

# **CONNECTICUT COASTAL MANAGEMENT MANUAL**

## **SECTION 1**

### **COASTAL MANAGEMENT PROCESS**

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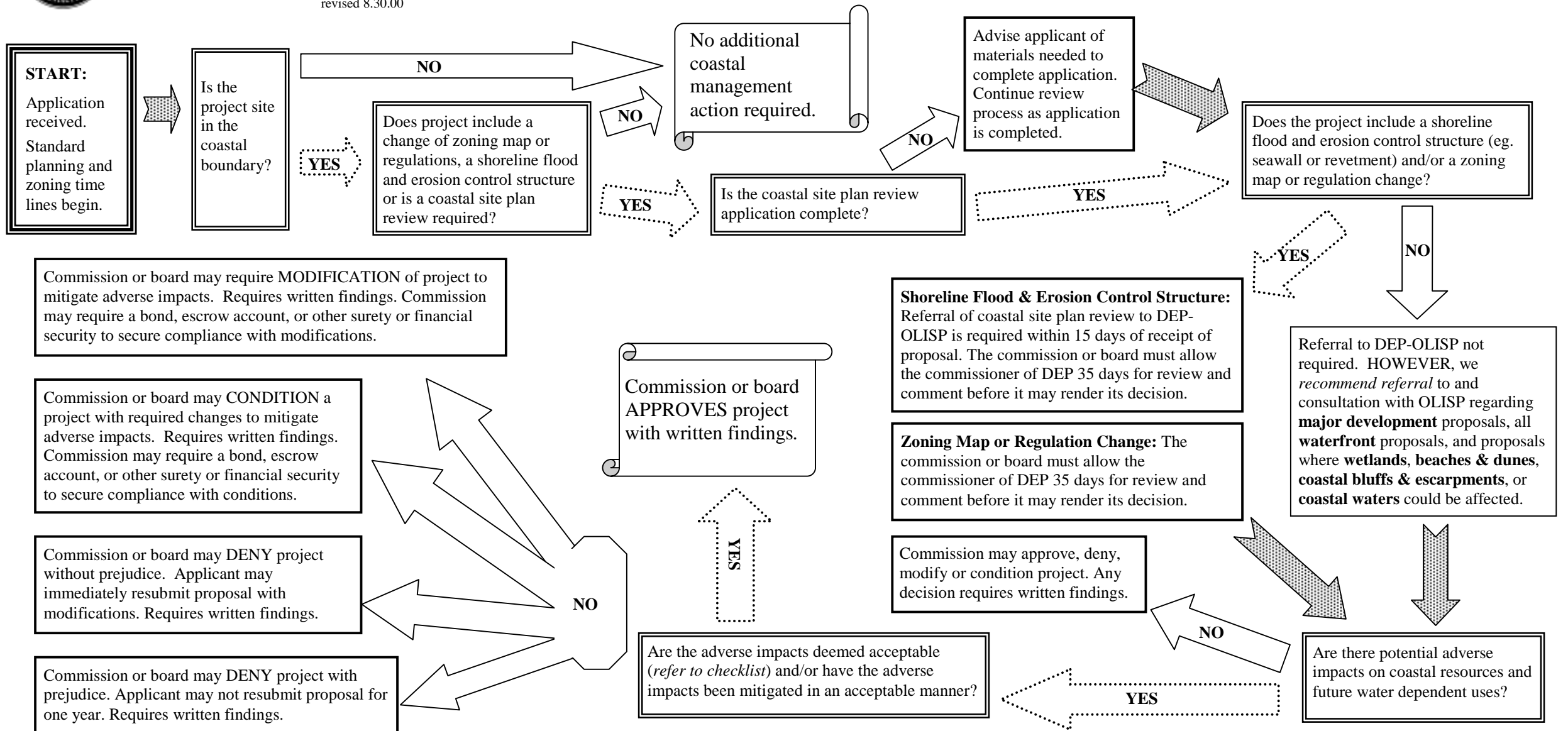
Watershed Management Planning Fact Sheet



# Office of Long Island Sound Programs

revised 8.30.00

# Municipal Coastal Management Review Process Flowchart



### NOTES:

- 1) The Commissioner of the Department of Environmental Protection is automatically a party to every municipal coastal site plan review and has the right to appeal a municipal decision.
- 2) If the board or commission does not render a decision within a statutorily allowed time frame (at least 65 days), the coastal site plan is deemed **rejected**.
- 3) A copy of any coastal site plan review decision must be sent to the applicant by certified mail, and must be published in the newspaper within 15 days of the decision. If the proposal includes a shoreline flood & erosion control structure the decision must also be sent to DEP-OLISP.



## Office of Long Island Sound Programs

### *COASTAL SITE PLAN REVIEW APPLICATION CHECKLIST*

#### *WHAT IS REQUIRED FOR A COMPLETE APPLICATION*

This checklist has been developed to assist the commission or board or its staff in determining the completeness of a coastal site plan review application. To ensure that adequate information has been provided for a thorough project evaluation, coastal site plan review applications must contain specific information, as required by Connecticut General Statutes section 22a-105(c). If any of the items listed below is missing from such an application, the applicant should be advised of the information or materials necessary to complete the application.

#### *A complete coastal site plan application should include the following information:*

- Clear and accurate plan(s) of the entire project indicating:
  - proposed location/locus map
  - location of all existing buildings, structures, and uses
  - location of all proposed buildings, structures, and uses
  - all proposed site improvements and alterations, including location and extent of land disturbance and/or grading
  - ownership (site ownership or applicant's interest in the site)
  - uses on adjacent properties
  - location and spatial relationship of all coastal resources on and contiguous to the site
- A description of the entire project, including types of existing and proposed buildings, structures, and uses
- Coastal Resources - identification of all resources on and adjacent to the site from following list:

<input checked="" type="checkbox"/> general resource*	<input type="checkbox"/> freshwater wetlands/watercourse
<input type="checkbox"/> beaches and dunes	<input type="checkbox"/> intertidal flats
<input type="checkbox"/> bluffs and escarpments	<input type="checkbox"/> islands
<input type="checkbox"/> coastal flood hazard area	<input type="checkbox"/> rocky shorefronts
<input type="checkbox"/> coastal hazard area	<input type="checkbox"/> shellfish concentration area
<input type="checkbox"/> coastal waters/estuarine embayments	<input type="checkbox"/> shorelands
<input type="checkbox"/> developed shorefront	<input type="checkbox"/> tidal wetlands

This identification of coastal resources leads directly to identification of the appropriate resource policies in the CCMA applicable to the project.

- An assessment of the condition of the resources and their capability to accommodate the proposed structure or use
- Coastal Use Policies - identification of all applicable policies from the following list:
 

<input checked="" type="checkbox"/> general development*	<input type="checkbox"/> fisheries
<input type="checkbox"/> boating	<input type="checkbox"/> fuel, chemical and hazardous materials
<input type="checkbox"/> coastal recreation and access	<input type="checkbox"/> open space and agricultural lands
<input type="checkbox"/> coastal structures and filling	<input type="checkbox"/> ports and harbors
<input type="checkbox"/> cultural resources	<input type="checkbox"/> sewer and water lines
<input type="checkbox"/> dams, dikes and reservoirs	<input type="checkbox"/> solid waste
<input type="checkbox"/> dredging and navigation	<input type="checkbox"/> transportation
<input type="checkbox"/> energy facilities	<input type="checkbox"/> water-dependent uses
- An assessment of how the proposal is consistent with all applicable resource and use policies
- An assessment of the suitability of the project for the proposed location, especially if the project site is waterfront or abuts tidal wetlands
- Methods and timing of construction
- Methods of stormwater management, including methods for retention and/or treatment
- Description of the type and extent of development adjacent to the site
- An evaluation of the potential beneficial and adverse impacts of the project and a description of proposed methods to mitigate, or lessen, any unavoidable adverse impacts
- Identification of whether the site is a waterfront location (includes sites fronting on tidal wetlands and open coastal waters) and, if so, an indication of whether the proposal is or is not water-dependent and why
- Description of impacts or effects the project will have on future water-dependent uses or water-dependent development on and adjacent to the site
- Description of proposed measures to mitigate, or lessen, any unavoidable adverse impacts on future water-dependent development opportunities

\*General Resource and General Development policies apply to all sites and uses.



## Office of Long Island Sound Programs

### *COASTAL SITE PLAN REVIEW COMMENTS CHECKLIST*

This checklist is used by the Office of Long Island Sound Programs (OLISP) to assess the consistency of the proposed activities with the relevant policies and standards of the Connecticut Coastal Management Act [(CCMA), Connecticut General Statutes (CGS) sections 22a-90 through 22a-112, inclusive]. This review is for:

**ORIGINAL TO:**

by (indicate all that apply):

hand-delivery  fax  e-mail  U.S. mail

Date sent/delivered: 00/00/00

**COASTAL SITE PLAN REVIEW TRIGGER:**

- Zoning Compliance
- Subdivision
- Special Exception or Permit
- Variance
- Municipal Improvement

**APPLICANT NAME:****MAILING ADDRESS:****PROJECT ADDRESS:**

**Sample**

**PROJECT DESCRIPTION:**

OLISP reviewer:

Date OLISP review completed: 00/00/00

Plan title: \_\_\_\_\_

Date plans were received by OLISP: 00/00/00

Most recent revision date on plans:

<b>COASTAL RESOURCES AND RESOURCE POLICIES:</b>				
	<b>ON-SITE</b>	<b>ADJACENT TO SITE</b>	<b>POTENTIALLY INCONSISTENT</b>	<b>NOT APPLICABLE</b>
General Coastal Resources*	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Beaches and Dunes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bluffs and Escarpments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Coastal Hazard Area	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Coastal Waters and/or Estuarine Embayments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Developed Shorefront	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Freshwater Wetlands and Watercourses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intertidal Flats	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Islands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rocky Shorefront	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Shellfish Concentration Areas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Shorelands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tidal Wetlands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>ADVERSE IMPACTS ON COASTAL RESOURCES:</b>			
	<b>Appears Accessible</b>	<b>Potentially Unavailable</b>	<b>Potentially Inapplicable</b>
Degrades tidal wetland, beaches and dunes, rocky shorefronts, or bluffs and escarpments	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Degrades existing circulation patterns of coastal waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Increases coastal flooding hazard by altering shoreline or bathymetry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Degrades natural or existing drainage patterns	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Degrades natural shoreline erosion and accretion patterns	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Degrades or destroys wildlife, finfish, or shellfish habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Degrades water quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Degrades visual quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>RESOURCE POLICIES:**</b>		
	<b>Applies</b>	<b>Potentially Inconsistent</b>
General Development*	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Boating	<input type="checkbox"/>	<input type="checkbox"/>
Coastal Recreation and Access	<input type="checkbox"/>	<input type="checkbox"/>
Coastal Structures and Filling	<input type="checkbox"/>	<input type="checkbox"/>
Cultural Resources	<input type="checkbox"/>	<input type="checkbox"/>
Fisheries	<input type="checkbox"/>	<input type="checkbox"/>
Fuels, Chemicals, or Hazardous Materials	<input type="checkbox"/>	<input type="checkbox"/>
Ports and Harbors	<input type="checkbox"/>	<input type="checkbox"/>
Sewer and Water Lines	<input type="checkbox"/>	<input type="checkbox"/>
Solid Waste	<input type="checkbox"/>	<input type="checkbox"/>
Transportation	<input type="checkbox"/>	<input type="checkbox"/>
Water-dependent Uses	<input type="checkbox"/>	<input type="checkbox"/>

Sample

\* General Coastal Resources and General Development policies are applicable to all proposed activities.  
 \*\* Policies that are not applicable are not checked in this chart.

<b>ADVERSE IMPACTS ON FUTURE WATER-DEPENDENT DEVELOPMENT ACTIVITIES AND OPPORTUNITIES:</b>			
	Appears Acceptable	Potentially Unacceptable	Not Applicable
Replaces an existing water-dependent use with a non-water-dependent use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reduces existing public access	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Locates a non-water-dependent use at a site that is physically suited for a water-dependent use for which there is a reasonable demand	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Locates a non-water-dependent use at a site that has been identified for a water-dependent use in the plan of development or zoning regulations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- ISSUES OF CONCERN (SEE SUMMARY AND RECOMMENDATIONS BOX FOR ADDITIONAL DETAIL):**
- Insufficient information
  - Potential increased risk to life and property in coastal hazard area
  - Adverse impacts on future water-dependent development opportunities
  - Proximity of disturbance to sensitive resources/need for additional vegetated setback
  - Potential to cause erosion/sedimentation; need for adequate sedimentation and erosion control measures
  - Water quality and/or stormwater impact
  - Other coastal resource impacts:
  - Other:

Sample

**SUMMARY AND RECOMMENDATIONS:**

**FINDING:** (Please see summary and recommendations section on page 3 for discussion)

- CONSISTENT WITH ALL APPLICABLE COASTAL POLICIES, COMMENTS INCLUDED
- CONSISTENT WITH MODIFICATIONS OR CONDITIONS
- ADDITIONAL INFORMATION NEEDED PRIOR TO COMPLETE CSPR EVALUATION

**SUPPORTING DOCUMENTATION ATTACHED TO THIS CHECKLIST:**

- Copies of photographs of the site dated:
- Copies of aerial photographs dated:
- GIS maps depicting:
- Coastal resources maps dated:
- OLISP Fact Sheet(s):
- Other:

Please be advised that, separate from the municipal review, the following Department of Environmental Protection permits may be required:

- Structures, Dredging, and Filling in Tidal and Navigable Waters
- Tidal Wetland
- Stormwater General Permit ( construction / industrial / commercial )
- Other:

For more information, contact:

Please direct questions or comments regarding this checklist to:

Department of Environmental Protection  
 Office of Long Island Sound Programs  
 79 Elm Street  
 Hartford, Connecticut 06106-5127  
 Phone 860-424-3034  
 Fax 860-424-4054

copy/ies provided to

OLISP Reviewer Initial: \_\_\_\_\_ Date: \_\_\_\_\_

This checklist is intended to replace a comment letter only in those instances where OLISP comments can be readily conveyed without the background discussion that would be provided in a letter.  
 This checklist is not used for projects that OLISP recommends should be denied.





# Office of Long Island Sound Programs

## Fact Sheet

### for

# *COASTAL SITE PLAN REVIEW*

### ***What are Coastal Site Plans?***

The Connecticut Coastal Management Act [CCMA, Connecticut General Statutes (CGS) sections 22a-90 through 22a-112, inclusive] requires “coastal site plan reviews” for certain site plans, plans and applications for activities or projects located fully or partially within the coastal boundary. Coastal site plan reviews must be conducted for the following applications if the proposed activity or use is located landward of the mean high water mark<sup>1</sup>:

- ☐ site plans submitted to a zoning commission in accordance with CGS section 22a-109;
- ☐ plans submitted to a planning commission for subdivision or resubdivision;
- ☐ applications for special exceptions or special permits submitted to a planning commission, zoning commission or zoning board of appeals;
- ☐ applications for variances submitted to a zoning board of appeals; and
- ☐ referrals of proposed municipal projects to a planning commission pursuant to CGS section 8-24 [CGS section 22a-105(b)].

In accordance with CGS section 22a-109(b), certain minor uses and activities may be exempted from coastal site plan review by municipal zoning regulations. Check your municipality’s zoning regulations for exemptions.

### ***What must be included in a coastal site plan?***

The CCMA identifies the minimum level of information that must be included in a coastal site plan application. A complete application must contain the following:

- ✓ a plan showing the location and spatial relationship of coastal resources on and contiguous to the subject site;
- ✓ a description of the entire project with appropriate plans, indicating project location, design, timing, and methods of construction;
- ✓ an assessment of the capability of the resources to accommodate the proposed use;
- ✓ an assessment of the suitability of the project for the proposed location, especially if the project site is waterfront or abuts tidal wetlands;

- ✓ an evaluation of the potential beneficial and adverse impacts of the project on coastal resources and future water-dependent development activities;
- ✓ a description of proposed methods to mitigate (minimize, not compensate) adverse effects on coastal resources and future water-dependent development activities; and
- ✓ any other requirements specified by municipal regulation [CGS section 22a-105(c)].

For more information regarding what constitutes a complete application, please see the *Coastal Site Plan Review Application Checklist*.

### ***What must the commission or board consider when acting upon a coastal site plan?***

The appropriate commission or board must determine: 1) whether or not the proposed activity is consistent with all applicable coastal policies and standards in the CCMA; and 2) whether or not the potential adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities are acceptable. In making this determination the municipal authority must look at the following aspects of the proposal:

- ? consider the characteristics of the site including the location and condition of coastal resources on-site;
- ? consider the potential effects, both beneficial and adverse, of the proposed activity on coastal resources and future water-dependent development opportunities;
- ? follow all applicable goals and policies stated in CGS section 22a-92 and identify conflicts between the proposed activity and any goal or policy;
- ? determine whether any remaining adverse impacts have been adequately minimized (see the *Adverse Impacts* fact sheet for more information); and
- ? determine that the proposed activity satisfies other lawful criteria including, specifically, the municipal zoning or subdivision regulations or other applicable municipal regulations or ordinances [CGS sections 22a-106(a) and (b)].

### ***Must a coastal site plan application be referred to the DEP for review?***

Maybe. If a coastal site plan review application includes a shoreline flood and erosion control structure or includes a change in the zoning map or regulations, referral to OLISP is required by statute [Please see fact sheets on *Mandatory Municipal Referrals* and *Shoreline Flood and Erosion Control Structures*]. **However, even if the project does not require mandatory referral, we strongly recommend consultation with OLISP regarding coastal site plans for major development proposals, all waterfront proposals, and proposals where wetlands, beaches and dunes, coastal bluffs and escarpments, or coastal waters could be affected.** In these cases, referral to OLISP for technical review assistance may be appropriate.

## ***Are there additional statutory considerations when acting upon a coastal site plan application?***

Yes. These include:

### DECISION

A municipal commission or board may approve, modify, condition, or deny a coastal site plan based upon the review criteria listed above. The commission or board must state in writing the findings and reasons for its action (i.e., the action to approve, modify, condition, or deny the coastal site plan review application) [CGS section 22a-106(d)].

### WRITTEN FINDINGS

When a coastal site plan review decision is made, the commission or board must state in writing the findings and reasons for its actions. These are commonly termed "written findings" and should document and support the commission's decision. For example, when an application is approved, with or without conditions or modifications, the written findings should detail why the commission found that the project:

- 👍 is consistent with all applicable goals and conditions contained in CGS section 22a-92; and
- 👍 incorporates as conditions or modifications, if applicable, all reasonable measures to mitigate (or lessen) the adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities[CGS section 22a-106(e)].

### AUTHORITY TO REQUIRE A FINANCIAL ASSURANCE

The commission or board may also require a bond, escrow account, or other surety or financial security arrangement to secure compliance with any modifications, conditions and other terms stated in its approval of a coastal site plan [CGS section 22a-107].

### LACK OF TIMELY DECISION

If the commission or board fails to render a decision within the time period provided for by the General Statutes (or by any special act for such decision), the coastal site plan is deemed rejected [CGS section 22a-105(f)].

### VIOLATIONS

Any activity within the coastal boundary that is not exempt from coastal site plan review that occurs without receiving a lawful approval from a municipal board or commission or that violates the terms or conditions of such approval is a public nuisance [CGS section 22a-108].

Municipalities have the authority to exercise all enforcement remedies legally available to them for the abatement of such nuisances. The commissioner of environmental protection may also

order that such a public nuisance be halted, abated, removed, or modified and that the site of the violation be restored as nearly as reasonably possible to its condition prior to the violation [CGS section 22a-108].

Upon receipt of a petition signed by at least twenty-five residents of the municipality in which an activity is located, the commissioner of environmental protection shall investigate to determine whether or not an activity described in the petition constitutes a public nuisance [CGS section 22a-108].

### ***Does the DEP have authority over coastal site plan reviews?***

Not directly. The authority for coastal site plan review lies with the municipal board or commission responsible for the decision on the underlying application. However, the DEP exercises an oversight role in municipal coastal management activities and, in accordance with CGS section 22a-110, has "party status" in all coastal site plan reviews and can appeal a municipal decision.

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<sup>1</sup> The mean high water mark is the average of all high tide elevations based on 19-year series of tide observations by the National Ocean Survey. The mean high water mark delineates the seaward extent of private ownership of upland property as well as the limits of municipal jurisdiction for regulating upland development projects; the State of Connecticut holds title as trustee to the lands waterward of mean high water.



**Office of Long Island Sound Programs**  
**Fact Sheet**  
**for**  
***MANDATORY MUNICIPAL***  
***REFERRALS***

***What types of reviews are required by law to be referred to the Department of Environmental Protection (DEP) in accordance with the Connecticut Coastal Management Act (CCMA)?***

Any coastal site plan applications that include shoreline flood and erosion control structures as defined in Connecticut General Statutes (CGS) section 22a-109(c) [CGS section 22a-109(d)].

Any proposed municipal plan of conservation and development, municipal coastal program, or zoning regulations and any proposed changes to a municipal plan of conservation and development, municipal coastal program, or zoning regulations or zoning map [CGS section 22a-104(e)].

***Are there any time frames for such referrals?***

Yes. Any coastal site plan review application that includes either a shoreline flood and erosion control structure or a zoning regulation or map amendment, or both, must be referred to this Department in accordance with the general statutes as described below.

A copy of each coastal site plan submitted for any shoreline flood and erosion control structure must be referred to the DEP **within fifteen days of its receipt by the zoning commission**. The zoning commission must allow the commissioner of DEP thirty five days from the day of receipt by the Department for review and comment before it may render its decision [CGS section 22a-109(d)].

Proposed municipal plans of conservation and development or zoning regulations or changes thereto (including zoning map amendments) must be referred to the commissioner of the DEP at least **thirty-five days prior to the commencement of the public hearing** thereon [CGS section 22a-104(e)].

Please note that submission of these mandatory referrals directly to your OLISP liaison is considered by this department to be proper submission to the “commissioner” and is preferred in the interest of expediency.

***What are the municipality’s statutory responsibilities with regard to these applications?***

**Shoreline Flood and Erosion Control Structures:** All projects must be reviewed to ensure that: the structure is necessary and unavoidable for the protection of infrastructure, water-

dependent uses, or existing inhabited structures that predate January 1, 1980; no feasible, less environmentally damaging alternatives exist; and all remaining unavoidable adverse impacts have been mitigated. (See also the fact sheet on *Shoreline Flood and Erosion Control Structures* for more detailed information.)

**Municipal Plans of Conservation and Development or Zoning Regulations, or changes thereto (including zoning map amendments):** To ensure that the proposal is consistent with the policies contained in CGS section 22a-92 and the criteria contained in CGS section 22a-102(b), the applicable land use board must consider:

- the character and distribution of the coastal resources within its coastal boundary;
- the capacity of and limitations on such resources to support development;
- the types and methods of development compatible with wise use, protection, and enhancement of such resources;
- the nature and pattern of existing development; and
- the need for public services.

If the DEP commissioner (or authorized DEP staff agent) comments on and makes recommendations on any such proposals or changes, such comment, in its entirety, must be read into the record of the public hearing and must be considered by the appropriate board or commission before final action on the proposals or changes. Failure to comment by the commissioner shall not be construed to be approval or disapproval [CGS section 22a-104(e)].

***Are there any applications that the DEP would like to review, even though there is not a mandatory referral requirement?***

Yes. The OLISP staff is available to and interested in providing technical assistance to coastal land use boards and commissions. Any coastal municipality can take advantage of this free service and benefit from our many years of experience in the evaluation of coastal site plan reviews. There are several types of applications that typically can either be difficult to evaluate for coastal consistency or raise specific coastal management concerns. In particular, OLISP coastal programs staff is interested in reviewing:

- major development proposals in the coastal boundary;
- all waterfront proposals; and
- development proposals where sensitive coastal resources such as beaches and dunes, coastal bluffs and escarpments, wetlands and coastal waters could be affected.

However, we are willing to evaluate any other coastal site plan review application, if time allows, although given limited staff resources and the large number of coastal site plan reviews typically conducted in a year's time, we generally must pass on the more simple applications. We recommend that you contact OLISP staff to discuss individual applications and the advisability of their referral well in advance of the Board or Commission's review.



# Office of Long Island Sound Programs

## Fact Sheet

### for

# ***COASTAL SITE PLAN REVIEW EXEMPTIONS***

### ***What activities may be exempt from coastal site plan review?***

Municipalities are required to conduct coastal site plan reviews for most activities within the coastal boundary in accordance with the Connecticut Coastal Management Act [CCMA, Connecticut General Statutes (CGS) sections 22a-90 through 22a-112, inclusive, see *Fact Sheet for Coastal Site Plan Reviews* for more information]. However, the CCMA also allows municipalities to authorize specific exemptions from the coastal site plan review requirements. Exemptions **may** be made for activities specifically listed in CGS section 22a-109(b) provided these exemptions have been adopted by the municipality and incorporated into its zoning regulations. The following activities are listed in CGS section 22a-109(b) as eligible for exemption from coastal site plan review:

- ★ minor additions to or modification of existing buildings or detached accessory buildings, such as garages and utility sheds;
- ★ construction of new or modification of existing structures incidental to the enjoyment and maintenance of residential property including but not limited to walks, terraces, driveways, swimming pools, tennis courts, docks and detached accessory buildings;
- ★ construction of new or modification of existing on-premise structures including fences, walls, pedestrian walks and terraces, underground utility connections essential electric, gas, telephone, water and sewer service lines, signs and such other minor structures as will not substantially alter the natural character of coastal resources or restrict access along the public beach. It should be noted that in this context “walls” does not include any structures that meet the definition of shoreline flood and erosion control structure found in CGS section 22a-109(b). (See *Fact Sheet for Shoreline Flood and Erosion Control Structures* for more information);
- ★ construction of an individual single-family residential structure except when such structure is located on an island not connected to the mainland by an existing road bridge or causeway (i.e., on an island without motor vehicle access) or except when such structure is in or within one hundred feet of the following coastal resource areas: tidal wetlands, coastal bluffs and escarpments, and beaches and dunes;
- ★ activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife and other coastal land and water resources;
- ★ interior modifications to buildings; and
- ★ minor changes in use of a building, structure or property except those changes occurring on property adjacent to or abutting coastal waters.

In addition to the statutory exemptions, there are two items addressed in CGS section 22a-109 that are important to note:

1. shoreline flood and erosion control structures, as defined in CGS section 22a-109(b), **cannot be exempt** from the coastal site plan review requirements contained in the CCMA (See *Fact Sheet for Shoreline Flood and Erosion Control Structures* for more information); and
2. gardening, grazing, and the harvesting of crops are not subject to provisions of the CCMA.

### ***How can I tell if an activity is exempt?***

The exemptions must be formally adopted by a municipality in order for them to be in effect. The statutorily listed exemptions have been incorporated into the zoning regulations of most coastal municipalities. Thus, to determine whether a proposed activity is currently exempt from coastal site plan review, please refer to your municipality's zoning regulations for its specific list of exemptions and consult with the municipal planning and zoning office.

### ***Does the DEP have authority over determining whether an activity is exempt from coastal site plan review?***

Not directly. Although OLISP can provide assistance in determining whether or not a proposed activity meets the standards for exemption, the authority for establishing coastal site plan review exemptions lies with a municipality's zoning commission. However, if a municipality exempts from coastal site plan review an activity that should have received such a review, the DEP can deem the activity a public nuisance and take enforcement action in accordance with CGS section 22a-108.

### ***Must DEP be notified of a determination that an activity is exempt from coastal site plan review?***

No.

### ***What is the process for establishing exemptions?***

In order to exempt any of the listed activities, the municipality must first formally adopt the exemptions, generally as amendments to their zoning regulations. A municipality is not required to adopt any of the exemptions listed in the statutes nor must they adopt all of the exemptions if they choose to adopt some of them. They may also adopt a more restrictive description of exempt activities. However, a municipality cannot exempt activities that are not specified by CGS section 22a-109(b).

### ***What should be considered when specifying exemptions in the zoning regulations?***

Many municipalities have adopted the statutorily listed exemptions verbatim. In fact, in many cases the current municipal regulations indicate that certain uses "shall be exempt" from coastal site plan review rather than "may be exempt." This precludes any flexibility to require coastal site plan review of those activities that may present a threat to sensitive coastal resources due to their location, as the regulations automatically exempt the specified activities regardless of their location. Many of the statutorily defined uses and activities may seem to be minor and in most cases they are. However, we have learned from experience that it is really the location of these uses and activities relative to sensitive coastal resources that



is critical in determining the potential adverse impacts that such uses might have. Because municipalities are required to ensure that adverse impacts are minimized and found acceptable, the proposed **location** of the activity should be the main factor in determining what constitutes a “minor addition” and/or a “minor change in use.”

This, combined with several other minor issues and questions from municipalities and applicants regarding the exemption of specific activities has led us to develop model exemption regulation language. We strongly encourage municipal zoning commissions to review the exemptions that are currently allowed under their existing zoning regulations to determine whether amendments are warranted to clarify which activities are exempt or to provide reasonable flexibility to better protect sensitive coastal resources, or both.

## **MODEL EXEMPTION LANGUAGE.**

To assist municipalities in the adoption of clearer and more flexible exemption language, the Office of Long Island Sound Programs has developed the following model for coastal site plan review exemption regulations. As you will note, the differences between the statutory language and the model regulation are very slight and differ only in that they do not exempt activities, no matter how minor, if they have the potential to impact sensitive coastal resources or affect access along public beaches. Such uses would not be prohibited by adoption of the model regulation; rather, the regulation preserves the authority of municipalities to require a coastal site plan review application and, importantly, to condition or modify such applications to mitigate impacts, where warranted, as part of the approval process.

Please note that in order to exempt any of the uses allowed pursuant to CGS section 22a-109(b) or modify the existing exemptions regulation, the municipal zoning regulations must be amended in accordance with the procedure specified in Section 8-3 of the Connecticut General Statutes. As with any proposed zoning regulation change that affects the coastal boundary, adoption of the listed exemptions or changes to the adopted exemptions requires referral to the Department of Environmental Protection for review and comment at least 35 days prior to the opening of the local public hearing. Please see the OLISP fact sheet regarding *Mandatory Referrals* for additional information regarding this process.

Notes on the model language below:

The language in *italics* is not contained in the statutory language of CGS section 22a-109(b).

Text in [brackets] is not necessarily intended as part of the final regulations, but rather is either narrative to clarify certain items or provided as alternate criteria for adoption. If the model language is adopted, this text should be either deleted if it is a clarification, or a selection should be made between the suggested alternatives.

In several sections, the model language requires coastal site plan review for activities within 25 feet of specific coastal resources. We are recommending 25 feet as a minimum; however, municipalities are encouraged to adopt wider review areas (e.g., all activities within 50, 75, or 100 feet). In any event, the review area should be consistent throughout the exemption regulations.

**Model Regulations:****SECTION XX: COASTAL SITE PLAN REVIEWS – EXEMPTIONS**

1. Minor additions to or modification of existing buildings or detached accessory buildings (*e.g.*, garage or utility shed) *except when such building or proposed addition or modification is in or within twenty-five feet of the following coastal resources as defined by section 22a-93 of the Connecticut General Statutes: tidal wetlands, beaches and dunes, coastal bluffs and escarpments or coastal waters.*
2. Construction of new or modification to existing structures incidental to the enjoyment and maintenance of residential property including walks, terraces, driveways, *decks*, swimming pools, docks, tennis courts, and detached accessory buildings *except: (1) where the proposed construction or modification is in or within 25 feet of the following coastal resources as defined by section 22a-93 of the Connecticut General Statutes: tidal wetlands, beaches and dunes, coastal bluffs and escarpment, or coastal waters; or (2) where access along a public beach may be affected.*
3. Construction of new or modification of existing on-premise structures including fences, walls (*provided they do not meet the definition of shoreline flood and erosion control structure found in [use either of the following: section \_\_\_ of these regulations or section 22a-109(c) of the Connecticut General Statutes]*), pedestrian walks and terraces, *decks*, underground utilities, essential electric, gas, telephone, water and sewer service lines, *septic systems, and other services*, signs and other minor structures *except: (1) where any of the work or associated activities will occur within 25 feet the following coastal resources as defined by section 22a-93 of the Connecticut General Statutes: tidal wetlands, beaches and dunes, coastal bluffs and escarpments, or coastal waters; or (2) where access along a public beach may be affected.*
4. Construction of an individual single-family residential structure *except when located on an island not connected to the mainland by an existing road bridge or causeway (i.e., on an island without motor vehicle access) or except when such structure is within one hundred feet of the following coastal resources as defined in section 22a-93 of the Connecticut General Statutes: tidal wetlands, beaches and dunes, coastal bluffs and escarpments, or coastal waters.*
5. Activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife, and other coastal land and water resources, *except those activities that meet the definition of a shoreline flood and erosion control structure as defined in [use either of the following: section \_\_\_ of these regulations or section 22a-109(c) of the Connecticut General Statutes].*
6. Interior modifications to buildings.
7. Minor changes in use of a building, structure, or property *except those changes occurring on property adjacent to or abutting coastal waters.*

This model language is available to municipalities in electronic form. Please contact the Office of Long Island Sound Programs at 860-424-3034 to request a copy.



## Office of Long Island Sound Programs

### *SHORELINE FLOOD AND EROSION CONTROL STRUCTURES CONSISTENCY CHECKLIST*

Shoreline flood and erosion control structures represent a "hardening" of the shoreline and their installation frequently generates adverse impacts to coastal resources and may result in more harm than good. Accordingly, they are strongly discouraged by the Connecticut Coastal Management Act [CCMA, Connecticut General Statutes (CGS) sections 22a-90 through 22a-112]. This checklist is provided to assist land use agencies and private individuals in determining whether a shoreline flood and erosion control structure may be appropriate in a given situation. A shoreline flood and erosion control structure is potentially consistent with the Connecticut Coastal Management Act [CCMA, CGS sections 22a-90 through 22a-112] only if a clear demonstration can be provided that ALL of the following criterion (A through G) are met:

- A) The shoreline flood and erosion control structure would protect one or more of the following:
  - a water-dependent use as defined by CGS Section 22a-96(16) (e.g., marina, commercial fishing facility, public access walkway)
  - infrastructural facilities (e.g., roads, sewer lines, water lines)
  - an inhabited structure built prior to effective date of the CCMA (January 1, 1980). The pre-existing structure itself must be in danger or located perilously close to the water.
  
- B) There is a clear demonstration of the need for erosion or flood protection. For example:
  - There is clear evidence of *significant* erosion or flooding;
  - A qualified structure or use is clearly in danger from flooding or erosion;
  - The proposed flood and erosion control structure would protect a water-dependent structure or use which must be located on or close to the waterfront, within a coastal flood hazard area or an area prone to erosion;
  - Affected infrastructure cannot be designed or relocated to remove it from a flood-prone or erosion-prone area; and
  - A vulnerable pre-existing (prior to January 1, 1980) inhabited structure cannot be relocated away from a flood-prone or erosion-prone area and/or elevated to Federal Emergency Management Agency standards.

- C) There has been a *clear* and *compelling* demonstration that nonstructural alternatives such as vegetative stabilization (e.g., plantings and/or vegetated berms) or beach nourishment are not possible.
- D) There is no feasible, less environmentally damaging alternative to the proposed structure.
- E) The flood and erosion control structure proposed is the minimum dimension necessary to protect the structure or use.
- F) Adverse impacts to coastal resources have been minimized to the maximum extent practicable and have been deemed acceptable through the provision of all reasonable mitigation measures and techniques
- G) Based upon the above criteria, the structure is *unavoidable* and *necessary* to protect a water-dependent use, infrastructural facilities, or an inhabited structure(s) that predates January 1, 1980, the effective date of the CCMA.



# Office of Long Island Sound Programs Fact Sheet for **STATE AND MUNICIPAL REGULATORY JURISDICTIONS**

## ***Where does the Department of Environmental Protection's Office of Long Island Sound Programs regulate and why?***

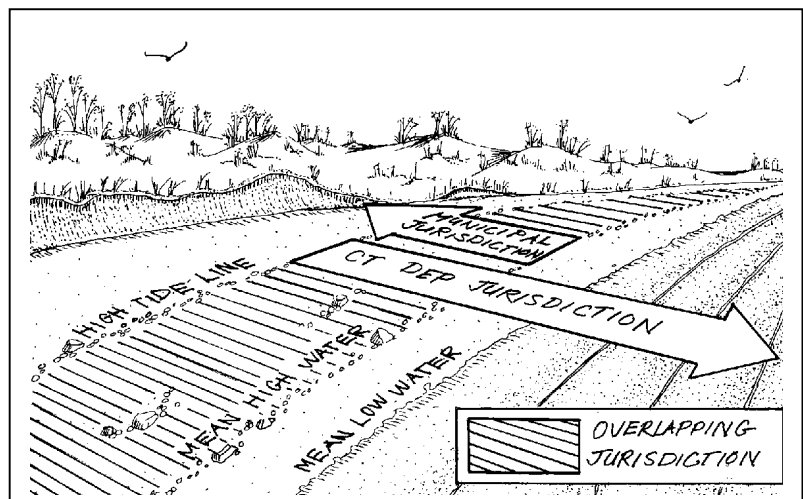
The Office of Long Island Sound Programs (OLISP) of the Department of Environmental Protection (DEP) has direct regulatory jurisdiction over activities occurring in *tidal wetlands*<sup>1</sup> and/or waterward of the *high tide line*<sup>2</sup>.

If any construction activities or structure(s), in part or in whole, or any incidental work proposed in conjunction with the construction or structure(s) is proposed at or waterward of the high tide line or in tidal wetlands, prior authorization from DEP is required in accordance with the Tidal Wetlands Act (CGS sections 22a-28 through 22a-35) and/or the statutes governing the placement of structures, dredging, and fill in tidal, coastal or navigable waters (CGS sections 22a-359 through 22a-363f, inclusive).

Examples of regulated activities include dredging, the installation of structures such as docks, seawall construction, and filling. The goals of DEP's coastal regulatory programs are to protect coastal resources, promote safe navigation, balance private rights of access with the public's right to use and enjoy state public trust waters, and protect water-dependent uses (those uses functionally dependent upon a waterfront location, such as marinas).

## **Where does a municipality regulate in comparison to DEP's jurisdiction?**

A municipality regulates upland activities under local planning and zoning authority down to the *mean high water* line<sup>3</sup>. Because the DEP-OLISP regulates activities waterward of the high tide line, in general, especially on gently sloping shorelines, there will be an area of overlapping jurisdictions because the high tide line will be further landward than mean high water. Along steep or vertical shorefronts, for instance along a seawall, the high tide line and mean high water mark will be more closely spaced, or even coincide as the same jurisdiction



line. Regardless of whether the shoreline has gentle or steep slopes, there will be many instances where *both* the municipality and the DEP-OLISP will regulate proposed activities along the shore (see illustration above).

### ***Why are there separate jurisdictions?***

Although there are many waterfront parks or natural areas owned by the state or coastal municipalities, much of the Connecticut shore landward of mean high water is privately owned. Areas seaward of mean high water are coastal tidelands actually belonging to the general public. Under the common law public trust doctrine, a body of law dating back to Roman times, coastal states hold submerged lands and coastal waters in trust for the public. In Connecticut, the limit of public trust lands and waters is the mean high water line which also indicates the waterward limit of a municipality's planning and zoning jurisdiction.

The OLISP's and a municipality's jurisdictions are distinctly different. Generally, DEP-OLISP regulates most public trust lands and waters with its in-water statutory powers geared toward stewardship of the public trust, resource preservation and the protection and promotion of water-dependent uses. A municipality's regulatory land use powers are drawn from the statutes governing municipal planning and zoning which generally govern use of private and municipal lands. The type and abundance of natural resources, allowable uses, applicable laws and management goals differ in both jurisdictions as well, and thus, they are regulated by different entities under different applicable laws and regulations. (For more information, see *Living on the Shore: Rights and Opportunities*, DEP-OLISP publication and DEP-OLISP's fact sheet on public trust).

### ***Does the Connecticut Coastal Management Act apply to both DEP-OLISP and municipal jurisdictions?***

Yes. Regardless of whether the DEP-OLISP, a municipality, or both, have jurisdiction over specific proposed activities along the shore, the Connecticut Coastal Management Act's (CCMA) policies and standards apply. During coastal site plan review and long range municipal planning, municipal planning and zoning commissions apply the CCMA's goals and standards for the protection of both coastal resources and water-dependent uses. (For more information, see coastal site plan review, water-dependent use and individual coastal resource fact sheets).

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<sup>1</sup> Tidal wetland are those areas which border on or are beneath tidal waters, such as but not limited to; banks, bogs, salt marsh, swamps, meadows, flats or other low lying lands subject to tidal action, including those areas now or formerly connected to tidal waters and whose surface is at or below an elevation of one foot above local extreme high water and upon which may grow or be capable of growing some, but not necessarily all, of the following plants: (see list in statutes)[CGS section 22a-35].

<sup>2</sup> The "high tide line" means a line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide [excerpt from CGS section 22a-359(c)].

<sup>3</sup> The "mean high water" line is a line on the shore established by the average of all high tides and the boundary of the public trust area based on the common law public trust doctrine. The mean high water line can often be determined by a prominent wrack line, debris line, or watermark.



# Office of Long Island Sound Programs

## Fact Sheet

### for

# ***WATERSHED MANAGEMENT PLANNING***

### ***What is a Watershed?***

Every body of water (e.g., rivers, lakes, ponds, streams, and estuaries) has a watershed. The watershed is the area of land that drains or sheds water into a specific receiving waterbody, such as a lake or a river. As rainwater or melted snow runs downhill in the watershed, it collects and transports sediment and other materials and deposits them into the receiving waterbody.

### ***What is Watershed Management?***

Watershed management is a term used to describe the process of implementing land use practices and water management practices to protect and improve the quality of the water and other natural resources within a watershed by managing the use of those land and water resources according to a comprehensive plan.

### ***What is Watershed Management Planning?***

Watershed management planning is a process that results in a plan or a blueprint of how to best protect and improve the water quality and other natural resources in a watershed. Very often, watershed boundaries extend over political boundaries into adjacent municipalities and/or states. That is why a comprehensive planning process that involves all affected municipalities located in the watershed is essential to successful watershed management.

### ***Why is watershed management important?***

Rainwater or snowmelt can contribute significant amounts of pollution into the lake or river. Watershed management helps to control pollution of the water and other natural resources in the watershed by identifying the different kinds of pollution present in the watershed and how those pollutants are transported, and recommending ways to reduce or eliminate those pollution sources.

All activities that occur within a watershed will somehow affect that watershed's natural resources and water quality. New land development, runoff from already-developed areas, agricultural activities, and household activities such as gardening/lawn care, septic system use/maintenance, water diversion and car maintenance all can affect the quality of the resources within a watershed. Watershed management planning comprehensively identifies those activities that affect the health of the watershed and makes recommendations to properly implement them so that adverse impacts from pollution are reduced.

Watershed management is also important because the planning process results in a partnership among all affected parties in the watershed. That partnership is essential to the successful management of the

land and water resources in the watershed since all partners have a stake in the health of the watershed. It is also an efficient way to prioritize the implementation of watershed management plans in times when resources may be limited.

Because watershed boundaries do not coincide with political boundaries, the actions of adjacent municipalities upstream can have as much of an impact on the downstream municipality's land and water resources as those actions carried out locally. Impacts from upstream sources can sometimes undermine the efforts of downstream municipalities to control pollution. Comprehensive planning for the resources within the entire watershed, with participation and commitment from all municipalities in the watershed, is critical to protecting the health of the watershed's resources.

### ***What are some key steps in watershed management?***

#### **FAMILIARIZE YOURSELF WITH YOUR WATERSHED**

Comprehensive watershed plans should first identify the characteristics of the watershed and inventory the watershed's natural resources. It is important to establish a baseline of the overall nature and quality of the watershed in order to plan properly for the improvement of the resources in the watershed and to actually measure those improvements.

The first steps in watershed management planning are to:

- Delineate and map the watershed's boundaries and the smaller drainage basins within the watershed;
- Inventory and map the resources in the watershed;
- Inventory and map the natural and manmade drainage systems in the watershed;
- Inventory and map land use and land cover;
- Inventory and map soils;
- Identify areas of erosion, including stream banks and construction sites;
- Identify the quality of water resources in the watershed as a baseline; and
- Inventory and map pollution sources, both point sources (such as industrial discharge pipes) and nonpoint sources (such as municipal stormwater systems, failing septic systems, illicit discharges).

Much of this information may already be compiled and available through the DEP, the Natural Resources Conservation Service of the U.S. Department of Agriculture, and municipal offices such as planning and zoning, inland wetlands, and public works. Additional information specific to the watershed can be gathered during volunteer stream walks which allow for on the ground study of the general conditions of the receiving waters and the adjacent watershed areas.

#### **BUILD LOCAL PARTNERSHIPS**

Watershed planning should also identify and include the partners, or "stakeholders," in the watershed. Development of local partnerships can also lead to greater awareness and support from the general public. Once individuals become aware of and interested in their watershed, they often become more involved in decision-making as well as hands-on protection and restoration efforts. Through such involvement, watershed management builds a sense of community, helps reduce conflicts, increases commitment to the actions necessary to meet environmental goals, and ultimately, improves the likelihood of success for the watershed management plan.



Local partnerships can include:

- Residents;
- Landowners;
- Federal, state, and municipal government officials;
- Watershed associations and other environmental and civic groups;
- Local business and industry leaders;
- Agricultural users;
- Developers;
- Teachers; and
- Recreational users.

### **DETERMINE PRIORITIES FOR ACTION**

Watershed management planning should also determine what the opportunities are to reduce pollution or address other pressing environmental issues, prioritize those opportunities, and identify a time frame for accomplishing pollution reduction and resource and habitat improvements. Those issues that pose the greatest risk to human health or particular resources, or to desired uses of resources (i.e., swimming beaches), might be given highest priority for control and reduction. Watershed plans should establish clear goals, visions, and actions to be taken.

Examples of opportunities to reduce pollution and address other wide-ranging environmental issues include:

- 9 Infrastructure improvements. More frequent maintenance of municipal stormwater systems or improving or replacing inadequate stormwater treatment systems, identifying and eliminating illicit (i.e., non-stormwater) connections to municipal stormwater systems;
- 9 Reducing paved areas and other impervious cover, especially adjacent to waterbodies and wetlands. Zoning and subdivision regulations can be revised to address issues such as reducing lot coverage/impervious cover, reducing roadway widths, encouraging cluster development, limiting land disturbance such as grading and clearing, and increasing development setbacks from resources;
- 9 Identifying appropriate areas for open space acquisition, greenways planning, and the establishment of vegetated buffers along waterbodies and wetland areas;
- 9 Establishing sewer avoidance areas to limit development;
- 9 Increasing inspections and maintenance of existing septic system and encouraging repairs to failing systems;
- 9 Identifying other appropriate housekeeping practices for homeowners and landowners (encouraging the use of vegetated buffers adjacent to waterbodies and wetlands, reducing lawn areas and the amount of fertilizers and chemicals applied to them, recommending washing cars over lawns instead of driveways so rinse water can drain into the lawn and not run-off into storm drains, etc.);
- 9 Identifying resource and wildlife habitat restoration priorities;
- 9 Increasing and promoting public access and greenways and identifying areas where it is appropriate to do so; and
- 9 Identifying and evaluating opportunities for nonstructural flood protection efforts;

- 9 Improving waste management, pollution prevention, and recycling efforts at municipal facilities and businesses within the watershed.

### **CONDUCT EDUCATIONAL PROGRAMS**

The degree of public education and participation in the planning process can greatly influence the success of watershed management. There are many ways to involve and educate the public in watershed management. The formation of citizen review groups and advisory committees can gain public support from the watershed and are an essential component to a successful, community-based, and locally led effort. These community-based groups and committees can also provide the means to keep the project going once the plan has been finalized to make sure that recommended actions are taken. It might also be helpful to identify a watershed coordinator to help in this effort.

Outreach and education efforts can include:

- Periodic informational meetings;
- Stream walk assessments;
- Organized storm drain stenciling projects;
- Watershed clean-up days and riparian planting/habitat restoration days;
- Coordination with school systems within the watershed;
- Information kiosks and websites;
- Videos; and
- Newsletters and other printed materials to provide status and progress reports.

### **ENSURE IMPLEMENTATION AND FOLLOW-UP**

It is important to establish a schedule with milestones and some sort of committee to ensure that projects proceed in a timely manner. A monitoring program should also be established to measure success through data gathering. It is also important to identify ways in which landowners can be assisted with undertaking necessary improvements, such as low interest loans or technical outreach information. Finally, it is important to ensure that the recommendations contained in the watershed plan, especially design standards, are integrated into municipal land use regulations (zoning, subdivision, inland wetlands).

### ***Where can a municipality get additional information?***

If you are interested in watershed planning, please contact the Department of Environmental Protection's Watershed Management and Coordination Program at 860-424-3020 or Office of Long Island Sound Programs at 860-424-3034.

In addition, there are several websites that highlight watershed planning. These include:

US Environmental Protection Agency sites: <http://www.epa.gov/owow/lessons/> and <http://www.epa.gov/owow/watershed/tools/>

The University of Connecticut's Cooperative Extension Service Nonpoint Education for Municipal Officials (NEMO) site: <http://www.lib.uconn.edu/CANR/ces/nemo/index.html>

The Rivers Alliance of Connecticut site: <http://www.riversalliance.org/>