

Town of Orange, CT  
Saturday, May 3, 2014

## Chapter 381. INLAND WETLANDS AND WATER COURSES REGULATIONS

**[HISTORY: Adopted by the Inland Wetlands Agency (now the Inland Wetlands and Water Courses Commission) of the Town of Orange 6-26-1974, as last amended 7-11-2000. Subsequent amendments noted where applicable.]**

### GENERAL REFERENCES

Inland Wetlands and Water Courses Commission — See Ch. 81.

Flood damage prevention — See Ch. 223.

Land use applications — See Ch. 270.

Subdivision regulations — See Ch. 382.

Zoning — See Ch. 383.

## Article I. Title and Authority

### § 381-1. Purpose.

The inland wetlands and water courses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and water courses are an interrelated web of nature essential to an adequate supply of surface and underground water; the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and water courses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures, and other uses, all of which have despoiled, polluted and eliminated wetlands and water courses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic, and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and water courses from random, unnecessary, undesirable, and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare, and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance, and use of the inland wetlands and water courses 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 water courses for their conservation, economic,

aesthetic, recreational, and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse, and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the State of Connecticut, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

### § 381-2. Regulations named.

These regulations shall be known as the "Inland Wetlands and Water Courses Regulations for the Town of Orange, Connecticut."

### § 381-3. Commission established.

The Inland Wetlands and Water Courses Commission for the Town of Orange was established in accordance with an ordinance adopted March 26, 1974, and shall implement the purposes and provisions of the Inland Wetlands and Water Courses Act in the Town of Orange.

### § 381-4. Adopted regulations may be amended.

These regulations have been adopted and may be amended from time to time in accordance with the provisions of the Inland Wetlands and Water Courses Act and these regulations.

### § 381-5. Enforcement.

The Commission shall enforce all provisions of the Inland Wetlands and Water Courses Act and shall approve with or without modifications, or deny permits for all regulated activities on inland wetlands and water courses in the Town of Orange pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

## Article II. Definitions

### § 381-6. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### **ACT**

The Inland Wetlands and Water Courses Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes, as amended.

#### **BOGS**

Usually distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

#### **CLEAR-CUTTING**

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

#### **COMMISSION**

The Inland Wetlands and Water Courses Commission of the Town of Orange.

#### **COMMISSIONER OF ENVIRONMENTAL PROTECTION**

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

#### **CONTINUAL FLOW**

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

**DEPOSIT**

Includes, but shall not be limited to, fill, grade, dump, place, discharge, or emit.

**DESIGNATED AGENT**

The Wetlands Enforcement Officer of the Town of Orange or any other individual designated by the Commission to carry out its functions and purposes.

**DISCHARGE**

Emission of any water, substance, or material into wetlands or water courses whether or not such substance causes pollution.

**DISTURBING THE NATURAL AND INDIGENOUS CHARACTER OF THE LAND**

The activity will significantly alter the inland wetlands and water courses 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 water courses.

**ESSENTIAL TO THE FARMING OPERATION**

The activity proposed is necessary and indispensable to sustain farming activities on the farm.

**FARMING**

Use of land for the growing of crops, raising of livestock or other agricultural use.

**FEASIBLE**

Able to be constructed or implemented consistent with sound engineering principles.

**LICENSE**

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 Commission.

**MANAGEMENT PRACTICE**

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 water courses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and water courses; procedures for maintaining continuous stream flows; confining construction that must take place in water courses to times when water flows are low and fish and wildlife will not be adversely affected.

**MARSHES**

Areas with soils that exhibit saturated moisture regimes that are distinguished by the absence of trees 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**

Any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, sand, gravel, clay, bog, peat, mud, debris, sand, refuse, or waste.

**NURSERIES**

Land used for propagating trees, shrubs, or other plants for transplanting, sale, or for use as stock for grafting.

**PERMIT**

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**

The person to whom such permit has been issued.

**PERSON**

Any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies, or subdivision thereof.

**POLLUTION**

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 or indirectly to come in contact with any waters. This includes, but is not limited to, erosions resulting from any filling or excavation activity.

**PRUDENT**

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

**REGULATED ACTIVITY**

Any operation or use of a wetland or water course involving removal or deposition of material or any obstruction, construction, alteration or pollution of such wetlands or water courses, and any construction of a residential building, residential institution, commercial and industrial building, site establishment of a new lawn, nonresidential building, deck, pools, parking area or subsurface sewage disposal system with 100 feet of wetlands or water courses, as set forth in Section 22a-42a of the General Statutes, as amended, and 50 feet from wetlands and water courses for any subsurface sewage disposal system up-gradient from wetlands and water courses or in an area of special concern as defined by the Public Health Code, but shall not include the activities specified in Article IV (uses permitted as of right and nonregulated uses) of these regulations. Soil evidencing favorable underground rate of flow analysis by geohydraulic testing may be considered by the Commission as grounds for reducing any of the separating distances. The Commission shall require certified tests and/or reports for this purpose. The Commission may rule that any other activity located within such upland review area or any other non-wetland or non-water course area is likely to impact or affect wetlands or watercourses and is a regulated activity.

**[Amended 9-3-2003; 2-13-2007]**

**REGULATED AREA**

Any inland wetland or water course as defined in these regulations.

**REMOVE**

Includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bull doze, drag line or blast.

**RENDERING UNCLEAN OR IMPURE**

Any alteration of the physical, chemical, or biological properties of any waters of the state, including but not limited to, change in odor, color or turbidity, or taste.

**SIGNIFICANT IMPACT ACTIVITY**

Any activity, including, but not limited to, the following activities which may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland wetland or water course system:

- A. Any activity involving a deposition or removal of material which will or may have a substantial effect or significant impact on the regulated area or on another part of the inland wetland or water course system; or

- B. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a water course system; or
- C. Any activity which substantially diminishes the natural capacity of an inland wetland or water course to support desirable fisheries, wildlife, or other biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space, or other functions; or
- D. Any activity which causes substantial turbidity, siltation, or sedimentation in a wetland or water course; or
- E. Any activity which causes a substantial diminution of flow of a natural water course, or ground water level of the regulated area; or
- F. Any activity which causes or has the potential to cause pollution of a wetland or water course; or
- G. Any activity which destroys unique wetland or water course areas having demonstrable scientific or educational value.

### **SOIL SCIENTIST**

An individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.

### **SUBMERGED LANDS**

Those lands which are inundated by water on a seasonal or more frequent basis.

### **SWAMPS**

Areas with soils that exhibit saturated moisture regimes and are dominated by wetland trees and shrubs.

### **TOWN**

The Town of Orange, New Haven County, in the State of Connecticut.

### **WASTE**

Sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands or water courses of the Town.

### **WATER COURSE**

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 this state or any portion thereof not regulated pursuant to Sections 22a-28 through 22a-35, inclusive. Intermittent water courses shall be delineated by a defined permanent channel and bank and the occurrence of one or more of the following characteristics:

- A. Evidence of scour or deposits of recent alluvium or detritus;
- B. The presence of standing or flowing water for a duration longer than a particular storm incident; and
- C. The presence of hydrophilic vegetation.

### **WETLANDS**

Pursuant to CGS 22a-41, includes aquatic, plant or animal life and habitats in wetlands or water courses, and "habitats" means areas or environments in which an organism or biological population normally lives or occurs. Land, including submerged land not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the Natural 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).

**[Amended pursuant to P.A. 04-209, effective 6-3-2004]**

## Article III. Inventory of Regulated Areas

### § 381-7. Determination of boundaries.

The map of regulated areas, entitled "Inland Wetlands and Water Courses Map, Orange, Connecticut," delineates the general location and boundaries of inland wetlands and the general location of water courses. Copies of this map are available for inspection in the office of the Town Clerk or the Commission. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of water courses. The Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and water courses.

### § 381-8. Petition to dispute regulated area designation.

Any property owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Water Courses Map, may petition the Commission to change the designation. 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 provide proof that the designation is inapplicable. Documentation in accordance with Article **XV** of these regulations may be required of property owner when the Commission requires an accurate delineation of regulated areas.

### § 381-9. Maintenance of records; map amendments.

The Commission or its designated agent(s) shall inventory and maintain current records of all regulated areas within the Town. The Commission may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and water courses within the Town. Such map amendments are subject to the public hearing process outlined in Article **IX** of these regulations.

## Article IV. Permitted and Nonregulated Uses

### § 381-10. Operations and uses permitted as of right.

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

- A. Grazing, farming, nurseries, gardening and harvesting of crops, and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or water course restoration or enhancement or mosquito control. The provisions of this article shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of water courses with continual flow, filling or reclamation of wetlands or water courses 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 water courses for the purposes of sale.
- B. A residential home for which a building permit has been issued or on a subdivision lot, provided the permit has been issued or the subdivision has been approved by the Town Plan and Zoning Commission of the Town of Orange as of July 1, 1974. No residential home shall be permitted as of right pursuant to this subsection unless the building permit was obtained on or before July 1, 1987. The individual claiming a use of wetlands permitted as of right under this subsection shall document the validity of said right by

providing a dated 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.

- C. Boat anchorage or mooring, not to include dredging or dock construction.
- D. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than 1 1/2 acres and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of substantial amounts of material from or into a wetland or water course, or diversion or alteration of a water course.
- E. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-410 of the Connecticut General Statutes.
- F. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a or July 1, 1974, whichever is earlier, provided such pipe is on property that 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.

### **§ 381-11. Nonregulated uses permitted as of right.**

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

- A. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife, and silviculture management practices.
- B. Outdoor recreation including the use of play and sporting area, golf courses, field trails, 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.

### **§ 381-12. Other operations and uses require a permit.**

All activities in wetlands or water courses involving filling, excavation, dredging, clear-cutting, grading or any other alteration or use of a wetland or water course not specifically permitted by this article shall require a permit from the Commission in accordance with Article VI of these regulations.

### **§ 381-13. Must notify Commission.**

To carry out the purposes of this article, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or water course, which may disturb the natural and indigenous character of the land, shall, prior to commencement of such operation or use, notify and provide the Commission or its designated agent with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland and water course. The Commission or its designated agent shall rule that the proposed operation or use is a permitted or a nonregulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next

regularly scheduled meeting of the Commission following the meeting at which the request was received. The designated agent for the Commission may make such ruling on behalf of the Commission at any time.

## **Article V. Activities Regulated by the State**

### **§ 381-14. Activities under state jurisdiction.**

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

- A. Construction or modification of any dam pursuant to Section 22a-401 through 22a-410 of the Connecticut General Statutes, as amended;
- B. 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;
- C. 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 General Statutes, as amended;
- D. Diversion of water including withdrawals of surface or ground water in excess of 50,000 gallons per day, or any change in the instantaneous flow of any surface water 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;
- E. Discharges into the waters of the state pursuant to Section 22a-430 of the Connecticut General Statutes, as amended.
- F. Discharge of fill or dredged materials into the wetlands and water courses 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.

### **§ 381-15. State agencies under state jurisdiction.**

The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities and other activities, in or affecting wetlands or water courses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education:

- A. After an advisory decision on such license or permit has been rendered to the Commissioner by the Commission within such wetland is located; or
- B. Thirty-five days after receipt by the Commissioner of such application, whichever occurs first.

### **§ 381-16. Tidal wetlands under state jurisdiction.**

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 Statutes.

## **Article VI. Regulated Activities to be Licensed**

### **§ 381-17. Obtaining a permit for regulated activities.**

No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands and Water Courses Commission of the Town of Orange.



### **§ 381-18. Regulated activities.**

The Commission shall regulate any operation within or use of a wetland or water course involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetland or water course and any other regulated activity, unless such operation or use is permitted or nonregulated pursuant to Article **IV** of these regulations.

### **§ 381-19. Conduct subject to enforcement proceedings.**

Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Article **XIV** of these regulations and any other remedies as provided by law.

## **Article VII. Application Requirements**

### **§ 381-20. Obtaining application forms.**

Any person wishing to undertake a regulated activity shall apply for a permit on the form entitled "Town of Orange, Connecticut, Inland Wetlands and Water Courses Commission - Application for Permit." An application shall include an application form and such information as prescribed by § **381-23** and, in the case of a significant activity, by § **381-24** of these regulations. Application forms may be obtained in the offices of the Town Clerk or the Commission.

### **§ 381-21. Necessity of information.**

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

### **§ 381-22. Pre-application meeting.**

The Commission and the applicant may hold a pre-application meeting to determine whether or not the proposed application involves a significant activity. Whenever possible the determination relative to significant activities should be made at the pre-application meeting.

### **§ 381-23. Information requested on application.**

All applications shall include the following information in writing:

- A. The applicant's name, home and business address and telephone numbers;
- B. The owner's name, address, telephone number and written consent if the applicant is not the owner of the property involved in the application;
- C. The applicant's interest in the land;
- D. The geographical location of the property which is to be affected by the proposed activity, including but not limited to description of the land in sufficient detail to allow identification of the inland wetlands and water courses, a computation of the area(s) (in acres or square feet) of wetland or water course disturbance, soil type(s) and vegetation;
- E. The purpose and description of the proposed activity 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 prevent or minimize pollution or other environmental damage; maintain or enhance existing environmental quality; or, in the following order of priority, restore, enhance and create productive wetland or water course resources;
- F. Alternatives considered by the applicant and why the proposal to alter wetlands and/or water courses set forth in the application was chosen;
  - G. A site plan showing existing and proposed conditions in relation to the wetlands and water courses, including a location map showing the property involved relative to its surrounding neighborhood; 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 water courses;
  - H. Names and addresses of adjacent property owners;
  - I. 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;
  - J. Authorization for the Commission members and agents of the Commission to inspect the property, at reasonable times, both before and after a final decision has been issued;
  - K. Any other information the Commission deems necessary to the understanding of what the applicant is proposing;
  - L. Submission of the appropriate filing fee based on the fee schedule established in Article **XIX** of these regulations.

### **§ 381-24. Additional information for significant activity.**

If the proposed activity involves a significant activity as determined by the Commission and defined in § **381-6** of these regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, is required:

- A. Site plans for the proposed use or operation and the property which will be affected, which show existing and proposed conditions, wetland and water course boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and water courses, and other pertinent features of the development drawn by a licensed surveyor, professional engineer or landscape architect registered in the State of Connecticut or by such other qualified person.
- B. Engineering reports and analyses, including graphical hydrographs and additional drawings to fully describe the proposed project and any filling, excavation, drainage, or hydraulic modifications to wetlands and/or watercourses. Such analyses shall include present and future runoff rates for the one- through one-hundred-year storm events.

#### **[Amended 2-13-2007]**

- (1) Whenever feasible, stormwater run-off volume shall be no greater than existing conditions.
- (2) As per the 2004 Connecticut Stormwater Quality Manual, the first one inch of rainfall shall be treated to enhance water quality.
- C. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Soil Conservation Service. The Commission, or its designated agent, may require the applicant to have the wetlands delineated in the field by a soil scientist and that the field delineation be incorporated onto the site plans.
- D. Description of the ecological communities and functions of the wetlands or water courses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions.

- E. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or water courses involved in the application, and with each alternative, a description of why each alternative considered was deemed neither feasible nor prudent.
- F. Analysis of chemical or physical characteristics of any fill material.
- G. Measures which mitigate the impact of the proposed activity. Such measures include but are not limited to plans or actions which avoid destruction or diminution of wetland or water course functions, recreational uses and natural habitats which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.

### **§ 381-25. Certification of impacts on other municipalities.**

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 run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

### **§ 381-26. Number of copies necessary to file an application.**

Twelve copies of all application material shall be submitted to comprise a complete application, or as is otherwise directed by the Commission or its designated agent.

### **§ 381-27. Amendment, renewal, or extension.**

Any application to extend the expiration date of a previously issued permit or amend an existing permit shall be filed with the Commission at least 65 days prior to the expiration date for the permit in accordance with §§ **381-33** through **381-37** of these regulations. Any application for amendment, renewal or extension shall be made in accordance with this section, provided:

- A. The application may incorporate by reference the documentation and record of the original application.
- B. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit.
- C. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or water courses or the property for which the permit was issued.
- D. The Commission may accept an untimely application to extend the expiration date of a permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be expired and the public interest or environment will be best served by not interrupting the activity. 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.
- E. The Commission shall evaluate the application pursuant to Article **X** of these regulations and grant the application as filed, grant it with any terms or limitations, or deny it.

### **§ 381-28. State reporting form.**

A reporting form shall be completed during the application process which provides the Commissioner of the Department of Environmental Protection with information necessary to properly monitor the inventory of

the state wetlands. The reporting form shall be part of the application and the following sections shall be completed by the applicant: name of applicant; name of project; project description; area of wetlands and/or lineal feet of water course proposed to be altered. The Commission shall be responsible for the remaining information and any corrections on the form and for filing it in accordance with Section 22a-39-14 of the Inland Wetlands and Water Courses Regulations of the Department of Environmental Protection.

### **§ 381-29. Permit renewal.**

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 10 years.

## **Article VIII. Application Procedures**

### **§ 381-30. Filing copies of application.**

#### **[Amended 3-9-2004]**

All petitions, applications, request or appeals shall be submitted to the Inland Wetlands and Water Courses Commission of the Town of Orange.

### **§ 381-31. Filing with adjacent municipalities.**

When an application to conduct or cause to be conducted a regulated activity upon an inland wetland or water course is filed and any portion of such wetland or water course is within 500 feet of the boundary of another municipality, the applicant shall give written notice of the application by certified mail, return receipt requested, on the same day to the Inland Wetland Commission of such other municipality. Documentation of such notice shall be provided to the Commission.

### **§ 381-32. Notification of other municipalities.**

#### **[Amended 3-9-2004]**

- A. The Commission shall, in accordance with Connecticut General Statutes Sections 8-7b(f) and 22a-42b, notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:
- (1) Any portion of the property affected by a decision of the Commission is within 500 feet of the boundary of the adjoining municipality;
  - (2) A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
  - (3) A significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
  - (4) Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- B. 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, appeal, request or plan.

### **§ 381-33. Notification of water company.**

#### **[Amended 2-13-2007]**

When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or water course, any portion of which is within the watershed of a water company as defined in Section 25-32a of the General Statutes, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said Commissioner, provided such water company or said Commissioner has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven 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.

### **§ 381-34. Application receipt date.**

#### **[Amended 3-9-2004]**

The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the Commission, immediately following the day of submission to such agency or its agent of such petition, application, request or appeal, or 35 days after such submission, whichever is sooner.

### **§ 381-35. Additional information that may be required.**

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 wetlands or water courses affected by the regulated activity. Requests for additional information shall not stay the time limitations set forth in § 381-48.

### **§ 381-36. Public inspection.**

All applications shall be open for public inspection.

### **§ 381-37. Denial of incomplete applications.**

Incomplete applications may be denied.

## **Article IX. Public Hearings**

### **§ 381-38. Conditions.**

#### **[Amended 3-9-2004]**

The Inland Wetlands Commission shall not hold a public hearing on an application unless the Inland Wetlands Commission determines that the proposed activity may have a significant impact on wetlands or water courses, a petition signed by at least 25 persons who are 18 years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the Commission not later than 14 days after the date of receipt of such application, or the Commission finds that a public hearing regarding such application would be in the public interest. The Commission may issue a permit without a public hearing, provided no petition provided for in this section is filed with the Commission on or before the 14th day after the date of receipt of such application. Such hearing shall be held no later than 65 days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard and may be represented by agent or by attorney.

### § 381-39. Published notices.

Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than 15 days and not fewer than 10 days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each Town where the affected wetland and water course is located.

### § 381-40. Notification of other property owners.

Notice of the public hearing shall be mailed by the Commission to the owner(s) of record of abutting land as supplied by the applicant no less than 15 days prior to the day of the hearing.

### § 381-41. Notification of other municipalities.

In the case of any application which is subject to the notification provisions of § 381-32 of these regulations, a public hearing shall not be conducted until the Clerk of the adjoining municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

## Article X. Considerations for Decision

### § 381-42. Evidence.

The Commission may consider the following in making its 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 Orange, such as:
  - (1) Conservation Commission.
  - (2) Zoning Enforcement Officer.
  - (3) Plan and Zoning Commission.
  - (4) Building Inspector.
  - (5) Sanitarian and/or Director of Health.
  - (6) Town Engineer.
- D. The Commission may also consider comments on any application from the New Haven County Soil and Water Conservation District, the South Central Regional Planning Agency, or other regional organizations; agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
- E. Non-receipt of comments from agencies and commissions listed in Subsection C above within the prescribed time shall neither delay nor prejudice the decision of the Commission.
- F. The Commission is not precluded from seeking advice from its own experts on any aspect of an application.

### § 381-43. Standards and criteria for decision.

#### **[Amended pursuant to P.A. 04-209, effective 6-3-2004]**

In carrying out the purposes and policies of Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, and pursuant to CGS 22a-41(d) a municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or water courses 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 water courses, including matters relating to regulating, licensing and

enforcing of 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 water courses.
- 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 water courses.
- C. The relationship between the short-termed and long-term impacts of the proposed regulated activity on wetlands or water courses and the maintenance and enhancement of long-term productivity of such wetlands or water courses.
- D. Irreversible and irretrievable loss of wetland or water course resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to:
  - (1) Prevent or minimize pollution or other environmental damage;
  - (2) Maintain or enhance existing environmental quality; or
  - (3) In the following order of priority: restore, enhance and create productive wetland or water course resources.
- E. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property which is caused or threatened by the proposed regulated activity.
- F. Impacts of the proposed regulated activity on wetlands or water courses 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 water courses.

### **§ 381-44. Existence of feasible and prudent alternative.**

In the case of any application which received a public hearing pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or water courses, 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 Article X of these regulations. The findings and the reasons therefor shall be stated on the record in writing.

### **§ 381-45. Application denial.**

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 water courses, the Commission shall propose on the record in writing the types of alternatives which the applicant may investigate, provided this subdivision 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.

### **§ 381-46. Based on information in the record.**

- A. In reaching its decision on any application after a public hearing, the Commission shall base its decision on the record of that hearing.
- B. Documentary evidence or other material not in the hearing record shall not be considered by the Commission in its decision. However, the Commission is not precluded from seeking advice from its own experts on information already in the record of the public hearing.
- C. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent

with the purposes and policies of the Inland Wetlands and Water Courses Regulations of the Town of Orange and of Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

## **Article XI. Decision and Permit**

### **§ 381-47. Decision types.**

The Commission or its duly authorized agent acting pursuant to Article **XII** of these regulations, may grant the application as filed; grant it upon such terms, conditions, limitations or modifications necessary to carry out the purposes of the Act; or deny it. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would prevent or minimize pollution or other environmental damage, maintain or enhance existing environmental quality, or, in the following order of priority: restore, enhance and create productive wetland or water course resources. The Commission may grant the application 14 days after it is presented in accordance to statute.

### **§ 381-48. Timelines.**

#### **[Amended 3-9-2004]**

No later than 65 days after receipt of an application, the Commission may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within 35 days of its commencement. Action shall be taken on applications within 35 days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within 65 days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this section, provided the total extension of all such periods shall not be for longer than 65 days, or may withdraw the application. 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. An application deemed incomplete by the Commission shall be withdrawn by the applicant or denied by the Commission.

### **§ 381-49. Form and decision statement.**

The Commission shall state upon its 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.

### **§ 381-50. Notice of decision.**

The Commission shall notify the applicant and any named parties to the proceeding of its decision within 15 days of the date of the decision by certified mail, return receipt requested, and the Commission shall cause notice of its order in the issuance or denial of the permit to be published in a newspaper having general circulation in the Town wherein the inland wetland or water course lies. In any case in which such notice is not published within such fifteen-day period, the applicant may provide for the publication of such notice within 10 days there after.

### **§ 381-51. Decision to be filed with Plan and Zoning Commission.**

If an activity authorized by the inland wetlands permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision



and report on the application shall be filed with the Town of Orange Plan and Zoning Commission within 15 days of the date of the decision.

### **§ 381-52. Applicant may propose modifications to permit.**

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

### **§ 381-53. Duration of permit.**

Any permit issued under this article for the development of property for which an approval is required under Section 8-3, 8-25 or 8-26 shall be valid for five years provided the Commission may establish a specific time period within which any regulated activity shall be conducted. Any permit issued under this article for any other activity shall be valid for not less than two years and not more than five years.

### **§ 381-54. Assigning or transferring permit.**

No permit shall be assigned or transferred without the written permission of the Commission.

### **§ 381-55. Bond or insurance.**

If a bond or insurance is required in accordance with Article XIII of these regulations, no permit shall be issued until such bond or proof of insurance is provided.

### **§ 381-56. General provisions.**

General provisions in the issuance of all permits:

- A. In evaluating applications in which the Commission relied in whole or in part on information provided by the applicant, if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
- B. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the property or activity.
- C. If the activity authorized by the inland wetlands permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the wetland permit may begin until such approval is obtained.
- D. The permittee shall take necessary steps consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and water courses.

## **Article XII. Action by Duly Authorized Agent**

### **§ 381-57. Action by duly authorized agent.**

**[Amended 3-9-2004]**

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 water course when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or water courses 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 § 381-24 of these regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Articles VIII, IX and XI of these regulations, such agent may approve or extend such an activity at any time.

### **§ 381-58. Requirements of application recipient.**

Any person receiving such approval from such agent shall, within 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 wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Commission within 15 days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Commission or its agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Article VII of these regulations.

## **Article XIII. Bond and Insurance**

### **§ 381-59. Bond or surety may be required.**

Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Commission, be required to file a bond with such surety in such amount and in a form approved by the Commission.

### **§ 381-60. Conditioned on compliance with regulations and permit.**

The bond or surety shall be conditional on compliance with all provisions of these regulations and their terms, conditions, and limitations established in the permit.

### **§ 381-61. Public liability insurance.**

The Commission may require the applicant to certify that it has public liability insurance against liability which might result from the proposed operation or use of the wetland or water courses covering any and all damage which might occur within two years of completion of such operations, in an amount commensurate with the regulated activity.

## **Article XIV. Enforcement**

### **§ 381-62. Appointment of agent.**

The Commission may appoint an agent or agents to act in its behalf with the authority to inspect property and issue notices of violation or cease and desist orders and carry out other actions or investigations

necessary for the enforcement of these regulations including the determination of whether an activity falls within the ambit of § 381-13.

### **§ 381-63. Regular inspections of regulated activities.**

As a condition of a permit, the Commission or its agent may make regular inspections, at reasonable hours, of all regulated activities for which repairs have been issued under these regulations.

### **§ 381-64. Violations of Act or regulations.**

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

- A. Issue a written order by certified mail, return receipt requested, to such person(s) conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within 10 calendar days of the issuance of such order, the Commission shall hold a hearing to provide the person(s) an opportunity to be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing and within 10 days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Commission shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this article shall not delay or bar an action pursuant to Section 22a-44(b) of the Connecticut General Statutes, as amended.
- B. 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 Commission shall issue notice to the permittee personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Commission shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within 15 days of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.
- C. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or water courses. 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 a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Subsection A or other enforcement proceedings as provided by law.

## **Article XV. Amendments**

### **§ 381-65. Regulations and maps subject to change.**

An application filed with the Commission which is in conformance with the applicable inland wetlands regulations as of the date of 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 Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this article shall not be construed to apply:

- A. To the establishment, amendment, or change of boundaries of inland wetlands or water courses; or
- B. To any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.

### **§ 381-66. Manner.**

These regulations and the "Inland Wetlands and Water Courses Map, Orange, Connecticut" shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except determinations of boundaries, at least 35 days before the public hearing on their adoption. Application forms shall be considered as part of the Commission regulations.

### **§ 381-67. Permit not subject to regulation change.**

Petitions requesting changes or amendments to the "Inland Wetlands and Water Courses Map, Orange, Connecticut" shall contain at least the following information:

- A. The petitioner's name, address and telephone number;
- B. The address of the land affected by the petition;
- C. Petitioner's interest in the land affected by the petition;
- D. Map(s) showing geographic location of the land affected by the petition; and the existing and proposed wetland(s) and water course(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
- E. The reasons for the requested action.

### **§ 381-68. Petitions requesting changes.**

Any person who submits a petition to amend the Inland Wetlands and Water Courses Map, Orange, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional, interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping or other information acceptable to the Commission. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or is such person as is representing the interests of such an owner, developer, or purchaser in addition to the information required in § 381-67, the petition shall include:

- A. The name, address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
- B. The names and addresses of the owners of abutting land;
- C. Documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and

D. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and water course boundaries.

### **§ 381-69. Documentation.**

Water courses shall be delineated by a soil scientist, geologist, ecologist, or other qualified individual.

### **§ 381-70. Public hearing on petitions to amend boundaries.**

#### **[Amended 3-9-2004]**

A public hearing shall be held on petitions to amend the regulations and the Inland Wetlands and Water Courses Map. Notice of the hearing shall be published in a newspaper having a general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two days, the first not more than 15 days, nor less than 10 days, and the last not less than two days before the date set for the hearing. All materials, including maps and documents relating to the petition, shall be open for public inspection.

### **§ 381-71. Timeline for public hearing.**

#### **[Amended 3-9-2004]**

The Commission shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and Water Courses Map within 65 days after receipt of such petition. The hearing shall be completed within 35 days after commencement. The Commission shall act upon the changes requested in such petition within 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 the subsection, provided the total extension of all such periods shall not be for longer than 65 days or may withdraw such petition. Failure of the agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of petition.

### **§ 381-72. Explanation of decisions.**

The Commission shall make its decision and state, in writing, the reasons why the change in the "Inland Wetlands and Water Courses Map, Orange, Connecticut" or these regulations was made.

## **Article XVI. Appeals**

### **§ 381-73. General statutes apply.**

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

### **§ 381-74. Notice of appeal sent to Commission and the state.**

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

## **Article XVII. Conference and Severance**

## § 381-75. Most stringent standards apply.

- A. 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 water courses shall govern. The invalidity of any word, clause, sentence, section, part, subsection, or provision of these regulations shall not affect the validity of any other part which can be given effect without such valid part of parts.
- B. If there is a conflict between any provision of these regulations and the provision of the Act, the provisions of the Act shall govern.

## Article XVIII. Other Permits

### § 381-76. Responsibility for any other permits.

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 Orange, the 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 Corp of Engineers. Obtaining such assents, permits, or licenses is the sole responsibility of the applicant.

## Article XIX. Application Fees

### § 381-77. Method of payment.

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

### § 381-78. Waiver.

No application shall be granted or approved by the Commission unless a waiver has been granted by the Commission.

### § 381-79. Non-refundable fee.

The application fee is not refundable.

### § 381-80. Definitions.

As used in this article, the following terms shall have the meanings indicated:

#### **COMMERCIAL USES**

Activities carried out on property developed for industry, commerce, trade, recreation, or purposes for profit or non profit.

#### **OTHER USES**

Activities other than residential uses or commercial uses.

#### **RESIDENTIAL USES**

Activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.

### § 381-81. Fee schedule.

**[Amended 5-8-2002; 2-11-2003]**

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

**[Amended 10-10-2007]**

- (1) Permitted uses as of right (§ 381-10): no charge.
- (2) Nonregulated uses (§ 381-11): \$50.
- (3) State filing fee: \$60. *Editor's Note: This fee was revised in conjunction with changes to the fee set forth in C.G.S. § 22a-27j.*
- (4) Residential uses:
  - (a) New dwelling: \$200, plus direct wetland activity fee.
- (5) Subdivision:
  - (a) First lot: \$200.
  - (b) Additional lots: \$100, plus direct wetland activity fee.
- (6) Residential, multiple units: \$100 per dwelling unit, plus direct wetland activity fee.
- (7) Commercial uses: \$250, plus direct wetland activity fee.
- (8) Other activities or uses.
  - (a) Rain gardens with retention/detention galleries: \$200.
  - (b) Watercourse crossing: \$200, plus direct wetland activity fee.
  - (c) Bio-filtration system, no other activity: \$175.
  - (d) Stormwater discharge to a wetland area: \$200 per acre of impervious surface, including roofs; one-acre threshold.
  - (e) Stormwater detention ponds including below-grade infiltration units: \$250.
- (9) Residential single-family roof footing/infiltrator units, new construction:
  - (a) Footing/infiltrators: \$45.
  - (b) Single-family rain gardens, with no direct wetland activity or below-grade galleries: no charge.
  - (c) Modification/extension of previous approval: \$65.

(10) Direct wetland activity:

Square Feet	Fee
0 to 500	\$50.00
501 to 1,000	\$75.00
1,001 to 5,000	\$100.00
Over 5,000	\$200.00, plus \$5.00 per square foot over 5,000 square feet

(11) Map amendment petitions (§ 381-67): \$275.

B. Extra assessments.

- (1) In the event that additional expenses, including but not limited to outside consultants, experts, or legal advisors are incurred in processing the application the applicant may be assessed an additional fee to cover said costs. Said fees are to be estimated by the enforcement officer and submitted with the application fee and held until the application is completely processed, after which time any residual funds pertaining to this assessment are to be returned to the applicant.
- (2) For the purpose of this assessment, an "outside consultant" means a professional who is not an employee of the Town of Orange, including but not limited to engineering, environmental, hydrogeology and wetland biologists and professionals.

### § 381-82. Exemptions.

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

### § 381-83. Petition to waive fee.

- A. The applicant may petition the Commission to waive, reduce or allow delayed payment of the fee required of these regulations. Such petitions shall be in writing and shall state fully the facts and circumstances the Commission should consider in its determination. The Commission may waive all or part of the application fee if the Commission determined that:
  - (1) The activity applied for would clearly result in substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee; or
  - (2) The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.
- B. The Commission shall state upon its record the basis for all actions under this subsection.

## Article XX. Records Retention and Disposition

### § 381-84. Retention guidelines; who shall retain.

The Commission and the Town Clerk for the Town of Orange shall retain complete administrative records of Commission actions and dispose of such records in accordance with the retention/disposition schedules set forth in § 381-85.

### § 381-85. Retention/disposition schedule.

The records administrator of the Connecticut State Library established the following new records retention/disposition schedules for municipal Inland Wetlands Commissions effective April 24, 1989:

<b>Record Title</b>	<b>Minimum Retention Required in Commission</b>	<b>Town Clerk</b>
Applications (inc. supporting materials)	10 years	—
Decision Letters	10 years	Permanent
Approved 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	—



<b>Record Title</b>	<b>Minimum Retention Required in Commission</b>	<b>Town Clerk</b>
Notices of Violation and Orders	10 years	—
Text of Changes Adopted In Regulations	Continuous Update/ Permanent	—
General Correspondence Issued or Received	5 years	—

