



TOWN OF COLUMBIA

INLAND WETLANDS

AND

WATERCOURSES

REGULATIONS

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COLUMBIA INLAND WETLANDS AND WATERCOURSES REGULATIONS

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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 wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the 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 minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the 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 COLUMBIA."
- 1.3 The Inland Wetlands and Watercourses Commission of the Town of COLUMBIA, established in accordance with Town Ordinance 74-01 as adopted and revised, shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act in the Town of COLUMBIA, Connecticut.

- 1.4 These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- 1.5 The Inland Wetlands and Watercourses Commission of the Town of COLUMBIA shall enforce the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities in the Town of COLUMBIA pursuant to sections 22a-36 to 22a45, inclusive, of the Connecticut General Statutes, as amended.
- 1.6 Areas of special concern in the Town of COLUMBIA include the following watercourses and their associated wetlands as outlined on the official COLUMBIA Wetlands Map:

1.6B WATERCOURSES OF CONCERN

- 1.6B1 - COLUMBIA LAKE
- 1.6B2 - MONO POND
- 1.6B3 - COLUMBIA LAKE BROOK
- 1.6B4 - CLARKS BROOK
- 1.6B5 - GIFFORDS BROOK
- 1.6B6 – HOP RIVER
- 1.6B7 – MACHT BROOK
- 1.6B8 – TEN MILE RIVER
- 1.6B9 – MINT BROOK
- 1.6B10 – UTLEY BROOK
- 1.6B11 – DAM BROOK

SECTION 2
DEFINITIONS

As used in these regulations:

- 2.1 **"Act"** means the Inland Wetlands and Watercourses Act, sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes, as amended.
- 2.2.1 **"Bogs"** are areas watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.
- 2.3 **"Clear-cutting"** means the harvest of timber in a fashion which removes all or substantially all trees down to a two-inch diameter at breast height.
- 2.4 **"Commission"** means the Inland Wetlands and Watercourses Commission of the Town of COLUMBIA.
- 2.5 **"Commission member"** means a member of the Inland Wetlands and Watercourses Commission of the Town of COLUMBIA.
- 2.6 **"Commissioner of Energy and Environmental Protection"** means the commissioner of the State of Connecticut Department of Energy and Environmental Protection.
- 2.7 **"Continual flow"** means a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.
- 2.8 **"Deposit"** includes, but shall not be limited to fill, grade, dump, place, discharge or emit.
- 2.9 **"Discharge"** means emission of any water, substance, or material into wetlands or watercourses waters of the state whether such substance causes pollution.
- 2.10 **"Disturb the natural and indigenous character of the wetland or watercourse"** means to alter the inland wetlands and watercourses by reason of removal or deposition of material, clearing the land, altering or obstructing water flow, or pollution.
- 2.11 **"Essential to the farming operation"** means that the proposed activity is necessary and indispensable to sustain farming activities on the farm, where "farm" is defined by section 1-1 (q) of the Connecticut General Statutes (Appendix A).
- 2.12 **"Farming"** means use of land for the growing of crops, raising of livestock or other agricultural use, shall be consistent with the definition as noted in section I-1 (q) of the Connecticut General Statutes (see Appendix A).
- 2.13 **"Feasible"** means able to be constructed or implemented consistent with sound engineering principles. —means able to be constructed or implemented consistent with sound engineering principles

- 2.14 "**License**" means the whole or any part of any license, permit, certificate or of approval or similar form of permission which may be required of any person by the provisions of these regulations and the Act or other municipal, state and federal law sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended
- 2.15 "**Management practice**" means a practice, procedure, activity, structure, or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: 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.
- 2.16 "**Marshes**" are areas with soils that exhibit aquatic moisture regimes and watercourses that are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in marshes, is at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.
- 2.17 "**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.
- 2.18 "**Municipality**" means the Town of COLUMBIA, Connecticut.
- 2.19 "**Nurseries**" means land used for propagating trees, shrubs, or other places where plants are grown for transplanting, sale, or for use as stock for grafting experimentation
- 2.20 "**Ordinary high-water mark**" means a mark on the land caused by the presence and action of water, which presence and action is so common and usual and so long continued in all ordinary years so as to mark upon the land a distinction between the abutting upland and the watercourse and ascertaining thereon an abrupt change in the characteristics of soil or vegetation or slope of the land.
- 2.21 "**Permit**" - see License
- 2.22 "**Permittee**" means the person to whom a permit has been issued.
- 2.23 "**Person**" means any person, firm, partnership, association, corporation, company, limited liability company, organization, or legal entity of any kind, including municipal corporations, governmental agencies, or subdivisions thereof.
- 2.24 "**Pollution**" means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly.

- 2.25 **"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.
- 2.26 **"Regulated activity"** means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in section 22a-40 of the Connecticut General Statutes. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of storm water on the land within the following upland review areas is a regulated activity:
- a. Within 200 feet measured horizontally from the ordinary high- water mark of a river, stream, brook or from a wetland soil in those areas identified in section 1.6 of the Commission's Regulations "Areas of Special Concern".
 - b. Within 100 feet measured horizontally from the boundary of any other wetland or watercourse. The Commission may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.
 - c. The Upland Review Area (URA) shall be increased to 200 feet if the slope is greater than 20% within 100' of a wetlands or watercourses to the regulated activity as identified in Section 2.26 of the Commissions regulations.
- 2.27 **"Remove"** includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast within 200 feet measured horizontally from the ordinary high water mark of the river, stream, brook or from a wetland soil in those areas identified in Section 1.6 of the Commissions regulations Areas of Special Concern or within 100 feet measured horizontally from the boundary of any wetland or watercourse. The Commission may rule that any other activity located within such upland review area or in any non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.
- 2.28 **"Rendering unclean or impure"** means any alteration of the physical, chemical, or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity, or taste,
- 2.29 **"Significant activity impact"** means any activity, including, but not limited to, the following activities which may have a major effect or significant impact.
- a. Any activity involving deposition or removal of material which will or may have a major substantial effect or significant impact on the regulated area or on another part of the inland wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
 - b. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.

- c. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support fish aquatic, wildlife, or other biological life plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
 - d. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse,
 - e. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area wetland or watercourse.
 - f. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
 - g. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.
- 2.30 **"Soil scientist"** means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.
- 2.31 **"Swamps"** are areas or watercourses with soils that exhibit aquic moisture regimes and are distinguished by the dominance of wetland trees and shrubs.
- 2.32 **"Submerged lands"** means those lands which are inundated by water on a seasonal or more frequent basis.
- 2.33 **"Town"** means the Town of COLUMBIA, Connecticut.
- 2.34 **"Vernal pool"** means a watercourse consisting of a confined basin depression which contains a small body of standing water, usually drying out for part of the year during warm weather. It can be natural or man-made and lacks a permanent outlet or any fish population. Further, the occurrence of one or more of the obligatory species which include the fairy shrimp, spotted salamander, Jefferson salamander, marbled salamander, wood frog and eastern spadefoot toad are necessary to conclusively define the vernal pool.
- 2.35 **"Waste"** means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses of the Town.
- 2.36 **"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 sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes. 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.
- 2.37 **"Wetlands"** means land, including submerged land as defined in this section, not regulated pursuant to sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial

and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites, which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

SECTION 3 INVENTORY OF REGULATED AREAS.

- 3.1 The map of regulated areas wetlands and watercourses entitled "Inland Wetlands and Watercourses Map, COLUMBIA, Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the office of the Town Clerk or the Commission. In all cases, the precise location of regulated areas wetland and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types and location of watercourses. The Commission may consider, but is not limited to, aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands. and watercourses.
- 3.2 Any person may petition the Commission for an amendment to the map. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall bear the burden of proof regarding the proposed map amendment. Such proof may include, but not be limited to aerial photography, remote sensing imagery, resource mapping or other available information. The Commission may require such person to provide an accurate delineation of regulated areas in accordance with section 15 of these regulations.
- 3.3 The Commission shall maintain a current inventory of regulated areas within the town. The Commission may amend its map as more accurate information becomes available.
- 3.4 All Map amendments are subject to a public hearing process outlined in Section 15 of these regulations.

SECTION 4

PERMITTED USES AS OF RIGHT AND NON-REGULATED USES

- 4.1 The following operations and uses shall be permitted 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, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision 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 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 (A) for which a building permit has been issued or (B) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987. Any person claiming a use of wetlands permitted as of right under this subdivision shall document the validity of said right by providing a certified copy of the building permit and site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his or her right hereunder;
 - 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 municipality (provided that in any town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot size shall be two acres) and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping but shall not include removal or deposition of significant 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-403 of the Connecticut General Statutes.
 - f. Maintenance related to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier provided such pipe is on property which is

zoned as residential but which does not contain [hydrophytes] 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; and

g. Withdrawals of water for fire emergency purposes.

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 shell fishing and cross-country skiing where otherwise legally permitted and regulated.
- c. The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, "dry hydrant" means a non-pressurized pipe system that: (A) is readily accessible to fire department apparatus from a proximate public road, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) is permanently installed into an existing lake, pond or stream that is a dependable source of water.

4.3 All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Commission in accordance with Section 6 of these Regulations or for certain regulated activities located outside of wetlands and watercourses from the duty authorized agent in accordance with Section 12 of these regulations.

4.4 To carry out the purposes of this section, any person proposing a permitted operation and use or a non-regulated operation and use shall, prior to commencement of such operation and use, notify the Commission on a form provided by it, and provide the Commission with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of a wetland or watercourse. The Commission shall rule that the proposed operation and use or portion of it is a permitted or nonregulated operation and use or that the proposed operation and use is a regulated activity and a permit is required.

SECTION 5

ACTIVITIES REGULATED EXCLUSIVELY BY THE STATE COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION

- 5.1 Commissioner of Energy and 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, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.2 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to sections 22a-08 through 22a-05 of the Connecticut General Statutes, as amended,
- 5.3 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair, or removal order issued by the Commissioner of Energy and Environmental Protection under section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner of Energy Environmental Protection under sections 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from a municipal wetlands commission for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.4 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over the 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.

Section 6

REGULATED ACTIVITIES TO BE LICENSED

- 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 COLUMBIA.
- 6.2 The Commission shall regulate any operation within 100' of a wetlands or watercourse, and within 200' of an Area of Special Concern (AOSC; refer to Section 1.6), involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses and any other regulated activity, unless such operation or use is permitted or non-regulated pursuant to Section 4 of these regulations.
- 6.3 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these regulations and any other remedies as provided by law.
- 6.4 The Commission shall regulate any activity that occurs in non-wetland upland or non-watercourse areas that are likely to impact or affect inland wetlands or watercourses.
- 6.5 The Commission and its agent or any specialists hired by the Commission to evaluate permit applications under these regulations shall have the right of free access to any part of the under consideration with the owners or agent of the owner's permission. The property' owner may require that such persons have a letter of authorization from the Chairman of the Commission prior to permitting such access.

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 using the Town of COLUMBIA Inland Wetlands and Watercourses Commission Application for Permit form. The application shall contain the information described in this section and any other information the Commission may reasonably require. Application forms may be obtained at the Town Clerk's office or downloaded from the Town website.
- 7.2 If an application to the Town of COLUMBIA Planning and Zoning Commission for 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 Commission in accordance with this section, no later than the day the application is filed with such planning and zoning commission.
- 7.3 The application shall contain such information as is necessary for a fair and informed determination thereon by the Commission.
- 7.4 A prospective applicant may request the Commission to determine whether a proposed activity involves a significant activity.
- 7.5 All applications shall include the following information in writing and/or on maps or drawings:
- a. The applicant's name, mailing address, telephone number(s), and email address; if the applicant is a Limited Liability Corporation or a Corporation, the managing member's or responsible corporate officer's name, address, telephone number, and email address.
 - b. If applicable, the name of any authorized agents (e.g., architect, engineer, survey, attorney), business name, mailing address, phone number(s), and email address.
 - c. The applicant's interest in the land.
 - d. The land-owner's name, mailing address and telephone number(s) and, if the applicant is not the owner of the land upon which the subject activity is proposed, the written consent of the owner.

All applications involving land within the COLUMBIA Lake high water mark must include the COLUMBIA Lake Management Association (ALMA) as a co-applicant.
 - e. A statement indicating whether an application has been filed with the Town of COLUMBIA Planning and Zoning Commission,
 - f. A statement indicating whether the land is part of a previously approved subdivision (if so, copies of all permits are to be submitted with the application).
 - g. A description of any other State or Town Permits pending for work on the land or required for work on the land.
 - h. 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 wetlands and/or watercourses to be disturbed, soil type(s), and wetland vegetation;

- i. The purpose and a description of the proposed activity, including:
 - i. A detailed description of all activity, including any construction and/or disturbance.
 - ii. A description of the type and volume of material to be filled or excavated, (A) in the wetlands and/or watercourse(s) and (B) in the upland review area.
 - iii. A description of the amount and area of disturbance (A) in the wetland(s) and/or watercourse(s) and (B) in upland review area.
- j. A description of 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;
- k. A description of alternatives considered and subsequently rejected by the applicant which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen; all such alternatives shall be diagrammed on a site plan or drawing;
- l. 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 which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
- m. Names and mailing addresses of adjacent landowners.
- n. Statement 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.
- o. Authorization for the members and agents of the Commission and any consultant for the Commission to inspect the subject land, at reasonable times, both before and after a final decision has been issued and for the life of the permit
- p. A completed DEEP reporting form; the Commission and any consultant for the Commission shall revise or correct the information provided by the applicant, and submit the form to the Commissioner of Energy and Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies;
- q. Any other information the Commission deems necessary to the understanding of what the applicant is proposing.
- r. The Commission may require that the applicant provide notice(s) to adjacent property owners when the commission determines it is in the public's best interest and/or if the impact from the proposed regulated activity has potential to impact neighboring properties. If required, notice of the Wetlands Meeting shall be mailed to the owner(s) of record of abutting land by the applicant, certified receipt requested, no less than fifteen (15) days

prior to the Wetlands Meeting. The notice must be mailed to persons who own land that is adjacent to the land that is the subject of the applicants request for a wetland permit. and if required by the Commission, notice to be additionally provided by posting a sign on the land that is the subject of the wetland's application. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, and (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed. All applications and maps and documents relating thereto shall be open for public inspection. Proof of such notification shall be provided to the commission by the applicant prior to the meeting the commission may choose to increase the extent or reach of the notice to subsequent adjacent property owners to be notified by the Applicant, certified receipt requested, should the commission determine it is in the public's best interest.

- s. Submission of the appropriate filing fee based on the fee schedule established in Section 19 of these regulations.

7.6 At the discretion of the Commission or its Agents or when If the proposed activity involves a significant impact, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required: as determined by the Commission, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, is required unless otherwise determined by the Commission:

- a. Site plans for the proposed activity and the land which will be affected thereby which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person;
- b. Engineering reports and analyses and additional drawings to fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan.
- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be depicted on the site plans;
- 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 or how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative which would cause less or no environmental impact to wetlands or watercourses, 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; and

- 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 fish and wildlife habitats, and functions which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.
 - h. Written description of the proposed construction process and sequence.
- 7.7 The applicant shall certify whether:
- a. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality.
 - b. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site.
 - c. Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
 - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- 7.8 Ten (10) copies of all application materials shall be submitted to comprise a complete application, unless an applicant is otherwise directed in writing by the Commission.
- 7.9 Any application to renew or amend an existing permit shall be filed with the Commission in accordance with section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit. The Commission shall determine whether an amendment or modification to an existing permit will require a new permit application. 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 prior application.
 - b. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit.
 - c. The application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit',
 - d. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued.
 - e. The Commission may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity;
- 7.10 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 shall be valid for more

than ten years, and further provided that any permit issued prior to July 1, 2011 that did not expire prior to May 9, 2011 shall be valid for no more than fourteen years.

- 7.11 For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:
- a. for purposes of this section, “conservation restriction” means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming, forest or open space use.
 - b. for purposes of this section, “preservation restriction” means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land, including, but not limited to, the state or any political subdivision of the state, or in any order of taking of such land whose purpose is to preserve historically significant structures or sites.
 - c. no person shall file a permit application, other than for interior work in an existing building or for exterior work on an existing building that does not expand or alter the footprint of such existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limited to, any state agency that holds such restriction, not later than sixty days prior to the filing of the permit application.
 - d. in lieu of such notice pursuant to subsection 7.11c, the applicant may submit a letter from the holder of such restriction or from the holder’s authorized agent, verifying that the application is in compliance with the terms of the restriction.

SECTION 8

APPLICATION PROCEDURES

- 8.1 All petitions, applications, requests or appeals shall be submitted to the COLUMBIA Inland Wetlands and Watercourse Commission of the Town of COLUMBIA or the Town Clerk who shall act as agent of the Inland Wetlands and Watercourses Commission for the receipt of such petition, application, request or appeal.
- 8.2 The Commission shall, in accordance with Connecticut General Statutes sections 8-7d(f) and 22a-42b, notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal request or plan concerning any project on any site in which:
- a. Any portion of the property affected by a decision of the Commission is within five hundred feet of the boundary of the 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 on the site will flow through and significantly 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.
 - e. 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, petition, appeal, request or plan.
- 8.3 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 25-32a of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said commissioner, provided such water company or said commissioner has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven days after the date of the application. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application.
- 8.4 The date of receipt of any application, petition, request or appeal shall be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission to the Commission or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner.
- 8.5 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.

8.6 All applications shall be open for public inspection.

8.7 Incomplete applications may be denied.

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, a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the Commission not later than fourteen days after the date of receipt of such application, or the Commission finds that a public hearing regarding such application would be in the public interest. The Commission may issue a permit without a public hearing provided no petition provided for in this section is filed with the Commission on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application, all applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person may appear and be heard and may be represented by agent or by attorney.
- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.
- 9.3 Notice of the Public Hearings shall be mailed to the owner(s) of record of abutting land by the applicant, certified receipt requested, no less than fifteen (15) days prior to the hearing. The notice must be mailed to persons who own land that is adjacent to the land that is the subject of the hearing and if required by the Commission, notice to be additionally provided by posting a sign on the land that is the subject of the hearing. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, and (2) the person who owns land shall be the owner indicated on the property tax map or on the last completed grand list as of the date such notice is mailed. All applications and maps and documents relating thereto shall be open for public inspection. Proof of such notification shall be provided to the commission by the applicant prior to the hearing. The commission may choose to increase the extent or reach of the notice to subsequent adjacent property owners to be notified by the Applicant, certified receipt requested, should the commission determine it is in the best public interest.
- 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 town(s) have received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.
- 9.5 Any significant changes to the plan or application shall be submitted to the Agent Commission and Town Clerk no later than 10 days prior to the public hearing: at the discretion of the Commission or its Agents, untimely significant changes may be received within a shorter time period.

SECTION 10

CONSIDERATIONS FOR DECISION

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

- a. The application and its supporting documentation.
- b. For an application for which a public hearing was held, public comments, evidence and testimony,
- c. Reports from other agencies and commissions including but not limited to the Town of COLUMBIA's:
 - Conservation Commission
 - Planning and Zoning Commissions
 - Building Official
 - Health Officer/Sanitarian
- d. The Commission may also consider comments on any application from the Tolland County Soil and Water Conservation District, Council of Governments, 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 22a-36 to 22a45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Commission shall take into consideration all relevant facts and circumstances, including but not limited to:

- a. The environmental impact of the proposed regulated activity on wetlands or 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.
- 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 by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other

environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;

- e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property including abutting or downstream property, which would be caused or threatened by the proposed 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 value of wetlands and watercourses to the community.
- f. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.

- 10.3 In the case of an application which received a public hearing pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Commission shall consider the facts and circumstances set forth in subsection 10.2 of this section. The finding and the reasons therefore 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 alternative to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Commission shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.5 For purposes of this section, (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6 A municipal inland wetlands Commission shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7 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 issue. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these regulations and sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

- 10.8 In the case of an application where the applicant has provided written notice pursuant to subsection 7.11c of these regulations, the holder of the restriction may provide proof to the Commission that granting of the permit application will violate the terms of the restriction. Upon a finding that the requested land use violates the terms of such restriction, the Commission shall not grant the permit approval.
- 10.9 In the case of an application where the applicant fails to comply with the provisions of subsection 7.11c or 7.11d of these regulations, (1) the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the agency, subject to the rules and regulations of such agency related to appeals. The Commission shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction; or (2) the state agency that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the agency, subject to the rules and regulations of such agency relating to appeals. The Commission shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.
- 10.10 Nothing in subsections 7.11c or 7.11d of these regulations shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit application will occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction.

SECTION 11

DECISION PROCESS AND PERMIT

- 11.1 The Commission, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes 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 watercourses resources. Such terms may include restrictions as to the time of year in which a regulated activity may be conducted, provided the Commission, or its agent, determines that such restrictions are necessary to carry out the policy of sections 22a-36 to 22a-45, inclusive of the Connecticut General Statutes.
- 11.2 No later than sixty-five (65) days after receipt of an application, the Commission may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) of its commencement. Action shall be taken on applications within thirty-five (35) 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 receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw the 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 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 the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen-day period, the applicant may provide for the publication of such notice within ten days thereafter.
- 11.5 If an activity authorized by an inland wetland permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, or variance or special exception, under sections 8-3(c), 8-3(g), or 8-26 of the Connecticut General Statutes, the Commission shall file a copy of the decision and report on the application with the Town of COLUMBIA Planning and Zoning Commission within fifteen days of the date of the decision thereon.

- 11.6 Any permit issued by the Commission for the development of land for which an approval is required under chapter 124, 124b, 126 or 126a of the Connecticut General Statutes shall be valid until the approval granted under such chapter expires or for ten years, whichever is earlier. Any permit issued by the Commission for any activity for which an approval is not required under chapter 124, 124b, 126 or 126a shall be valid for not less than two years and not more than five years.
- 11.6.1 Notwithstanding the provisions of Section 11.6 of these regulations, any permit issued by the Commission prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.
- 11.7 No permit issued by the Commission shall be assigned or transferred without the written permission of the Commission or its agent
- 11.8 If a bond or insurance is required in accordance with section 13 of these regulations, the Commission may withhold issuing the permit until such bond or insurance is provided.
- 11.9 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, incomplete or inaccurate, the permit may be modified, suspended or revoked.
 - b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of COLUMBIA, 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's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under sections 8.3(c), 8-3(g), or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained.
 - d. In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
 - e. Permits are not transferable without the prior written consent of the Commission.

SECTION 12

ACTION BY DULY AUTHORIZED AGENT

- 12.1 The Commission may delegate to its duly authorized agent the authority to approve or extend the license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Energy and Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Commission and shall contain the information listed under Section 7.5 of these regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9 and 11 of these regulations, such agent may approve or extend such an activity at any time. Agent shall report at the next meeting any action taken.
- 12.2 Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Commission within fifteen days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Commission or its agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with 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 bond with such surety in such amount and in a form approved by the Commission. The Commission may require, as a permit condition, the filing of a bond with such surety in such amount and in the form approved by the commission
- 13.2 The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.
- 13.3 The Commission may require the applicant to certify that it has public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount commensurate with the regulated activity.
- 13.4 The commission may require bonding to ensure any activity being undertaken in a nonregulated area, if that activity may potentially disturb the natural and indigenous character of any regulated area.
- 13.5 The amount of the performance bond shall be released to the permittee upon receipt by the Commission of evidence that the proposed activity(ies) have been substantially completed in a satisfactory manner. The Commission may, in its own discretion release a portion of the bond amount if it is of the opinion that the permitted activity(ies) have been substantially completed and only a minor portion of the activity(ies) remains to be completed.

SECTION 14
ENFORCEMENT

- 14.1 The Commission may appoint an agent or agents to act in its behalf with the authority to inspect property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Commission or its duly authorized agent shall take into consideration the criteria decision under section of these regulations.
- 14.2 The Commission or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these regulations with the consent of the property owner or the duly authorized agent of the owner during the life of the permit.
- 14.3 In the case which a permit has not been issued or a permit has expired, the Commission or its agents may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- 14.4 If the Commission or its designated agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Commission or its duly authorized agent may:
- a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. 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 Commission shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to section 22a-44(b) of the Connecticut General Statutes, as amended.
 - b. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subdivision 14.3. a or other enforcement proceedings as provided by law.
- 14.5 The commission may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of

the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Commission shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action.

The Commission shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within 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.

SECTION 15
AMENDMENTS

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of COLUMBIA may be amended, from time to time, by the Commission in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2 An application filed with the Commission which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this 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 COLUMBIA 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 Energy and 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 days before the public hearing on their adoption. Fee schedules shall be adopted as Commission regulations.
- 15.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, COLUMBIA, Connecticut, shall contain at least the following information:
- a. The petitioner's name, mailing address and telephone number.
 - b. The address, or location, of the land affected by the petition.
 - c. The petitioner's interest in the land affected by the petition.
 - d. 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 the documentation supporting such proposed boundary locations; and
 - e. The reasons for the requested action.
 - f. The names and addresses of adjacent property owners; and
 - g. A map showing proposed development of the property.
- 15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, COLUMBIA, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography

and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Commission. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 15.4, 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 and 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.
- 15.7 A public hearing shall be held on petitions to amend the regulations and the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having a general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two days, the first not more than fifteen days nor less than ten days, and the last not less than two days, before the date set for the hearing, All materials including maps and documents relating to the petition shall be open for public inspection.
- 15.8 The Commission shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and Watercourses Map within sixty-five (65) days after receipt of such. The hearing shall be completed within thirty-five (35) days after commencement. The Commission shall act upon the changes requested in such petition within sixty-five (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days or may withdraw such petition. Failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.
- 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.
- 16.2 Notice of such appeal shall be served upon the Commission and the Commissioner of Energy and Environmental Protection.

SECTION 17

CONFLICT AND SEVERANCE

- 17.1 If there is a conflict among the provisions of these regulations, the provision which imposes the most stringent standards for 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 the provisions of these regulations and the provisions of the Act, the provisions of the Act shall govern.

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 COLUMBIA, the State of Connecticut or 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 or money order payable to the Town of COLUMBIA.
- 19.2 Application Fee Estimate and Payment. An estimate of application fees will be provided to the applicant within 10 days of receipt of the application in the Land Use Department. Fees are due at the time an application is formally received by the Commission (refer to Section 6.) No application shall be approved, or permit granted by the Commission unless the correct application fee is paid in full or unless a waiver has been granted by the Commission pursuant to subsection 19.10 of these regulations.
- a. All applications will incur a State Fee. At the date of this revision, the State Fee is \$60.00. The applicant is responsible for any increases to this fee that may occur after adoption of these regulations. This fee is not refundable.
 - b. All application wills incur a Basic Filing Fee (refer to subsection 19.3). This fee is not refundable.
 - c. Additional fees may be assessed to cover costs associated with complex applications and/or monitoring and inspection of an application (refer to subsections 19.4 and 19.5). Payment of any such additional fees is due within 10 days of notice to the applicant.
 - d. Additional fees will be assessed for regulated activities started without a permit (subsection 19.3c) and activities requiring inspection due to non-compliance (subsection 19.5c).
 - e. **The applicant is responsible for the cost of publishing the legal notice of the Commission's decision and Public Hearing Notices as well as any other legal notices determined appropriate by the Commission.** The approximate amount of publishing this notice will be assessed at the time of filing.
- 19.3 Basic Filing Fees. Basic filing fees cover the cost of processing the application, preliminary review of application and plans, initial inspection(s) of the site and meeting with the applicant or the applicant's agent.
- a. Basic filing fee definitions. As used in this section:
 - (1) "Residential Uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.
 - (2) "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,
 - (3) "Other Uses" means activities other than residential uses or commercial uses.
 - b. The standard basic filing fees are as follows:
 - (1) Basic Residential Filing Fee \$200.00
 - (2) Basic Residential Subdivision Filing Fee \$150.00
+ \$150.00 per parcel or lot that contains a "Regulated Activity"

(3) Basic Commercial Filing Fee \$300.00

(4) Basic Other Uses Filing Fee \$100.00

(5) Basic Fee for Agent Approval or \$65.00
Extension of Activity Pursuant to Section 12

(6) Residential uses with minimal impact \$100.00

c. Regulated Activity Started without a Permit. The filing fee for a regulated activity that was started without an approved permit shall be double the standard basic filing fee.

19.4 Complex Application Fee. The Commission may charge an additional fee sufficient to cover the cost of reviewing and acting on complex applications. Such fee may include, but not be limited to, the cost of retaining experts to analyze, review, and report on issues requiring such experts.

a. The Commission or the duly authorized agent shall be paid pursuant to Section 19.1 of these regulations within 10 days of the applicant's receipt or notice of such estimate.

b. Any portion of the complex application fee in excess of the actual cost shall be refunded to the applicant no later than 30 days after publication of the Commission's decision

19.5 Monitoring and Inspection Fees.

a. The approximate number and type of inspections will be determined at the time of filing, and/or assessed per inspection required to monitor the site after the permit is issued.

b. The cost of monitoring and inspections will be charged to the applicant based upon the following fee schedule:

(1) Wetlands Agent \$35.00 per inspection or
billed per ½ hour @ \$35.00/ per ½ hour or part thereof

(2) Professional Engineer \$150.00 per inspection or
billed per hour @ \$150.00 per 1/2hour or part thereof

(3) Environmental \$150.00 per inspection or
Consultant billed per hour @\$150.00 per 1/2 hour or part
thereof

c. Inspections for Non-Compliance will be charged a \$50.00 per site inspection fee or \$50 per ½ hour or part thereof.

19.6 Significant Activity and Impact Fees:

a. Significant Activity Fee (refer to Subsection 7.6). If it is determined that the application will result in a significant activity a fee of \$250.00 will be assessed.

b. Area of Wetland and Watercourse Impacted Fee. A fee for the area of wetlands to be affected and/or length of watercourse disturbed, by the proposed regulated activity, including, but not limited to, any excavation, filling, alteration, or pollution of such wetland or watercourse, will be assessed as follows:

- (1) Wetland Impacts: \$100.00 per 1,000 square feet of affected wetlands
 - (2) Watercourse Impacts: \$2.00 per linear foot of watercourse disturbed
 - c. Road Construction Impact Fee. Any road construction (private or public) involving wetland or watercourses will be assessed a \$1000.00 fee for the first 1000 feet and \$1.00 per foot thereafter.
- 19.7 Map Amendment Petitions. Such petitions will incur a \$250.00 fee plus an additional \$20.00 per 1000 linear feet (or portion thereof) of total length of wetlands and watercourses boundary subject to the proposed boundary change. (Refer to Section 15.5 of these regulations for additional information regarding map amendment petitions.)
- 19.8 Request for Modification of a Previously Approved Permit. A \$70.00 fee will be assessed for requests to modify a previously approved permit. Such requests include, but are not limited to, requests for extension(s) of time in which to initiate and/or complete the permitted activity.
- 19.9 Exemptions. Boards, commissions, councils and departments of the Town of are exempt from all fee requirements.
- 19.10 Waivers. The applicant may petition the Commission to waive, reduce or allow delayed payment of the fee.
- a. Such petitions shall be in writing and shall state fully the facts and circumstances the Commission should consider in its determination under this subsection.
 - b. The Commission may waive all or part of the application fee if the Commission determines that:
 - (1) The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, or
 - (2) The application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.
 - (3) An applicant in a lake Zone required to complete the Nutrient Allocation Worksheet to comply with the Zoning regulations reduces the nutrient loading by greater than 15 percent of the required reduction. The Basic Filing Fee Shall Not Be Required.
 - c. The Commission shall state upon its record the basis for all actions under this subsection.

SECTION 20

EFFECTIVE DATE OF REGULATIONS

- 20.1 These regulations are effective upon filing in the Office of the Town Clerk and publication of a notice of such filing in a newspaper having general circulation in the Town of COLUMBIA.

Sec. 1-1. Words and phrases. Construction of statutes.

- (a) In the construction of the statutes, words and phrases shall be construed according to the commonly approved usage of the language; and technical words and phrases, and such as have acquired a peculiar and appropriate meaning in the law, shall be construed and understood accordingly.

Section 1-1(q)

- (q) Except as otherwise specifically defined, the words “**agriculture**” and “**farming**” shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term “**farm**” includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoopouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term “**aquaculture**” means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels, and other molluscan shellfish, on leased, franchised, and public underwater farmlands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.

APPENDIX B

Sec. 8-7d. Hearings and decisions. Time limits. Day of receipt. Notice to adjoining municipality. Public notice registry.

(a) In all matters wherein a formal petition, application, request or appeal must be submitted to a zoning commission, planning and zoning commission or zoning board of appeals under this chapter, a planning commission under chapter 126 or an inland wetlands agency under chapter 440 and a hearing is required or otherwise held on such petition, application, request or appeal, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences, unless a shorter period of time is required under this chapter, chapter 126 or chapter 440. Notice of the hearing shall be published in a newspaper having a general circulation in such municipality where the land that is the subject of the hearing is located at least twice, at intervals of not less than two days, the first not more than fifteen days or less than ten days and the last not less than two days before the date set for the hearing. In addition to such notice, such commission, board, or agency may, by regulation, provide for additional notice. Such regulations shall include provisions that the notice be mailed to persons who own land that is adjacent to the land that is the subject of the hearing or be provided by posting a sign on the land that is the subject of the hearing, or both. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, and (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney. All decisions on such matters shall be rendered within sixty-five days after completion of such hearing, unless a shorter period of time is required under this chapter, chapter 126 or chapter 440. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition, application, request, or appeal.

(b) Notwithstanding the provisions of subsection (a) of this section, whenever the approval of a site plan is the only requirement to be met or remaining to be met under the zoning regulations for any building, use or structure, a decision on an application for approval of such site plan shall be rendered within sixty-five days after receipt of such site plan. Whenever a decision is to be made on an application for subdivision approval under chapter 126 on which no hearing is held, such decision shall be rendered within sixty-five days after receipt of such application. Whenever a decision is to be made on an inland wetlands and watercourses application under chapter 440 on which no hearing is held, such decision shall be rendered within sixty-five days after receipt of such application. The applicant may consent to one or more extensions of such period provided the total period of any such extension or extensions shall not exceed sixty-five days or may withdraw such plan or application.

(c) For purposes of subsection (a) or (b) of this section and section 7-246a, the date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of such commission, board or agency, immediately following the day of submission to such commission, board or agency or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner. If the commission, board or agency does not maintain an office with regular office hours, the office of the clerk of the municipality shall act as the agent of such commission, board or agency for the receipt of any petition, application, request or appeal.

(d) The provisions of subsection (a) of this section shall not apply to any action initiated by any zoning commission, planning commission or planning and zoning commission regarding adoption or change of any zoning regulation or boundary or any subdivision regulation.

(e) Notwithstanding the provisions of this section, if an application involves an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, and the time for a decision by a zoning commission or planning and zoning commission established pursuant to this section would elapse prior to the thirty-fifth day after a decision by the inland wetlands agency, the time period for a decision shall be extended to thirty-five days after the decision of such agency. The provisions of this subsection shall not be construed to apply to any extension consented to by an applicant or petitioner.

(f) The zoning commission, planning commission, zoning and planning commission, zoning board of appeals or inland wetlands agency shall notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which: (1) Any portion of the property affected by a decision of such commission, board or agency is within five hundred feet of the boundary of the adjoining municipality; (2) a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site; (3) a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or (4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request or plan.

(g) (1) Any zoning commission, planning commission or planning and zoning commission initiating any action regarding adoption or change of any zoning regulation or boundary or any subdivision regulation or regarding the preparation or amendment of the plan of conservation and development shall provide notice of such action in accordance with this subsection in addition to any other notice required under any provision of the general statutes.

(2) A zoning commission, planning commission or planning and zoning commission shall establish a public notice registry of landowners, electors and nonprofit organizations qualified as tax-exempt organizations under the provisions of Section 501(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, requesting notice under this subsection. Each municipality shall notify residents of such registry and the process for registering for notice under this subsection. The zoning commission, planning commission or planning and zoning commission shall place on such registry the names and addresses of any such landowner, elector or organization upon written request of such landowner, elector or organization. A landowner, elector or organization may request such notice be sent by mail or by electronic mail. The name and address of a landowner, elector or organization who requests to be placed on the public notice registry shall remain on such registry for a period of three years after the establishment of such registry. Thereafter any land owner, elector or organization may request to be placed on such registry for additional periods of three years.

(3) Any notice under this subsection shall be mailed to all landowners, electors and organizations in the public notice registry not later than seven days prior to the commencement of the public hearing on such action, if feasible. Such notice may be mailed by electronic mail if the zoning commission, planning commission or planning and zoning commission or the municipality has an electronic mail service provider.

(4) No zoning commission, planning commission or planning and zoning commission shall be civilly liable to any landowner, elector or nonprofit organization requesting notice under this subsection with respect to any act done or omitted in good faith or through a bona fide error that occurred despite reasonable procedures maintained by the zoning commission, planning commission or planning and zoning commission to prevent such errors in complying with the provisions of this section.

APPENDIX C

Nutrient Allocation Land Use Worksheet

Prior to the issuance of a wetlands permit, (all parcels within 200 feet of Columbia Lake) OR (all activities within 200 feet of Columbia Lake) OR (all properties within the Columbia Lake watershed) that have an application before the Columbia Inlands and Watercourses Commission (IWWC) for a regulated activity must complete the Nutrient Allocation Worksheet Sheet 1 Revised January 1 2008 and provide projected annual export of total phosphorus in pounds per acre per year in estimated storm water from the subject parcel and shall be computed both for the parcel with existing improvements thereon and for the existing parcel based on the completed project for which the Wetlands permit is sought. If the activity for which the wetlands permit is sought requires a building permit, then the applicant shall provide as required in section 21.4 of the Zoning Regulations a sign off or comments from the Zoning Enforcement Officer on his/her review of the Nutrient Allocation Worksheet designed to compute the annual export of total phosphorus. These computations shall be made in accordance with the methods defined in "Columbia Lake Watershed Management Plan" (hereafter called the Management Plan) approved 1998, or as may be amended from time to time based on newer information including but not limited to basic scientific understanding of nutrient dynamics, infiltration rates of various soils or ground covers and proximal monitoring data from Columbia Lake. Data for computing the nutrient export estimate, as defined in the Management Plan shall be provided by the applicant on the site plans.

If the computed annual export of total phosphorus for the existing parcel with the completed project for which the Wetlands permit is sought is greater than the allocation defined in the Management Plan, the applicant shall apply adequate best management practices (BMPs) singly or in combination to reduce the total phosphorus export either to comply with the allocation requirements of the overlay zone in which the parcel is located on the Zoning Map or to both produce a computed annual export of total phosphorus at least 10% less than the computed annual export of total phosphorus from the subject parcel with existing improvements thereon on the date of the permit application, and to produce a computed annual export of total phosphorous at a 100% reduction of total phosphorus for the activity a wetlands permit is being sought. For these purposes, total phosphorus export shall be recomputed with credits assigned for BMPs where infiltration coefficients are available and as defined in the Management Plan.

A worksheet provided as part of the wetland's application - building permit application materials will include spaces for all required input variables, levels of total phosphorus to be achieved, and suggested infiltration or other coefficients as available for nutrient allocation calculation. The applicant will fill in this worksheet and annotate these input numbers to details of a site plan included in the wetland's application- building permit application package. With the applicant supplied information, the Agent (ZEO) (wetlands agent if the activity applied for will not require a building permit) will input this applicant data into a computer spreadsheet analysis to estimate the levels of total phosphorus (lb./acre/year) in surface storm water coming off the specific site or land parcel. The worksheet shall be based on the latest revision of a nutrient allocation model and level of total phosphorus permissible in each of the Columbia Lake Watershed Overlay Zones on the Residential Agricultural District, LAR, LBR, and LCR.

Examples of Best Management Practices for Reduction of Phosphorus

The applicant who is designing or redesigning a project application site plan may use a number of manuals or texts to find examples or diagrams of what are the current Best Management Practices (or BMPs). The Connecticut Stormwater Quality Manual (draft 2003 or as amended) and the Connecticut Erosion and Sedimentation Guidelines (2002 or as amended) contain some examples, explanations, and diagrams for BMPs that might be available and appropriate to include in the building permit application site plan.

Generally, applicants for Wetlands permits can reduce total phosphorus in stormwater by increasing the stormwater infiltration and the detention of stormwater before it reaches Columbia Lake.

For smaller projects and individual land parcels, the most valuable and practical BMPs are included but not limited to those in the following list:

- **Permeable pavement choices**
- **Bio-retention structures/residential rain gardens**
- **Vegetated swales, buffers, filter strips**
- **Drywells for roof drains/leaching trenches**
- **Rainwater harvesting/rain barrels**
- **Dry detention ponds**
- **Underground detention facilities**
- **Vegetative filter strips/level spreaders**
- **Grassed drainage swales, wet or dry**
- **Proper location and reduction of impervious area on site**
- **Maintain or restore pre-development vegetation by type**
- **Encourage sheet flow versus channelization of storm water**
- **Disconnect flows from multiple impervious surfaces**
- **Minimize creation of steep slopes/vice versa**
- **Replanting with trees, underbrush, groundcovers, flowerbeds**

Infiltration coefficients to calculate credits for the site plan worksheet may or may not be available for the above list of BMPS. The most current list of infiltration coefficients available in the scientific literature will be available on the worksheet page of the building permit application.

21.4.5 Additional (Non-Regulatory but Suggested) Columbia Lake

Protection Actions Not in the Purview of the Commission.

In addition to the requirement of compliance with the Nutrient Allocation of property within the designated Columbia Lake Protection Overlay Zone, residents are encouraged to take additional voluntary actions to protect the quality of Columbia Lake as described in the Management Plan, including but not limited to:

- Proper maintenance and pump-out frequency of on-site wastewater disposal systems (septic systems),
- Consider installation of septic tank effluent filters when service is performed,
- Use of sand fill materials with a phosphorus attenuation capacity exceeding 0.01 kg P / cubic ft when constructing or repairing septic system leaching fields,
- Design leaching field geometry to maximize down-gradient soil contact volume and avoid intersecting septic groundwater plumes,
- Avoid the use of septic system additives,
- Maximize phosphorus removal from wastewater by approved innovative designs,
- Only use fertilizers that have low, or no phosphorus content made available at local vendors. (* effective October 15, 2003)

2015 Advisory Changes to CGS 8.7d additional notice to those listed as owners on the property tax map or most recent grand list



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Affirmative Action/Equal Opportunity Employer

To: Connecticut's Municipal Inland Wetlands Agencies

From: Betsey Wingfield, Bureau Chief *BW*
Bureau of Water Protection and Land Reuse

Dated: December 16, 2015

Re: 2015 Legislation and Regulation Advisory

In 2015 the Connecticut General Assembly amended the Inland Wetlands and Watercourses Act (IWWA) with the passage of Public Act No. 15-85; and amended the General Statutes of Connecticut section 8-7d, which the IWWA references, with the passage of Public Act No. 15-68.

Public Act No. 15-85 amends subsection (a) of section 22a-43a of the IWWA. This act makes a number of unrelated changes regarding court procedures and personnel. With regards to the IWWA, by law, someone can appeal to Superior Court from a decision of a municipal inland wetlands agency. Public Act No. 15-85 gives the court more options when disposing of these cases on appeal. The law allows the court to set aside the agency's action or modify it if the action constitutes a taking without compensation. For appeals not involving such a taking, the act allows the court, after a hearing, to reverse, affirm, modify, or return the decision in a manner consistent with the evidence in the record.

The provisions of section 22a-43a(a) of the IWWA, as amended by Public Act No. 15-85, took effect October 1, 2015.

Public Act No. 15-68 amends subsection (a) of section 8-7d of the General Statutes of Connecticut. This act limits the steps certain municipal land use commissions must take to identify owners of property abutting a property that is the subject of a public hearing related to a petition, application, request or appeal to the commission. With regards to municipal inland wetlands agencies, in addition to publishing notices of public hearings in a newspaper, the agency *may* notify property owners directly affected by such matter. The additional notice must be mailed to the persons who own land abutting the property that is the subject of the hearing, provided by posting a sign on the land that is the subject of the hearing, or both. By law, for purposes of giving such additional notice, property owners are those persons listed as the owners on the property tax map or the most recently completed grand list. The act specifies that the municipal inland wetlands agency need not conduct a title search or engage in additional methods to identify abutters to whom they give the additional notice.

The provisions of section 8-7d(a), as amended by Public Act No. 15-68, were effective upon passage. The act was signed by the Governor on June 19, 2015.

Complete copies of both Public Act No. 15-85 and of Public Act No. 15-68 are attached for your information. Newly added language is underlined and deleted language is bracketed. If your municipal inland wetlands agency's regulations follow the Department of Energy and Environmental Protection's (DEEP) Inland Wetlands and Watercourses Model Municipal Regulations Fourth Edition, dated May 1, 2006 (as amended), no revisions to your regulations need to occur. However, the DEEP is aware that many municipal inland wetlands agencies have included in their regulations, per the General Statutes of Connecticut section 8-7d(a), the discretionary notice to abutting property owners. If your municipal inland wetlands agency has done this, please be aware that your regulations need to be revised to reflect Public Act No. 15-68.

Finally, as a reminder, the IWWA establishes a specific timeline for the amendment of municipal inland wetlands agency regulations. The timeline begins when an amendment is proposed. The amendment and the notice of the public hearing must be submitted to the Commissioner of DEEP at least 35 days before such hearing on the amendment is held. A public hearing on the amendment must be held within 65 days after the receipt of the amendment proposal, and the hearing must finish within 35 days after it started. The municipal inland wetlands agency must take action on the amendment proposal within 65 days after the hearing ends. Further, the agency must submit the final adopted amendment language to the Commissioner of DEEP not later than 10 days after adoption.

The DEEP's Wetlands Management Section (WMS) has created a dedicated email address for the submission of amendment proposals and final adopted amendment language. Please use: DEEP.Municipal.Inland.Wetland.Regis@ct.gov. In the subject line of the email you *must* include: the year, town/city name, proposed/adopted regs (e.g., 2015, Town of _____, Proposed Regs). Please submit your documents (e.g., regulations, hearing notice, and cover letter) in PDF format. A brief reply email acknowledging receipt of your regulations will be sent to you.

Attention, this email address is solely for the submission of municipal inland wetlands agency regulation amendment proposals and final adopted regulations. Other correspondence or requests submitted through this email address will *not* be answered.

If you are unable to submit your regulations electronically, you may continue to mail a paper copy to: Cheryl A. Chase, Director, DEEP Inland Water Resources Division, 79 Elm Street - 3rd Floor, Hartford, CT 06106.

Should you have any further questions regarding the above changes, please feel free to contact Darcy Winther of the DEEP's WMS at (860) 424-3019.



Substitute Senate Bill No. 1033

Public Act No. 15-85

AN ACT CONCERNING COURT OPERATIONS AND THE CLAIM AGAINST THE STATE OF LORI CALVERT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (a) of section 7-465 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) Any town, city or borough, notwithstanding any inconsistent provision of law, general, special or local, shall pay on behalf of any employee of such municipality, except firemen covered under the provisions of section 7-308, and on behalf of any member from such municipality of a local emergency planning district, appointed pursuant to section 22a-601, all sums which such employee becomes obligated to pay by reason of the liability imposed upon such employee by law for damages awarded for infringement of any person's civil rights or for physical damages to person or property, except as set forth in this section, if the employee, at the time of the occurrence, accident, physical injury or damages complained of, was acting in the performance of his duties and within the scope of his employment, and if such occurrence, accident, physical injury or damage was not the result of any wilful or wanton act of such employee in the discharge of such duty. This section shall not apply to

Substitute Senate Bill No. 1033

physical injury to a person caused by an employee to a fellow employee while both employees are engaged in the scope of their employment for such municipality if the employee suffering such injury or, in the case of his death, his dependent, has a right to benefits or compensation under chapter 568 by reason of such injury. If an employee or, in the case of his death, his dependent, has a right to benefits or compensation under chapter 568 by reason of injury or death caused by the negligence or wrong of a fellow employee while both employees are engaged in the scope of their employment for such municipality, such employee or, in the case of his death, his dependent, shall have no cause of action against such fellow employee to recover damages for such injury or death unless such wrong was wilful and malicious or the action is based on the fellow employee's negligence in the operation of a motor vehicle, as defined in section 14-1. This section shall not apply to libel or slander proceedings brought against any such employee and, in such cases, there is no assumption of liability by any town, city or borough. Any employee of such municipality, although excused from official duty at the time, for the purposes of this section shall be deemed to be acting in the discharge of duty when engaged in the immediate and actual performance of a public duty imposed by law. Such municipality may arrange for and maintain appropriate insurance or may elect to act as a self-insurer to maintain such protection. No action for personal physical injuries or damages to real or personal property shall be maintained against such municipality and employee jointly unless such action is commenced within two years after the cause of action therefor arose and written notice of the intention to commence such action and of the time when and the place where the damages were incurred or sustained has been filed with the clerk of such municipality within six months after such cause of action has accrued. Governmental immunity shall not be a defense in any action brought under this section. In any such action the municipality and the employee may be represented by the same attorney. [if the municipality, at the time such attorney enters his

Public Act No. 15-85

2 of 20

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appearance, files a statement with the court, which shall not become part of the pleadings or judgment file, that it will pay any final judgment rendered in such action against such employee. No mention of any kind shall be made of such statement by any counsel during the trial of such action.] As used in this section, "employee" includes (1) a member of a town board of education and any teacher, including a student teacher doing practice teaching under the direction of such a teacher, or other person employed by such board, and (2) a member of the local emergency planning committee from such municipality appointed pursuant to section 22a-601. Nothing in this section shall be construed to abrogate the right of any person, board or commission which may accrue under section 10-235.

Sec. 2. Subsection (l) of section 8-8 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(l) The court, after a hearing thereon, may reverse or affirm, wholly or partly, or may [modify or revise the decision appealed from. If a particular board action is required by law, the court, on sustaining the appeal, may render a judgment that modifies the board decision or orders the particular board action] revise, modify or remand the decision from which the appeal was taken in a manner consistent with the evidence in the record before it. In an appeal from an action of a planning commission taken under section 8-29, the court may also reassess any damages or benefits awarded by the commission. Costs shall be allowed against the board if the decision appealed from is reversed, affirmed in part, modified or revised.

Sec. 3. Subsection (a) of section 22a-43a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) The court, after a hearing, may reverse or affirm, wholly or

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partly, or may revise, modify or remand the decision from which the appeal was taken in a manner consistent with the evidence in the record before it. If upon appeal pursuant to section 22a-43, the court finds that the action appealed from constitutes the equivalent of a taking without compensation, [it] the court (1) shall set aside the action or [it] may modify the action so that it does not constitute a taking. [In both instances the court] and (2) shall remand the order to the inland wetland agency for action not inconsistent with its decision.

Sec. 4. Subsection (a) of section 46b-22 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Persons authorized to solemnize marriages in this state include (1) all judges and retired judges, either elected or appointed, including federal judges and judges of other states who may legally join persons in marriage in their jurisdictions, (2) family support magistrates, family support referees, state referees and justices of the peace who are appointed in Connecticut, and (3) all ordained or licensed members of the clergy, belonging to this state or any other state, as long as they continue in the work of the ministry. All marriages solemnized according to the forms and usages of any religious denomination in this state, including marriages witnessed by a duly constituted Spiritual Assembly of the Baha'is, are valid. All marriages attempted to be celebrated by any other person are void.

Sec. 5. Section 46b-22a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) All marriages celebrated before June 6, 2014, otherwise valid except that the justice of the peace joining such persons in marriage did not have a valid certificate of qualification, are validated, provided the justice of the peace who joined such persons in marriage represented himself or herself to be a duly qualified justice of the peace

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and such persons reasonably relied upon such representation.

(b) All marriages celebrated before the effective date of this section, otherwise valid except that the family support referee joining such persons in marriage did not have explicit statutory authority to solemnize marriages in this state, are validated, provided the family support referee who joined such persons in marriage represented himself or herself to be a duly qualified family support referee and such persons reasonably relied upon such representation.

Sec. 6. Section 46b-225 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

Any judicial marshal may serve a capias mittimus or a copy thereof made by any photographic, micrographic, electronic imaging or other process, which clearly and accurately copies such original document, provided such judicial marshal or Support Enforcement Services of the Superior Court is in possession of the original document, on any person who is in the custody of the marshal or is in a courthouse where the marshal provides courthouse security if such capias mittimus was issued in a child support matter by (1) a court or a family support magistrate pursuant to subdivision (8) of subsection (a) of section 17b-745 or subparagraph (C) of subdivision (8) of subsection (a) of section 46b-215; or (2) a family support magistrate pursuant to subdivision (1) of subsection (m) of section 46b-231.

Sec. 7. Subsection (a) of section 47a-23a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) If, at the expiration of the three days prescribed in section 47a-23, the lessee or occupant neglects or refuses to quit possession or occupancy of the premises, any commissioner of the Superior Court may issue a writ, summons and complaint which shall be in the form

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and nature of an ordinary writ, summons and complaint in a civil process, but which shall set forth facts justifying a judgment for immediate possession or occupancy of the premises and make a claim for possession or occupancy of the premises. If the claim is for the possession or occupancy of nonresidential property, the writ, summons and complaint shall also make a claim for the forfeiture to the plaintiff of the possessions and personal effects of the defendant in accordance with section 47a-42a. If the plaintiff has properly issued a notice to quit possession to an occupant by alias, if permitted to do so by section 47a-23, and has no further identifying information at the time of service of the writ, summons and complaint, such writ, summons and complaint may also name and serve such occupant or occupants as defendants. In any case in which service is to be made upon an occupant or occupants identified by alias, the complaint shall contain an allegation that the plaintiff does not know the name of such occupant or occupants. Such complaint shall be returnable to the Superior Court. Such complaint may be made returnable six days, inclusive, after service upon the defendant and shall be returned to court at least three days before the return day. Such complaint may be served on any day of the week. [Notwithstanding the provisions of section 52-185 no recognizance shall be required of a complainant appearing pro se.]

Sec. 8. Subsection (a) of section 51-52 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) Clerks shall: (1) Receive the files, processes and documents returnable to their court locations, (2) make records of all proceedings required to be recorded, (3) have the custody of the active files and records of the court, (4) have the custody of the records of the former county court within their districts, (5) have the custody of and keep safely in the appropriate office, or store as provided in subsection (b)

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of this section, as records of the court, all judicial files, records and dockets belonging to or concerning the office of justices of the peace and trial justices, judges of borough, city, town and police courts, the traffic court of Danbury, the Circuit Court and the Court of Common Pleas, or belonging to or concerning such courts, including record books kept by town clerks under the provisions of sections 51-101 and 51-106 of the general statutes, revision of 1958, (6) make and keep dockets of causes in their court locations, (7) issue executions on judgments, (8) collect and receive all fines and forfeitures imposed or decreed by the court, including fines paid after commitment, (9) collect and receive monetary contributions made to the Criminal Injuries Compensation Fund pursuant to section 54-56h, (10) account for and pay or deposit all fees, fines, forfeitures and contributions made to the Criminal Injuries Compensation Fund and the proceeds of judgments of their office in the manner provided by sections 4-32 and 51-56a, [(11) file with the Reporter of Judicial Decisions copies of memoranda of decisions in Superior Court cases, as provided in section 51-215a,] and [(12)] (11) perform all other duties imposed on them by law.

Sec. 9. Section 51-60 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) The judges of the Superior Court shall appoint [one skillful stenographer for each judicial district to be the official court reporter of the Superior Court therein, and shall appoint as many stenographers to be assistant] official court reporters for the court as the judges or an authorized committee thereof determines the business of the court requires.

(b) A person shall not be appointed a court reporter under the provisions of this section who has not passed the entry level examination provided for under section 51-63 and a reporter shall not be placed in the higher court reporter salary classification who has not passed the examination provided for in said section for such higher

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classification, provided each person serving on July 1, 1978, as a court reporter or assistant court reporter in the Court of Common Pleas shall continue to serve in the Superior Court for the balance of the term for which he was appointed. In no event shall the compensation of such person be affected solely as a result of the transfer of jurisdiction provided in section 51-164s.

Sec. 10. Section 51-215a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

[(a) The clerks of the Superior Court shall file with the Reporter of Judicial Decisions copies of memoranda of decisions in Superior Court cases. The reporter shall select therefrom for publication such decisions as he deems will be useful as precedents or will serve the public interest and shall prepare them for publication and index them in substantial conformity with the manner in which decisions of the Supreme Court are prepared and indexed. The decisions selected shall be published by the Commission on Official Legal Publications in the Connecticut Law Journal and in such bound volumes as the Reporter of Judicial Decisions deems necessary.]

[(b)] The clerk of the Appellate Court shall file with the Reporter of Judicial Decisions copies of memoranda of decisions in Appellate Court cases. The reporter shall prepare all of the decisions for publication and index them in substantial conformity with the manner in which decisions of the Supreme Court are prepared and indexed. The decisions shall be published by the Commission on Official Legal Publications in the Connecticut Law Journal and in bound volumes.

Sec. 11. Subsection (b) of section 51-216a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(b) The commission shall acquire, publish, distribute and maintain

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for the benefit of the state a sufficient supply of the official legal publications, which shall consist of: (1) The Connecticut Reports consisting of the reports of cases determined by the Supreme Court as prepared for publication by the Reporter of Judicial Decisions, (2) reports of cases determined by the Appellate Court as prepared for publication by the Reporter of Judicial Decisions, (3) the Connecticut Law Journal, (4) the Connecticut Practice Book and cumulative supplements thereto, [(5) the digests compiled by or under the supervision of the Reporter of Judicial Decisions pursuant to section 51-215b, and such other volumes of law reports and digests as the Reporter of Judicial Decisions deems necessary, (6) such decisions of the Superior Court as the Reporter of Judicial Decisions selects for publication pursuant to section 51-215a,] and [(7)] (5) such additional publications pertaining to the state Judicial Branch, the Supreme Court, the Appellate Court, the Superior Court and the practice of law as may be assigned to the commission. The commission may publish, maintain and distribute the official legal publications in available alternative formats. An alternative format includes an electronic format and may be the sole method for the publication, maintenance and distribution of all official legal publications, all archived official legal protections and all volumes of the Connecticut Reports, excluding the most recent one hundred volumes.

Sec. 12. Subdivision (2) of subsection (b) of section 51-216b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(2) Bills contracted and expenses incurred by the commission for the purposes specified in this section and sections 51-215a, as amended by this act, [51-215b,] 51-216a, as amended by this act, and 51-216c shall be paid from moneys appropriated from the General Fund.

Sec. 13. Section 52-74 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

Public Act No. 15-85

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Any bond entered into in accordance with the laws of any other state of the United States, conditioned for the proper performance by any person or persons of the duties of executor, administrator, guardian or trustee, to the acceptance of the court having jurisdiction, may be enforced, in case of breach, against any obligors therein, resident within this state, by an action in the name of the person or persons who would be entitled to sue thereon in the proper courts of such other state. All such suits, in respect to the security for the costs by endorsement, and the effect of the judgments rendered in the same, shall be governed by the provisions concerning actions on probate bonds contained in [sections 52-117 and 52-190] section 52-117.

Sec. 14. Section 52-185 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

[(a) If the plaintiff in any civil action is not an inhabitant of this state, or if it does not appear to the authority signing the process that the plaintiff is able to pay the costs of the action should judgment be rendered against him, the plaintiff shall enter into a recognizance to the adverse party with a financially responsible inhabitant of this state as surety, or a financially responsible inhabitant of this state shall enter into a recognizance to the adverse party, that the plaintiff shall prosecute his action to effect and answer all costs for which judgment is rendered against him. The recognizance shall not be discharged by any amendment or alteration of the process between the time of signing and of serving it.]

(a) No bond or recognizance for prosecution is required from a party in any civil action unless the judicial authority, upon motion and for good cause shown, finds that a party is not able to pay the costs of the action and orders that the party give a sufficient bond or enter into a recognizance to an adverse party with a financially responsible person to pay taxable costs. In determining the sufficiency of the bond or recognizance, the judicial authority shall consider only the taxable

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costs which the party may be responsible for under section 52-257, except that in no event shall the judicial authority consider the fees or charges of expert witnesses notwithstanding that such fees or charges may be allowable under said section.

(b) The recognizance may be taken in the following form:

You, C.S., as principal, and E.C., as surety, acknowledge yourselves jointly and severally bound to J.L., in a recognizance (or, as the case may be, You, E.C., acknowledge yourself bound to J.L., in a recognizance) of dollars, that C.S. shall prosecute the action which he has now commenced against J.L. at the Superior court to be held at H. in and for the judicial district of H., on the Tuesday of, 20.. to full effect, and that he shall pay any costs for which judgment may be rendered against him thereon.

Taken and acknowledged at H. on the day of, 20.., before me, J.W., Commissioner of the Superior Court.

(c) If a bond or recognizance is required on any writ of summons or attachment, it may be noted in the writ in the following manner:

E.C. of is recognized in \$.... to prosecute, etc. (or words to that effect).

(d) [If there has been a failure to comply with the provisions of this section, or if the authority signing a writ has failed to certify in accordance with any statute or rule that he has personal knowledge as to the financial responsibility of the plaintiff and deems it sufficient, the validity of the writ and service shall not be affected unless the failure is made a ground of a plea in abatement. If such plea in abatement is filed and sustained or if the plaintiff voluntarily elects to cure the defect by filing a bond, the court shall direct the plaintiff to file a bond to prosecute in the usual amount. Upon the filing of the bond, the case shall proceed in the same manner and to the same effect

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as to rights of attachment and in all other respects as though the failure had not occurred. The court may, in its discretion, order, as a condition to the acceptance of the bond, that the plaintiff pay to the defendant costs not to exceed the costs in full to the date of the order.] Any party failing to comply with an order of the judicial authority to give sufficient bond or recognizance may be nonsuited or defaulted.

Sec. 15. Subsection (a) of section 52-259 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There shall be paid to the clerks for entering each appeal or writ of error to the Supreme Court, or entering each appeal to the Appellate Court, as the case may be, two hundred fifty dollars, and for each civil cause in the Superior Court, three hundred fifty dollars, except (1) two hundred twenty-five dollars for entering each case in the Superior Court in which the sole claim for relief is damages and the amount, legal interest or property in demand is less than two thousand five hundred dollars; (2) one hundred seventy-five dollars for summary process and landlord and tenant actions; and (3) there shall be no entry fee for making an application to the Superior Court for relief under section 46b-15 or 46b-16a, or for making an application to modify or extend an order issued pursuant to section 46b-15 or 46b-16a. If the amount, legal interest or property in demand by the plaintiff is alleged to be less than two thousand five hundred dollars, a new entry fee of seventy-five dollars shall be charged if the plaintiff amends his or her complaint to state that such demand is not less than two thousand five hundred dollars.

Sec. 16. Subsection (a) of section 52-259c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There shall be paid to the clerk of the Superior Court upon the

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filing of any motion to open, set aside, modify or extend any civil judgment rendered in Superior Court a fee of seventy-five dollars for any housing matter, a fee of seventy-five dollars for any small claims matter, a fee of one hundred seventy-five dollars for any post-judgment motion to modify any judgment in a family relations matter, as defined in section 46b-1, and a fee of one hundred twenty-five dollars for any other matter, except no fee shall be paid upon the filing of any motion to open, set aside, modify or extend judgments in juvenile matters or orders issued pursuant to section 46b-15 or 46b-16a or upon the filing of any motion pursuant to subsection (b) of section 46b-63. Such fee may be waived by the court.

Sec. 17. Section 53a-223b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) A person is guilty of criminal violation of a restraining order when (1) (A) a restraining order has been issued against such person pursuant to section 46b-15, or (B) a foreign order of protection, as defined in section 46b-15a, has been issued against such person in a case involving the use, attempted use or threatened use of physical force against another, and (2) such person, having knowledge of the terms of the order, (A) does not stay away from a person or place in violation of the order, (B) contacts a person in violation of the order, (C) imposes any restraint upon the person or liberty of a person in violation of the order, or (D) threatens, harasses, assaults, molests, sexually assaults or attacks a person in violation of the order.

(b) No person who is listed as a protected person in such restraining order or foreign order of protection may be criminally liable for (1) soliciting, requesting, commanding, importuning or intentionally aiding in the violation of the restraining order or foreign order of protection pursuant to subsection (a) of section 53a-8, or (2) conspiracy to violate such restraining order or foreign order of protection pursuant to section 53a-48.

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(c) No person who is listed as a respondent in a restraining order issued pursuant to section 46b-15 or a foreign order of protection issued pursuant to section 46b-15a and against whom there is an order of no contact with the protected party or parties may be criminally liable for a violation of such order if such person causes a document filed in a family relations matter, as defined in section 46b-1, to be served on the protected party or parties in accordance with the law by mail or through a third party who is authorized by statute to serve process.

[(c)] (d) (1) Except as provided in subdivision (2) of this subsection, criminal violation of a restraining order is a class D felony.

(2) Criminal violation of a restraining order is a class C felony if the offense is a violation of subparagraph (C) or (D) of subdivision (2) of subsection (a) of this section.

Sec. 18. Section 53a-223c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) A person is guilty of criminal violation of a civil protection order when (1) a civil protection order has been issued against such person pursuant to section 46b-16a, and (2) such person, having knowledge of the terms of the order, violates such order.

(b) No person who is listed as a respondent in a civil protection order issued pursuant to section 46b-16a may be criminally liable for a violation of such order if such person causes a legal document to be served on the protected person by mail or through a third party in accordance with the law. For purposes of this subsection, "legal document" includes, but is not limited to, a notice of appearance or any other application, petition, or motion filed in good faith by such person in connection with any pending court matter, or in any court matter that may be brought subsequently.

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[(b)] (c) Criminal violation of a civil protection order is a class D felony.

Sec. 19. Subsection (b) of section 54-56e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(b) The court may, in its discretion, invoke such program on motion of the defendant or on motion of a state's attorney or prosecuting attorney with respect to a defendant (1) who, the court believes, will probably not offend in the future, (2) who has no previous record of conviction of a crime or of a violation of section 14-196, subsection (c) of section 14-215, section 14-222a, subsection (a) or subdivision (1) of subsection (b) of section 14-224 or section 14-227a, and (3) who states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under the penalties of perjury, (A) that the defendant has never had such program invoked on the defendant's behalf or that the defendant was charged with a misdemeanor or a motor vehicle violation for which a term of imprisonment of one year or less may be imposed and ten or more years have passed since the date that any charge or charges for which the program was invoked on the defendant's behalf were dismissed by the court, or (B) with respect to a defendant who is a veteran, that the defendant has not had such program invoked in the defendant's behalf more than once previously, provided the defendant shall agree thereto and provided notice has been given by the defendant, on a form [approved by rule of court] prescribed by the Office of the Chief Court Administrator, to the victim or victims of such crime or motor vehicle violation, if any, by registered or certified mail and such victim or victims have an opportunity to be heard thereon. Any defendant who makes application for participation in such program shall pay to the court an application fee of thirty-five dollars. No defendant shall be allowed to participate in the pretrial program for accelerated

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rehabilitation more than two times. For the purposes of this section, "veteran" means any person who was discharged or released under conditions other than dishonorable from active service in the armed forces as defined in section 27-103.

Sec. 20. Subdivision (1) of subsection (a) of section 54-56g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) (1) There shall be a pretrial alcohol education program for persons charged with a violation of section 14-227a, 14-227g, 15-132a, 15-133, 15-140l or 15-140n. Upon application by any such person for participation in such program and payment to the court of an application fee of one hundred dollars and a nonrefundable evaluation fee of one hundred dollars, the court shall, but only as to the public, order the court file sealed, provided such person states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under penalties of perjury that: (A) if such person is charged with a violation of section 14-227a, such person has not had such program invoked in such person's behalf within the preceding ten years for a violation of section 14-227a, (B) if such person is charged with a violation of section 14-227g, such person has never had such program invoked in such person's behalf for a violation of section 14-227a or 14-227g, (C) such person has not been convicted of a violation of section 53a-56b or 53a-60d, a violation of subsection (a) of section 14-227a before, on or after October 1, 1981, or a violation of subdivision (1) or (2) of subsection (a) of section 14-227a on or after October 1, 1985, (D) such person has not been convicted in any other state at any time of an offense the essential elements of which are substantially the same as section 53a-56b or 53a-60d or subdivision (1) or (2) of subsection (a) of section 14-227a, and (E) notice has been given by such person, by registered or certified mail on a form [approved by rule of court] prescribed by the Office of the Chief Court

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Administrator, to each victim who sustained a serious physical injury, as defined in section 53a-3, which was caused by such person's alleged violation, that such person has applied to participate in the pretrial alcohol education program and that such victim has an opportunity to be heard by the court on the application.

Sec. 21. Subsection (c) of section 54-56l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(c) Upon application by any such person for participation in such program, the court shall, but only as to the public, order the court file sealed, provided such person states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under penalties of perjury, that such person has not had such program invoked in such person's behalf more than once. Court personnel shall provide notice, on a form [approved by rule of court] prescribed by the Office of the Chief Court Administrator, to any victim of such crime or motor vehicle violation, by registered or certified mail, that such person has applied to participate in the program and that such victim has an opportunity to be heard by the court on the matter.

Sec. 22. Subsection (e) of section 54-208 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(e) In determining the amount of compensation to be allowed, the Office of Victim Services or, on review, a victim compensation commissioner shall take into consideration amounts that the applicant has received or is eligible to receive from any other source or sources, including, but not limited to, payments from state and municipal agencies, health insurance benefits, and workers' compensation awards, as a result of the incident or offense giving rise to the

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application. For purposes of this section, life insurance benefits received by the applicant shall not be taken into consideration by the Office of Victim Services or a victim compensation commissioner.

Sec. 23. Section 2 of number 257 of the special acts of 1917 is amended to read as follows (*Effective from passage*):

The clerk of [said court] the superior court in the judicial district of Litchfield, or his successor in office, is directed to hold [said fund] the escheated property formerly known as the Salmon Brownson Fund and to act as trustee of the same and on July 1, 1917, to pay the interest thereon which shall have accrued to July 1, 1917, to the treasurer of the Warren Cemetery Association, a domestic corporation situated in the town of Warren in said Litchfield county, and thereafter to pay to said cemetery association, during the first week in January and July, annually, the interest which shall have accrued from said fund. On or before October 1, 2015, the clerk of said court shall pay to the treasurer of said cemetery association the entire balance of the fund and shall close the account.

Sec. 24. Section 4 of number 257 of the special acts of 1917 is amended to read as follows (*Effective from passage*):

The Warren Cemetery Association shall use the [interest] funds which it may receive from said trustee for the care of the monuments and graves of Salmon Brownson and wife, and members of his family, deceased, late of said town of Warren, in the Warren cemetery, and any unexpended portion of the money so received by said association may be used by it for the care of the graves of persons formerly members of the Warren Methodist Episcopal church and their descendants and any unexpended portion of the income of said fund may be expended for the general purposes of said cemetery association, but in case of the organization of a Methodist Episcopal church society in said town of Warren which shall conduct services

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regularly, and at least one such service during each month in said town for a period of six months in some suitable and convenient place to accommodate the people of said town of Warren, said trustee shall pay the income from said fund semi-annually at the expiration of said six months' period to the treasurer of such church society, and shall continue to make such payments semi-annually to such church society so long as regular services shall be so conducted in said town, and upon the discontinuance of such regular services, the income from said fund shall again revert and be paid to said cemetery association for the purposes stated in [this act] number 257 of the special acts of 1917.

Sec. 25. (*Effective from passage*) (a) Notwithstanding the failure to file a proper notice of a claim against the state with the clerk of the Office of the Claims Commissioner, within the time limitations specified by subsection (a) of section 4-148 of the general statutes, Lori Calvert is authorized pursuant to the provisions of subsection (b) of section 4-148 of the general statutes to present her claim against the state to the Claims Commissioner. The General Assembly finds that there is a public purpose served by encouraging accountable state government through the full adjudication of cases involving persons who claim to have been injured by the conduct of state actors. The General Assembly further finds it just and equitable that the time limitations provided for in subsection (a) of section 4-148 of the general statutes be tolled in a case such as this, involving a claimant who commenced a civil action in the superior court for the judicial district of Hartford in December 2010, thereby providing notice to the state of her claim within the statute of limitations for injuries to her person that are alleged to have occurred in January 2010. The General Assembly deems such authorization to be just and equitable and finds that such authorization is supported by compelling equitable circumstances and would serve a public purpose. Such claim shall be presented to the Claims Commissioner not later than one year after the effective date of this section.

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(b) The state shall be barred from setting up the failure to comply with the provisions of sections 4-147 and 4-148 of the general statutes, from denying that notice of the claim was properly and timely given pursuant to sections 4-147 and 4-148 of the general statutes and from setting up the fact that the claim had once been considered by the Claims Commissioner, by the General Assembly or in a judicial proceeding as defenses to such claim.

Sec. 26. Sections 1 and 3 of number 257 of the special acts of 1917 are repealed. (*Effective from passage*)

Sec. 27. Sections 51-215b, 52-186, 52-187, 52-188 and 52-190 of the general statutes are repealed. (*Effective October 1, 2015*)

Approved June 24, 2015



Substitute House Bill No. 6942

Public Act No. 15-68

**AN ACT VALIDATING THE ACTION OF A MUNICIPAL ASSESSOR,
EXTENDING THE FILING DEADLINE FOR CERTAIN PROPERTY
TAX EXEMPTIONS AND CONCERNING NOTICE REQUIREMENTS
FOR ZONING APPLICANTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (*Effective from passage*) The grand list for the assessment year commencing October 1, 2014, as signed by the assessor of the town of Naugatuck on March 31, 2015, is hereby validated notwithstanding the assessor's failure to publish or lodge for public inspection such grand list or abstract related thereto within the time period specified in section 12-55 of the general statutes or any extension thereof granted by the chief executive officer pursuant to section 12-117 of the general statutes. Notwithstanding the provisions of sections 12-110, 12-111 and 12-117 of the general statutes, the Naugatuck board of assessment appeals may hold a hearing with respect to the assessment of any property included on said grand list or grand list abstract, provided a written request for such hearing is submitted to said board not later than thirty days after the effective date of this section. Said board shall send notification to the person having filed such request of the time and date of an appeal hearing at least seven calendar days preceding the hearing date, but not later than sixty days after the effective date of this section. Such hearings may be

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held in the months of May, June, July and August of 2015 and said board shall complete its duties with respect to such appeals not later than August 31, 2015. If said board elects not to conduct a hearing for any commercial, industrial, utility or apartment property with an assessed value greater than one million dollars, it shall notify the taxpayer of such decision not later than sixty days after the effective date of this section. All provisions of sections 12-111 and 12-117 of the general statutes, other than the extension of the filing and notification dates as provided in this section, shall be applicable to such appeals or denials of appeals.

Sec. 2. Subsection (a) of section 8-7d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) In all matters wherein a formal petition, application, request or appeal must be submitted to a zoning commission, planning and zoning commission or zoning board of appeals under this chapter, a planning commission under chapter 126 or an inland wetlands agency under chapter 440 or an aquifer protection agency under chapter 446i and a hearing is required or otherwise held on such petition, application, request or appeal, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. Notice of the hearing shall be published in a newspaper having a general circulation in such municipality where the land that is the subject of the hearing is located at least twice, at intervals of not less than two days, the first not more than fifteen days or less than ten days and the last not less than two days before the date set for the hearing. In addition to such notice, such commission, board or agency may, by regulation, provide for additional notice. Such regulations shall include provisions that the

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notice be mailed to persons who own land that is adjacent to the land that is the subject of the hearing or be provided by posting a sign on the land that is the subject of the hearing, or both. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, [and] (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed, and (3) a title search or any other additional method of identifying persons who own land that is adjacent to the land that is the subject of the hearing shall not be required. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney. All decisions on such matters shall be rendered not later than sixty-five days after completion of such hearing, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition, application, request or appeal.

Sec. 3. (*Effective from passage*) Notwithstanding the provisions of subparagraph (B) of subdivision (72) of section 12-81 of the general statutes, any person otherwise eligible for a 2014 grand list exemption pursuant to said subdivision (72) in the town of Durham, except that such person failed to file the required exemption application within the time period prescribed, shall be regarded as having filed said application in a timely manner if such person files said application not later than thirty days after the effective date of this section, and pays the late filing fee pursuant to section 12-81k of the general statutes. Upon confirmation of the receipt of such fee and verification of the exemption eligibility of the machinery and equipment included in such application, the assessor shall approve the exemption for such property. If taxes have been paid on the property for which such

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exemption is approved, the town of Durham shall reimburse such person in an amount equal to the amount by which such taxes exceed the taxes payable if the application had been filed in a timely manner.

Sec. 4. (*Effective from passage*) Notwithstanding the provisions of subparagraph (A) of subdivision (7) of section 12-81 of the general statutes and section 12-87a of the general statutes, any person otherwise eligible for a 2013 grand list exemption for all or part of the assessment year pursuant to said subdivision (7) in the town of North Branford, except that such person failed to file the required statement within the time period prescribed, shall be regarded as having filed such statement in a timely manner if such person files such statement not later than thirty days after the effective date of this section and pays the late filing fee pursuant to section 12-87a of the general statutes. Upon confirmation of the receipt of such fee and verification of the exemption eligibility of such property, the assessor shall approve the exemption for such property. If taxes, interest or penalties have been paid on the property for which such exemption is approved, the town of North Branford shall reimburse such person in an amount equal to the amount by which such taxes, interest and penalties exceed any taxes payable if the statement had been filed in a timely manner.

Sec. 5. (*Effective from passage*) Notwithstanding the provisions of subparagraph (B) of subdivision (72) of section 12-81 of the general statutes, any person otherwise eligible for a 2014 grand list exemption pursuant to said subdivision (72) in the town of Windsor, except that such person failed to file the required exemption application within the time period prescribed, shall be regarded as having filed said application in a timely manner if such person files said application not later than thirty days after the effective date of this section, and pays the late filing fee pursuant to section 12-81k of the general statutes. Upon confirmation of the receipt of such fee and verification of the exemption eligibility of the machinery and equipment included in such

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application, the assessor shall approve the exemption for such property. If taxes have been paid on the property for which such exemption is approved, the town of Windsor shall reimburse such person in an amount equal to the amount by which such taxes exceed the taxes payable if the application had been filed in a timely manner.

Approved June 19, 2015