

**INLAND WETLANDS AND
WATERCOURSES REGULATIONS**

CITY OF NEW HAVEN, CONNECTICUT

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SECTION 1 - TITLE, AUTHORITY, PURPOSE AND MAP

1.1 Title.

These Regulations shall be known as the “Inland Wetlands and Watercourses Regulations of the City of New Haven, Connecticut”, and are herein referred to as “these Regulations”.

1.2 Purpose.

The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the City of New Haven. It is, therefore, the purpose of these Regulations to protect the citizens of the City of New Haven by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing 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; and protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values by providing an orderly process to balance the need for the land with need to protect its environment and ecology in order to forever guarantee to the people of the City of New Haven the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

1.3 Authority.

These Regulations have been prepared and are adopted in accordance with the provisions of the Inland Wetlands and Watercourses Act, Section 22a-36 to 45, inclusive, of the Connecticut General Statutes, as amended. The New Haven City Plan Commission, herein referred to as “the Commission,” was authorized by the Board of Aldermen of the City of New Haven by Ordinance, effective July 3, 1974, to adopt and administer inland wetland regulations.

The Commission shall enforce the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations, or modifications, or deny permits for all regulated activities in the City of New Haven pursuant to sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

1.4 Map of Inland Wetlands and Watercourses.

The Commission hereby designates inland wetlands and watercourses as shown on a map titled “**Inland Wetlands and Watercourses Map, New Haven, Connecticut**”, herein referred to as “the Map”, which accompanies and is part of these Regulations. Although official, the map is illustrative only. The precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types and location of watercourses. 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 watercourses.

Said map shall be on file in the office of the City Clerk and in the City Plan Department where it will be available for inspection.

SECTION 2 - DEFINITIONS

- 2.1** Certain words, terms and phrases used in these Regulations shall have the meanings presented in this Section. All words used in the present tense include the future tense, and the word “used” shall be deemed to include “designed, intended, or arranged to be used”. Words not defined in this Section shall be defined in the most current edition of Webster’s *New World Dictionary, College Edition*.
- 2.2** As used in these regulations:
- Act** - the Inland Wetland and Watercourses Act, sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes, as amended.
- Bog** - watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.
- Clear-cutting** - the harvest of timber products in a fashion which indiscriminately removes all species of trees, down to a two inch (2”) diameter at breast height.
- Commission** - the City Plan Commission of the City of New Haven, Connecticut.
- 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** - individual(s) designated by the Commission to carry out its functions and purposes.
- Discharge** - emission of any water, substance or material into waters of the City of New Haven, whether or not such substance causes pollution.
- Disturb the natural and indigenous character of the wetland or watercourse** - to alter the inland wetlands and watercourses by reason of removal or deposition of material, clearing the land, altering or obstructing water flow, or pollution.
- Essential to the farming operation** - the proposed activity is necessary and indispensable to sustain farming activities on the farm.
- Farming** - in accord with the definition as noted in section 1-1(q) of the Connecticut General Statutes, as amended.
- Feasible** - able to be constructed or implemented consistently with sound engineering principles.
- License** - the whole or any part of a permit, certificate of approval or similar form of permission which may be required by any person by the provisions of the Regulations or the Inland Wetlands and Watercourses Act, Sections 22a-36 to 45, inclusive, of the Connecticut General Statutes, as amended.
- 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 watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

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

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

Nurseries – places where plants are grown for sale, transplanting, or experimentation.

Permit - the whole or any part of any license, certificate of approval, or similar form of permission that may be required of any person by the provisions of these Regulations and the Act or other municipal, state and federal law.

Permittee - the person to whom a permit has been issued.

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

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

Prudent - 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 within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration, or pollution of such wetlands or watercourses, and any earth moving, filling, construction, or clear-cutting of trees, or any such operation within fifty (50) feet of wetlands or watercourses, but shall not include the activities specified in Section 4.1 of these Regulations.

Regulated area - any wetlands or watercourses as defined in these Regulations.

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

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

Significant activity - any activity including, but not limited to, the activities specified in the "Significant impact or major effect" definition of these Regulations, which may have a

significant impact or substantial effect on the area for which an application has been filed or on another part of the inland wetland or watercourse system.

Significant impact or major effect -

- a) Any activity involving deposition or removal of material which will or may have a substantial effect on the regulated area or on another part of the inland wetland or watercourse system; or
- b) Any activity which is likely to cause or has potential to cause substantial turbidity, siltation, or sedimentation in a wetland or watercourse; or
- c) Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system; or
- d) Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support aquatic, plant or animal life and habitats, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space, or perform other functions; or
- e) Any activity which would result in dredging a watercourse or the surface and/or ground water of an inland wetland, such degradation to be measured by standards of the Water Compliance Division of CTDEP, where applicable; or
- f) Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area; or
- g) Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse; or
- h) Any activity which damages or destroys unique wetland or watercourses areas or such 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 –watercourses that are distinguished by the dominance of wetland trees and shrubs.

Waste - Sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any wetlands or watercourses in the City.

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

- (a) evidence of scour or deposits of recent alluvium or detritus,
- (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and
- (c) the presence of hydrophytic vegetation.

Wetlands - Any land, including submerged land as defined in this section, not regulated pursuant to sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained,

alluvial, or floodplain by the National Cooperative Soils Survey, as may be amended from time to time by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soils Survey and are generally shown for informational purposes only, on a map on file in the Office of the City/Town Clerk, entitled ***“Inland Wetlands and Watercourses Map, New Haven, Connecticut”***. In each instance, however, the actual character of the soil shall determine whether the land in question is subject to these Regulations.

SECTION 3 – CLASSIFICATION OF REGULATIONS

3.1 Who Shall Apply.

All persons proposing activities or uses classified as Permitted or Regulated Activities in or adjacent to (within fifty feet of) inland wetlands or watercourses involving filling, dredging, clear-cutting, clearing, grading and excavation or any other alteration or use not specifically permitted by these Regulations shall require a permit from the Commission.

3.2 Where to Apply.

Applications may be secured at the City Plan Department.

3.3 Where to File.

All applications shall be filed at the City Plan Department.

3.4 Classification of Application.

The use or operation of land in wetlands or watercourses shall be classified in five categories, to be determined by the nature and extent of disturbance, according to criteria and standards of these Regulations. For the convenience of the applicant, the classifications are briefly summarized below:

- 3.4.1 **CLASS N - NON-REGULATED USES:** Uses and activities that do not disturb the nature and indigenous character of the wetland or watercourse. This category may be self-determined by the applicant.
- 3.4.2 **CLASS A - USES PERMITTED BY RIGHT:** Uses having no significant effect on wetlands or watercourses. This category can be determined by staff, but only officially confirmed by the Commission.
- 3.4.3 **CLASS S - CTDEP REGULATED OPERATIONS AND USES:** Uses and activities affecting streams, rivers, or watercourses. Uses and activities undertaken by State entities, except the New Haven Board of Education. This category can only be referred to CTDEP for application.
- 3.4.4 **CLASS B - INLAND WETLANDS COMMISSION REGULATED OPERATIONS AND USES HAVING A MINOR IMPACT:** Activities not having a substantial adverse effect on the regulated area, requiring modest supporting materials with the application. This category can only be officially determined by the Commission, which may, at its discretion, require a public hearing on the matter.
- 3.4.5 **CLASS C - INLAND WETLANDS COMMISSION REGULATED OPERATIONS AND USES HAVING A MAJOR IMPACT:** Activities having a substantial impact or major effect on the regulated area, requiring extensive support materials with the application. This category can only be officially determined by the Commission, which shall hold a public hearing on the matter.

3.5 Determination of Classification.

- 3.5.1 **Requests for determination of non-regulated areas.** An applicant may request that the Commission or its designated agent rule that the proposed use is a non-regulated use (Class N) in writing. However, no such written determination is required for non-regulated uses. This category may be self-determined by the applicant. Such uses remain subject to these Regulations.
- 3.5.2 **Requests for determination of permitted or regulated uses.** The Commission shall rule that the proposed use is a permitted (Class A) use or that an application for a Class B or Class C permit is required. An applicant has the right to ask that an application be classified as Class C, and supply the detailed information required by the Commission.
- 3.5.3 **Withdrawal by applicant; waiver of fee for re-application.** If the Commission determines that materials submitted for either a Class B or C application are inadequate, the applicant may withdraw and refile within six months time. The fee may be waived at the Commission's discretion.
- 3.5.4 **Majority vote required.** All Commission rulings and findings shall require a majority vote, as defined in the By-laws of the Commission.
- 3.5.5 **Written ruling required.** Such rulings must be in writing, a copy to be conveyed to the applicant, and shall be made no later than the next regular meeting of the Commission following the meeting at which the request was received.
- 3.5.6 **Time limit of ruling.** Initiation of the permitted project, operation or use shall begin within five years of such ruling, unless otherwise specified by the Commission.

SECTION 4 - NON-REGULATED OPERATIONS AND USES; OPERATIONS AND USES PERMITTED AS OF RIGHT

4.1 Class N - Non-Regulated Uses.

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

- a) Conservation of soil, vegetation, water, fish, shellfish and wildlife.
- b) Outdoor recreation including play and sporting areas, golf courses, field trails, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing where otherwise legally permitted and regulated.

4.2 Class A - Uses Permitted by Right.

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

- a) Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this section shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear-cutting of timber except

- for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;
- b) A residential home, provided the building permit was obtained on or before July 1, 1987. The applicant may be required to show documentation of said permit including a certified copy of the building permit and approved site plan showing proposed and existing topographic contours, house and well locations, septic systems, driveways and other information.
 - c) Uses incidental to the enjoyment and maintenance of residential property, such property defined as equal to or smaller than 7,500 square feet (the largest minimum residential lot size permitted anywhere in the City and containing a residence). Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of materials from or onto a wetland or watercourse or diversion or alteration of a watercourse.
 - d) Construction and operation by water companies, as defined in 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-403 of the Connecticut General Statutes, as amended.
 - e) Boat anchorage or mooring, not to include dredging or dock construction.
 - f) Maintenance related to any drainage pipe which existed before July 1, 1974, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this section, "maintenance" means the removal of accumulated leaves, soil, and other debris, whether by hand or machine, while the pipe remains in place.

SECTION 5 - GENERAL REQUIREMENTS FOR LICENSING OF REGULATED ACTIVITIES

5.1 Permit Required for Regulated Activities.

Regulated activities affecting inland wetlands and watercourses within the City of New Haven are prohibited except as they may be licensed by the Commission. Any regulated activity legally existing as of the effective date of the Regulations shall be exempt therefrom and permitted to continue, provided that no new or additional regulated activity requiring a permit under these Regulations, is conducted after the effective date without such permit.

5.2 Change of Classification.

If any person disputes the designation or the failure to designate any wetland or watercourse as a regulated area, such person may petition the Commission as described in Section 10. The burden of demonstrating the need for a change in classification falls on the petitioner.

5.3 Class S - Uses Regulated by CTDEP.

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

- 5.3.1 Construction, modification or removal of any dam, pursuant to Section 22a-401 through 22a-410 of the Connecticut General Statutes, as amended;

- 5.3.2 Construction, encroachment, or placement of any obstruction within stream channel encroachment lines, pursuant to Section 22a-342 through 22a-349a of the Connecticut General Statutes, as amended;
- 5.3.3 Construction or placement of any structure or obstruction within the tidal, coastal and navigable waters, pursuant to Section 22a-359 through 22a-363 or in designated tidal wetlands pursuant to sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended;
- 5.3.4 Diversion of water for public and domestic use, including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day or any piping, culverting, channelization, relocation, damming, or other alteration of the location of flow of any surface waters of the state where the tributary watershed area above the point of such alteration is 100 acres or larger pursuant to Section 22a-365 through 22a-378 of the Connecticut General Statutes, as amended;
- 5.3.5 Discharges into waters of the State, pursuant to Section 22a-430 of the Connecticut General Statutes, as amended;
- 5.3.6 The Commissioner of Environmental Protection shall have exclusive jurisdiction over:
- a) regulated activities in or affecting wetlands and watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except a local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
 - b) tidal wetlands designated and regulated pursuant to sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
 - c) activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under section 22a-402 or a dam construction permit issued by the Commissioner of Environmental Protection under sections 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or dam construction permit shall not be required to obtain a permit from the Commission for any action necessary to comply with said dam order or to carry out the activities authorized by said dam permit.
 - d) discharge of fill or dredged materials into the wetlands and watercourses of the State pursuant to section 401 of the Federal Clean Water Act, as amended, for activities regulated by the US Army Corps of Engineers under section 404 of the Federal Clean Water Act.

5.4 Additional Application for Other Project Elements may be Required.

Although CTDEP governs the activities listed in Section 5.3 of these Regulations, a separate application before the Commission for other elements of the project may be required. The responsibility for determining the need for a separate application lies with the applicant.

SECTION 6 - APPLICATION PROCEDURE & PROCESS FOR USES AND OPERATIONS REGULATED BY INLAND WETLANDS COMMISSION

6.1 Filing Required for Regulated Activity.

Any person intending to conduct a regulated activity, as defined in Section 2 of these Regulations, within an area shown as inland wetlands on the Map, or within fifty (50) feet of an inland wetland or watercourse, shall submit an application to the Commission. Although the Map is deemed official, it is illustrative only. The precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types and location of watercourses.

- 6.1.1 **Date of Receipt.** The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission to the Commission or thirty-five (35) days after such submission, whichever is sooner.

6.2 Notices Required.

- 6.2.1 **Notices by Applicant.** An applicant shall give written notice by certified mail, return receipt requested, to an adjacent municipal wetland agency and to the City Clerk of that municipality, on the same day of filing of an Inland Wetland application to conduct activity in a wetland or watercourse, any portion of which is located within 500 feet of the boundary of such adjacent municipality.

An applicant shall give written notice to adjacent owners of record within 200 feet, not less than seven (7) days prior to the hearing or meeting date of the Commission.

If any portion of the regulated area in which the applicant proposes to conduct a regulated activity is within the watershed of the Regional Water Authority (RWA), as shown on a map filed with the Commission and on the Land Records of the City, the applicant shall provide written notice of the application to the RWA and the Commissioner of Public Health in a format prescribed by said commissioner. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven (7) days of the date of receipt of the application. The RWA and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing or meeting on the application.

- 6.2.2 **Notice by Commission.** The Commission shall notify the Clerk of any adjacent municipality of the pendency of an application by certified mail, return receipt requested, to be mailed within seven (7) days of the date of receipt of the application. Notification shall be given if:
- a) Any portion of the property which would be affected is within 500 feet of the boundary of the adjoining municipality; **or**
 - b) A significant portion of the traffic to the completed project will use the adjoining municipality's streets to enter or exit the site; **or**
 - c) A significant portion of the sewer or water drainage from the project will flow through and significantly affect the adjoining municipality's sewerage or drainage system; **or**
 - d) Water runoff from the improved site will affect streets or property within the adjoining municipality.

6.3 Factual Information.

All information submitted in the application for review shall be considered factual, or in the case of an anticipated activity, binding. A knowing failure of the applicant or any of his, her or its agents to provide correct information, or performance exceeding the levels of activity anticipated, shall be sufficient grounds for the revocation of any permits under these

Regulations and/or for penalties to be imposed. Each day of violation or deception shall be considered as a separate offense.

- 6.3.1 At any time during the review period, the applicant shall provide such additional information as the Commission may reasonably require. Requests for such additional information shall not stay the time limitations set forth in these Regulations.
- 6.3.2 All applications shall be open for public inspection.
- 6.3.3 Incomplete applications may be denied.

6.4 Filing Requirements.

Applications shall be filed on a form provided by the Commission. The Commission may prescribe forms and content of applications as it deems necessary, the number of copies to be filed, and the place of filing. The Commission may modify the form and its contents as the need arises without public hearing.

6.5 Additional Filing Requirements for Class C Applications.

If the proposed activity involves a significant activity as defined in Section 2 of these Regulations, thus classifying it as a Class C application, additional information may be required, based on the nature and anticipated effects of the activity as determined by the Commission at the time of classification.

6.6 Class A - Uses Permitted by Right - (See also Section 4.2).

This classification shall be assigned to any application which the Commission determines does not involve a regulated activity. Upon assignment of such classification, a permit shall be granted without delay, subject to limitation or revocation if it is later shown that a regulated activity is a consequence of that permitted activity. The Commission's decision and justification shall be recorded in the minutes and a copy shall be conveyed to the applicant.

6.7 Class B - Minor Impact.

This classification shall be assigned to any application which the Commission determines involves a regulated activity but does not require extensive and detailed engineering or soils surveys or water quality measurements, and the applicant has supplied information, which in the opinion of the Commission, is sufficient to determine that the activity falls within the following:

- 6.7.1 Any activity which involves a removal or deposition of material which will not have a substantial adverse effect on the regulated area or on another part of the inland wetlands or watercourses system; **or**
- 6.7.2 Any activity which involves minor changes to the natural channel of a watercourse or the limits or form of an inland wetland; **or**
- 6.7.3 Any activity which involves a minor reduction in the natural capacity of a watercourse or an inland wetland to support desirable biological life, prevent flooding, supply water, facilitate drainage, and provide recreation and open space.

6.8 Required Findings - Class B Applications.

When the Commission finds that the proposed regulated activity is a Class B Application, it must make written findings in accordance with the criteria of Section 7 of these Regulations. A permit may be granted with or without conditions. The Commission must find the following:

- 6.8.1 That there is no preferable location on the subject parcel or that no other available location could reasonably be required; and
- 6.8.2 That no further technical improvements in the plan or safeguards for its implementation are possible, or taking into account the resources of the applicant, could reasonably be required; and
- 6.8.3 That the activity and the conduct of the activity will result in little if any reduction of the natural capacity of the wetlands or watercourses to support desirable biological life, prevent flooding, supply water, facilitate drainage, and provide recreation and open space.

6.9 Time Limit for Decision.

- 6.9.1 In the absence of a Public Hearing, the Commission must render a decision to grant or deny a Class B Application within sixty-five (65) days of the date of receipt. The applicant may consent to one or more extensions, provided the total period of all extensions for any purpose does not exceed an additional sixty-five (65) days.
- 6.9.2 If the Commission fails to act on any application within the time limit, or within any allowed extension of a time period, the applicant may file such application with the Commissioner of CTDEP who shall review and act in accordance with this Section. Any costs incurred by the Commissioner or any fee that would have been paid to the City shall be paid to the State by the City. The failure of the Commission or the Commissioner to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the Application.

6.10 Class B - Denial; Request for Reclassification.

If the Commission cannot make these findings, it shall deny a permit and give its reasons to the applicant in writing. An applicant who has been denied a Class B permit may request that the application be classified as a Class C application. The Commission shall notify the applicant in accord with the Notice Requirements in Section 6.13.8.

6.11 Class C Application.

This classification will be assigned to any application which the Commission determines involves a regulated activity having a significant impact or major effect on the inland wetland or watercourses and requires the submission of extensive and detailed engineering or soils surveys or water quality measurements (see Section 6.5). The activity will be as follows:

- 6.11.1 Any activity which involves a removal or deposition of material within a regulated area that will have a substantial effect on the regulated area, or another part of the inland wetland or watercourse system; **or**
- 6.11.2 Any activity which substantially changes the natural channel of a watercourse or the limits or form of an inland wetland; **or**
- 6.11.3 Any activity which diminishes substantially the natural capacity of a watercourse or an inland wetland to support desirable biological life, prevent flooding, supply water, facilitate drainage, and provide recreation and open space; **or**
- 6.11.4 Any activity which would result in degradation of a watercourse or the surface or ground water

of an inland wetland, such degradation to be measured by the standards of CTDEP, if applicable; **or**

6.11.5 Any activity which involves the construction or obstruction of an inland wetland or watercourse.

6.12 Class C - Optional Referrals.

Upon receipt of the required application, the Commission may refer one copy to each of the following agencies for review and comment at least thirty (30) days prior to the date set for public hearing, but failure to receive a written review should not delay the hearing or prejudice the decision:

6.12.1 The New Haven County Soil and Water Conservation District.

6.12.2 The South Central Regional Council of Governments.

6.12.3 The South Central Regional Water Authority.

6.12.4 The conservation or planning commission in any municipality whose border lies within 500 feet of any wetland or watercourse that may be affected by the proposed activity, as well as the town clerk of that municipality as required by P.A. 87-307.

6.12.5 The Connecticut Department of Environmental Protection.

6.12.6 The Environmental Advisory Council of the City of New Haven.

6.13 Public Hearing Requirements.

6.13.1 **Hearing on Significant Activities.** A public hearing shall be held on all applications where the Commission determines that the proposed activity may have a significant impact on wetlands or watercourses, or upon the receipt of a petition requesting a hearing filed not later than fourteen (14) days after the date of receipt of the application and signed by at least twenty-five (25) persons eighteen (18) years of age or older residing in the City of New Haven. The Commission may elect to hold a public hearing on any application which the Commission determines is 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 not later than fourteen (14) days after the date of receipt of the application.

6.13.2 **Notice.** Notice of hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in the City of New Haven. Notices of hearings shall be sent to the applicant, property owners of record within 200 feet of the subject property, and to the CTDEP Commissioner, not less than seven (7) days prior to the hearing date. Any person may appear and be heard at any such public hearing.

6.13.3 **Public Inspection of Documents.** All applications, maps, and documents relating to this hearing shall be open for public inspection in the City Plan Department.

6.13.4 **Continuation.** Where possible, public hearings shall be completed in a single session. However, the hearing may be continued (to a date certain) where necessary for the full development of the evidence, or for the full and adequate participation of the parties, or for such other substantial purposes. In no case shall continuances be used as a device for delay.

6.13.5 **Completion.** The public hearing must be scheduled within sixty-five (65) days of receipt of the application and shall be completed within thirty-five (35) days of its commencement. The Commission shall state the reasons for its decision in accordance with the provisions of Section 7.5 of these Regulations.

6.13.6 **Time Limit for Decision.** The Commission must render a decision to grant or deny a Class C Application within thirty-five (35) days following the close of the public hearing.

- 6.13.7 **Extension of Time for Approval.** The applicant may consent to one or more extensions of any period specified herein, provided that the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such application.
- 6.13.8 **Notice of Decision.** The Commission shall inform the applicant of its decision in granting with or without conditions, or in denying a permit, by certified mail, return receipt requested, within fifteen (15) days of the date of such decision. The Commission shall cause notice of the issuance or denial of a permit to be published within fifteen (15) days of the date of the decision in a daily newspaper having a general circulation in the City of New Haven. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.
- 6.13.9 **Denial of Permit.** If the Commission denies a permit, any further consideration of the same area or activity shall be in response to a new and separate application. Incomplete applications may be denied.
- 6.13.10 **Written Wetlands Finding Required Prior to Zoning Approval.** If the activity to be authorized by the inland wetland permit also involves an activity or a project which requires zoning approval, no work pursuant to the wetland permit is authorized until such approval is obtained, nor shall the decision of the City Plan Commission or Board of Zoning Appeals be rendered until the written report on the wetland application has been received.

SECTION 7 - APPLICATION EVALUATION CRITERIA

- 7.1 The Commission shall be guided in its review of Class B and C Applications by the criteria presented in this Section. Before taking action on a Class B or C Application, the Commission shall seek to determine the environmental impact of the proposed activity, and the importance of the regulated area affected by the proposed activity. In the case of an application which received a public hearing, a permit shall not be issued unless the Commission finds that a feasible and prudent alternative does not exist. The Commission shall consider the application evaluation criteria in making the required written finding.
- 7.2 **Environmental Impact Criteria.**
- 7.2.1 The ability of the regulated area to continue to absorb, store or purify water or to prevent flooding.
- 7.2.2 Increased erosion problems resulting from changes in grades, ground cover, or drainage features.
- 7.2.3 The extent of additional siltation or leaching and its effect on water quality and aquatic life.
- 7.2.4 Changes in the volume, velocity, temperature or course of a waterway and their resulting effects on plant, animal and aquatic life.
- 7.2.5 Natural, historic or economic features that might be destroyed, rendered inaccessible or otherwise affected by the proposed activity.
- 7.2.6 Changes in suitability of the area for recreational and aesthetic enjoyment.
- 7.2.7 Existing flood encroachment lines, flood plain and streambelt zoning and requirements for dam construction.
- 7.2.8 Any change in the alkalinity/acidity level, turbidity, bacteria count, or temperature of the water, or any alteration of its odor, color or test and the effect any such change may have on aquatic organisms or other wildlife, water supply and quality, or recreational and aesthetic enjoyment.
- 7.2.9 The existing and desired quality and use of the water in and near the affected area.
- 7.2.10 Reports from other City of New Haven agencies and commissions including, but not limited to:
- a) Environmental Advisory Council
 - b) Building Official

c) City Engineer

Non-receipt of comments from agencies and commissions listed in these Regulations within the prescribed time shall neither delay nor prejudice the decision of the Commission.

7.3 Importance of Regulated Areas.

- 7.3.1 Existing or potential use of the area as a surface or ground water supply.
- 7.3.2 The extent to which the area serves as a recharge area or purifier of surface or ground waters.
- 7.3.3 The function of the area as part of the natural drainage system for the watershed.
- 7.3.4 The importance of the area as a natural wildlife feeding or breeding area.
- 7.3.5 The existing and potential use of the area for recreational purposes.
- 7.3.6 The existence of rare or unusual concentrations of botanical species.
- 7.3.7 The availability of other open spaces in the surrounding area.
- 7.3.8 The value of the area for flood control.

7.4 Factors for Consideration

In carrying out the purposes and policies of sections 22a-36 to 22a-45 inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Commission shall take into consideration all relevant facts and circumstances, including but not limited to:

- 7.4.1 **Environment Impact.** The environment impact of the proposed regulated activity on wetlands and watercourses.
- 7.4.2 **Feasible and Prudent Alternatives.** The evaluation of any feasible and prudent alternatives to the proposed regulated activity which would cause less or no environmental impact to wetlands and watercourses.
- 7.4.3 **Short versus Long Term Impacts.** The relationship between the short and long term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.
- 7.4.4 **Potential Loss of Irreplaceable Resources.** Irreversible and irretrievable loss of wetland or watercourse 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:
 - a) prevent or minimize pollution or other environmental damage,
 - b) maintain or enhance existing environmental quality, or
 - c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- 7.4.5 **Potential Property Impairment.** 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.
- 7.4.6 **Outside Impact.** Impacts of the proposed activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to the proposed regulated activity which are made inevitable by the proposed activity and which may have an impact on wetlands and watercourses.

7.5 Required Findings - Class C Application.

When the Commission finds that the proposed regulated activity is a Class C Application, it must make written findings which shall attest the following:

- 7.5.1 That no feasible and prudent alternative exists.

- 7.5.2 That no preferable location on the subject parcel or elsewhere can reasonably be required.
- 7.5.3 That no further modification of the proposed activity can reasonably be required taking into account the resources of the applicant, to further reduce any adverse environmental impacts.
- 7.5.4 That the public benefit of the proposed activity justifies any possible degradation of the regulated area.
- 7.6 Finding on Basis of Non-Existence of Feasible and Prudent Alternatives.** If the Commission has made a finding that the proposed activity may have a significant impact on wetlands or watercourses and has held a public hearing pursuant to this finding, 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 subsection 7.4 of this section. The finding and the reasons therefor shall be stated on the record in writing. 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 the application is consistent with the purposes and policies of these Regulations and sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.
- 7.7 Finding of Denial on Basis of Existing Feasible and Prudent Alternatives with less Adverse Effect.** In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Commission shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he or she is entitled to the permit or to present alternatives to the proposed regulated activity.
- 7.8 Finding to be based upon public hearing record.** In reaching its decision on any application after a public hearing, the Commission shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Commission in its decision.

SECTION 8 - DURATION OF APPROVAL; LAPSE OF APPROVAL; RENEWAL; TRANSFERABILITY; AND REVOCATION.

- 8.1 Duration of Approval.** Any permit issued by the Commission for the development of land for which an approval is required under these Regulations shall be valid for five (5) years provided the Commission may establish a specific time period within which any regulated activity shall be conducted.
- 8.2 Lapse of Approval.** The Zoning Enforcement Officer shall determine the status of an approval and make a determination if the approval is valid or if approval has lapsed.
- 8.3 Renewal.** An approved plan may be renewed by the City Plan Commission if it is determined that findings made and conditions imposed on the original approval still apply. Applications for renewal shall be made in writing between not less than thirty (30) nor more than sixty (60) days prior to the lapse of the original approval. Upon timely application, a renewal may be granted after the expiration. An extension under this section shall be granted one time only and

for a period of time of up to a maximum of five (5) years, provided no permit may be issued for more than ten (10) years.

8.4 Transferability. Permits are not transferable without the prior written approval of the Commission.

8.5 Revocation. Pursuant to Section 62 of the New Haven Zoning Ordinance and Section 13 of these Regulations, the Zoning Enforcement Officer may revoke a plan approval and/or any permit(s) associated with an approved plan that is exercised in violation of said approval.

SECTION 9- 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 City of New Haven, the State of Connecticut or the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the US Army Corps of Engineers. Obtaining such assents, permits, or licenses is the sole responsibility of the applicant.

SECTION 10 - ACTION BY DULY AUTHORIZED AGENT

10.1 The Commission may delegate to its duly authorized agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Commission and shall contain the information listed on the form and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in these Regulations, such agent may approve or extend such an activity at any time.

10.2 Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the City of New Haven. Any person may appeal such decision of such agent to the Commission within fifteen 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 not 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 these Regulations.

SECTION 11 - APPEALS**11.1 Appeal of Decision.**

If an application for a permit is denied or approved with conditions unacceptable to the applicant, any party may appeal the decision of the Commission to the Superior Court for the Judicial District of New Haven within fifteen (15) days after publication of such regulation, order, decision or action. All appeals shall follow the procedure outlined in Section 22a-43 of the Connecticut General Statutes, as amended.

11.2 Notice of Appeal to CTDEP.

The Commission shall notify CTDEP of any such appeals, and enclose a copy of the regulation, order, decision or action upon which it is based.

11.3 Remand upon Appeal.

If, upon appeal, the Court finds that the appealed action constitutes the equivalent of a taking without compensation, it shall set aside the action, or it may modify the action so that it does not constitute a taking. In both instances, the Court shall remand the order to the Commission for action not inconsistent with its decision.

SECTION 12- AMENDMENTS TO REGULATIONS TEXT AND MAP**12.1 Amendment of Regulations.**

These Regulations, including wetlands boundaries as shown on the Map, may be amended, changed or repealed, after a public hearing by the Commission. Such change shall become effective upon filing notice of such change in the Office of the City Clerk.

12.1.1 Once approved by the Commission, no application filed with the Commission shall be required after the date of decision to comply with any future change in the Regulations, including changes to setbacks and buffers. Any appeal from the decision of the Commission with respect to the 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 receipt.

12.1.2 The provisions of this subsection shall not be construed to apply to the establishment, amendment or change of boundaries of inland wetlands or watercourses or to any change in the Regulations to make them consistent with the provisions of Chapter 440 of the Connecticut General Statutes as of the decision date.

12.2 Amendment of Map.

Any person may petition for a change of a wetland boundary as shown on the Map by making application to the Commission. Petitions for changes or amendments to the Map shall contain (a) the petitioner's name, address and telephone number; (b) the address of the land affected by the petition; (c) the petitioner's interest in such land; (d) map(s) showing the geographic location and the existing and proposed wetland(s) and watercourse(s) boundaries in accurate detail together with the documentation supporting such proposed boundary locations; and (e) the reasons for the requested action. The petition shall also include (f) the owner's name, address and telephone number; (g) names and addresses of owners of abutting land; (h) proof that written notice of the petition has been sent by certified mail, return receipt requested, to the owner and abutting property owners; (i) written documentation by a soil scientist of the distribution and location of wetlands soils, including a map indicating the flag locations set by

the soil scientist and defining the boundaries of wetland soil types; and (j) map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.

- 12.2.1 Any person who submits a petition to amend the Inland Wetland and Watercourses Map, New Haven, Connecticut, shall bear the burden of proof for all requested Map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Commission. Watercourses shall be delineated by a soil scientist, geologist, ecologist, or other qualified individual.
- 12.2.2 All such petitions for Map amendments shall be considered at a public hearing, for which notice shall be published in a newspaper having general circulation in the municipality at least twice at intervals of not less than two days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before such hearing. A copy of such proposed boundary change including maps and supporting documents shall be available for public inspection at the City Plan Department.
- 12.2.3 Within sixty-five (65) days after receipt of a petition for a Map amendment, the Commission shall hold a public hearing to consider the petition. The public hearing shall be concluded within thirty-five (35) days. The Commission shall act upon the changes requested in such petition within sixty-five (65) days after the close of the hearing.
- 12.2.4 In evaluating a petition for a change in wetlands regulations or boundaries, the Commission may require additional information to support the petition.
- 12.2.5 The Commission shall make its decision and state, in writing, the reasons why the change in the Map was made.
- 12.2.6 **Extension.** The petitioner may consent to one or more extensions of the periods specified in this subsection for the holding of a hearing and for action on such petition, provided the total extension of any such period is not for longer than sixty-five (65) days, or may withdraw such petition. The failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

12.3 Notice to CTDEP.

A copy of the notice and the proposed regulations or amendments thereto, except determinations of boundaries, shall be provided to the CTDEP Commissioner at least thirty-five (35) days before commencement of a hearing on their adoption.

SECTION 13 - ENFORCEMENT

13.1 Enforcement Official.

The Commission designates the Zoning Enforcement Officer or his designee to enforce these Regulations and may designate additional agents if it so chooses.

13.2 Site Visit.

Application for a permit shall constitute permission for, and consent to, Commission inspections of the site of the proposed activity at any reasonable time before or after the granting of a permit for regulated activity.

13.3 Permit Posted.

The permit shall be prominently posted at the site by the applicant prior to commencement of work and shall remain posted until work is completed.

13.4 Court Order for Inspection.

The Commission shall be authorized to seek such necessary court orders as will permit it to inspect land, not to include entry into a private residence, whereon the Commission has probable cause to believe that a regulated activity is in progress, and for which no application has been filed.

13.5 Notice of Violation.

The Commission may issue a notice of violation to such person conducting such activity or maintaining such facility or condition which is in violation of the Act or these Regulations, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands and watercourses. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or to provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in 13.6 or other enforcement proceedings as provided by law.

13.6 Cease and Desist.

If the Commission or its designated field 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 issue a written order by certified mail, return receipt requested, to such a person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Commission shall hold a hearing to provide the person an opportunity to be heard and to show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remain 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 City of New Haven. 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 subsection shall not delay or bar an action pursuant to section 22a-44(b) of the Connecticut General Statutes, as amended.

13.7 Revocation of Permit.

The Commission may, following a public hearing, suspend or revoke a permit if it finds that the applicant has not complied with any of the 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, by personal service 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 he/she is in compliance with his/her permit and any and all requirements for retention of the permit.

13.8 Notice to Permittee.

The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by personal service or certified mail within fifteen (15) days of the date of its decision.

13.9 Fine Authorized.

Any person who commits, takes part in, or assists in any violation of any provisions of these Regulations shall be fined not more than one thousand dollars for each offense, and in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense.

13.10 Restraining Order.

The Superior Court, in any action brought by the Commission, the City of New Haven or any person, shall have jurisdiction to restrain a continuing violation of these Regulations to issue orders directing that the violation be corrected or removed.

13.11 Costs, Fees, Expenses Allocation.

All costs, fees and expenses in connection with such action shall be assessed as damages against the violator. The Court may authorize the moneys collected pursuant to this Section to be used to restore the affected wetland or watercourse to its condition prior to the violation wherever possible.

SECTION 14 - BOND AND INSURANCE

14.1 Bond.

A security bond, letter of credit, escrow account, or improvement guarantee agreement between the applicant, the lender and the City, in a form approved by the Commission, may be required as a condition of the finding. The bond or surety shall be conditioned on compliance with all provisions of these Regulations and the terms, conditions, and limitations established in the permit.

14.2 Insurance.

The applicant may be required to furnish certification of adequate Public Liability Insurance coverage for any and all damages which might occur within one (1) year of completion of the operation or use. The Commission may determine the adequacy of the coverage.

SECTION 15 - CONFORMITY WITH STATE REGULATIONS

15.1 Suspension of Regulations upon CTDEP Notice.

The enforcement of these Regulations, or any part thereof, including maps and amendments, shall be suspended upon receipt of notice from CTDEP that such regulations are not in conformity with regulations promulgated by the Commissioner pursuant to the Inland Wetlands and Watercourses Act. Only the operation of such non-conforming section or sections shall be suspended.

15.2 Amendment to Conform with State Regulations Required.

The Commission shall initiate proceedings to amend such non-conformance, pursuant to the

amendment procedures of Section 22a-42a of the Connecticut General Statutes, Amendments to the Inland Wetlands and Watercourses Act.

SECTION 16 - REPORT TO CTDEP REQUIRED

The City shall furnish information to the CTDEP Commissioner in such form and manner as CTDEP may request.

SECTION 17 - CONFLICT AND SEVERANCE

- 17.1** If there is a conflict among the provisions of these Regulations, the provision which imposes the most stringent standards for use of wetland and watercourses shall govern.
- 17.2** If any section, subsection, sentence, or portion of these Regulations is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of these Regulations.
- 17.3** If there is a conflict between the provisions of these Regulations and the provisions of the Act, the provisions of the Act shall govern.

SECTION 18 - ASSESSMENT RELIEF

Any owner of wetlands and watercourses who may be denied a permit in connection with a regulated activity affecting such wetlands and watercourses shall, upon written application to the Assessor of the City of New Haven, be entitled to a revaluation of such property to reflect the fair market value thereof in light of the restriction placed upon it by the denial of such permit, effective with respect to the next succeeding assessment list, provided no such revaluation shall be effective retroactively.

SECTION 19 - FEES

- 19.1** Application fees are as stipulated in Section 17-201 of the Code of Ordinances of the City of New Haven, as amended.
- 19.2** Agencies, boards and commissions of the city, state and federal governments are fee exempt, except for publication costs.
- 19.3** There is no fee for a permit.

SECTION 20 - EFFECTIVE DATE

These Regulations shall become effective after adoption by the City Plan Commission upon filing notice thereof with the Office of the City Clerk, New Haven, Connecticut and upon publication of a notice in a newspaper having general circulation in the City of New Haven.

Adopted November 16, 1988

Amendment #8: Revised September 17, 2008