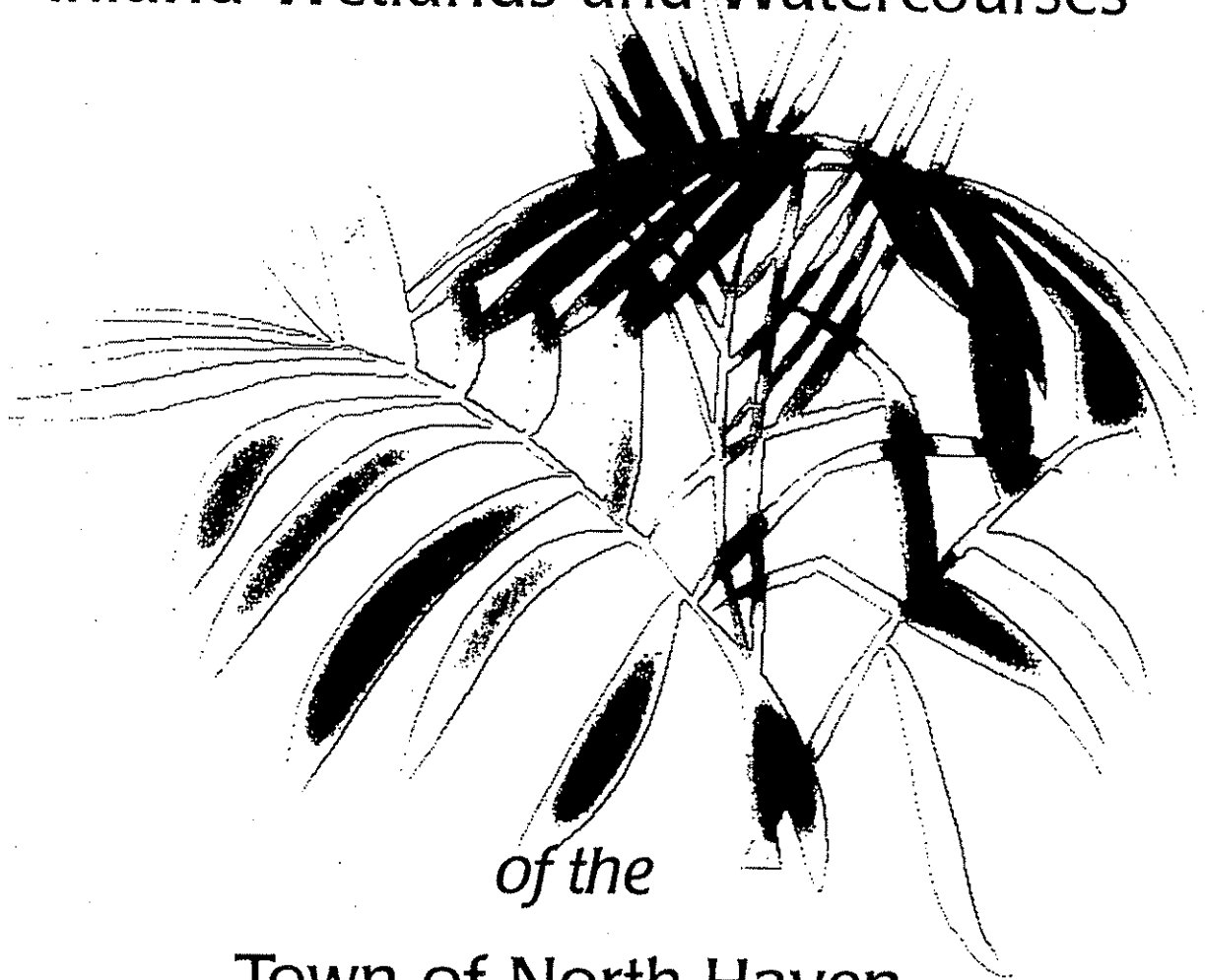
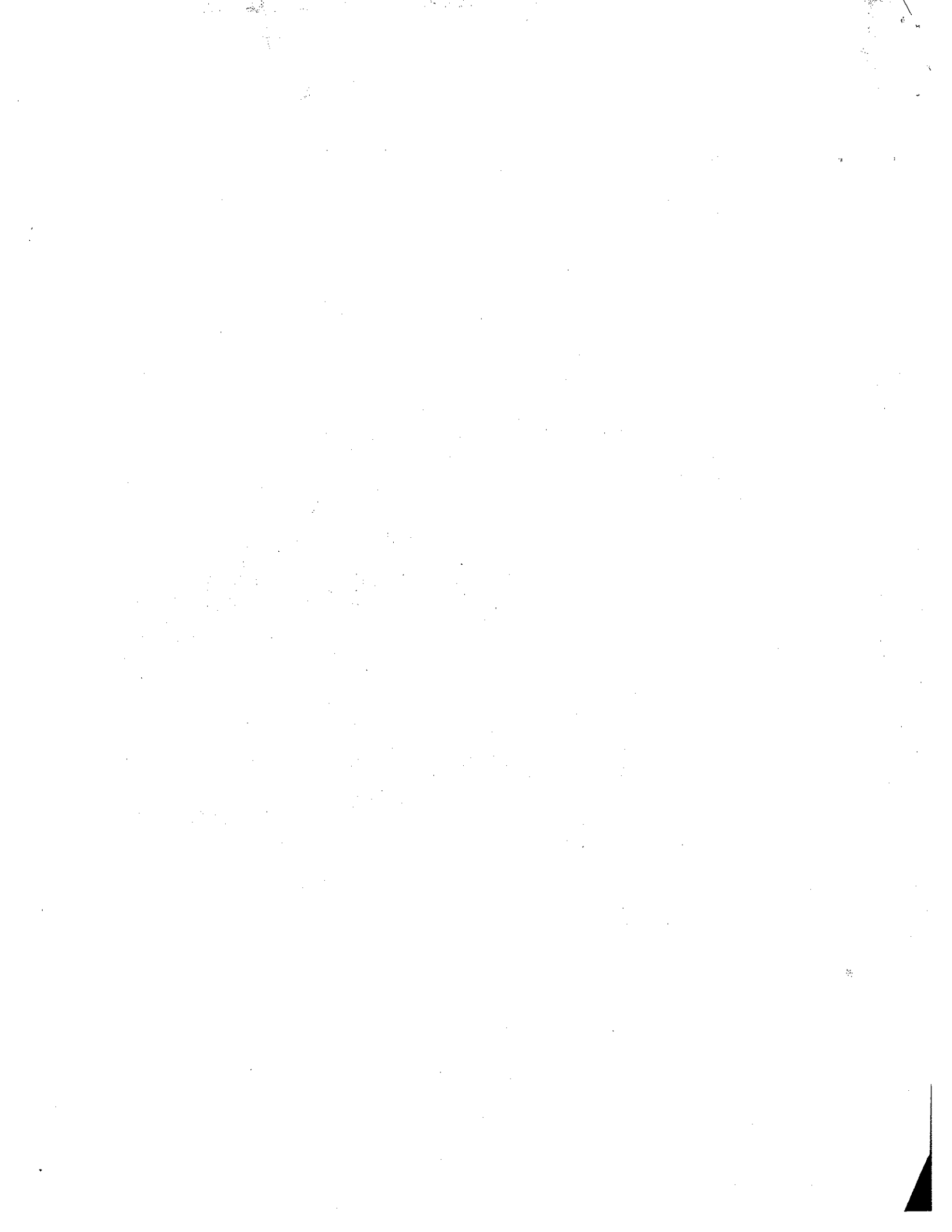


Regulations  
*for the*  
Protection and Preservation  
*of the*  
Inland Wetlands and Watercourses



*of the*  
Town of North Haven  
Connecticut



**REGULATIONS FOR  
THE PROTECTION AND PRESERVATION  
OF THE  
INLAND WETLANDS AND WATERCOURSES  
OF THE  
TOWN OF NORTH HAVEN, CONNECTICUT**

**ADOPTED: January 17, 1974**

**AMENDED: November, 19, 1997  
(In their entirety)**

**EFFECTIVE DATE: December 11, 1997**

**NORTH HAVEN INLAND WETLANDS COMMISSION**

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## AMENDMENTS

This copy of *The Regulations for the Protection and Preservation of the Inland Wetlands and Watercourses of the Town of North Haven, Connecticut* has been prepared to include amendments which are effective up to the date last listed on the title page.

The amendments that have been made since the adoption of the Regulations are as follows:

<b>Amendment Number</b>	<b>Adopted</b>	<b>Effective Date</b>	<b>Revised Sections</b>
1	11/20/75	11/21/75	4.3; 5.4; 5.6; 5.7; 6.2; 11.2; 11.3 and 15
2	03/26/81	04/01/81	5.1.A
3	04/25/84	004/25/84	5.6.B; 5.7.B and 9
4	07/24/91	08/01/91	1 - 19
5	09/25/91	10/09/91	8.3
6	01/27/93	02/10/93	8.2
7	03/24/93	04/01/93	9.3.1
8	05/24/95	06/19/95	2.1
9	11/19/97	12/11/97	Entire Regulation

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## SECTION I TITLE AND AUTHORITY

### 1.1 Purpose

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

### 1.2 Title

These regulations shall be known as the "Regulations For the Protection and Preservation of the Inland Wetlands and Watercourses of the Town of North Haven, Connecticut" and are hereinafter referred to as the "Regulations."

### 1.3 Authority

1.3.1 These Regulations have been prepared and are adopted in accordance with the provisions of the "Inland Wetlands and Watercourses Act," Sections 22a-36 to 22a-45 inclusive, of the Connecticut



General Statutes, as amended, and in accordance with the provisions of an ordinance of the Town of North Haven enacted at a Town Meeting held February 6, 1973, establishing an Inland Wetlands Commission, pursuant to Public Act 155 of the 1972 session of the General Assembly.

- 1.3.2 The Inland Wetlands Commission of the Town of North Haven, hereinafter referred to as the "Commission," shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with modifications and deny permits for all regulated activities on inland wetlands and watercourses in the Town of North Haven.
- 1.3.3 These Regulations may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these Regulations.
- 1.3.4 The use of all regulated areas in the Town of North Haven shall be subject to these Regulations.

## SECTION II DEFINITIONS

### 2.1 Definitions as Used in These Regulations:

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

"**Alluvium**" means earth, sand, gravel and other transported matter which has been washed away and deposited by flowing water.

"**Applicant**" shall mean an individual, partnership, firm, corporation, legal entity or agent of any kind, including the Town of North Haven and other municipal corporations, governmental agencies or subdivision thereof, who proposes to undertake a regulated activity as defined in these Regulations, and who submits an application to the Commission.

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

"**Bogs**" are areas distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

"**Boundary Map**" means the map of regulated areas entitled "Official Designated Inland Wetlands and Watercourses Map for the Town of North Haven." This map delineates the general location and boundaries of regulated inland wetlands and the general location of watercourses. Copies of this map shall be on file in the Land Use Office and available for public inspection.

"**Clear-cutting**" means the harvest or removal of the majority of the timber in a fashion which removes all trees larger than a two-inch diameter measured at a height of four (4) feet.

"**Commission**" means the Inland Wetlands Commission of the Town of North Haven.

"**Commission member**" means a member or alternate member of the Inland Wetlands Commission of North Haven.

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

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

"**Date of Approval**" means the date the decision of approval as published in the newspaper having general circulation in the Town of North Haven.

"**Date of Receipt**" means the day an application is considered filed with the Inland Wetlands Commission as stated in Section 8.3 of these Regulations.

"**Detritus**" means a rubbing away, from to rub or wear away. In geology, fragments of rock, etc., produced by disintegration or wearing away debris; any fragmentary material, and waste disintegrated matter.

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

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

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

"**Disturb the natural and indigenous character of the land**" means to alter the inland wetlands or watercourses by reason of removal or deposition of material, clear-cutting, alteration or obstruction of water flow or will result in the pollution of the wetlands or watercourses.

"**Dock**" means permanent or temporary floating structure, wharf or platform attached to land consisting of but not limited to wood, fiberglass, steel, plastic, Styrofoam, formboard, or similar material by which a boat or other water craft is secured in place.

"**Erosion**" means the wearing away of the earth's surface, as by floods, heavy rains, water or wind.

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

"**Farming**" means use of land for the growing of crops, raising of livestock or other agricultural uses.

"**Feasible**" means able to be constructed or implemented consistent with sound engineering practices.

"**Floodplain**" means a normally dry land area that is subject to partial or complete inundation by the overflow of inland water and/or the unusual and rapid accumulation of stormwater runoff or surface waters from any source.

"**Forestry**" means silviculture and harvesting or logging of trees for sale as Christmas trees, firewood, poles, lumber, chips, or mulch.

"**Hydrophytic vegetation**" means macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

"**Land Use Office**" is the administrative office of the Town of North Haven for the Inland Wetlands Commission.

"**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 these Regulations under the authority of the Inland Wetlands Commission.

**"Logging"** means the cutting of timber for firewood, poles, lumber, chips, or mulch. It includes the felling and limbing of trees, the disposition of unwanted parts of trees, and the transporting, hauling or dragging of wood from a site of tree-felling to a Town or State road.

**"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:

1. Erosion and sedimentation controls;
2. Restrictions on land use or development;
3. Construction setbacks from wetlands or watercourses;
4. Proper disposal of waste materials;
5. Procedures for equipment maintenance to prevent fuel spillage;
6. Construction methods to prevent flooding or disturbance of wetlands and watercourses;
7. Procedures for maintaining continuous stream flows; and
8. Confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

**"Marshes"** are area with soils that exhibit aquatic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.

**"Material"** means any substance, solid or liquid, organic or inorganic, including, but not limited to, soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse, waste or slash and other by-products including wood chips from logging and forest practice operations.

**"Mooring"** means a device including but not limited to a line, cable or chain connected to a floating structure and a yachtsman's grapnel or mushroom or other type of anchor by which a boat or other water craft is secured in place.

**"Nurseries"** means land used for propagating trees, shrubs or other plants for transplanting, sale or for use as stock for grafting.

**"Owner"** means a holder of an interest in the subject property, whether in fee, or as a purchaser under a contract to purchase.

**"Permit"** means the whole or any part of any license, certificate or approval or similar form of permission which may be required of any person by the provisions of these Regulations under the authority of the Commission.

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

**"Person"** means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporation, government agencies or subdivision thereof.

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

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

**"Regulated Activity"** means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in Section 4 of these Regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removal of material and discharging of stormwater on the land within fifty (50) feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity. Regulated activities shall also include:

1. The installation or repair of any subsurface sewage disposal system within any wetlands or watercourses or within fifty (50) feet of said wetlands or watercourses;
2. Any operation within 50 feet of said wetlands or watercourses involving the use or storage of petrochemicals, petrochemical products, pesticides, herbicides, hazardous wastes (as defined in Section 22a-115 of the Connecticut General Statutes, as amended) or other similar products or substances in a manner such that their use or storage may allow them to enter and adversely affect the inland wetlands and watercourses. Any of the above occurring within 50 feet of said wetlands or watercourses must be reviewed pursuant to Section 4 of these Regulations for determination as to whether a formal application must be filed.
3. Any activity that occurs in non-wetland upland or non-watercourse areas that is likely to impact or affect inland wetlands or watercourses.

**"Regulated area"** means any wetlands or watercourses, as defined in these Regulations.

**"Remove"** includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear-cut timber, bulldoze, dragline or blast.

**"Rendering unclean or impure"** means any alteration of the physical, chemical or biological properties of any water 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.

**"Significant impact activity"** means any activity including, but not limited to, the following activities which may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland wetlands or watercourse system:

1. Any activity involving the deposition or removal of material which will or may have a major effect or significant impact on the regulated area or another part of the inland wetlands or watercourse system; or
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system; or
3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life; or to prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space; or to perform other functions; or
4. Any activity which causes substantial turbidity, siltation or sedimentation in a wetland or watercourse; or
5. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area; or
6. Any activity which causes or has the potential to cause pollution of a wetland or watercourse; or
7. Any activity which destroys unique wetland or watercourse areas having demonstrable scientific or educational value.

**"Siltation"** means an accumulation of silt or mud which causes choking, filling or obstruction.

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

**"Surveys and Maps"** means surveys and maps as defined by the Connecticut Association of Land Surveyors:

1. Class A-1: Accuracy of survey to be used in areas where density and other factors warrant a high degree of accuracy. 1:10,000 position accuracy.
2. Class A-2: Accuracy of survey to be used in areas where density and other factors warrant a moderate degree of accuracy. 1:5,000 position accuracy
3. Class D: Shall be defined as such on map in bold letters 3/16" high and shall include the following statement: "The map is compiled from other maps, deed dimensions and other sources of information, is not to be construed as an accurate survey, and is subject to final changes as a more accurate survey may disclose.

**"Swamps"** are areas with soils that exhibit aquatic moisture regimes and are dominated by wetland trees, shrubs and herbaceous plants including but not limited to skunk cabbage, jack-in-the-pulpit, buttonbush, alder, willow, dogwood, viburnum, black-berried elder, sweetgale, leatherleaf, steeplebush, winterberry, shadbush, purple chokecherry, spicebush, sweet pepperbush, highbush blueberry, white swamp azalea, red maple, silver maple, black ash, hemlock, white pine, tupelo, yellow birch, swamp white oak, pin oak, and larch.

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

"**Town**" means the Town of North Haven.

"**Turbidity**" means that sedimentation is stirred up and resuspended in the water column creating a muddy or cloudy condition.

"**Waste**" means sewage or any other substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses of the Town.

"**Watercourses**" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town of North Haven or any portion thereof not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, as amended. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of *two* or more of the following characteristics:

1. The evidence of scour or deposits of recent alluvium or detritus;
2. The presence of standing or flowing water for a duration longer than a particular storm incident; and
3. The presence of hydrophytic vegetation.

"**Wetlands**" means land, including submerged land as defined in this section of these Regulations, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded or excavated sites which possess an aquic (i.e., saturated) soil moisture regime as defined by the USDA National Cooperative Soil Survey.

**SECTION III  
INVENTORY OF REGULATED AREAS**

**3.1 Designated Inland Wetlands and Watercourses of the Town of North Haven**

- 3.1.1 The map of regulated areas entitled "Designated Inland Wetlands and Watercourses for the Town of North Haven" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map shall be on file in the Land Use Office and herein be referred to as the Boundary Map, and available for public inspection.
- 3.1.2 In all cases the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses. Such determination shall be made by field inspection and testing conducted by a soil scientist, where soil classifications are required, or by any qualified individuals, where watercourse determinations are required. In addition, the Commission may use aerial photographs, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.

**3.2 Disputes Over Designated Wetlands and/or Watercourses**

- 3.2.1 Any property owner who disputes the designation of any part of his or her land as a regulated area on the Boundary Map, may petition the Commission to change the designation in accordance with Section 15 of these Regulations.
- 3.2.2 All petitions for a Boundary Map change shall be submitted in writing and include all relevant facts and circumstances which support the change.
- 3.2.3 The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with Section 15.3 of these Regulations may be required of the property owner when the Commission requires an accurate delineation.

**3.3 Amending the Boundary Map**

- 3.3.1 The Land Use Office shall inventory and maintain records of all regulated areas within the Town. Any person may petition the Commission for an amendment to the Boundary Map. Petitioners shall bear the burden of proof for all requested map amendments. Such proof may include, but not be limited to aerial photographs, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.
- 3.3.2 In accordance with Section 15 of these Regulations, the Commission may amend the Boundary Map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the Town.
- 3.3.3 Such map amendments are subject to the public hearing process outlined in Section 9 of these Regulations.



**SECTION IV**  
**PERMITTED USES AS-OF-RIGHT AND NONREGULATED USES**

**4.1 Uses Permitted As-of-Right**

The following operations and uses shall be permitted in inland wetlands and watercourses, *as-of-right*. All activities in the regulated area involving filling, excavating, dredging, clear-cutting, clearing, or grading or any other alteration or use of the regulated area not specifically permitted in this section of the Regulations and otherwise defined as a regulated activity by these Regulations shall require a permit from the Commission in accordance with Section 6 of these Regulations.

- 4.1.1 Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three (3) acres or less essential to the farming operation. The provisions of this Section shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands and watercourses with continual flow, clear-cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purpose of sale;
- 4.1.2 A residential home (a) for which a building permit has been issued or (b) on a subdivision lot (provided the permit has been issued or the subdivision has been approved by the Planning and Zoning Commission of the Town of North Haven as of the effective date of promulgation of the Town of North Haven's Regulations pursuant to subsection (b) of Section 22a-42a of the Connecticut General Statutes, or as of January 17, 1974 and further provided no residential home shall be permitted as-of-right pursuant to this section unless the building permit was obtained on or before July 1, 1987. The individual claiming a use of wetlands and/or watercourses as a permitted as-of-right use under this section shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement;
- 4.1.3 Boat anchorage or mooring, not to include any removal or deposition of material, alteration, draining or dredging of regulated areas to locate and construct a boat anchorage or mooring or to construct, remove, alter or repair a dock pier, wharf, or bulkhead;
- 4.1.4 Uses incidental to the enjoyment and maintenance of residential property, such property defined as equal to or smaller than that required in the R-40 district, as defined by the Planning and Zoning Regulations of the Town of North Haven as amended, and containing a residence. Such incidental use shall include maintenance of existing structures and landscaping, but shall not include: installation of swimming pools (in-ground or above-ground) or tennis courts, new structures or storage sheds within wetlands; removal or deposition of substantial amounts of material from or into a wetland or watercourse; or diversion or alteration of a watercourse.
- 4.1.5 Construction and operation, by water companies, as defined by Section 16-1 of the Connecticut General Statutes or by the municipal water supply systems as provided for in Chapter 102 of the

Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-410 of the Connecticut General Statutes.

- 4.1.6 Maintenance, by the Town of North Haven, of dams, reservoirs, storm sewers, culverts, existing ditches and watercourses.
- 4.1.7 Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this section, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.

## **4.2 Uses Permitted as Nonregulated Activities**

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

- 4.2.1 Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.
- 4.2.2 Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing and cross country skiing where otherwise legally permitted and regulated. A permit shall be required if, in constructing or developing any of the above uses, any regulated activity as defined in Section 6 of these Regulations is involved.

## **4.3 Procedure for Conducting a Permitted Use As-of-Right or Uses Permitted As Nonregulated**

- 4.3.1 To carry out the purposes of this section, any person proposing to carry out a permitted use as-of-right or to conduct a nonregulated operation or use of a wetland or watercourse that may disturb the natural and indigenous character of the wetlands or watercourses, shall prior to commencement of such operation or use, submit a form to the Land Use Office of their intent.
- 4.3.2 The form shall be provided by the Land Use Office of the Town of North Haven and shall be entitled "Request to Carry Out A Permitted Use as-of-right or Uses Permitted as Nonregulated" and shall provide sufficient information to enable the Land Use Administrator to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetlands or watercourses.

- 4.3.3 The Land Use Administrator shall review the form and rule that the proposed operation or use is a permitted use as-of-right or a use permitted as nonregulated or that a permit to conduct a regulated activity is required.
- 4.3.4 The ruling shall be in writing and shall be made no later than 35 days following the date of receipt, as defined in Section 8.3, by the Land Use Office.
- 4.3.5 A file of all such requests shall be kept in the Land Use Office. All such applications and subsequent rulings shall be reported to the Commission at the regularly scheduled meetings.

## SECTION V

### ACTIVITIES REGULATED BY THE STATE AND FEDERAL GOVERNMENTS

#### 5.1 Activities Regulated by the Commissioner of Environmental Protection

In addition to any permit or approval required by the Commission, the Commissioner of Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:

- 5.1.1 Construction or modification of any dam pursuant to Sections 22a-401 through 22a-410 of the Connecticut General Statutes, as amended;
- 5.1.2 Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349 of the Connecticut General Statutes, as amended;
- 5.1.3 Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state pursuant to Sections 22a-359 through 22a-363 or in designated tidal wetlands pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended;
- 5.1.4 Diversion of water including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day, or any change in the instantaneous flow of any surface waters of the state where the tributary watershed area above the point of diversion is 100 acres or larger pursuant to Sections 22a-365 through 22a-378 of the Connecticut General Statutes, as amended; and
- 5.1.5 Discharges into the waters of the state pursuant to Section 22a-430 of the Connecticut General Statutes, as amended.

#### 5.2 Commissioner of Environmental Protection's Jurisdiction

- 5.2.1 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
- 5.2.2 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education who must obtain any required local permits, after an advisory decision on such license or permit has been rendered to the Commissioner by the Inland Wetlands Commission of the Town of North Haven, or thirty five (35) days after receipt by the Commissioner of such application, whichever occurs first.
- 5.2.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities authorized under a dam repair or removal order issued by Commissioner of Environmental Protection under Section 22a-402 or a dam construction permit issued by the Commissioner of Environmental Protection under Sections 22a-403 or 22a-41 of the Connecticut

General Statutes. Any person receiving such dam repair or removal order or dam construction permit shall not be required to obtain a permit from the Commission for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.

### **5.3 U.S. Army Corps of Engineer's Jurisdiction**

- 5.3.1 Discharge of fill or dredged materials into wetlands and watercourses of the state pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.
- 5.3.2 The Federal Clean Water Act gives the U.S. Army Corps of Engineers (COE) and the U.S. Environmental Protection Agency authority to regulate the use of wetlands. Under the Act's Section 404 program, applicants must apply to the COE to discharge dredged or fill material in federal jurisdictional wetlands. The Federal Government has developed a three-pronged test to determine wetland areas are regulated by COE. In general, an area must show elements of the following three criteria to be considered a wetland under the federal program: (1) hydrophytic vegetation; (2) hydric soils; and (3) hydrology. The COE has established a methodology for determining these criteria in the field. Activities necessitating a Section 404 permit include placement of fill, including temporary fill for structures, causeways, roads, driveways, dams and dikes, property protection devices such as riprap and retention walls, and pond creation. Therefore, an applicant or owner must determine if his or her property has any federal jurisdictional wetlands prior to any filling activities. If an activity in a wetland is regulated by Section 404, a permit from COE must be secured before construction can begin.

**SECTION VI  
REGULATED ACTIVITIES TO BE LICENSED**

**6.1 Licensing of Regulated Activities**

6.1.1 No person shall conduct or maintain a regulated activity without first obtaining a license, herein referred to as a permit, for such activity from the Inland Wetlands Commission of the Town of North Haven.

**6.2 Penalty for Conducting a Regulated Activity Without a Permit**

6.2.1 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Inland Wetlands Commission shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these Regulations.

**6.3 Activities that Constitute a Regulated Activity**

6.3.1 Any operation within a wetland or watercourse or use of a wetland or watercourse or within fifty (50) feet of a wetland or watercourse involving:

- a. Removal of material;
- b. Deposition of material;
- c. Obstruction;
- d. Construction;
- e. Alteration;
- f. Pollution;
- g. Excavation;
- h. Dredging;
- i. Clear-cutting;
- j. Grading and excavating; and
- k. Any other alterations or uses of a wetland or watercourse or within fifty (50) feet of said wetlands or watercourses not specifically permitted in Section 4 of these Regulations.

6.3.2 Any activity that occurs in non-wetland upland or non-watercourse areas that is likely to impact or affect inland wetlands or watercourses.

## SECTION VII APPLICATION REQUIREMENTS

### 7.1 Application for Wetlands Permit

Any person intending to conduct a regulated activity or renew or amend a permit to conduct such activity shall apply for a permit on a form provided by the Commission and entitled "Town of North Haven Inland Wetlands Commission, Application for an Inland Wetlands Permit (Form A)".

- 7.1.1 Application forms may be obtained in the Land Use Office of the Town of North Haven.
- 7.1.2 It is the responsibility of the applicant to provide all the information that is necessary for a fair and informed determination by the Commission.
- 7.1.3 The information required by the Commission shall be furnished in sufficient copies to permit the Commission to carry out its duties under these Regulations. ~~Fourteen (14) copies of the application form, site plans and soil scientist reports and other required reports or other information shall be submitted to the Commission.~~
- 7.1.4 All information submitted in the application for review shall be considered factual, or in the case of anticipated activity, binding. A knowing failure of the applicant, or any agent of the property owner, to provide correct information, or performance exceeding the levels of activity anticipated, shall be sufficient grounds for the revocation of any permit under these Regulations and/or for penalties to be imposed. Each day of violation or deception shall be considered as a separate offense.
- 7.1.5 If an application to the Town of North Haven Planning and Zoning Commission for special permit, site plan approval and subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Sections 8-3(g), 8-3c or 2-26, as applicable, of the Connecticut State Statutes, as amended, submit an application for a permit to the Commission in accordance with this section, no later than the day the application is filed with the Planning and Zoning Commission.

### 7.2 Informal Presentation

- 7.2.1 The applicant may appear before the Commission, as an informal application, to determine whether or not the proposed application involves a significant activity or regulated activity. Whenever possible, such determination shall be made after the informal presentation.

### 7.3 Information Required for all Applications

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

- 7.3.1 Applicant's name, home and business address, and phone number;

- 7.3.2 Owner's name, name and business address, phone number and written consent if the applicant is not the owner of the property involved in the application;
- 7.3.3 Applicant's interest in the land;
- 7.3.4 A location/vicinity map with a scale of 1" = 800', a legend, the drawing scale and a north arrow.
- 7.3.5 A description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses and area(s) within fifty (50) of the wetlands and watercourses to be disturbed, soil type(s) and wetland vegetation;
- 7.3.6 The purpose and 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, (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
- 7.3.7 Discussion of the alternatives considered and subsequently rejected by the applicant and why the alternative as set forth in the application was chosen; all such alternatives shall be diagrammed on a site plan or drawings detailing these alternatives;
- 7.3.8 A certified site plan showing contours at 2' intervals of existing and proposed conditions in relation to wetlands and watercourses of a maximum 24" X 36" size and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
- 7.3.9 Names and mailing addresses of adjacent property owners;
- 7.3.10 Certification that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
- 7.3.11 Authorization for the Commissioners and agents of the Commission to inspect the property, at reasonable times, both before and after a final decision has been issued;
- 7.3.12 A completed original DEP reporting form; the Commission shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies;
- 7.3.13 Any other information the Commission deems necessary to understand what the applicant is proposing; and
- 7.3.14 Submission of the appropriate filing fee as set out in Section 19 of these Regulations.



## 7.4 Additional Information Required When a Proposed Activity Involves a Significant Impact Activity

7.4.1 If the proposed activity involves a significant impact activity as determined by the Commission, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required:

- a. **Site plans.** Site plans must be drawn by the appropriate professional such as a licensed surveyor, professional engineer or landscape architect, registered in the State of Connecticut, showing the following:
  1. Property and location of the property to be affected (an A-2 survey may be requested), showing existing and proposed conditions, including but not limited to roads, drives, structures, utilities, floodplain areas, existing protected open space lands, conservation easements, vegetative cover, wetland and/or watercourse boundaries, including the fifty (50) foot setback area, land contours, boundaries of land ownership;
  2. Proposed use or operation;
  3. Proposed alterations and uses of wetlands and/or watercourses, including uses and operations within the fifty (50) foot setback area; and
  4. Other pertinent features of the land such as location of prominent features such as bedrock outcrops, stone walls, specimen or large trees and existing buildings and drives, and the proposed activity and development, including soil erosion and sedimentation control measures, stormwater detention and water quality improvements structures, and proposed management procedures and mitigation measures, including but not limited to wetland wildlife habitat plantings.
- b. **Engineering/Stormwater Drainage Reports.** Engineering reports and analyses and additional drawings including regional watershed and drainage maps and water quality shall be provided to fully describe the proposed project, anticipated water quantity impacts and proposed mitigation measures to protect water quality, and any filling, excavating, drainage or hydraulic modifications to wetlands or watercourses and the proposed erosion and sediment control plan.
- c. **Soils Report and Mapping.** A soil report and mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service. The wetlands and watercourses shall be delineated and flagged in the field by a soil scientist and that the field delineation be incorporated onto the site plan by a licensed surveyor.
- d. **Environmental Assessment Report(s).** Environmental Assessment Reports shall be provided describing the ecological communities and functions of the wetlands or watercourses including the fifty (50) foot setback area involved with the application and the effects of the proposed regulated activities on these communities and

wetland/watercourse functions. The Environmental Assessment Reports shall also describe how the proposed project will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses and the fifty (50) foot setback involved in the application. The Environmental Assessment Reports shall also provide information on the proposed regulated activities' impact on wetland fish and wildlife habitat and species, wetland vegetative characteristics and function, and groundwater flows to wetlands and watercourses.

- e. **Alternative Analysis Report and Alternative Plans.** The applicant shall describe how the proposed regulated activities will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative, and describe why each alternative considered was deemed neither feasible nor prudent.
- f. **Analysis of Fill Material.** The applicant shall provide an analysis of chemical or physical characteristics of any proposed fill material.
- g. **Wetland Mitigation Report and Plan.** The applicant shall describe the measures which mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses and fish and wildlife habitats, and functions which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.
- h. **Written Description of the Proposed Construction Process and Sequence.**

## 7.5 Certification by Applicant

7.5.1 The applicant shall certify whether:

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

## 7.6 Permit Renewals or Amendments

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

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

7.6.2 Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years.

## SECTION VIII

### APPLICATION PROCEDURES

#### 8.1 Submission of Application

- 8.1.1 All applications shall be submitted to the Inland Wetlands Commission at the Land Use Office of the Town of North Haven.
- 8.1.2 No application shall be deemed complete unless it shall be in such form and contain such information as the Commission deems necessary for a fair determination of the issues. The Commission shall inform the applicant of such necessary information without delay. The Commission shall inform the applicant, in writing, upon completion of their application.
- 8.1.3 Incomplete applications may be denied by the Commission.

#### 8.2 Application Notification Requirements

##### 8.2.1 Notification of Adjoining Landowner(s)

- a. The *applicant*, or his agent, shall notify the property owners of any parcels of land that are within 100 feet of the parcel for which an application, petition, request or plan concerning any project on the site is pending and requires a public hearing by the Commission.
- b. Applications to amend these Regulations and applications that do not require a public hearing shall be exempt from this notification requirement.
- c. Notifications shall be made by certified mail and shall be mailed no more than fifteen (15) days nor less than ten (10) days before the public hearing.
- d. The notification is to be sent to the owner(s) of record as recorded at the Office of the Town Assessor.
- e. Verification of notification shall be submitted to the Land Use Office no later than ten (10) days before the public hearing at which time the application will be presented to the Commission.
- f. To comply with Section 8.2.1, above, all of the following shall be submitted:
  - 1. A list of all the names and addresses of all the property owners within 100 feet of the parcel for which an application has been submitted.

2. A copy of a block map denoting the parcel for which an application has been submitted and all parcels of land within 100 feet of the application site.
3. A copy of the letter sent describing the proposed activity; the date, time and place of the public hearing; and, the name of the applicant and the name of the owner of record of the parcel for which an application has been submitted.
4. All of the postal certification slips that have been stamped with the date the letters were mailed.

8.2.2 **Notification of Adjacent Municipalities.** When an application to conduct or cause to be conducted a regulated activity upon any inland wetlands or watercourses, including the 50 foot setback is filed and any portion of such wetlands or watercourses including the 50 foot setback, is within five hundred (500) of the boundary of East Haven, Hamden, New Haven, North Branford or Wallingford, the *applicant* shall give written notice of the application by certified mail, return receipt requested on the same day to the inland wetland agency of such other municipality. Documentation of such notice shall be provided to the Commission (in accordance with Section 22a-42c of the Connecticut General Statutes, as amended) no later than ten (10) days before the public hearing and entered into the hearing.

8.2.3 **Notification of Water Company to conduct a regulated activity within the watershed.** When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 16-1 of the Connecticut General Statutes, the *applicant* shall provide written notice of the application to the water company, provided such water company has filed a map showing the boundaries of the watershed on the land records of the Town of North Haven and with the Inland Wetlands Commission in the Land Use Office. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven (7) days of the actual date of submission of the application. Documentation of such notice shall be submitted to the Land Use Office and be filed as part of the application. The water company, through a representative, may appear and be heard at any hearing on the application.

8.2.4 **Commission's Requirements for Notifying Town Clerk of an Adjacent Municipality.** The Land Use Administrator will, on behalf of the Commission and in accordance with Connecticut General Statutes Section 22a-42b notify the clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:

- a. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;

- b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- c. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or,
- d. Water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Notice of the pendency of such application shall be mailed within seven (7) days of the date of receipt of the application, as defined in Section 8.3.

**8.2.5 Commission's Requirement for Notifying the Office of Long Island Sound Programs of the Department of Environmental Protection.** No less than thirty-five (35) days before the public hearing begins, the Land Use Administrator will, on behalf of the Commission, notify the Office of Long Island Sound Programs of the Department of Environmental Protection of any application to amend these Regulations or any application to amend the Town of North Haven Inland Wetlands and Watercourses Boundary Map where the wetlands or watercourses are partially or entirely within the coastal boundary. Proof of such notification and any report returned by the DEP to the Commission shall be entered into the public hearing.

### **8.3 Date of Receipt of Application**

- 8.3.1 The date of receipt for applications to amend the Regulations or amend the Town of North Haven Inland Wetlands and Watercourses Boundary Map shall be the actual day the application is filed in the Land Use Office.
- 8.3.2 The date of receipt for applications involving wetland or watercourse activities or referral applications shall be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission to the Commission, provided such meeting is no earlier than three business days after receipt, or thirty-five (35) days after such submission, whichever is sooner.

### **8.4 Commission's Right to Request Additional Information**

- 8.4.1 At any time during the review period, the Commission may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application, or the wetlands or watercourses affected by the regulated activity. Requests for additional information shall not stay the time limitations as set forth in Section 11.2 of these Regulations.

## **8.5 Public Inspection**

All applications shall be open for public inspection.

## SECTION IX

### PUBLIC HEARINGS

#### 9.1 Applications That Require a Public Hearing

- 9.1.1 The Commission shall not hold a public hearing on an application unless the Commission determines that the proposed activity may have a significant impact on wetlands or watercourses including the 50 foot setback or a petition signed by at least twenty-five (25) persons requesting a hearing is filed with the Commission not later than fifteen (15) days after the date of receipt of such application or the Commission finds that a public hearing regarding such application would be in the public interest. Such hearing shall be held no later than sixty-five (65) days after receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any public hearing.
- 9.1.2 Application to amend the "Regulations for the Protection and Preservation of the Inland Wetlands and Watercourses of the Town of North Haven," in accordance with Sections 15.4 and 15.6 of these Regulations.
- 9.1.3 Application to amend the official map entitled the "Designated Inland Wetlands and Watercourses for the Town of North Haven," in accordance with Sections 15.5 and 15.6 of these Regulations.

#### 9.2 Applications That Do Not Require a Public Hearing

- 9.2.1 Referral application, in accordance with the State Statutes, for a site plan or subdivision where no regulated activity is proposed and a report must be submitted by the Inland Wetlands Commission before the Planning and Zoning Commission may render a final decision.

#### 9.3 Public Hearing Notice Requirements

- 9.3.1 **Application to Amend Regulations or Amend Wetlands Boundary Map.** Notice shall be published in a newspaper, having substantial circulation in North Haven, 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 such hearing. A copy of such proposed boundary change shall be filed in the office of the town clerk for public inspection at least ten (10) days before such hearing.
- 9.3.2 **Application for a Regulated Activity.** Notice shall be published in a newspaper, having a general circulation in each town where the affected wetlands and watercourses are located, 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 before the public hearing; and the last not less than two (2) days before the date set for the hearing.

9.3.3 All notification requirements of Section 8.2 must be met.

#### **9.4 Time Schedule for Holding a Public Hearing for Application to Amend Regulations or Amend the Wetlands Boundary Map**

- 9.4.1 Within ninety (90) days of actual receipt of a petition to amend the Regulations or for a change in the mapped boundaries of any wetlands or watercourses, the Commission shall hold a public hearing to consider the petition.
- 9.4.2 The public hearing shall be concluded within forty-five (45) days after it commences.
- 9.4.3 The Commission shall act upon the changes requested in such petition within sixty (60) days after the close of the hearing.
- 9.4.4 The petitioner may consent to one or more extensions of the periods specified in this section for the holding of the hearing and for action on such petition, provided the total extension of any such period shall not be longer than the original period as specified in this section, or may withdraw such petition.
- 9.4.5 The applicant shall be notified of the Commission's decision within fifteen (15) days via certified return receipt requested mail.

#### **9.5 Time Schedule for Holding a Public Hearing for a Regulated Activity**

- 9.5.1 The public hearing shall commence no later than sixty five (65) days after date of receipt, as defined in Section 8.3 of these Regulations, of an application. In the case of any application which is subject to the notification provisions of this section of the Regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality (ies) has received notice of the pendency of the application. Proof of such notice shall be entered into the hearing record.
- 9.5.2 The hearing shall be completed within forty-five (45) days of commencement.
- 9.5.3 Action shall be taken on applications within thirty-five (35) days after completion of a public hearing.
- 9.5.4 The applicant may consent to one or more extensions of the periods specified in this section for the holding of the hearing and for action on such petition, provided the total extension of any such period shall not be longer than the original period as specified in this section, or may withdraw such application.

9.5.5 The applicant shall be notified of the Commission's decision within fifteen (15) days via certified return receipt requested mail.

## SECTION X

### CONSIDERATIONS FOR DECISION

#### 10.1 Items for Consideration

10.1.1 The Commission shall consider the following in rendering a decision on an application:

- a. The application and its supporting documentation;
- b. Public comments, evidence and testimony;
- c. Reports from other agencies and commissions including, but not limited to, the Town of North Haven's:
  1. Land Use Administrator;
  2. Town Engineer;
  3. Conservation Commission;
  4. Planning and Zoning Commission;
  5. Building Official;
  6. Public Works Official; and
  7. Quinnipiac Valley Health District.
- d. Comments or reports from:
  1. New Haven County Soil and Water Conservation District;
  2. South Central Regional Council of Governments;
  3. Connecticut Department of Environmental Protection;
  4. Other regional organizations;
  5. Agencies in adjacent municipalities which may be affected by the proposed activity; and
  6. Other technical agencies or organizations which may undertake additional studies or investigations.

10.1.2 Nonreceipt of comments from agencies and commissions listed in Sections 10.1.1.c and 10.1.1.d above, within the prescribed time, shall neither delay nor prejudice the decision of the Commission.

## 10.2 Criteria for Decision

10.2.1 In carrying out the purposes and polices of Section 22a-36 to 22a-45, inclusive of the Connecticut General Statutes and these Regulations, including matters relating to regulating, licensing and enforcing the provisions thereof, the Commission shall consider all relevant facts and circumstances in making its decision on any application for a permit including, but not limited to, the following:

- a. The *environmental impact* of the proposed regulated activity on wetlands or watercourses, including the effects on the inland wetlands' and watercourses' capacity to support fish and wild life, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety.
- b. The applicant's purpose for and any *feasible and prudent alternatives* to the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses including a consideration of alternatives which might enhance environmental quality and which could feasibly attain the basic objectives of the activity proposed in the application. This consideration should include, but is not limited to, the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.
- c. The *relationship between short-term and long-term impacts* of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.
- d. *Irreversible and irretrievable loss of wetland or watercourse resources* which would be caused in the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- e. The *character and degree of injury to or interference* with, safety, health, or reasonable use of property, including abutting or downstream property, which is caused or threatened by the proposed regulated activity, or the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and

wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic recreational and other public and private uses and values of wetlands and watercourses to the community.

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

### **10.3 Rendering a Decision**

- 10.3.1 In the case of an application which received a public hearing pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding, the Commission shall consider the facts and circumstances set forth in Section 10.2 of these Regulations. The finding and the reasons therefor shall be stated on the record in writing.
- 10.3.2 In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands and watercourses, the Commission shall propose on the record in writing the types of alternatives which the applicant may investigate provided this section shall not be construed to shift the burden from the applicant to prove that he or she is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.3.3 In making this finding, the Commission shall consider the facts and circumstances set forth in Section 10 of these Regulations. In reaching its decision on any application after a public hearing, the Commission shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Commission in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his or her application is consistent with the purposes and policies of these regulations and Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.
- 10.3.4 This finding and the reasons therefor shall be stated in the record of the decision by the Commission.

## SECTION XI

### DECISION PROCESS AND PERMIT

#### 11.1 Decision Options

- 11.1.1 The Commission, or its duly authorized agent acting pursuant to Section 12 of these Regulations, may, in accordance with Section 10 of these Regulations, grant the application as filed or grant it upon such terms, conditions or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or the Commission may deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- 11.1.2 The Commission may deny an application without prejudice and may recommend modifications, amendments or corrections in the applicant's proposal. In the event of a denial without prejudice, the applicant may submit a new application or may seek judicial review, pursuant to Section 16 of these Regulations,
- 11.1.3 An application deemed incomplete by the Commission must either be withdrawn by the applicant or denied by the Commission

#### 11.2 Time Schedule for Rendering a Decision

- 11.2.1 If a public hearing is required, the requirements of Section 9 of these Regulations must be followed.
- 11.2.2 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.
- 11.2.3 The applicant may consent to one or more extensions of the periods specified in this section for the holding of the hearing and for action on such application, provided the total extension of any such period shall not be for longer than the original period as specified in this section, or may withdraw such application.
- 11.2.4 The failure of the Commission to act within any time period specified in this section, or any extension thereof, shall not be deemed to constitute approval of the application.

#### 11.3 Commission Must Record Decision

- 11.3.1 The Commission shall state upon the record the reasons and basis for its decision and, in the case of any public hearing, such decision shall be based fully on the

record of such hearing and shall be in writing and shall incorporate a statement relative to the consideration of feasible and prudent alternatives.

#### **11.4 Notifying the Applicant of the Decision**

- 11.4.1 The Land Use Administrator, acting on behalf of the Commission, shall notify the applicant of the decision by certified mail, return receipt requested, no later than fifteen (15) days after the decision is rendered.
- 11.4.2 The Land Use Administrator, acting on behalf of the Commission, shall cause notice of the Commission's decision to be published in a newspaper having general circulation in North Haven or any other town within 500 feet where the inland wetlands or watercourses lies.
- 11.4.3 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 (10) days thereafter.

#### **11.5 Requirement if Proposed Activity Requires Other Approvals or Permits**

- 11.5.1 If an activity authorized by an inland wetlands permit also involves an activity which requires zoning or subdivision approval, a special zoning permit, a variance or special exception, under Section 8-3(g), 8-3 or 8-26 of the Connecticut General Statutes, then a copy of the Commission's decision and report on the application shall be filed with the Town of North Haven Planning and Zoning Commission or Zoning Board of Appeals within fifteen (15) days of the actual date of the decision.
- 11.5.2 No work pursuant to the Inland Wetlands Commission permit may begin until such other approvals necessary are obtained.

#### **11.6 Modification of Application after Commission Renders a Decision**

- 11.6.1 If the Commission denies the permit, or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Commission's satisfaction.
- 11.6.2 The Commission shall determine whether the proposed modification requires the filing of a new application.
- 11.6.3 The rejection of a modified or corrected application by the Commission shall be equivalent to the denial of an application for the purpose of appeal.

#### **11.7 Duration of Permit**

- 11.7.1 The date of approval shall be the date the decision is published in the newspaper.

11.7.2 Any permit issued by the Commission for the development of land for which an approval is required under Sections 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five (5) years from the date of approval, as defined in Section 11.7.1 of these Regulations, provided that Commission may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Commission for any other activity shall be valid for not less than two (2) years and not more than five (5) years.

## **11.8 Expiration of Permit Approval**

11.8.1 If the activity for which a permit has been approved is not initiated within one (1) year from the date of approval, as defined in Section 11.7.1 of these Regulations, the approval shall expire.

11.8.2 The Commission may grant no more than two (2) six-month extensions to the approval.

## **11.9 Assignment or Transfer of Permit Approval**

11.9.1 No permit issued by the Commission shall be assigned or transferred without the prior written consent of the Commission.

## **11.10 Bond or Insurance Requirements**

11.10.1 If a bond or insurance is required, in accordance with Section 13 of these Regulations, no permit shall be issued until such bond or insurance is provided.

## **11.11 General Provisions in Issuance of All Permits**

11.11.1 If the Commission 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.

11.11.2 All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of North Haven, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state and municipal laws or Regulations pertinent to the property or activity.

11.11.3 The permittee shall take such necessary steps consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of the wetlands or watercourses.



**SECTION XII**  
**ACTION BY DULY AUTHORIZED AGENT**

**12.1 Delegation of Authority to Agent**

- 12.1.1 The Commission may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Commission and shall contain the information listed under Section 7.5 of these Regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9 and 11 of these Regulations, such agent may approve or extend such an activity at any time.
- 12.1.2 Any person 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 North Haven wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Commission within fifteen (15) days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three (3) business days after receipt by such Commission or its agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider such appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these Regulations.

## SECTION XIII BOND AND INSURANCE

### 13.1 Bond Requirement

- 13.1.1 Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Commission, be required to post a bond in such amount and in a form approved by the Commission.
- 13.1.2 The bond or surety shall be conditioned on compliance with all provisions of these Regulations and the terms, conditions and limitations established in the permit.

### 13.2 Insurance Requirement

- 13.2.1 The Commission may require the applicant to certify that it has public liability which might result from the proposed operation or use of the wetlands and/or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount commensurate with the regulated activity.
- 13.2.2 In the case of a continuing activity such as, but not limited to, the recycling of hazardous material, the operation of a salvage or junk yard, or any manufacturing firm or process which entails the discharge of treated liquids into any wetlands or watercourses, such person or corporation shall verify with the Commission, on an annual basis, by certified mail that such policy is still in effect and the required amount of liability is provided. Failure to do so will be considered prima facie grounds for revocation of the permit by the Commission.

## SECTION XIV ENFORCEMENT

### **14.1 Commission May Appoint an Enforcement Agent**

- 14.1.1 The Zoning Enforcement Officer of the Town of North Haven shall be authorized and empowered to enforce the rules, regulations and decisions of the Commission, pursuant to an ordinance of the Town of North Haven, enacted at a Town Meeting held on February 6, 1973, establishing said Inland Wetlands Commission.
- 14.1.2 The Zoning Enforcement Officer may act upon the Commission's behalf with the authority to inspect property, except a private residence; issue notices of violation or cease and desist orders; and carry out other actions or investigations necessary for the enforcement of these Regulations.

### **14.2 Inspections by the Commission and/or the Enforcement Agent**

- 14.2.1 As a condition of approval for a permit, the Commission or its agent may make regular inspections, at reasonable hours, as allowed by Section 7.3.11 of these Regulations.

### **14.3 Violations**

- 14.3.1 If the Commission or its designated agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these Regulations, the Commission or its agent may take action to stop and/or correct the conditions.

### **14.4 Issuing a Notice of Violation**

- 14.4.1 The Commission or its agent may issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands and watercourses.
- 14.4.2 The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity and/or provide a written reply to the notice or file an application for the necessary permit.
- 14.4.3 Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Section 14.5 of this section or other enforcement proceedings as provided by law.

## **14.5 Issuing an Order to Cease or Correct**

- 14.5.1 Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition and to appear before the Commission. The order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this Section shall not delay or bar an action pursuant to Section 22a-44(b) of the Connecticut General Statutes, as amended.
- 14.5.2 Within ten (10) calendar days of the issuance of such order the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect.
- 14.5.3 The Commission shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person, by certified mail, that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn.
- 14.5.4 The Commission shall publish notice of its decision in a newspaper having general circulation in North Haven.

## **14.6 Suspending or Revoking a Permit**

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

## SECTION XV AMENDMENTS

### **15.1 Authority to Amend the Regulations and the Boundary Map**

- 15.1.1 These Regulations and the Boundary Map of the Town of North Haven may be amended, from time to time, by the Commission in accordance with changes in the Connecticut General Statutes or regulations of the State Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.

### **15.2 Applications Filed and in Conformance Prior to Adoption of New Regulations**

- 15.2.1 An application filed with the Commission which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application by the Commission shall not be required thereafter to comply with any change in inland wetland regulations or boundaries, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of the Commission, with respect to such application described in this section, 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.
- 15.2.2 The provisions of this section shall not be construed to apply to:
- a. The establishment, amendment or change of boundaries of inland wetlands or watercourses; or
  - b. Any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.

### **15.3 Procedure to Amend the Regulations or the Boundary Map**

- 15.3.1 Applications to amend the Regulations or the Boundary Map must be submitted on the form, "Petition To Amend" and be accompanied by the appropriate application fee and fourteen (14) copies of all supporting documentation and shall require a public hearing, in accordance with Sections 9.3 and 9.4 of these Regulations.
- 15.3.2 Notice of an application to amend shall be done in accordance with Sections 8 and 9 of these Regulations.
- 15.3.3 Notice of an application to amend the Regulations and an application to amend the Boundary Map (when the property is within 500 feet of an adjoining municipality) must be sent to the Office of the Town Clerk of any applicable

municipality within seven (7) days of the date of receipt, as defined in Section 8.3 of these Regulations.

- 15.3.4 At least ten (10) days before the public hearing, the applicant must file a copy of the proposed amendment in the Office of the Town Clerk of North Haven and submit verification of same to the Land Use Office.
- 15.3.5 The Land Use Administrator, on behalf of the Commission, must submit a copy of a proposed amendment to the Regulations *only* to the Commissioner of Environmental Protection of the State of Connecticut at least thirty five (35) days before the public hearing. Such notification is not required for amendments to the Boundary Map.
- 15.3.6 Approval of an amendment requires a majority vote of the entire Commission (4 out of 7 in favor of the amendment).
- 15.3.7 The amendment shall become effective at such time as is fixed by the Commission, provided a copy of the amendment has been filed in the Office of the Town Clerk.
- 15.3.8 The Land Use Administrator, on behalf of the Commission, must submit a copy of the approved amendment to the Regulations *only* to the Commissioner of Environmental Protection of the State of Connecticut no later than ten (10) days after adoption. Failure to submit such approved amendment shall not impair the validity of the change.

#### **15.4 Submission Requirements to Amend the Regulations**

- 15.4.1 Fourteen (14) typed copies of proposed amendment, in the following format:

Unchanged text - normal type.

Text to be added - Doubled underlined text.

Text to be deleted (or repealed) - Blacklined out.

#### **15.5 Submission Requirements to Amend the Boundary Map**

- 15.5.1 Petitions requesting changes or amendments to the Boundary Map shall contain at least the following information:
  - a. The applicant's name, address and telephone number;
  - b. The owner's name (if not the applicant), address, telephone number and a written consent to the proposed action set forth in the application;
  - c. Applicant's interest in the land;
  - d. The geographic location of the property involved in the petition, including a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse area(s);

- e. The reason for the requested action;
- f. The names and addresses of property owners within 500' of the property for which an application has been submitted; and
- g. A map showing proposed development of the property.

15.5.2 The Commission may require the applicant to present documentation by a soil scientist that the land in question does not have a soil type classified by the National Cooperative soils survey as poorly drained, very poorly drained, alluvial or flood plain. Such documentation includes a map of the land in question, signed by a soil scientist, on which the flag locations, defining the boundaries of the regulated soil types, are depicted.

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

## **15.6 Conducting the Public Hearing to Amend the Regulations**

15.6.1 A public hearing shall be held in accordance with Sections 9.1. and 9.4 of these Regulations.

## **15.7 Conducting the Public Hearing to Amend the Boundary Map**

15.7.1 A public hearing shall be held in accordance with Sections 9.1 and 9.4 of these Regulations.

## **15.8 Rendering of Decision by the Commission**

15.8.1 The Commission shall make its decision and state, in writing, the reasons why the change in the "Designated Inland Wetlands and Watercourses" Map was made.

## SECTION XVI APPEALS

### 16.1 Right to Appeal

16.1.1 Any person aggrieved by any regulation, order, decision or action made by the Commission pursuant to these Regulations may appeal to the Superior Court where the land affected is located within fifteen (15) days after publication of such regulation, order, decision or action. All appeals shall follow the procedure outlined in Section 22a-43 of the Connecticut General Statutes, as amended.

### 16.2 Notice of Appeal

16.2.1 Notice of such appeal shall be served upon the Commission and the Commissioner of Environmental Protection.



**SECTION XVII  
CONFLICT AND SEVERANCE**

**17.1 Conflict and Severance**

- 17.1.1 If there is a conflict between the provisions of these Regulations, the provision which imposes the most stringent standards for the use of wetlands and/or 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 without such valid part or parts.
- 17.1.2 If there is a conflict between any provision of these Regulations and the provision of the Act, the provision of the Act shall govern.

## SECTION XVIII OTHER PERMITS

### **18.1 Applicant Meeting the Requirement of Obtaining Other Permits**

18.1.1 Nothing in these Regulations shall prevent the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of North Haven, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers.

### **18.2 Applicant's Responsibilities**

18.2.1 Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

## SECTION XIX APPLICATION FEES

### 19.1 Fee Requirements

- 19.1.1 All fees required by these Regulations shall be submitted to the Land Use Office by check or money order payable to the Town of North Haven at the time the application is filed.
- 19.1.2 Failure to pay all required fees may result in an application being returned to the applicant as incomplete.
- 19.1.3 The application fee is not refundable.

### 19.2 Schedule of Fees

- 19.2.1 A current schedule of fees shall be available at all times in the Land Use Office.
- 19.2.2 The schedule of fees shall be set each June and be in effect from July 1st to June 30th.

### 19.3 Exemptions

- 19.3.1 Boards, commissions, councils and departments of the Town of North Haven are exempt from all fee requirements.

**SECTION XX  
RECORDS RETENTION AND DISPOSITION**

**20.1 Custodians of Administrative Records**

20.1.1 The Land Use Office and the Town Clerk for the Town of North Haven shall retain complete administrative records of the Commission's actions and dispose of such records in accordance with the retention/disposition schedules set forth in Section 20.2.

**20.2 Retention/Disposition Schedules**

20.2.1 The public records administrator of the Connecticut State Library established the following new records retention/disposition schedules for municipal inland wetlands agencies effective April 24, 1989.

RECORD TITLE	MINIMUM RETENTION REQUIRED	
	LAND USE OFFICE	TOWN CLERK
Application (Inc. Supporting Materials)	10 Years	--
Decision Letters	10 Years	Permanent
Approve Site Plans	10 Years	--
Legal Notices	10 Years	Permanent
Staff and Public Written Testimony (Hearing Records)	10 Years	--
Minutes of Meetings and Public Hearings	15 Years	Permanent
Tapes, Audio-Inland Wetland Matters	4 Years	--
Notices of Violation and Orders	10 Years	--
Text of Changes Adopted in Regulations	Continuous Update/Permanent	Permanent
General Correspondence	5 Years	--