

REGULATIONS CONCERNING
INLAND WETLANDS AND WATERCOURSES
FOR THE TOWN OF WESTBROOK
IN THE STATE OF CONNECTICUT

Adopted June 19, 1974
Amended September 7, 1976
Revised August 2, 1983
Revised January 8, 1991
Revised April 4, 1995
Revised October 23, 1997
Revised April 6, 2004
Revised August 4, 2009

SECTION 1
TITLE AND AUTHORITY

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

was established in accordance with the ordinance adopted October 1, 1973, and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Westbrook.

- 1.4 These Regulations have been adopted and may be amended, from time to time, in accordance with the provision of the Inland Wetlands and Watercourses Act and these regulations.
- 1.5 The Commission shall enforce all provision of the Inland Wetlands and Watercourses Act, and shall issue, issue with modification, or deny permits for all regulated activities on inland wetlands and watercourses in the Town of Westbrook, pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

SECTION 2 DEFINITIONS

- 2.1 The words used in these Regulations shall have the meaning commonly attributed to them. Any doubts concerning their precise meaning shall be determined by the Commission in accordance with the purpose and intent of these regulations.
- 2.2 As used in these regulations:
 - a) “Act” means the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes, as amended.
 - b) “Alluvium” means earth, sand, gravel and other transported matter which has been washed away and deposited by flowing water.
 - c) “Applicant” shall mean an individual, partnership, firm, corporation, legal entity or agent of any kind, including the Town of Westbrook and other municipal corporations, governmental agencies or subdivision thereof, who proposes to undertake a regulated activity as defined in these Regulations, and who submits an application to the Commission.
 - d) “Best Management Practices” (BMP’s), or Management Practices means structures and procedures designed to minimize the impacts of development on wetlands and watercourses. Such management practices include, but are not limited to; erosion and sedimentation controls; restrictions on land use and 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 or watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in water courses to times when water flows are low and fish and wildlife will not be adversely affected.
 - e) “Boat Anchorage” means a structure where boat and vessels are anchored or secured in place including but not limited to a dock, pier, wharf or bulkhead.
 - f) “Bogs” are usually distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

- g) “Boundary Map” means the map of regulated areas entitled “Official Designated Inland Wetlands and Watercourses Map for the Town of Westbrook.” This map delineates the general location and boundaries of regulated inland wetlands and the general location of watercourses. Copies of this map shall be on file in the Land Use Office and available for public inspection.
- h) “Clear-Cutting” means the harvest of timber in a fashion which removes all trees down to a 2” diameter at a four foot (4’) height.
- i) “The Commission” means the Inland Wetlands and Watercourses Commission of the Town of Westbrook.
- j) “Commission Member” means a member of the Inland Wetlands and Watercourses Commission of the Town of Westbrook.
- k) “Commission of Environmental Protection” means the Commissioner of the State of Connecticut Department of Environmental Protection.
- l) “Continual Flow” means a flow of water which persist 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.
- m) “Date of Approval” means the date the decision of approval as published in the newspaper having general circulation in the Town of Westbrook.
- n) “Date of Receipt” of an application shall be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission to the Land Use Department, or thirty-five (35) days after the date of submission, whichever is sooner.
- o) “Deposit” includes, but shall not be limited to, fill, grade, dump, place, discharge or emit.
- p) “Designated Agent” means, Enforcement Officer appointed by the Commission.
- q) “Detritus” means a rubbing away from, to rub or wear away. In geology, fragments of rock, etc., produced by disintegration or wearing away debris of a biological nature (i.e. leaf litter and such); any fragmentary material, and waste disintegrated matter.
- r) “Discharge” means emission of any water, substance, or material into wetlands or watercourses whether or not such substance causes pollution.
- s) “Disturbing the natural and indigenous character of the land” means to alter the inland wetland and watercourses by reason of removal or deposition of material, clearing the land, altering or obstructing water flow, or pollution.
- t) “Dock” means permanent or temporary floating structure, wharf or platform attached to land consisting of but not limited to wood, fiberglass, steel, plastic, Styrofoam, formboard, or similar material by which a boat or other water craft is secured in place.
- u) “Enforcement Officer” means the person appointed by the Commission. See Section 14.1.
- v) “Erosion” means the wearing away of the earth’s surface, as by floods, heavy rains, water or wind.
- w) “Essential to the Farming Operation” means that the activity proposed is necessary and indispensable to sustain farming activities on an existing farm.
- x) “Farming” means use of land for the growing of crops, raising of livestock or

other agricultural use.

- y) “Feasible” means able to be constructed or implemented consistent with sound engineering principles.
- z) “Floodplain” means a normally dry land area that is subject to partial or complete inundation by the overflow of inland water and/or the unusual and rapid accumulation of stormwater runoff or surface waters from any source.
- aa) “Forestry” means silviculture and harvesting or logging of trees for sale as Christmas trees, firewood, poles, lumber, chips, or mulch.
- bb) “Hydrophytic vegetation” means macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
- cc) “License” means the whole or any part of any permit, certificate of approval or similar form of permission which may be required of any person by the provisions of these Regulations under the authority of the Inland Wetland and Watercourse Commission.
- dd) “Logging” means the cutting of timber for firewood, poles, lumber, chips, or mulch. It includes the felling and limbing of trees, the disposition of unwanted parts of trees, and the transporting, hauling or dragging of wood from a site of tree-felling to a Town or State road.
- ee) “Management practice” means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practice 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.
- ff) “Marshes” are areas with soils that exhibit aquic (saturated) moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft stemmed herbaceous plants. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.
- gg) “Material” means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse or waste.
- hh) “Mooring” means a device included but not limited to a line, cable or chain connected to a floating structure and a yachtsman’s grapnel or mushroom or other type of anchor by which a boat or other water craft is secured in place.
- ii) “Municipality” means the Town of Westbrook, Middlesex County, Connecticut.
- jj) “Nurseries” means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.
- kk) “Owner(s)” means a holder of an interest in the subject property, whether in fee, or as a purchaser under a contract to purchase.

- ll) “Permit” means the whole or part of any license, certificate or approval or similar form of permission which may be required of any person by the provisions of these Regulations under the authority of the Inland Wetlands and Watercourses Commission.
- mm) “Permittee” means the person to whom such permit has been issued.
- nn) “Person” means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- oo) “Pollution” means harmful thermal effect, or the contamination or rendering unclean or impure of any waters of the State by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise, so as includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.
- pp) “Preservation” means the long-term protection of wetlands or other aquatic resource and associated uplands through the implementation of legal and physical mechanisms.
- qq) “Prudent” means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.
- rr) “Regulated Activity” means any operation within or use of wetland or watercourse involving removal or deposition of material or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in Section 22a-40 of the Connecticut General Statutes. Furthermore, any clearing, grubbing, grading, paving, excavating, filling, construction, depositing or removing of material and discharging of storm water on the land within 100 feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity. At its discretion, the Commission may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area may have an adverse impact on wetlands or watercourses and is a regulated activity.
Regulated activities shall also include:
 - 1. The installation or repair of any subsurface sewage disposal system within any wetlands or watercourses or within 100 feet of said wetlands and watercourses;
 - 2. Any operation within 100 feet of said wetlands or watercourses involving the use or storage of petrochemicals, petrochemical products, pesticides, herbicides, hazardous wastes (as defined in Section 22a-115 of the Connecticut General Statutes, as amended) or other similar products or substances in a manner such that their use or storage may allow them to enter and adversely affect the inland wetlands or watercourses. Any of the above occurring within 100 feet of said wetlands or watercourses must be reviewed pursuant to Section 4 of these Regulations for determination as to whether a formal application must be filed.
- ss.) “Regulated Area” means inland wetlands and watercourses, as defined in

these regulations.

- tt) "Restoration" means returning a degraded wetland and/or other aquatic resource closer to its undegraded state.
- uu) "Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear, cut timber, bulldoze, dragline or blast.
- vv.) "Rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any waters within the town, including, but not limited to, change in odor, color, turbidity or taste.
- ww.) "Significant activity" means any activity, including, but not limited to, the following activities which may have a major effect or significant impact on the area for which and application has been filed or on another part of the inland wetland or watercourse system:
 - 1) Any activity involving a deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system.
 - 2) Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
 - 3) Any activity which substantially diminishes the natural capacity of any inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life; prevent flooding; supply water; assimilate waste, facilitate drainage; provide recreation or open space; or to perform other functions.
 - 4) Any activity which causes substantial turbidity, siltation, sedimentation in a wetland or watercourse.
 - 5) Any activity which causes a substantial diminution (lessening) of flow of a natural watercourse, or groundwater levels of the regulated area.
 - 6) Any activity which causes or has the potential to cause pollution of a wetland or watercourse or aquifer.
 - 7) Any activity which creates conditions which may adversely affect the health, welfare and safety of any individual or the community.
 - 8) Any activity which destroys unique wetland or watercourse areas having demonstrable scientific or educational value.
 - 9) Any activity that placed the wetland in category II (5,000 sq. ft. to 1.0 acre) or Individual Permit (1.0+ acre) type wetland as defined by The Army Corps of Engineer's Connecticut Programmatic General Permit adapted May 15, 1996.
- xx.) "Siltation" means an accumulation of silt or mud which causes choking, filling or obstruction.
- yy.) "Soil Scientist" means an individual duly qualified in accordance with the standards set by the Federal Office of Personnel Management (formerly the U. S. Civil Service Commission) and certified in the State of Connecticut.
- zz.) "State" means The State Of Connecticut.
- aaa.) "Swamps" are areas with soils that exhibit aquatic (saturated) moisture regimes and are dominated by wetland trees and shrubs.
- bbb.) "Submerged lands" means those lands which are inundated by water on a seasonal or more frequent basis.

- ccc) “Surveys and Maps” means surveys and maps as defined by the Connecticut Association of Land Surveyors:
1. Class A-1: Accuracy of survey to be used in areas where density and other factors warrant a moderate degree of accuracy. 1:10.000 position accuracy.
 2. Class A-2: Accuracy of survey to be used in areas where density and other factors warrant a moderate degree of accuracy. 1:5.000 position accuracy.
 3. Class D: Shall be defined as such on map in bold letters 3/16” high and shall include the following statement: “The map is compiled from other maps, deed dimensions and other sources of information, is not to be construed as an accurate survey, and is subject to final changes as a more accurate survey may disclose”.
- ddd.) “Town” means the Town of Westbrook, Middlesex County, in the State of Connecticut.
- eee.) “Turbidity” means the sedimentation is stirred up and resuspended in the water column creating a muddy or cloudy condition.
- fff.) “Waste” means sewage or any natural or manmade substance or liquid, gaseous, solid, or radioactive, which may pollute or tend to pollute any of the wetlands and watercourses of the Town.
- ggg.) “Watercourses” means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through, or border upon the Town or any portion thereof not regulated pursuant to Section 22a-28 through 22a-35 of the Connecticut General Statutes, as amended. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (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.
- hhh.) “Wetlands” means land, including submerged land as defined in section 2.2gg, not regulated pursuant to Section 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of coastal wetlands, any of the soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, by the Natural Resource Conservation Service (NRCS) of the U. S. 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 Soil Survey.

SECTION 3 INVENTORY OF REGULATED AREAS

- 3.1 The map of regulated areas, entitled “Inland Wetlands and Watercourses Map, Westbrook, Connecticut”, delineates the general location and boundaries of

inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the office of the Town Clerk or Building Department. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses. Such determinations shall be made by field inspection and testing conducted by a Certified Soil Scientist where soil classifications are required, or where watercourse determinations are required, by any qualified individuals deemed acceptable to the Commission. The omission by oversight or other cause of any regulated areas from the inventory map does not constitute exemption of such areas from these Regulations. In addition, the Commission may use aerial photographs, remote sensing imagery, resource mapping, soils maps, site inspection observations and/or other information in determining the location of the boundaries of wetlands and watercourses.

- 3.2 Any property owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Watercourses Map, may petition the Commission to change the designation in accordance with Section 14 of these regulations. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstance which support the change. The petitioner shall provide proof that the designation is inapplicable. The Commission may require such an owner to provide an accurate delineation of regulated areas in accordance with section 15 of these Regulations.
- 3.3 The Inland Wetlands and Watercourses Commission or its designated agent shall inventory and maintain current records of all regulated areas within the Town. The Commission may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the town. Such map amendments are subject to the public hearing process outlined in Section 15 of these Regulations.

SECTION 4
PERMITTED USES AS OF RIGHT & NONREGULATED USES

- 4.1 The following operation and uses shall be permitted, unless such uses disturb the natural indigenous character of land, in inland 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. 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 (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by Westbrook Planning or Zoning Commission as of July 1, 1974, and further provided no residential home shall be permitted as of right pursuant to this Subsection (b) of Section 22a-42a, unless the building permit was obtained on or before July 1, 1987. The individual claiming a use of wetlands permitted as a right under this subsection shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement.
 - c. Boat anchorage or mooring, not to include dredging or dock construction;
 - d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the Town of Westbrook, and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of substantial amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse;
 - e. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-410 of the Connecticut General Statutes;
 - f. Maintenance relating to a drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a of the Connecticut General Statutes of July 1, 1974, which ever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.
 - g. Maintenance, by the Town of Westbrook, of dams, reservoirs, storm sewers,

culverts, existing ditches and watercourses.

- 4.2 The following operations and uses shall be permitted as non-regulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:
- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.
 - b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing, and cross-country skiing where otherwise legally permitted and regulated.
- 4.3 All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, grading and excavation or any other alteration or use of a wetland or watercourse not specifically permitted by this section shall require a permit from the Commission in accordance with Section 6 of these Regulations.
- 4.4 To carry out the purpose of this section, any person proposing to carry out a permitted or non-regulated operation or use of a wetland or watercourse, which may disturb the natural and indigenous character of the land, shall, prior to commencement of such operation or use, appear before the Enforcement Officer and submit an application for the use, to be reviewed at the next regular meeting of the Commission, on a form provided by the Commission, with sufficient information to enable the Commission to properly determine that the proposed operation and use is a permitted or non-regulated use of the wetland or watercourse. The Commission or its designated agent shall rule that the proposed operation or use is a permitted or non-regulated use or operation, or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Commission following the meeting at which the request was received. The designated agent for the Commission may make such ruling on behalf of the Commission at any time.

SECTION 5

ACTIVITIES REGULATED BY THE STATE AND FEDERAL GOVERNMENTS

- 5.1 In addition to any permit or approval required by the Commission or the Commissioner of Environmental Protection, the Federal Clean Water Act, shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:
- a. Construction or modification of any dam pursuant to Sections 22a-401 through 22a-410 of the Connecticut General Statutes, as amended;
 - b. Construction or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349 of the Connecticut General Statutes, as amended;

- c. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the State pursuant to Sections 22a-359 through 22a-363 or in designated tidal wetland pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes as amended;
- d. Diversion of water including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day, or any change in the instantaneous flow of any surface waters of the State where the tributary watershed area above the point of diversion is 100 acres or larger pursuant to Sections 22a-365 through 22a-378 of the Connecticut General Statutes, as amended;
- e. Discharges into the waters of the State pursuant to Section 22a-430 of the Connecticut General Statutes, as amended;
- f. Discharge of fill or dredged materials into the wetlands and watercourses of the State pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U. S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.
- g. The Federal Clean Water Act gives the U.S. Army Corps of Engineers (COE) and the U.S. Environmental Protection Agency Authority to regulate the use of wetlands. Under the Act's Section 404 program, applicants must apply to the COE to discharge dredged or fill material in federal jurisdictional wetlands. The Federal Government has developed a three-pronged test to determine wetland areas which are regulated by COE. In general, an area must show elements of the following three criteria to be considered a wetland under the federal program.
 - 1) Hydrophytic vegetation
 - 2) Hydric soils; and
 - 3) Hydrology

The COE has established a methodology for determining these criteria in the field. Activities necessitating a Section 404 permit include placement of fill, including temporary fill for structures, causeways, roads, driveways, dams and dikes, property protection devices such as riprap and retention walls, and pond creation. Therefore, an applicant or owner must determine if his or her property has any federal jurisdictional wetlands prior to any filling activities. If an activity in a wetland is regulated by Section 404, a permit from COE must be secured before construction can begin.

5.2 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or Regional Board of Education,

- 1. After an advisory decision on such license or permit has been rendered to the Commission of Environment Protection by the wetland agency of the municipality within which such wetland is located, or
- 2. Thirty-five (35) days after receipt by the Commissioner of Environmental Protection of each application, whichever occurs first.

5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35

of the Connecticut General Statutes, as amended.

5.4 The Commissioner of Environmental Protection shall have exclusive jurisdiction over 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 Section 221-403 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 a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said dam permit.

SECTION 6 REGULATED ACTIVITIES TO BE PERMITTED

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

6.2 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Inland Wetlands and Watercourses Commission, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 13 of these Regulations and any other remedies as provided by law.

6.3 Activities that constitute a regulated activity: Any operation within a wetland or watercourse or use of a wetland or watercourse or within 100 feet of a wetland or watercourse involving:

- a) Removal of material;
- b) Deposition of material;
- c) Obstruction;
- d) Construction;
- e) Alteration;
- f) Pollution;
- g) Excavation;
- h) Dredging;
- i) Clear-cutting;
- j) Grading and excavating; and
- k) Any other alterations or uses of a wetland or watercourse or within 100 feet of said wetlands or watercourses not specifically permitted in Section 4 of these Regulations.

6.3a.) Any activity that occurs in non-wetland upland or non-watercourse areas that is likely to impact or affect inland wetland or watercourses.

SECTION 7
APPLICATION REQUIREMENTS

- 7.1 Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity, shall apply for a permit on a form entitled "Town of Westbrook Inland Wetlands and Watercourses Commission-Application for Permit". An application shall contain the information described in this section and any other information the Commission may reasonably require. Application forms may be obtained in the Land Use Dept. at Town Hall.
- 7.2 If an application to the Town of Westbrook Planning or Zoning Commission for special permit, site plan approval and/or subdivision or re-subdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the Inland Wetlands and Watercourses Commission in accordance with this section, no later than the day the application is filed with such Planning and Zoning Commission.
- 7.3 All applications shall contain such information that is necessary for a fair and informed determination of the issues.
- 7.4 A prospective applicant may request the Commission to determine whether or not a proposed activity involves a significant impact activity.
- 7.5 The applicant may appear before the Inland Wetlands and Watercourses Commission, as an informal application, to determine whether or not the proposed application involves a significant activity or regulated activity. Whenever possible, such determination shall be made after the informal presentation.
- 7.6 All applications shall include the following information in writing or on maps or drawings:
- a. The applicant's name, home and/or business address and telephone numbers;
 - b. The owner's name, address and telephone number and written consent if the applicant is not the owner of the land upon which the subject activity is proposed;
 - c. Applicant's interest in the land;
 - d. The geographical location of the land which is the subject of the proposed activity, and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s), in acres or square feet, of the wetlands and watercourses to be disturbed, soil type(s), and vegetation;
 - e. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls, and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;

- f. Alternatives considered and subsequently rejected by the applicant and why the alternative as set forth in the application was chosen; all such alternatives shall be diagrammed on a site plan or drawing;
- g. A site plan showing the proposed activity and existing and proposed conditions in relation to wetlands and watercourses, and identifying any further activities associated with, or reasonably related to the proposed regulated activity and which may have an impact on wetlands and watercourses;
- h. A site plan showing existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.
- i. Names and mailing addresses of adjacent property owners;
- j. Certification by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
- k. Authorization for the commissioners and agents of the Commission to inspect the land, at reasonable times, both before and after a final decision has been issued;
- l. A completed DEP reporting form; the Commission shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies;
- m. A statement identifying which BMP's were considered. Indicate utilized BMP's on the site plan and/or the management plan.
- n. Any other information the Commission deems necessary to the understanding of what the applicant is proposing.
- o. Submission of the appropriate filing fee based on the Fee Schedule established in Section 18 of these Regulations; and
- p. Maps must contain the engineer's seal, and must be signed by a Soil Scientist who has flagged the wetlands.
- q. Listing of all roads, driveways, structures, utilities, floodplain areas, open space areas, conservation easements, rock outcropping, specimen trees and stone walls.
- r. Drainage/Engineering report, alternative analysis plans and narrative report explaining the alternatives and why they were rejected as not being feasible and prudent, wetland mitigation plans and report, and construction process and sequence description.
- s. A copy of the completed "Public Water Supply Aquifer Area Protection Notification Form" with the postal certification slip that has been stamped with the date the form was mailed.

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

- a. Site plans for the proposed activity and the land which will be affected thereby which show existing and proposed condition, wetland and watercourse

- boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the development, prepared by the applicable professional engineer land surveyor, architect and landscape architect licensed by the State or by such other qualified person;
- b. Signed and Sealed Engineering reports and analysis and additional drawings to fully describe the proposed activity and any filling, excavation, drainage or hydraulic modifications to watercourses, and the proposed erosion and sedimentation control plan;
 - c. Mapping of soils consistent with the categories established by the National Cooperative Soils Survey of the NRC of U. S. Dept. of Agriculture, shall be identified and flagged on the site by a Soil Scientist. The soils will then be delineated on the site plan. A report by the Soils Scientist explaining the soils found in the field shall accompany the flagging and delineation on the plans. All flagging must be current with the application.
 - d. A description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions;
 - e. A description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetland or watercourses involved in the application and each alternative and a description of why each alternative considered was deemed neither feasible nor prudent;
 - f. Analysis of chemical or physical characteristics of any fill material;
 - g. Management practices and other measures designed to mitigate the impact of the proposed activity. (Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safe-guard water resources.)

7.8 The applicant shall certify whether:

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

7.9 Six (6) copies of all application materials shall be submitted to comprise a complete application or as is otherwise directed in writing by the Inland Wetlands and Watercourses Commission, unless a sub-division, where ten (10) copies are required.

- 7.10 Any application to renew or amend an existing permit shall be filed with the Commission in accordance with Section 8 of these Regulations at least sixty-five (65) days prior to the expiration date for the permit. Any application to renew or amend such an existing permit shall contain the information required under Section 7 of these Regulations provided:
- a. The application may incorporate the documentation and record of the original application;
 - b. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
 - c. The application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
 - d. The application shall describe any change in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued;
 - e. The Commission may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing, and allow the continuation of work beyond the expiration date if, in its judgement, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity.
- 7.11 Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years.
- 7.12 A copy of the “as built” plans must be submitted to the Agency prior to issuance of the Certificate of Occupancy or upon completion of the project if no C.O is required. The “as built” must include, but is not limited to, the following:
- a) The location of the wetlands and watercourses.
 - b) Any Conservation Deed Restriction / Easements / Rights of Way.
 - c) All foundations, driveways, and impervious surfaces.
 - d) All property boundaries.

SECTION 8 APPLICATION PROCEDURES

- 8.1 All applications shall be submitted to the Inland Wetlands and Watercourses Commission of the Town of Westbrook.
- 8.2 In the case of any application where any portion of the wetland or watercourse on which the regulated activity is proposed is located within 500 feet of the boundary of Clinton, Old Saybrook or Essex, the applicant shall give written notice of the proposed activity, certified mail, return receipt requested, to the affected adjacent municipal wetlands commission or agency on the same day of filing an inland wetlands permit application with the Westbrook Inland Wetlands and Watercourse

Commission. Documentation of such notice shall be provided to the Westbrook Inland Wetlands and Watercourses Commission, in accordance with Section 22a-42c of the Connecticut General State Statutes, as amended.

8.3 When an application to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse is filed and any portion of such wetland or watercourse is within five-hundred (500) feet of the boundary of another municipality, the applicant shall give written notice of the application by Certified Mail, Return Receipt Requested, on the same day to the inland wetlands agency of such other municipality.

8.4 The Commission shall, in accordance with Connecticut General Statutes Section 22a-42b, notify the clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:

- a) Any portion of the property on which the regulated activity is proposed is located within five-hundred (500) feet of the boundary of an adjoining municipality;
- b) A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- c) A significant portion of the sewer or water drainage from the project site will flow through and significantly impact sewage or drainage system within the adjoining municipality; or
- d) Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Notice of the pendency of such application shall be made by Certified Mail, Return Receipt Requested, and shall be mailed within seven (7) days of the date of receipt of the application.

8.5 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within a Level B Aquifer area of a water company as defined in Section 16-1 of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of Level B Aquifer areas with the Inland Wetlands Commission of such municipality. Such notice shall be made by Certified Mail, Return Receipt Requested, and shall be Mailed within seven (7) days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission.

8.6 The date of receipt of any application shall be the next regularly scheduled meeting of the Commission immediately following the day of submission to the Land Use Department, or thirty-five (35) days after the date of submission, whichever is sooner.

8.7 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 as set forth in Subsection 11.2 of these

Regulations.

- 8.8 All applications shall be open for public inspection.
- 8.9 Applications with incomplete information may be denied by the Commission.
- 8.10 Building permit applications for properties containing Inland Wetlands and Watercourses will not be processed unless the wetland line and the 100-foot regulated area are clearly drawn and labeled on the site plan. The Inland Wetlands and Watercourses must remain flagged for the duration of the project.

SECTION 9 PUBLIC HEARINGS

- 9.1 The Commission shall not hold a public hearing on an application unless the Commission determines that the proposed activity may have a significant impact on wetlands or watercourses or a petition signed by at least twenty-five (25) persons requesting a hearing is filed with the Commission not later than fifteen (15) days after the date of receipt of such application or the Commission finds that a public hearing regarding such application would be in the public interest. Such hearing shall be held no later than sixty-five (65) days after receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection at the meeting. The file will be open for public inspection in the Town Clerk's Office ten (10) days before the Public Hearing. Any person may appear and be heard at any public hearing.
- 9.2 Notice of the public 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 each town where the affected wetland and watercourse is located.
- 9.3 Notification of Adjoining Landowner(s):
- a) The applicant, or his agent, shall notify the property owners of any parcels of land that are within 100 feet of the parcel for which an application, petition, request or plan concerning any project on the site is pending and requires a public hearing by the Commission.
 - b) Applications to amend these Regulations and applications that do not require a public hearing shall be exempt from this notification requirement.
 - c) Notifications shall be made by certificate of mailing shall be mailed no more than fifteen (15) days nor less than ten (10) days before the public hearing.
 - d) The notification is to be sent to the owner(s) or record as recorded at the office of the Town Assessor.
 - e) Verification of notification shall be submitted to the Inland Wetlands and Watercourses Commission no later than five (5) days before the public hearing at which time the application will be presented to the Commission.

- f. To comply with Section 9.3 above, all of the following shall be submitted:
- 1) A list of all the names and addresses of all the property owners within 100 feet of the parcel for which an application has been submitted.
 - 2) A copy of a block map denoting the parcel for which an application has been submitted and all parcel of land within 100 feet of the application site.
 - 3) A copy of the letter sent describing the proposed activity; the date, time and place of the public hearing; and, the name of the applicant and the name of the owner of record of the parcel for which an application has been submitted.
 4. All the postal certification slips that have been stamped with the date the letters were mailed.

9.4 In the case of any application which is subject to the notification provisions of Subsection 8.3 of these Regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

9.5 Commission requirements for notifying the Office of Long Island Sound Programs of the Department of Environmental Protection: No less than thirty-five (35) days before the public hearing begins, the Inland Wetlands and Watercourses Commission Agent will, on behalf of the Commission, notify the Office of Long Island Sound Programs of the Department of Environmental Protection of any application to amend these regulations or any application to amend the Town of Westbrook Inland Wetlands and Watercourses Boundary Map where the wetlands or watercourses are partially or entirely within the coastal boundary. Proof of such notification and any report returned by the DEP to the Commission shall be entered into the public hearing.

9.6 Applications that do not require a public hearing: Referral application, in accordance with the State Statutes, for a site plan or subdivision where no regulated activity is proposed and a report must be submitted by the Inland Wetlands Commission before the Planning and Zoning Commission may render a final decision.

9.7 Time Schedule for holding a public hearing for application to amend regulations or amend the Wetlands Boundary Map:

- a) Within sixty-five (65) days of date of receipt of a petition to amend the Regulations for a change in the map boundaries of any wetlands or watercourses, the Commission shall hold a public hearing to consider the petition.
- b) The public hearing shall be concluded within thirty-five (35) days after it commences.
- c) The Commission shall act upon the changes requested in such petition within sixty-five (65) days after the close of the hearing.
- d) The petitioner may consent to one or more extensions of the periods specified in this section for the holding of a hearing and for action on such petition, provided the total extension of all such periods shall not be longer than sixty-five (65) days, or may withdraw such petition.
- e) The applicant shall be notified of the Commission's decision within fifteen (15)

days via Certified, Return Receipt Requested mail.

9.8 Time schedule for holding a public hearing for a regulated activity:

- a) A public hearing shall commence no later than sixty-five (65) days after date of receipt of an application.
- b. The hearing shall be completed within thirty-five (35) days of commencement.
- c. Action shall be taken on application within sixty-five (65) days of commencement.
- d. The applicant may consent to one or more extensions of the period specified in this section for the holding of the hearing and for action on such petition, provided the total extension of any such periods shall not be longer than sixty-five (65) days, or may withdraw such application.
- e. The applicant shall be notified of the Commission's decision within fifteen (15) days via Certified Return Receipt Requested mail.

SECTION 10
CONSIDERATIONS FOR DECISION

10.1 The Commission will consider the following in making its decision on an application:

- a. The application and its supporting documentation;
- b. Public Comments, evidence and testimony;
- c. Reports from other agencies and commissions including but not limited to the Town of Westbrook:
 1. Conservation Commission
 2. Planning and Zoning Commissions
 3. Building Official
 4. Health Officer and/or Sanitarian
- d. The Commission may also consider comments on any application from the Middlesex County Soil and Water Conservation Agency, or other regional organizations (i.e. Council of Elected Officials); agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations;
- e. Non-receipt of comments from agencies and commissions listed in subdivisions 10.1.c and d above within the prescribed time shall neither delay nor prejudice the decision of the Commission.

10.2 Criteria for Decision. In carrying out the purposes and policies of Sections 221-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provision thereof, the Commission shall take into consideration all relevant facts and circumstances, including but not limited to:

- a. The environmental impact of the proposed regulated activity on the inland wetland and watercourses, including the effects on the inland wetlands' and watercourses' capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate

drainage, to control pollution, to support recreational activities, and to promote public health and safety.

- b. The applicant's purpose for, and any feasible and prudent alternatives to the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses, including a consideration of alternatives which might enhance environmental quality and which could feasibly attain the basic objectives of the activity proposed in the application. This consideration should include, but is not limited to, the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.
- c. The relationship between the short term and long term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long term productivity of such wetlands or watercourses;
- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused in the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
- e. The character and degree of injury to, or interference with, safety, health or reasonable use of property, including abutting or downstream property, which is caused or threatened by the proposed regulated activity; or the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic recreational and other public and private uses and values of wetlands and watercourses to the community.
- f. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
- g. The Commission will consider location of wetlands relative to special resource zones such as the Water Resource District, and its location in subwatersheds including, but not limited to, Town Center Watershed, Pachogue River Watershed and Cold Springs Brook Watershed, as defined by maps on file at the Town Hall in Westbrook.

10.3 In the case of any application which received a public hearing pursuant to a finding by the Commission that the proposed activity may have a significant impact on

wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding, the Commission shall consider the facts and circumstance set forth in Subsection 10.2 of this section. The finding and the reasons therefor shall be stated on the record in writing.

- 10.4 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 provide this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.5 In reaching its decision on any application after a public hearing, the Commission shall base its decision on the record of that hearing, Documentary evidence or other material not in the hearing record shall not be considered by the Commission in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposed and policies of these regulations and Sections 22a-36 to 22a-45 inclusive, of the Connecticut General Statutes.

SECTION 11 DECISION PROCESS AND PERMIT

- 11.1 The Commission, or its Enforcement Officer, may, in accordance with Section 10 of these Regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposed and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- 11.2 No later than sixty-five (65) days after date of receipt of an application, the Commission may hold a public hearing on such application. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within sixty-five (65) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of the receipt of the application. The applicant may consent to one or more extensions of the period specified in the Subsection for the holding of the hearing and action on such application, provided the total extension of any such periods shall not be for longer than sixty-five (65) days, or may withdraw such application. 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 application. An application deemed incomplete by the Commission shall be withdrawn by the applicant or denied by the Inland Wetland and Watercourse Commission.

- 11.3 The Commission shall state upon its record the reasons and bases for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing, and shall be in writing and shall, as applicable and in accordance with section 10 of these Regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives.
- 11.4 The Commission shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by Certified Mail, Return Receipt Requested, and the Commission shall cause notice of its order in issuance or denial of the permit in a newspaper having general circulation within the town where the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.
- 11.5 If an activity authorized by the Inland Wetlands and Watercourses Commission permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, under Sections 8-3(g), 8-3(c), or 8-26 of the Connecticut General Statutes, a copy of the decision and report on the application shall be filed with the Town of Westbrook Planning or Zoning Commission within fifteen (15) days of the date of the decision.
- 11.6 If the Commission denies a permit, the application shall not be resubmitted unless the proposal is modified in such a fashion that substantially changes the impacts which resulted in a denial. Such submittal shall take the form of a new application.
- 11.7 Any permit issued by the Commission for the development of land for which an approval is required under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five (5) years provided the Commission may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Commission for any other activity shall be valid for not less than two (2) years and not more than five (5) years.
- 11.8 No permit issued by the Commission shall be assigned or transferred without the written permission of the Commission.
- 11.9 If a bond or insurance is required in accordance with Section 12 of these Regulations, the Commission may not issue a permit until such bond or insurance is provided.
- 11.10 General provisions in the issuance of all permits:

- a. The Commission has relied in whole or in part on information provided by the applicant, and if such information subsequently proves to be false, deceptive, inaccurate, or incomplete, the permit may be modified, suspended or revoked.
 - b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of Westbrook, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state and municipal laws or regulations pertinent to the subject land or activity.
 - c. If the activity authorized by the Commission permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the wetland permit may begin until such additional approval is obtained.
 - d. The permittee shall take such necessary steps consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- 11.11 Modification of Application after Commission Renders a Decision:
- a) If the Commission denies the permit, or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Commissions' satisfaction.
 - b) The Commission shall determine whether the proposed modification requires the filing of a new application.

SECTION 12 ACTION BY THE COMMISSION ENFORCEMENT OFFICER

- 12.1 The Commission may delegate to its Enforcement Officer the authority to approve or extend an activity that is not located in a wetland or watercourses when such Enforcement Officer finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such Enforcement Officer 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 and shall contain such information as prescribed by the Commission. Notwithstanding the provisions for receipt and processing applications prescribed in Section 8 of these Regulations, such Enforcement Officer may approve or extend such an activity at any time.
- 12.2 When a person receiving such approval from such Enforcement Officer, the Enforcement Officer shall, within ten (10) days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such Enforcement Officer to the Commission within fifteen (15) days after the publication date of the notice provided such meeting is no earlier than three (3) business days after receipt by Commission or its Enforcement Officer of such appeal. The Commission shall, at its discretion,

sustain, alter, or reject the decision of its Enforcement Officer, or require an application in accordance with Section 7 of these Regulations.

SECTION 13 BOND AND INSURANCE

- 13.1 Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Commission, be required to file a passbook bond in such amount and in a form approved by the Commission will be submitted to the IWWC Enforcement Officer, which will be submitted by him/her to the Town Treasurer.
- 13.2 The bond shall be conditioned on compliance with all provisions of these Regulations and the terms, conditions and limitations established in the permit.

SECTION 14 ENFORCEMENT

14.1 Persons Authorized to Enforce

- a. The Commission may an appoint an Enforcement Officer to act on its behalf with the authority to perform such inspections or investigations, to issue notices of violation or cease and desist orders, and carry out other actions or investigations necessary for the enforcement of these regulations.
- b. Any police officer or other person authorized by the First Selectman may issue a citation to any person who conducts or maintains an activity, facility or condition in violation of these regulations or to any person who commits, takes part or assists in any violation of these regulations pursuant to Section 9-87 of the Code of Ordinances and Section 22a-42g, as amended, of the General Statutes. Such person may be the Enforcement Officer, as specified in Section 14.1(a) of these regulations, provided that such person has also been authorized by the First Selectman to issue citations under these regulations pursuant to Section 9-87 of the Code of Ordinances and Section 22a-42g, as amended, of the General Statutes.

14.2 Right to Inspect

The Commission, individual Commission members, Enforcement Officer or other duly authorized agents of the Commission may enter at all reasonable times upon any public or private property, except a private residential dwelling, for the purpose of inspection or investigation to ascertain possible violations of these regulations, including but not limited to compliance with the terms of a permit issued under these regulations or the conducting of an activity regulated under the Act and these regulations without a permit.

14.3 Enforcement

If the Commission, its Enforcement Officer or other agent so authorized by the Commission finds that any person is conducting or maintaining any activity, facility or condition which is in violation of these regulations or Sections 22a-36 through 22a-45, inclusive and as amended, of the General Statutes, the Commission, its Enforcement Officer or other agent authorized by the Commission may:

1. Issue a notice of violation to a person conducting or maintaining an activity, facility or condition which is in violation of the Act or of these regulations, pursuant to Section 14.4 of these regulations.
 2. Issue a written cease and desist and/or corrective action order, to such person conducting or maintaining an activity, facility or condition which is in violation of the Act or of these regulations to immediately cease such activity and/or to correct such facility or condition, pursuant to Section 12.5 of these regulations;
 3. Suspend or revoke a permit if the Commission finds that a permittee, his or her agents, contractors or subcontractors have not complied with the terms, conditions, or limitations set forth in the permit, or have exceeded the scope of the work as set forth in the application, including applications plans, as approved, pursuant to Section 14.6 of these regulations;
 4. Commence an action in Superior Court to obtain one or more of the remedies available in Section 22a-44(b), as amended, of the General Statutes, pursuant to Section 14.8 of these regulations.
- b. If the Commission, its Enforcement Officer or other agent so authorized by the Commission finds that any person is conducting or maintaining any activity, facility or condition, which is in violation of these regulations or Sections 22a-36 through 22a-45, inclusive and as amended, of the General Statutes, the person authorized by the First Selectman, may:
1. Issue a citation and impose fines, civil penalties, costs and/or fees to such person conducting or maintaining an activity, facility or condition which is in violation of the Act or of these regulations, pursuant to Section 14.7 of these regulations;
- c. Action taken under any provision of Sections 14.4-14.8 of these regulations does not preclude commencement of a separate action for the same offense under any other provision of Sections 14.4-14.8 of these regulations.

14.4 Issuing a Notice of Violation

- a. If the Commission, its Enforcement Officer, other agent so authorized by the Commission finds that any person is conducting or maintaining any activity, facility or condition which is in violation of these regulations or Sections 22a-36 through 22a-45, inclusive and as amended of the General Statutes, the Commission, its Enforcement Officer or other agent authorized by the Commission may send a written notice of violation to such person via First Class mail.
- b. Such notice of violation shall state with specificity each violation, describe the nature of the violation(s), and prescribe the necessary action and steps to correct the violation(s) including, without limitation, halting work in wetlands or watercourses.
- c. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice, and/or file a proper application for the necessary permit to conduct or maintain such activity, facility or condition.
- d. Failure to carry out the action(s) directed in a notice of violation may result in the issuance of a cease and desist and/or corrective action order as provided in Section 14.5, the suspension or revocation of a previously issued permit as provided in Section 14.6, a citation and the imposition of fines, civil penalties, costs and/or fees as provided in Section 14.7 of these regulations, and/or the pursuit of legal remedies in Superior Court as provided in Section 14.8 of these regulations or other enforcement proceedings as provided by law.

14.5 Issuing a Cease and Desist and/or Corrective Action Order

- a. If the Commission, its Enforcement Officer or other agent so authorized by the Commission finds that any person is conducting or maintaining any activity, facility or condition that is in violation of these regulations or Sections 22a-36 through 22a-45, inclusive and as amended, of the General Statutes, the Commission, its Enforcement Officer or other agent authorized by the Commission may issue a written order to such person requiring that he or she immediately cease and desist such activity and/or take corrective action.
- b. Any person who commits, takes part in, or assists in any violation of these regulations or any provisions of Sections 22a-36 through 22a-45, inclusive and as amended, shall be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each offense. Each violation of said sections of the General Statutes shall be a separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. All costs, fees, and expenses in connection with such action shall be assessed as damages against the violator together with reasonable attorney's fees, which may be allowed, all of which shall be awarded to the

commissioner, municipality, district or person which brought such action.

- c. Any person who willfully or knowingly violates any provision of Sections 22a-36 through 22a-45, inclusive and as amended, of the General Statutes shall be fined not more than one thousand dollars for each day during which such violation continues or be imprisoned not more than six (6) months or both. For a subsequent violation, such person shall not be fined more than two thousand dollars (\$2,000) for each day during which such violation continues or be imprisoned not more than one year or both. For purposes of this section, "person" shall be construed to include any responsible corporate officer.
- d. Any cease and desist and/or corrective action order issued under this section of the regulations shall be sent by certified mail to such person. Such order shall state with specificity each violation, describe the nature of the violation(s) and prescribe the necessary action and steps to correct the violation(s) including, without limitation, halting work in wetlands or watercourses.
- e. Within ten (10) days of the issuance of such order, the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing, and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The original order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises, or withdraws the order.
- f. The Commission may file a certificate of such order in the office of the town clerk of the Town of Westbrook and the town clerk shall record such certificate on the land records of the Town of Westbrook. The Commission shall obtain the release of the certificate from the land records once full compliance with the order has been achieved as determined by the Commission.
- g. The issuance of an order pursuant to this section shall delay or bar an action under Sections 14.4 through 14.8 of these regulations pursuant to Sections 22a-42a, 22a-42g or 22a-44 of the General Statutes, as amended;

14.6 Suspending or Revoking a Permit

- a. If the Commission, its Enforcement Officer or other agent so authorized by the Commission finds that any permittee, his or her agents, contractors or subcontractors have not complied with the terms, conditions or limitations set for in the permit, or have exceeded the scope of the work as set forth in the application, including application plans, as approved, the Commission, its Enforcement Officer or other agent authorized by the Commission may suspend or revoke a previously issued permit.
- b. Prior to revoking or suspending any permit, the Commission shall issue notice to the permittee to be delivered by hand or by certified mail to the person named in the notice setting forth the facts or conduct which warrants the intended action.
- c. The Commission shall hold a hearing to provide the permittee an opportunity to show that he or she is in compliance with a previously issued permit and with

any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain such permit by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality within fifteen (15) days of the date of its decision. In any case in which notice is not published within such fifteen-day period, the applicant may provide for the publication of notice within ten (10) days thereafter.

14.7 Issuing a Citation

- a. If the Commission, its Enforcement Officer or other agent so authorized by the Commission finds that any person is conducting or maintaining any activity, facility or condition which is in violation of these regulations or Sections 22a-36 through 22a-45, inclusive and as amended, of the General Statutes, the person authorized by the First Selectman to issue citations may issue a written citation to such person notifying them of the violation(s) and imposing fees, civil fines, fees and/or costs on such person pursuant to Sections 9-87 through 9-90 of the Code of Ordinances, Section 14 of the Regulations Concerning Inland Wetlands and Watercourses, and Section 22a-42g, as amended, of the General Statutes.
- b. The amount of such fine or civil penalty shall not exceed the amount provided for in Section 9-89(b) of the Code of Ordinances consistent with Section 22a-42g (a), as amended of the General Statutes.
- c. The procedures for issuing citations; providing notice; payment and receipt of fines, civil penalties, costs and/or fees; requesting, scheduling and holding hearings; assessing fines, civil penalties, costs and/or fees; filing notice of assessment; and appeals from assessments resulting from a citation shall adhere to the procedures and regulations set forth in Sections 9-89 and 9-90 of the Code of Ordinances consistent with Section 7-152c, as amended, of the General Statutes.

14.8 Commencing an Action in Superior Court

- a. If the Commission, its Enforcement Officer or other agent so authorized by the Commission finds that any person is conducting or maintaining any activity, facility or condition which is in violation of these regulations or Sections 22a-36 through 22a-45, inclusive and as amended, of the General Statutes, the Commission, its Enforcement Officer or other agent authorized by the Commission may commence an action in Superior Court pursuant to Section 22a-44(b), as amended, of the General Statutes to obtain one or more of the following remedies:
 1. Court order restraining a continuing violation of the regulations; and/or
 2. Court order directing that the violation be corrected or removed; and/or

3. Court order assessing civil penalties as provided for in Sections 22a-44(b) and 22a-44 (c), as amended, of the General Statutes; and/or
4. Court order seeking reimbursement of all costs, fees and expenses, including reasonable attorney's fees, in connection with such action to enforce compliance with the Act and these regulations.

14.9

- a. Any fine, civil penalty, fee and/or cost assessed in connection with any enforcement action or proceeding undertaken pursuant to Section 14 of the Regulations Concerning Inland Wetlands and Watercourses and Section 9 of the Code of Ordinances of the Town of Westbrook shall be made payable to the Treasurer of the Town of Westbrook and sent by mail or hand delivered to the Treasurer in Town Hall. The burden rests with the person against whom such fines, civil penalties, fees and/or costs have been assessed to ensure that timely payment has been received by the Town of Westbrook.
- b. All penalties collected pursuant to Section 14.5 of the Regulations Concerning Inland Wetlands and Watercourses and Section 22a-44, as amended, of the General Statutes shall be used solely:
 1. to restore the affected wetlands or watercourses to their condition prior to the violation, wherever possible,
 2. to restore other degraded wetlands or watercourses,
 3. to inventory or index wetlands and watercourses of the state, or
 4. to implement a comprehensive training program for inland wetlands agency members.
- c. Any fine or civil penalty collected by the Town of Westbrook pursuant to Section 9 of the Code of Ordinances and Section 14.7 of the Regulations Concerning Inland Wetlands and Watercourses shall be deposited into the General Fund of the Town of Westbrook or in a special fund as designated by the Board of Selectmen with the approval of the Board of Finance for the Town of Westbrook.

14.10 Retention of Records

An original or certified copy of the initial notice of violation issued by the authorized official or police officer shall be filed and retained by the Town Of Westbrook, and shall be deemed to be a business record within the scope of Section 52-180, as amended, of the General Statutes and evidence of the facts contained therein. An original or certified copy of any cease and desist and/or corrective action order and any citations issued by authorized officials or agents on behalf of the Town of Westbrook shall be filed and retained by the Town of Westbrook. All such notices of violation, orders and citations shall be retained for the minimum amount of time specified in Section 20 of the Regulations Concerning Inland Wetlands and Watercourses.

14.11 Appointment of Hearing Officer(s) and Procedure for Conducting Hearings

- a. The appointment of Citation Hearing Officer(s) shall be conducted as required by Section 9-88(a) of the Code of Ordinances.
- b. The Citation Hearing Officer shall conduct the hearing in the order and form and with such methods as required by Section 9-88(b) of the Code of Ordinances consistent with Section 7-152c, as amended, of the General Statutes.

SECTION 15
AMENDMENTS

15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Westbrook may be amended, from time to time, by the Commission in accordance with changes in the Connecticut General Statutes or Regulations of the State Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses become available.

15.2 An application filed with an Inland Wetlands & Watercourses Commission, which is in conformance with the applicable Inland Wetlands Regulations as of the date of the receipt of such application, shall not be required thereafter to comply with any change in inland wetlands regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses, or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.

15.3 These Regulations and the Town of Westbrook Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five (35) days before the public hearing on their adoption.

15.4 Petitions requesting changes or amendments to the Inland Wetlands and Watercourses Map, Westbrook, Connecticut shall contain at least the following information:

- a. The applicant's name, address, and telephone number;
- b. The owner's name (if not the applicant), address, telephone number, and a written

- consent to the proposed action set forth in the application;
- c. The address or location of the land affected by the petition;
- d. The petitioner's interest in the land affected by the petition.
- e. Map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with documentation supporting such proposed boundary locations, and
- f. The reasons for the requested action.

15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Westbrook, Connecticut, shall bear the burden of proof for all requested map amendment. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Commission. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interest of such and owner, developer or purchaser, in addition to the information required in Subsection 15.3, the petition shall include:

- a. The name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
- b. The names & mailing addresses of the owners of abutting land;
- c. Documentation by a Soil Scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the Soil Scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the Soil Scientist and defining the boundaries of wetland soil types, and
- d. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.

15.6 Watercourses shall be delineated by a Soil Scientist, Geologist, Ecologist or other qualified individual, as recognized by the Commission.

15.7 A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having substantial circulation in the municipality at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before such hearing. A copy of such proposed boundary change shall be filed in the Office of the Town Clerk, for public inspection at least ten (10) days before such hearing.

15.8 Within sixty-five (65) days of the date of receipt of a petition for a change in the map boundaries of any wetland or watercourse, the Commission shall hold a public hearing to consider the petition. The hearing shall be completed within thirty-five (35) days of its commencement. The Commission shall act upon the changes requested in such petition within sixty-five (65) days after the close of the hearing. The petitioner may consent to one or more extensions of the period specified in this

Subsection for the holding of the hearing and for action on such petition, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such petition. The failure of the Inland Wetlands and watercourses 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.

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

SECTION 16
APPEALS

- 16.1 Appeal on actions of the Commission shall be made in accordance with the provisions of Section 22a-43 of the Connecticut General Statutes, as amended. (Note: Section 22a-43 was amended by Public Act 89-356).
- 16.2 Notice of such appeal shall be served upon the Commission and the Commissioner of Environmental Protection.

SECTION 17
CONFLICT AND SEVERANCE

- 17.1 If there is a conflict between the provisions of these Regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision or provision of these Regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.
- 17.2 If there is a conflict between these Westbrook Regulations and the State of Connecticut Statutes, the Connecticut State Statutes will prevail.

SECTION 18
OTHER PERMITS

- 18.1 Nothing in these Regulations shall obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Westbrook, State of Connecticut and the Government of the United States, including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

SECTION 19
APPLICATION FEES

- 19.1 Method of payment. All fees required by these Regulations shall be submitted to the Commission by check, money order, or cash, payable to the Town of Westbrook, at the time the application is filed with the Commission
- 19.2 No application shall be granted or approved by the Commission unless the correct application fee is paid in full
- 19.3 The application fee is not refundable.
- 19.4 Definitions. As used in this Section:

- a. "Residential uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.
- b. "Commercial uses" means activities carried out on property developed for industry, commerce, trade, recreation, or business, or being developed to be occupied for such purposes, for profit or nonprofit.
- c. "Other uses" means activities other than residential uses of commercial uses.

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

REGULATED USES – Section 6 of these regulations –

RESIDENTIAL USES PER LOT \$75.00

ALL OTHER USES \$400.00

AFTER THE FACT FEE \$150.00

An additional fee of \$100.00 shall be required if an application for review or an application for a permit is submitted after the activity has begun.

All or any part of the above fees may be waived at the sole discretion of the Commission by a majority vote.

SIGNIFICANT ACTIVITY FEE – Section 7

PER PUBLIC HEARING \$300.00

Plus 150 per cent of the cost of technical review over \$250.00

OTHER FEES –

- Certificate of Occupancy re-inspect fee: If a C.O. inspection request has been filed in the building department and approved erosion and sedimentation plan is not adhered to, a \$100.00 re-inspect fee will be imposed upon the applicant prior to reinspection.

Activity on a single residential lot:

- Preliminary review without an application by Commission: \$25.00

- Filling and/or grading other than for siting a dwelling: \$60.00

- Creation of a pond or wetlands: \$200.00

Wetlands Crossings or Filling:

- Single wetland road crossing on a single residence lot or filling up to and including 150 sq. ft. measured from base of fill: \$150.00

- Any additional wetland crossing on a single residence lot or additional filling after 150 sq. ft. measured from base of fill: Additional \$150.00

- Single wetland crossing in a new subdivision or filling up to and including 500 ft.: \$500.00

- Any additional wetland crossing in a new subdivision filling in excess of 500 sq. ft.: Additional \$200.00

Subdivisions:

- Preliminary review of any subdivision with no activity in regulated area: \$75.00

- Preliminary review of any subdivision with activity within the inland

wetlands, watercourses and/or regulated area: \$200.00

- Final review of any subdivision lot in which activity is planned within, or partially within, the regulated zone will be charged the residential rate: See above

Commercial – Industrial:

- Nonregulated activity: Application required. \$10.00 fee

- Permitted-as-of-Right Activity: Application required. \$10.00 fee

- 150% Staff review cost for Significant activities deemed to be significant and as defined in the Westbrook Inland Wetland and Watercourses Regulations. At the discretion of the Commission, the plans will be sent to a consulting firm for the estimated cost of review and 150% of the estimate cost is paid by the developer to the Town, placed in a separate account and the balance is refunded at the satisfactory completion of the project.

Notes:

In the event that the proposed activity is not specifically defined in the fee schedule, the Enforcement Officer or the Commission will select the nearest equivalent activity and apply the appropriate fee.

In the event that the Commission judges that a proposed activity may have significant impact, and calls for a public hearing, there will be an additional fee for the applicant. See significant activity fee above.

By Connecticut State Statutes 22a-36 through 22a-45 inclusive, this Commission is authorized to regulate any activity within its municipal bounds that may impact inland wetland and watercourses, regardless of the 100-foot review zone.

A \$60.00 DEP fee will be collected on all applications. This fee must be paid by a separate check payable to the Town of Westbrook.

The Commission may require additional professional assistance in evaluating a land use application submitted to the Commission in accordance with the regulation if it finds that the nature and intensity of development may have a significant impact on the site and its surrounding areas.

The expense of such professional assistance shall be estimated by the Commission, or its agent, based on a preliminary estimate prepared by qualified experts or the Commission's agent, and 150 per cent of the estimated cost of review shall be deposited with the Commission by the applicant prior to the receipt of the application by the Commission. Failure of the applicant to deposit such estimated cost with the Commission shall be deemed a failure of the applicant to submit an appropriate fee for a completed application.

Upon completion of the professional review and final action on the application, the

Commission shall determine the actual costs incurred for the review and refund any excess funds to the applicant. Applicants shall not be responsible for costs incurred for professional assistance which exceed 150 per cent of the Commission's estimate, per application.

An additional fee sufficient to cover the reasonable cost of acting on an application or petition, including costs of certified mailings, publication of notices and decisions, and monitoring compliance within permit conditions or Commission orders, may be charged.

19.6 EXEMPTION. Boards, Commissions, Councils and Departments of the Town of Westbrook are exempt from all fee requirements. Land designated "Conservation Easement" or "Conservation Restriction" may be exempt from charges as required on Fee Schedule.

SECTION 20 RECORDS RETENTION AND DISPOSITION

20.1 The Commission and the Town Clerk for the Town of Westbrook shall retain complete administrative records of Commission actions and dispose of such records in accordance with Retention/Disposition schedules set forth in Subsection 20.2

20.2 The public records administrator of the Connecticut State Library established the following new records Retention/Disposition schedules for municipal Inland Wetlands and Watercourses Commissions effective April 24, 1989:

RECORD TITLE	MINIMUM RETENTION REQUIRED IN COMMISSION	TOWN CLERK
Applications (including maps, etc.)	10 years	
Decision Letters	10 years	Permanent
Approved Site Plans	10 years	
Legal Notices	10 years	Permanent
Staff & Public written Testimony (Hearings)	10 years	
Minutes of Meetings & Public Hearings	15 years	Permanent
Tapes, Audio	4 years	
Notices of Violation & orders	10 years	
Text of Changes adopted In regulations	Continuous update Permanent	
General Correspondence Issued or received	5 years	

SECTION 21
EFFECTIVE DATE OF REGULATIONS

- 21.1 These regulations, including the Inland Wetlands and Watercourses Map, Fee Schedule, and amendments thereto, shall become effective upon filing in the Office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of Westbrook.