after the dates of issuance of the respective citations. The copies shall be indexed under the names of the persons to whom the citations were issued. Within ten (10) days after the final disposition of each citation, by payment of the specified fine or by a final decision on any appeal taken pursuant to the provisions of this Ordinance, a note shall be placed in the file on, or together with, the relevant citation indicating the nature of the final disposition. If no appeal is taken of a citation issued pursuant to this Ordinance, but the specified fine is not paid, a note to that effect shall be placed in the file on, or together with, the relevant citation.

3. Any such citation may be issued either by hand or by Certified Mail, return receipt requested. If the person named in such a citation fails or refuses to accept such mail, the citation may be sent by regular United States mail.

4. Any person receiving such a citation shall be allowed a period of thirty (30) days from his or her receipt of the citation to make an uncontested payment of the fine to the Town. If the citation has been sent by regular mail pursuant to the provision in Subsection B.3 of this Ordinance, the day of receipt of the citation shall be considered three (3) business days after the date of mailing the citation.

5. If a person who has been issued a citation does not make uncontested payment of the fine specified in the citation to the Town within the time allowed under Subsection B.4 of this Ordinance, the Wetlands Citation Officer shall send a notice to the person cited, informing such person

anew: (1) of the allegations against him or her and the amount of the fines and; (2) that the person cited may contest liability before a Hearing Officer appointed by the First Selectman, as provided in Subsection C.1 of this Ordinance, by delivering to the Wetlands Citation Officer, c/o the Inland Wetlands Commission, in person or by Certified Mail, return receipt requested, within ten (10) days of the date of the notice, a written demand for a hearing; (3) that if the person cited does not demand such a hearing, an assessment and judgment shall be entered against him or her; and (4) that such judgment may issue without further notice.

6. If the person who is sent notice pursuant to Subsection B.5 of this Ordinance wishes to admit liability for any alleged violation, he or she may, without requesting a hearing, pay the full amount of the fine, either in person or by mail, to the Town. Any person who does not deliver or mail a written demand for a hearing within ten (10) days of the date of the notice described in Subsection B.5 of this Ordinance shall be deemed to have admitted liability and the Wetlands Citation Officer shall certify to the Hearing Officer that such person has failed to respond. The Hearing Officer shall thereupon enter and assess the fines provided for by this Ordinance and shall follow the procedures set forth in Subsection E.1 of this Ordinance.

C. CITATION APPEAL AND HEARING PROCEDURES

1. A person who chooses to appeal a citation and requests a hearing to this effect shall be given written notice of the date, time, and place for the hearing by hand or by Certified Mail, return receipt requested. Such hearing shall be held no less than fifteen (15) days nor more than thirty (30) days from the date of mailing of notice, provided the Hearing Officer shall grant upon good cause shown any reasonable request by an interested party for postponement or continuance. The presence of a Commission Member or a Designated Agent shall be required at the hearing to present evidence on behalf of the Town. A person wishing to contest liability shall appear at the hearing and may present evidence on his or her behalf. Alternatively, the Hearing Officer may accept written information from the person who received the citation and may determine thereby that the appearance of such person is unnecessary. If the person who received the citation fails to appear or has not submitted relevant written information as specified above, the Hearing Officer may enter an assessment of default against him or her upon a finding of proper notice and liability under the applicable provisions of the Inland Wetlands and Watercourses Regulations.

2. In the event that the Hearing Officer determines that he or she will not have an adequate opportunity to review documentation provided by any party to the hearing on the date of the hearing, he or she may order the hearing to be continued to a later date.

3. The Hearing Officer shall conduct the hearing in the order and form and with such methods of proof, as he or she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Hearing Officer shall

announce his or her decision at the end of the hearing. If the Hearing Officer determines that the person who received the citation is not liable, the Hearing Officer shall dismiss the matter and enter that determination in writing accordingly. If the Hearing Officer determines that the person who received the citation is liable for the violation, the Hearing Officer shall forthwith enter and assess the fines against the person as provided by this Ordinance.

4. If the person who received the citation does not agree with the Hearing Officer's assessment, he or she may appeal the decision in Superior Court in accordance with the applicable provisions of the Connecticut General Statutes.

5. If the Hearing Officer's assessment is not paid on the date of its entry, the Hearing Officer shall send by First Class Mail a notice of assessment to the person found liable and shall file, not less than thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court together with the applicable entry or filing fee. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes, as amended.

6. The First Selectman of the Town of Washington shall appoint one (1) or more Citation Hearing Officers, who shall be other than Wetlands Citation Officers, Commission members, or employees of the Town, to conduct hearings as described in Subsections C.1 and C.3 of this Ordinance.

D. EXEMPTIONS

1. Notwithstanding the foregoing, pursuant to Section 22a – 42g, no fine shall be levied against the State of Connecticut or any employee thereof acting within the scope of his or her employment. Likewise, no fine shall be levied against the Town or any employee thereof acting within the scope of his or her employment.

E. SCHEDULE OF FINES

1. The amount of the fine specified in any citation shall be based upon the presence or risk of adverse affect on wetlands or watercourses associated with the violation and the number of citations issued to the same person during the ten (10) years immediately prior to the date of the citation being issued.

2. Violations arising from regulated activities not conducted in wetlands or watercourses, which have not had a physical impact on wetlands and watercourses at the time of the citation, are nevertheless subject to fines if the activities are conducted within 100 feet of wetlands and watercourses and by their nature pose the risk of adverse physical impact on those resources.

The amount of the fines shall be as follows:

$ 150 If the violator has had no previous citations, the violation does not involve activity directly in a wetland or watercourse, and the activity has not had a physical impact on a wetland or watercourse.

$ 350 If either;

1) The violator has had a previous citation, but the violation does not involve activity directly in a wetland or watercourse, and the activity has not had a physical impact on a wetland or watercourse, or

2) If the violator has not had a previous citation, and the violation does not involve activity directly in a wetland or watercourse, but the activity has had a physical impact on a wetland or watercourse.

$ 500 If either;

1) The violator has had no previous citations, but the violation involves activity directly in a wetland or watercourse, or

2) The violator has had a previous citation and the activity has had a physical impact on a wetland or watercourse, but the violation does not involve activity directly in a wetland or watercourse.

$ 750 Same circumstances as above for the $500 violation, but this is the violator's third offense.

$1000 for all other violations.

The failure to comply with any provision of an enforcement order shall constitute a separate violation and shall be subject to a separate citation and fine.

IWC Regulations

APPENDIX

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, conservation, 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, or waterways 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, on leased, franchised, and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.

IWC Resources