



**INLAND WETLANDS AND WATERCOURSES  
REGULATIONS  
FOR THE TOWN OF WESTON**

**Effective Date: March 16, 2011**

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## SECTION 1

### TITLE AND AUTHORITY

- 1.1** The wetlands and watercourses of the Town of Weston are indispensable, irreplaceable and fragile natural resources with which the citizens 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 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 Weston and has and will continue to imperil the quality of the environment, thus adversely affecting the ecological, scenic, historic and recreational values and benefits for the citizens of Weston 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 Weston. It is, therefore, the purpose of these regulations to protect the citizens of Weston by making provisions for the protection, preservation, and maintenance and use of the 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 other local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other 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 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 Weston and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of Weston 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 Weston.”
- 1.3** The Conservation Commission of Weston (the Commission) was established in accordance with an ordinance adopted February 15, 1973, and shall implement the

purposes and provisions of the Inland Wetland and Watercourses Regulations of the Town of Weston.

- 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 Commission shall enforce all provisions of the Inland Wetlands and Watercourse Regulations and shall grant, grant with terms, conditions, limitations or modifications, and deny permits for all regulated activities on inland wetlands and watercourses in the Town of Weston pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

## **SECTION 2**

### **DEFINITIONS**

- 2.1 As used in these regulations:

“Act” means the Inland Wetland and Watercourses Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes, as amended.

“Agent” with respect to the Commission means a Town employee working for the Commission, “Duly Authorized Agent” means an individual designated by the Commission to carry out its functions and purposes, and with respect to the applicant means any person authorized in writing to act in the applicant’s behalf.

“Aquifer” means a water bearing stratum of permeable rock, sand, or gravel.

“Bogs” are waterways distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

“Buffer” means an undisturbed natural area or a planted area adjacent to the edge of a wetland and/or a watercourse.

“Clear-cutting” means the cutting or the harvest of timber in a fashion which removes all trees down to a two (2) inch diameter at breast height.

“Commission” means the Conservation Commission of the Town of Weston.

“Commission member” means a member, or the designated alternate, of the Conservation Commission of the Town of Weston.

“Commissioner of Environmental Protection” means the commissioner of the State of Connecticut Department of Environmental Protection.

“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.

“Deposit” includes, but shall not be limited to fill, grade, dump, place, discharge or emit.

“Discharge” means emission of any water, substance, or material into waters of the state wetlands or watercourses whether or not such substance causes pollution.

“Essential to the farming operation” means that the activity proposed is necessary and indispensable to sustain farming activities on the farm.

“Disturbing the natural and indigenous character of the land” means that the activity may significantly alter the inland wetland and watercourses by reason of removal or deposition of material, clear cutting, alteration or obstruction of water flow, or may result in the pollution of the wetland or watercourse.

“Farming” shall be consistent with the definition as noted in Section 1-1(q) of the Connecticut General Statutes, as amended.

“Feasible” means able to be constructed or implemented consistent with sound engineering principles.

“Gardening” means the tilling of the soil, planting, cultivating and harvesting of vegetables, fruits and/or flowers.

“License” means the whole or any part of any permit, certificate of approval or similar form of permission which may be required of any person by the provisions of these regulations under the authority of the Commission.

“Limits of Disturbance” means the line designating the separation between the non-disturbance area that may be required by the Commission and areas of disturbance.

“Management Practice” means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or the 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, design and construction of drainage systems to prevent post construction disturbances or changes to wetlands or changes to wetlands or watercourses; procedures for maintaining continuous stream flows confining construction that must take place in watercourses at times when water flows are low and fish and wildlife will not be adversely affected.

“Marshes” are areas with soils that exhibit aquic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.

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

“Minimal impact” is a regulated activity that occurs within the regulated area, but not in a wetland or watercourse, and has no more than minimal impact on any a wetland or watercourse as determined by the agent’s objective review based on scientific and technical facts.

“Municipality” means the Town of Weston, Fairfield County, Connecticut.

“Non-disturbance Area” means the portion of a property to be left in its existing natural state where no clearing, grubbing, tilling, filling, cultivation, excavation, construction, or other activities that change existing natural conditions take place.

“Nurseries” means places where plants are grown for sale, transplanting, or experimentation.

“Permit” (See “License.”)

“Permittee” means the person to whom a license has been granted.

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

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

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

“Regulated activity” 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 4 of these regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of storm water on the land within 100 feet (measured horizontally from the boundary) of any wetland or watercourse and any other activity located within such Upland Review Area or in any other non-wetland or non-watercourse area that is likely to impact or affect wetlands or watercourses is a regulated activity.

“Regulated Area” means any wetland or watercourse and Upland Review Area as defined in these regulations.

“Remove” includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, stump, bulldoze, dragline or blast.

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

“Significant activity” means any activity, including, but not limited to, the following activities which may have a major effect or impact on the area for which an application has been filed or on another part of the inland wetland or watercourse system.



- a.** Any activity involving deposition or removal of material which will or may have a substantial effect on the regulated area or on another part of the wetland or watercourse system or on wetlands or watercourses outside the area for which 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 diminishes the natural capacity of a wetland, or watercourse to support aquatic plant or animal life and habitats, desirable fisheries, wildlife, or other biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space, or other functions.
- d.** Any activity which is likely to cause or which has the potential to cause 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 wetland or watercourse.
- f.** Any activity which causes or has the potential to cause pollution of a wetland or watercourse.
- g.** Any activity that damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.
- h.** Any activity which creates conditions which may adversely affect the health, welfare, and safety of any individual or the community.

“Soil Scientist” means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.

“Swamps” are watercourses that are distinguished by the dominance of wetland trees and shrubs.

“Submerged lands” means those lands which are inundated by water on a seasonal or more frequent basis.

“Town” means the Town of Weston, Fairfield County, in the State of Connecticut.

“Upland Review Area” means an area within 100 feet of any wetlands or watercourse or a further distance is the proposed activity is likely to impact or affect impact the regulated area.

“Vernal pool” consists 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 stream 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.

“Waste” means sewage (natural or manmade) or any substance liquid, gaseous, solid or any radioactive material which pollutes or tends to pollute any of the Regulated Areas.

“Watercourses” means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to section 22a-28 through 22a-35 inclusive, of the Connecticut General Statutes, as amended. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation;

“Weston” means the Town of Weston, Connecticut.

“Wetlands” means land, including submerged land as defined in Section 2.1(ii) of these regulations, not regulated pursuant to Section 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, as amended, 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, by the Natural Resource Conservation Service of the U. S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

## **SECTION 3**

### **INVENTORY OF REGULATED AREAS**

- 3.1** The map of regulated areas, entitled “Designated Inland Wetlands and Watercourses Map of the Town of Weston, dated September 7, 1976, current revision,” delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the office of the Town Clerk or the Commission. This map shall be considered to be a guide. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and location of watercourses. The Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.
- 3.2** Any person or any property owner who disputes the designation of any part of his or her land or adjoining land which impacts on their property as a Regulated Area on the “Designated Inland Wetlands and Watercourses Map of the Town of Weston” may petition the Commission to change the Wetlands and Watercourse Map, or may petition the Commission to change the designation in accordance with Section 15 of these Regulations. All petitions for a map change shall be submitted in writing and shall bear the burden of proof regarding the proposed map change and include all relevant facts and circumstances which support the change. The petitioner shall provide proof that the change is valid. Such proof may include but is not 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 or its agent(s) shall inventory and maintain current records of all regulated areas within the Town. The Commission may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the Town.
- 3.4** All map amendments are subject to the public hearing process outlined in Section 15 of these regulations.

## **SECTION 4**

### **PERMITTED USES AS OF RIGHT & 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 section shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses for continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural cropland, or the mining of topsoil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;

**b.** A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by the 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 subsection unless the building permit was obtained on or before July 1, 1987. The individual claiming a use of a wetland permitted as of right under this subsection, or desiring to use a wetland not of right, shall document the validity by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement;

**c.** Boat anchorage or mooring not to include dredging or dock construction;

**d.** Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality 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, as amended 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 through 22a-410 of the Connecticut General Statutes, as amended; and

**f.** Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subsection f, “Maintenance” means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.

**4.2** The following operations and/or uses shall be permitted as non-regulated uses in wetlands or 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.

**b.** Outdoor recreation including the use of play and sporting areas, golf courses, field trails, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing and cross-country skiing where otherwise legally permitted and regulated.

**4.3** All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, 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 7 of these regulations or for certain regulated activities located outside of wetlands and watercourses from the Commission’s duly authorized agent in accordance with Section 12 of these Regulations.

**4.4** To carry out the purposes of this section, any person proposing to carry out a permitted or non-regulated operation and use shall, prior to commencement of such operation or use, notify the Commission on an application 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 non-regulated use of the wetland or watercourse. The Commission shall rule that the proposed operation or use, or portion of it, is a permitted or a non-regulated use or operation or that the proposed operation and use is a regulated activity and that a permit is required.

**4.5** Such ruling shall be in writing and shall be made no later than fifteen (15) days after the next regularly scheduled meeting of the Commission following the meeting at which the application was accepted as complete. Initiation of the

permitted use or operation shall be within one (1) year and any ruling pursuant to this section shall expire one (1) year from date of issue unless otherwise extended by the Commission.

## **SECTION 5**

### **ACTIVITIES REGULATED EXCLUSIVELY BY THE COMMISSIONER OF ENVIRONMENTAL PROTECTION**

- 5.1** The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, commission, 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, as amended.
- 5.2** The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
- 5.3** The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under Section 22a-402 of the Connecticut General Statutes, as amended, or a permit issued by the Commissioner of Environmental Protection under Sections 22a-403 of the Connecticut General Statutes, as amended. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from the Commission for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.4** The Commissioner of 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 Commission.

- 6.2** 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.

## **SECTION 7**

### **APPLICATION REQUIREMENTS**

- 7.1** Any person wishing to undertake a regulated activity shall apply for a permit on a form entitled "Application for Permission to Conduct a Regulated Activity within an Inland Wetland or Watercourse Area in the Town of Weston." An application shall include an application form and such information as prescribed by Section 7.3 and, in the case of a significant activity, by Section 7.4 of these regulations. Application forms may be obtained in the offices of the Weston Conservation Commission.
- 7.2** If an application to the Town of Weston Planning & Zoning Commission for subdivision or resubdivision 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, as amended, 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 & Zoning Commission.
- 7.3** All applications shall contain such information in writing or on maps or drawings that is necessary for a fair and informed determination of the issues, including the following:
- a.** The applicant's name, home and business address, mailing address, and telephone numbers. If the applicant is a corporation or partnership, the managing member or responsible corporate officer's name, address, and telephone numbers.
  - b.** The owner's name, address and telephone number and written consent if the applicant is not the owner of the land involved in the application.
  - c.** Applicant's interest in the land.
  - d.** The geographical location of the land which is to be affected by the proposed activity, including, but not limited to, a description of the land in sufficient detail to allow identification of the inland wetlands and

watercourses, a computation of the area(s) (in acres or square feet) of wetland or watercourse disturbance, soil type(s) and wetland vegetation.

**e.** The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order or priority: restore, enhance and create productive wetland or watercourse resources.

**f.** Alternatives which would cause less or no environmental impact to wetlands or watercourses considered by the applicant as well as why the proposal to alter wetlands set forth in the application was chosen. If required by the Commission, such alternatives shall be diagrammed on a site plan or drawing.

**g.** A site plan showing the proposed activity and existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.

**h.** Names and addresses of all adjacent land owners.

**i.** 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.

**j.** Authorization for the members and agents of the Commission to inspect the land, at reasonable times, during the pendency of an application and for the life of the permit.

**k.** Any other information the Commission deems necessary to the understanding of what the applicant is proposing;

**l.** Payment of the appropriate filing fee based on the fee schedule in effect at the time of the submission of the application.

**m.** Applications involving the installation of a new septic system will be accompanied by percolation test results.



**n.** A completed DEP reporting form. The Commission shall revise and correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies.

**7.4** If the proposed activity involves a significant activity as determined by the Commission and defined in Section 2.1 of these regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, may be required:

**a.** Site plans for the proposed use or operation of the land which will be affected, 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 licensed surveyor, professional engineer or architect registered in the State of Connecticut or by such other qualified person acceptable to the Commission;

**b.** Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;

**c.** Mapping of soil types consistent with categories established by the National Cooperative Soil Survey of the Natural Resource Soil Conservation Service (the Commission may require the applicant to have the wetlands delineated in the field by a soil scientist and that the field delineation be incorporated onto the plans);

**d.** Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions;

**e.** Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application, and with each alternative, a description of why each alternative considered was deemed neither feasible nor prudent;

**f.** Analysis of chemical or physical characteristics of any fill material;

**g.** Measures such as sedimentation and erosion control plans which mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution

of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.

**h.** Analysis of the downgradient and downstream impact of the proposed activity.

**7.5** The applicant shall certify in the application 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.** Sewer (septic systems) or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality;

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

**d.** Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter and exit the site.

**7.6** Four (4) copies of all application materials shall be submitted to comprise a complete application or as is otherwise directed, in writing, by the Commission.

**7.7** Any application to extend the expiration date of a previously issued permit or amend an existing permit shall be submitted to the Commission at least sixty-five (65) days prior to the expiration date for the permit in accordance with Sections 11.6 through Section 11.8 of these Regulations. Any application for amendment, renewal or extension shall be made in accordance with this Section provided:

**a.** The application may incorporate by reference the documentation and record of the original application;

**b.** The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;

**c.** The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses, or the use of the land for which the permit was issued;

**d.** The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit.

e. The Commission may, prior to the expiration of a permit, accept an untimely application to extend the expiration date of a permit if the authorized activity is ongoing and to allow the continuation of the work beyond the expiration date if in its judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting the activity.

f. The Commission shall evaluate the application pursuant to Section 11 of these Regulations and grant the application as submitted, grant it with any terms or limitations, or deny it.

**7.8** 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 a) no permit issued during the time period from July 1, 2006 to July 1, 2009, inclusive, shall be valid for more than eleven (11) years; and b) no permit issued prior to July 1, 2006 or after July 1, 2009 may be valid for more than ten (10) years.

**7.9** For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:

a. For the purposes of this section, “conservation restriction” means any 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 the 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 the land, 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 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 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 (60) days prior to the filing of the permit application.

- d.** In lieu of such notice pursuant to subsection 7.9c, 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 applications shall be submitted to the Conservation Commission of the Town of Weston.
- 8.2** In the case of any application where any portion of the wetland or watercourse on which the regulated activity is proposed is located within 500 feet of the boundary of Westport, Wilton, Easton, Redding or Fairfield, the applicant shall give written notice of the proposed activity, certified mail return receipt requested, to the adjacent municipal wetland agency on the same day of filing an inland wetland permit application with the Commission. Documentation of such notice shall be provided to the Commission.
- 8.3** The Commission shall, in accordance with Connecticut General Statutes, as amended, Section 8-7d(f), notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request, or plan concerning any project or site in which:
  - a.** Any portion of the property affected by a decision of the Commission is located within 500 feet of the boundary of an adjoining municipality;
  - b.** A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
  - c.** A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage systems 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.

Such notice 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.

- 8.4** When an application is submitted 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, as amended, 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 (7) days after the date of the application. The water company and the Commissioner, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission.
- 8.5** The date of acceptance of any petition application, request or appeal shall be the day of the next regularly scheduled meeting of the Commission immediately following the date of submission to the Commission or its agent, or thirty-five (35) days after such submission, whichever is sooner.
- 8.6** At any time during the review period, the Commission may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application, or wetlands or watercourses affected by the regulated activity. The Commission shall not exceed the required sixty-five (65) day time limit in taking action on an application pending the receipt of additional information as set forth in Section 11.2 of these regulations. Requests for additional information shall not stay the time limitations set forth in Section 11.2 of these regulations.
- 8.7** All applications shall be open for public inspection.
- 8.8** Incomplete applications may be denied.

## **SECTION 9**

### **PUBLIC HEARINGS**

- 9.1** The Commission shall not hold a public hearing on such application unless the Commission determines that i) the proposed activity may have a significant impact on wetlands or watercourses or ii) a petition signed by at least twenty-five

(25) persons who are eighteen (18) years of age or older and who reside in Weston requesting a hearing is filed with the Commission not later than fourteen (14) days after the date of receipt of such application or iii) 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 (65) after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any such public meeting.

**9.2** Notice of the public hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.

**9.3** Notice of the public hearing shall be mailed by Certificate of Mailing by the applicant to the owner(s) of record of the land that is adjacent to the land that is the subject of the hearing no less than fifteen (15) days prior to the day of the hearing. When applicable, notification must also be made to the Town Clerk of an adjoining municipality and water companies pursuant to Sections 8.3 and 8.4. Proof of such notification must be entered into the record.

## **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.** Public comments, evidence and testimony from a public hearing;
- c.** Reports from other agencies and commissions including but not limited to the Town of Weston.
  - 1.** Planning and Zoning Commission
  - 2.** Building Inspector
  - 3.** Appropriate Health Officer of the Town
  - 4.** Town Engineer

- d.** The Commission may also consider comments on any application from the Fairfield County Soil and Water Conservation District, the Southwest Regional Planning Agency or other regional organizations (i.e., Council of Elected Officials); agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
- e.** Non-receipt of comments from agencies and commissions listed in subsection 10.1c above shall neither delay nor prejudice the decision of the Commission.

## **10.2** Standards and Criteria for Decision.

In carrying out the purposes and policies of Sections 22a-36 to 22a-45 of the Connecticut General Statutes, as amended, 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, including the effects on the inland wetland's and watercourse's 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 (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority; restore, enhance and create productive wetland or watercourse resources; such measures include, but are not limited to, actions which avoid adverse

impacts or lessen impacts on wetlands and watercourses and which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wild life, prevent flooding to, supply and protect surface and ground waters, to control sedimentation, to prevent erosion, to assimilate wastes, to facilitate drainage, to control pollution, to support recreational activities and open space, and to promote public health and safety;

e. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property, including abutting, downgradient or upgradient 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 values of wetlands and watercourses to the community; and

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 and 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 Section 10.2. 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 alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Commission shall propose on the record in writing the types of alternatives which the applicant may investigate, provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.

**10.5** In reaching its decision on any application after a public hearing, the Commission shall base its decision on the record of that hearing. Documentary evidence or



other material not in the hearing shall not be considered by the Commission in reaching its decision.

- 10.6** In reaching its decision, the Commission will not take into consideration any economic hardship which arises or might arise which may impact on the applicant as a result of his own actions.
- 10.7** The 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.
- 10.8** In the case of an application where the applicant has provided written notice pursuant to subsection 7.9c 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 subsections 7.9c or 7.9d 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 (15) days after receipt of actual notice of permit approval, file an appeal with the Commission, subject to the rules and regulations of the Commission relating 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 the restriction may, not later than thirty (30) days after receipt of actual notice of permit approval, file an appeal with the Commission, subject to the rules and regulations of the Commission 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 7.9c or 7.9d 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** In granting a permit the Commission, or its duly authorized agent, may grant the application as submitted or grant it upon other terms, conditions, limitations or modifications of the regulated activity which are designed to carry out the policy of Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended, 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 or priority: restore, enhance and create productive wetland or watercourse resources.
- 11.2** No later than sixty-five (65) days after acceptance of an application, the Commission may hold a public hearing on such application. The hearing shall be completed within thirty-five (35) days of its commencement and 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 acceptance of the application. The applicant may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such application, provided the total cumulative extensions of any such periods shall not be for longer than the original period as specified in this subsection, or may withdraw such application. The failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Commission must either 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.
- 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 of Weston 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. A copy of all Commission decisions shall be forwarded to the Commissioner of Environmental Protection in such a form as prescribed by the Commissioner.
- 11.5** If an activity authorized by the Commission permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, under sections 8-3(g), 8-3c or 8-26 of the Connecticut General Statutes, as amended, a copy of the decision and report on

the application shall be filed with the appropriate Board or Commission within fifteen (15) days of the decision.

- 11.6** If the Commission denies the permit without prejudice, or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Commission's satisfaction. The Commission shall determine whether the proposed modification requires the filing of a new application. A modified or corrected application may be denied by the Commission.
- 11.7** If the Commission denies an application, a resubmitted application may be denied unless the proposal is modified in a fashion that substantially changes the impacts which resulted in the denial.
- 11.8** Any permit issued by the Commission prior to July 1, 2006 or after July 1, 2009 for the development of land for which an approval is required under section 8-3, 8-25 or 8-26 of the Connecticut General Statutes, as amended, shall be valid for five (5) years provided the Commission may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Commission prior to July 1, 2006 or after July 1, 2009 for any other activity shall be valid for not less than two (2) years, and not more than five (5) years. Any permit issued by the Commission during the time period from July 1, 2006 to July 1, 2009, inclusive, shall expire not less than six (6) years after the date of such approval.
- 11.9** No permit issues by the Commission shall be assigned or transferred without the written permission of the Commission. Permits may be transferred providing the party to whom the permit is transferred submits a notarized letter to the Commission stating that there will be no changes in the plan. The letter must also state that the party understands and will comply with all conditions of approval of the original application. The Commission shall approve all transfers in writing prior to any transfer occurring.
- 11.10** If a bond or insurance is required in accordance with Section 13 of these regulations, no permit shall take effect until such bond or insurance is provided.
- 11.11** General provisions in the granting 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 Weston, 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 inland wetland permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception under Sections 8-3(g), 8-3c or 8-26 of the Connecticut General Statutes, as amended, 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 to wetlands and watercourses.

## **SECTION 12**

### **ACTION BY AGENT**

**12.1** The Commission may delegate to its agent the authority to approve or extend 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 pursuant to Section 22a-39 of the Connecticut General Statutes, as amended. Requests for a Minimal Impact Administrative Permit shall be made on a form provided by the Commission and shall contain the information listed under Section 7.3 of these regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for acceptance and processing of applications prescribed Sections 8 and 11 of these regulations, such agent may approve or extend such an activity at any time in accordance with the Commission's Minimal Impact Administrative Review Permits (ARP) Policy dated July 2001.

**12.2** Any person receiving such approval from such agent shall, within ten (10) days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Commission within fifteen (15) days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt 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 8 of these regulations.
- 12.3** The agent shall reach a decision on all applications no later than sixty-five (65) days after acceptance of an application.
- 12.4** If the agent fails to act within the prescribed time period, the application shall be reviewed and a decision rendered by the Commission at its next regularly scheduled meeting.

## **SECTION 13**

### **BOND AND INSURANCE**

- 13.1** Upon approval of the application and prior to granting a permit, the applicant may be required, at the discretion of the Commission, to file a bond with such surety in such amount and in a 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 to be determined by the Commission commensurate with the regulated activity.

## **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 agent shall take into consideration the criteria for decision under Section 10.2 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 with the consent of the property owner or the authorized agent of the owner during the life of the permit.

- 14.3** In the case in which a permit has not been issued or a permit has expired, the Commission or its agent 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 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 agent may:
- a.** issue a written order to be either hand delivered or sent 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) 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 Town of Weston. 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 section 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 a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subsection 14.3a or other enforcement proceedings as provided by law.
  - c.** Record a certificate or notice of a cease and desist order or order to correct an inland wetland or watercourse violation with the town clerk for recording in the town's land records. The certificate or notice will be released upon compliance with the order.
- 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 compliance with the permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by personal service or 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.

- 14.6** In accordance with Section 22a-42g of the Connecticut General Statutes, as amended, any person violating any provisions of these regulations may be subject to fines pursuant to ordinances of the Town of Weston as may be enacted or amended from time to time.

## **SECTION 15**

### **AMENDMENTS**

- 15.1** These regulations and the "Designated Inland Wetlands and Watercourses Map" of the Town of Weston, dated September 7, 1976, may be amended, from time to time, by the Commission in accordance with changes in the Connecticut General Statutes or regulations of the State Department of Environmental Protection, as amended, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2** An application submitted to the Commission which is in conformance with the applicable inland wetlands regulations as of the date of the acceptance of such application shall not be required thereafter to comply with any change in inland wetlands regulations, including changes to setbacks and buffers, taking effect on or after the date of such acceptance 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 acceptance. 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 Chapter 440 of the General Statutes (the Act), as amended, as of the date of such acceptance.
- 15.3** These regulations and the Town of Weston Inland Wetlands and Watercourses map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed

regulations and notice of the public hearing to consider any proposed regulations or amendment thereto, except map amendments, at least thirty-five (35) days before the public hearing on their adoption.

**15.4** Petitions requesting changes or amendments to the “Designated Inland Wetlands and Watercourses Map of the Town of Weston” shall contain at least the following information:

- a. The petitioner’s name, address and telephone number;
- b. The owner's name (if not the petitioner), address, telephone number, and a written consent to the proposed action set forth in the application;
- c. 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) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations;
- e. The reasons for the requested action;

**15.5** Any person who submits a petition to amend the designated inland wetlands and watercourses map of the Town of Weston, Connecticut, dated September 7, 1976 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, address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
- b. The names and addresses of the owners of abutting land;
- c. Documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
- d. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.



- 15.6** Inland wetlands and watercourses shall be delineated by a certified soil scientist, geologist, ecologist or other qualified individual acceptable to the Commission.
- 15.7** A public hearing shall be held on petitions to amend the “Designated Inland Wetland and Watercourses Map.” Notice of the hearing shall be published in a newspaper having substantial circulation in the Town of Weston, at least twice at intervals of not less than two days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before such hearing. All materials including maps and documents relating to the petition shall be open for public inspection and filed in the town clerk’s office at least ten (10) days before the hearing.
- 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 acceptance of such a petition. The public 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 the hearing. At such hearing, any person or persons may appear and be heard and may be represented by an agency or attorney. The petitioner 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 such petition. The failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.
- 15.9** The Commission shall make its decision and state, in writing, the reasons why the change in the Inland Wetland and Watercourses Map was made.

## **SECTION 16**

### **APPEALS**

- 16.1** Appeal of 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 Environmental Protection.

## **SECTION 17**

### **CONFLICT AND SEVERANCE**

- 17.1** If there is a conflict between the provisions of these regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section,

part, subsection or provision of these regulations shall not affect the validity of any other part which can be given effect without such valid part or parts.

- 17.2** If there is a conflict between any provision of these regulations and the provision 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 Weston, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U. S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

## **SECTION 19**

### **FEEES**

- 19.1** Method of payment. All fees required by these regulations shall be submitted to the Commission by certified check or money order payable to the Town of Weston at the time the application is submitted to the Commission.
- 19.2** No application shall be granted or approved by the Commission unless the correct application fee is paid in full or unless a waiver has been granted by the Commission pursuant to Section 19.6 of these regulations.
- 19.3** The application fee is not refundable.
- 19.4** The application fees shall be based on the fee schedule set forth in the “Ordinance Regulating Land Use Fees,” effective July 1, 2006.
- 19.5** Exemption. Boards, commissions, councils, and departments of the Town of Weston are exempt from all fee requirements.
- 19.6** Waiver. The applicant may petition the Commission to waive, reduce, or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Commission should consider in its determination under this subsection. The Commission may waive all or part of the application fee if the Commission determines that:

- a. 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
- b. The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.
- c. The applicant has shown good cause.

**19.7** Support Service Fee. In the event that additional expenses, including but not limited to outside consultants, experts, or legal advisors are incurred in processing the permit application the applicant may be assessed an additional fee in accordance with Section 4, Support Service Fee, of the “Ordinance Regulating Land Use Fees,” effective July 5, 2007, to cover said costs. Said fees are to be estimated by a qualified party or expert and submitted with the application fee and held until the application is completely processed after which time any residual funds pertaining to this assessment are to be returned to the applicant.

For the purpose of this assessment, an “outside consultant” means a professional who is not an employee of the Town of Weston including but not limited to engineering, environmental, hydrogeology and hazardous materials management professionals.

**19.8** 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 shall become effective upon filing in the Office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of Weston.

## **SECTION 21**

### **RECORDS RETENTION AND DISPOSITION**

**21.1** The Commission and the Town Clerk for the Town of Weston shall retain complete administrative records of Commission actions and dispose of such records in accordance with the retention/disposition schedules set forth in Section 21.2.

**21.2** The Public Records Administrator of the Connecticut State Library established the following records retention/disposition schedule for municipal Inland Wetlands Records, effective February 2005.

|   | <u>Minimum Retention</u>                     | <u>Disposition</u> |
|---|--|--------------------|
| Applications (include Supporting Materials) | 10 years                                     | destroy            |
| Decision Letters                            | 10 years                                     | destroy            |
| Approved Site Plans                         | 10 years                                     | destroy            |
| Legal Notices                               | 1 year                                       | destroy            |
| Staff and public written testimony          | 10 years                                     | destroy            |
| Minutes of meetings & public hearings       | permanent                                    | maintain           |
| Tapes, audio - inland wetland matters       | 1 year, unless appeal<br>1 year after appeal | destroy            |
| Notices of violation & orders               | 10 years                                     | destroy            |
| Text of changes adopted in regulations      | Continuous update/<br>permanent              | maintain           |
| General correspondence issued or received   | 5 years                                      | destroy            |

**APPENDIX A**  
**STANDARD CONDITIONS**

**A.** Filing of the contractor's statement.

**B. Implementation of the erosion and sedimentation control plan prior to any site preparation activity.** The plan must meet minimum standards as set forth in Public Act No. 83-388 (An Act Concerning Soil Erosion & Sediment Control) Effective July 1, 1985.

**C.** The following language shall appear on the subdivision or deeds to lots which are to be filed on the Weston Land Records'

"No regulated activity as defined in the Public Inland Wetland Watercourse Act of the State of Connecticut Regulations as well as the Town of Weston's Regulations as the same and from time to time as may be amended, shall be permitted in those areas designated and shown as wetlands on the aforementioned maps." The wetland areas as well as any agreed to "buffer zones" designated on the aforementioned maps shall be established as areas whose natural and indigenous character shall be henceforth preserved and not encroached upon for any use that would alter the natural character of the land."

**D.** Upon completion of the work, the developer will submit a certified report from a qualified professional engineer that the property was developed and the work completed as planned.

**E.** All applicable conditions of the Conservation Commission shall be recorded on the maps or linens of the Weston Land Records which are filed with the Town Clerk.

**F.** The Conservation Commission reviewed the alternatives to the approved action including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application.

**G.** Per Public Act 93-305, effective 10/1/93, "Any permit issued under this section shall be valid for five years. Any regulated activity approved by the agency shall be completed within one year from the time such activity is commenced provided the agency may establish a specific time period within which any regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one year and further provided the agency extend (1) the time period of the original permit provided such period shall not extend beyond ten years from the date such permit was granted, or (2) the time period within which an activity, once commenced, is required to be completed under this section."

**H.** Any changes in approved plans shall require notification to the Commission and may require that a new application be made.

**I.** Applicant agrees, represents and warrants that it will obtain all required federal, state and local permits prior to commencing any work on the site.

**APPENDIX B**  
**Section 7.10 of the Town Charter**

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Candidates for election to Town office shall include either of the following:

- (a) any resident elector who has been nominated by a political party in accordance with the provisions of the General Statutes;
- (b) any resident elector whose name has been added to the list of candidates in compliance with the General Statutes\*

#### Section 6.5 Breaking a Tie

Except as otherwise provided in this Charter, when any regular or special Town election, primary election or referendum conducted pursuant to the provisions of this Charter results in a tie, an adjourned election shall be conducted to determine who shall be elected, or in the case of a question at referendum whether it shall be accepted or rejected. Said adjourned election or referendum shall be held on the seventh day after the published date of the election or referendum which resulted in a tie and shall be confined to the tied candidates or issues.

#### Section 6.6 Vacancies

Except as otherwise provided in the General Statutes and this Charter, any vacancy in an elective Town office, board or commission, shall be filled by appointment by the Board of Selectmen for the unexpired portion of the term or until the next biennial election, whichever shall be sooner; provided, that when the persons vacating the office shall have been elected as a member of a political party, such vacancy shall be filled by the appointment of a member of the same political party.

If there is a biennial election before the expiration of the term of any office in which a vacancy occurs, such office shall be filled until said election by appointment as provided herein and subsequently by the election of a person to fill that office for the remaining portion of the term, and such persons shall take office upon election.

#### Section 6.7 Removal

Removal of any elected official shall be in accordance with the general law.

\*At present, the petitioning procedure for elected candidates is included in the General Statutes, Title 9, Section 453a through 453s.

## ARTICLE 7 APPOINTIVE OFFICERS, BOARDS AND COMMISSIONS

### Section 7.1 Appointing Authority; Appointive Officers, Boards and Commissions; and Terms of Office

Subject to the provisions of this Article, within thirty days after the Tuesday next following the date of its election, the Board of Selectmen shall, by a majority vote of the entire Board, appoint the following officers, boards and commissions to the following terms of office; and such other officers, boards, and commissions as are provided by Town ordinance to the terms provided in each such ordinance:

#### (a) To a Two Year Term of Office

- (i) A Treasurer, who shall also be the Agent for Town Deposit Fund.
- (ii) An Assistant Treasurer
- (iii) A Fire Marshal
- (iv) A Civil Preparedness Director and Advisory Council
- (v) A Constable
- (vi) A Town Attorney

#### (b) To a Four Year Term of Office

- (v) An Assessor
- (ii) A Building Inspector
- (iii) A Library Board
- (iv) A parks and Recreation Commission
- (v) A Conservation Commission

In addition, the Board of Selectmen shall appoint members of a Jury Committee, a Historic District Commission, a Building Board of Appeals, a Tree Warden, a Dog Warden, all as provided by the General statutes, and a Panel of Moderators.

In the case of appointment to a four year term of office, such appointment shall not be made until the term of office of any predecessor to such appointee shall have expired.

All appointees must meet any statutory condition prerequisite to their qualification. All such appointees shall take office on the day of their appointment and qualification and shall serve until their respective successors shall have been appointed and shall have qualified.

Section 7.2 Establishment of New Offices, Boards and Commissions

The Board of Selectmen may establish such other Town officers, boards and commissions, with such membership, as they may determine are necessary or proper for the general welfare of the Town.

Section 7.3 Vacancies and Removals

Vacancies in appointed agencies shall be filled for the unexpired term in the same manner as appointments are made, unless otherwise provided in the statutes, ordinance or resolution creating the same; provided, that when the persons vacating the office shall have been recommended by a political party, such vacancy shall be filled only from among persons recommended by that same political party.

Except as otherwise provided by law, any appointive officer or any member of a board or commission appointed by the Board of Selectmen may be removed from office or from membership on such board or commission by the Board of Selectmen upon an affirmative vote of a majority of the entire Board, at least one of whom shall be of the same party as the person so removed. If the person removed has no party affiliation, he may be removed upon an affirmative vote of a majority of the entire Board of Selectmen. No person shall be removed without reasonable notice thereof and the opportunity to appear before the Board of Selectmen at a public hearing thereon by himself, or by or with counsel, which hearing shall take place not less than five days, nor more than fifteen days after notice to such person.

Section 7.4 General Powers and Duties

All appointive officers, boards and commissions shall have the powers and duties prescribed by law, including the General Statutes, applicable Town ordinances, and this Charter.

Section 7.5 Town Attorney

The Town Attorney shall be an attorney at law admitted to practice law in the Courts of the State. He shall appear for and protect the rights of the Town in all actions, suits, or proceedings brought by or against it or any of its agencies. He shall be the legal advisor to all Town officers or agencies in all matters affecting the Town and shall, upon written request, furnish them with a written opinion on any questions of law involving their respective powers and duties. Upon request he shall prepare or approve forms of contracts or other instruments to which the Town is a party or in which it has an interest.

He shall have power, with the approval of the Board of Selectmen, to compromise or settle any claims by or against the Town, and, Subject to the prior approval of the Board of Selectmen and the particular agency involved, to appeal from orders, decisions and judgments.

In the event of disqualification of the Town Attorney or conflict of interest in a particular case, the Board of Selectmen shall appoint other counsel to represent the Town and/or its various officers, board and commissions, as required. However, if the Board of Selectmen, or any Selectman, is an adversary party to the Town and/or any of its various officers, boards, or commissions, in that particular case, such counsel shall be appointed for the latter by the Board of Finance. The Town shall be under no obligation to supply counsel for any person with respect to any allegation of wrongdoing in office for personal gain.

Section 7.6 Building Inspector

The Building Inspector shall complete and pass satisfactorily the State of Connecticut examination available for this purpose.

Section 7.7 Assessor

The Assessor shall complete and pass satisfactorily the State of Connecticut examination available for this purpose.

Section 7.8 Library Board

There shall be a Library Board of nine members, no more than five of whom shall be members of the same political party.

Section 7.9 Parks and Recreation Commission

The existing Recreation Commission shall become the Parks and Recreation Commission. It shall consist of seven members, no more than four of whom shall be members of the same political party.

Section 7.10 Conservation Commission

There shall be a Conservation Commission consisting of seven members, not more than four of whom shall be members of the same political party. The Conservation Commission shall be the Town agency which implements "The Inland Wetlands and Water Courses Act" and all applicable regulations adopted pursuant thereto including those adopted by Town ordinance.

**APPENDIX C**  
**ORDINANCE REGULATING LAND USE FEES**

## ORDINANCE REGULATING LAND USE FEES

Pursuant to Connecticut General Statutes §8-1c, as may be amended from time to time to the following schedule of fees is hereby adopted:

### Section 1. Planning & Zoning Commission

| <u>APPLICATION</u>                               | <u>FEE*</u>      |
|--|------------------|
| Home Occupation                                  | \$75.00          |
| Accessory apartment                              | \$75.00          |
| All other special permits                        | \$250.00         |
| Subdivision                                      | \$250.00 per lot |
| Fill and excavation (less than 1000 cubic yards) | \$150.00         |
| Fill and excavation (more than 1000 cubic yards) | \$250.00         |
| Site plan review                                 | \$150.00         |
| Lot Development                                  | \$100.00         |
| Zoning Permit                                    | \$50.00          |
| Demolition                                       | \$100.00         |
| Zoning, Amendment                                | \$250.00         |
| Floodplain application                           | \$100.00         |
| Aquifer Application                              | \$100.00         |

### Section 2. Zoning Board of Appeals

| <u>APPLICATION</u>                     | <u>FEE*</u> |
|--|-------------|
| Variance                               | \$100.00    |
| Appeal from Zoning Enforcement Officer | \$100.00    |
| DMV licenses                           | \$100.00    |

### Section 3. Conservation Commission

| <u>APPLICATION</u>  | <u>FEE*</u>        |
|---|--------------------|
| Conservation planner site visit                               | \$50.00            |
| Administrative review process                                 | \$100.00           |
| Lot (subdivisions only)                                       | \$200.00           |
| Significant activity (<500 S.F.)                              | \$300.00           |
| Substantial activity (>500 S.F.)                              | \$600.00           |
| Subdivisions, commercial activities, and<br>Major civil works | \$1000 + \$600/lot |

\*Connecticut General Statutes §22a-27j imposes a fee of Thirty Dollars (\$30.00) on certain land use applications. The fees listed herein are in addition to the State fee, where applicable.

#### Section 4. Support Service Fee

The Weston Planning & Zoning Commission, the Weston Zoning Board of Appeals, and/or the Weston Conservation Commission may require the services of outside consultants to evaluate or supplement application materials. Technical areas subject to such services include, but are not limited to: soil studies, water studies, traffic studies, building plans, engineering studies, surveys, etc.

The decision to require the Support Service Fee shall be by affirmative vote of not less than five members of the Planning and Zoning Commission, or not less than five members of the Conservation Commission, unless there are only four members qualified to vote then a unanimous vote is required. The decision to require the Support Service Fee shall be by affirmative vote of no less than four members of the Zoning Board of Appeals. The fees for any outside consultant(s) shall be borne entirely by the applicant and shall be deposited with the Town prior to review of such application.

The applicant shall deposit 150% of the estimated cost of review of such application by such outside consultant(s), based on a preliminary estimate determined by a qualified party or expert, prior to review of such application. Upon completion of the technical review by the outside consultant(s), the Town shall determine the costs incurred for the review and refund the excess monies to the applicant. The applicant will not be responsible for any costs incurred for technical assistance which exceed 150% of the collected estimate. The effective date of this section of the ordinance shall be July 5, 2007. This section of the ordinance shall expire on June 30, 2008, unless sooner extended by specific vote of the Board of Selectmen.

#### Section 5. Compliance

Failure to comply with the provisions of this ordinance will result in denial of the application.

#### Section 6. Effective Date

The effective date of this ordinance shall be July 1, 2006.

THE BOARD OF SELECTMEN

Woody Bliss  
First Selectman

Published in the Weston Forum 6/14/07

I, Judy DeVito, Administrative Assistant to the Board of Selectmen, do hereby certify that after a public hearing held on June 7, 2007, the Board of Selectmen adopted the above resolution. Said resolution was advertised in the Weston Forum on June 14, 2007, to become effective July 5, 2007, twenty-one days after the date of the advertisement.

## LEGAL NOTICE

### ORDINANCE REGULATING LAND USE FEES

Pursuant to Connecticut General Statutes §8-1c, Section 4 of the schedule of Land Use Application Fees, which may be amended from time to time, is hereby adopted:

#### Section 4. Support Service Fee

The Weston Planning & Zoning Commission, the Weston Zoning Board of Appeals, and/or the Weston Conservation Commission may require the services of outside consultants to evaluate or supplement application materials. Technical areas subject to such services include, but are not limited to: soil studies, water studies, traffic studies, building plans, engineering studies, surveys, etc.

The decision to require the Support Service Fee shall be by affirmative vote of no less than five members of the Planning and Zoning Commission, or no less than five members of the Conservation Commission, unless there are only four members qualified to vote then a unanimous vote is required. The decision to require the Support Service Fee shall be by affirmative vote of no less than four members of the Zoning Board of Appeals. The fees for any outside consultant(s) shall be borne entirely by the applicant and shall be deposited with the Town prior to review of such application.

The applicant shall deposit 150% of the estimated cost of review of such application by such outside consultant(s), based on a preliminary estimate determined by a qualified party or expert, prior to review of such application. Upon completion of the technical review by the outside consultant(s), the Town shall determine the costs incurred for the review and refund the excess monies to the applicant. The applicant will not be responsible for any costs incurred for technical assistance which exceed 150% of the collected estimate. The effective date of this section of the ordinance shall be July 1, 2008. This section of the ordinance shall expire on June 30, 2009, unless sooner extended by specific vote of the Board of Selectmen.

THE BOARD OF SELECTMEN

Woody Bliss  
First Selectman

Published in The Norwalk Hour 6/09/08  
Published in the Weston Forum 6/12/08



**Board of Selectmen's Meeting**

**May 7, 2009**

Present: First Selectman Woody Bliss; Selectman W. Glenn Major; Selectwoman Gayle Weinstein; Town Administrator Tom Landry; Administrative Assistant Judy DeVito and members of the public.

**This meeting was recorded and video taped and the tapes are available in the Selectmen's office.**

Mr. Bliss called the meeting to order at 7:30pm.

**Pledge of Allegiance-** Detective Carl Filsinger lead the meeting with the Pledge of Allegiance.

**Executive session- Fletcher Thompson settlement- Monte Frank**

ATTENDANCE and DISCUSSION: The meeting was convened at 7:33 PM in the First Selectman's office by Chairman Bliss, with Mr. Major and Ms. Weinstein present. Also present were Town Administrator Landry, and Legal Counsel Monte Frank.

FLETCHER-THOMSON. The purpose of the executive session was to review revised settlement offers in the Fletcher Thomson mediation effort, the architectural firm for the school construction project. Appropriate responses and strategies were discussed. No votes were taken.

ADJOURN EXECUTIVE SESSION: The Board voted unanimously (Ms. Weinstein, motion; Mr. Major second) to end executive session and reconvene in open session. The time was 7:41 pm.

Mr. Bliss reconvened the regular meeting at 7:42pm

Mr. Major made a motion to add to the agenda discussion/decision regarding the Fletcher Thompson settlement. Ms. Weinstein seconded and the motion passed unanimously.

Mr. Major made a motion that they enter into a settlement agreement with Fletcher Thompson to settle claims concerning the construction of the schools subject to receipt of a complete settlement agreement. Ms. Weinstein seconded and the motion passed unanimously.

**(\*) Discussion/decision regarding setting a public hearing date for reviewing section 4 of the Land Use Ordinance- Tracy Kulikowski-** Tracy Kulikowski said that section 4 of the Land Use Ordinance expires on June 30<sup>th</sup> of this year. Mr. Bliss said that he did not believe that we need a public hearing that we could extend it without a public hearing. Mr. Major said that the concerns that they had they have not heard any complains but also there has not been much use of it.



Mr. Major made a motion to extend the support service fee ordinance to the effective date to June 30, 2011. Ms Weinstein seconded and the motion passed unanimously.

**Discussion/decision regarding an increase in Building Use Fees- Rack Gleason**

Mr. Landry said in 2003 the board voted to increase building fees by a dollar to \$8.00 per thousand. Recently there was a survey done of 27 towns and the survey showed the average fee was \$11.00 and more communities had a fee of \$10.00 than any other amount.

Ms. Weinstein made a motion to increase the building use fees to a rate of \$11.00 per \$1,000 as of July 1, 2009. Mr. Major seconded and the motion passed unanimously.

**Discussion/decision regarding authorization to submit 8-24 application to P&Z and a flood zone development permit application to P&Z for Valley Forge Road Bridge- Tom Landry-**

Mr. Landry said he wrote a draft memo to the Planning and Zoning Commission, but the Board of Selectmen are the ones who have to make application since they are the owners of the project. He said they also had to make application to the Conservation Commission for working in a river. They have accepted that application already and he has asked the two boards to do a joint public hearing so if anyone is interested they only have to go once.

Mr. Major made a motion to authorize the First Selectman to file on behalf of the Town an 8-24 application to the Weston Planning and Zoning Commission for the replacement of the Valley Forge Road Bridge. Ms. Weinstein seconded and the motion passed unanimously.

**Discussion/decision regarding Kids in Crisis- Michael Ferguson**

Ms. Weinstein said that she felt it would be more cost efficient to everyone if the supplies came from the building that the counselor from Kids in Crisis was at. Michael Ferguson said that they were really a guest in the building and tried not to be a burden on the system on all of the schools.

Mr. Major said that there are two sets of feedback that he has been getting, one that is extremely positive and one that is not positive at all and that is why he has been struggling with this. Much of the negative feedback has come directly from staff at the school. He said that he has taken the time to learn when they get the monthly reports and feels that the numbers that are shown as contacts is really not a good indication of what is taking place because the numbers are exaggerated.

Michael Ferguson said that there are two numbers. Data collection is a struggle in this field. He said Kids in Crisis focus on the individual number of contacts. The rest of the numbers are subject to interpretation.

Mr. Major asked what role did the Kids in Crisis counselor have in other departments in the school system. Lois Pernice said that she has worked within the guidance department and there has been some direct supervision from the guidance department chair. She said

Separation of Duties for the Finance Director and Treasurer- Written policy- Tom Landry

**Tickler file, discuss as updated**

Municipal Amnesty (SB1200)-

Recycling- Tom Landry

Reimbursement from FEMA for Cartbridge- Tom Landry

Reimbursement from State for school projects- Tom Landry

Building Survey Fees- Take off

Booster Barn- Tom Landry- Mr. Landry said we are still waiting for a response to operational questions from the Boosters. Mr. Major said he wants to make sure that when the Boosters answer the questions they answer it understanding the ramifications of their answer.

**Discussion/approval of the minutes of the Special Board of Selectmen's meeting of February 4, 2009; Board of Selectmen's meeting of April 2, 2009 and April 21, 2009 and Executive Session minutes of April 27, 2009.**

Mr. Major made a motion to approve the Board of Selectmen minutes of February 4, 2009, April 2, 2009, April 21, 2009 and April 27, 2009 with the typo's corrected. Ms. Weinstein seconded and the motion passed unanimously.

**Any other business to come properly before the meeting.- None**

**Adjournment-** At 9:35pm Mr. Major made a motion to adjourn the meeting. Ms. Weinstein seconded and the motion passed unanimously.

Respectfully submitted

Judy M. DeVito  
Administrative Assistant  
Approved 05/20/09



**APPENDIX D**  
**MINIMAL IMPACT ADMINISTRATIVE REVIEW PERMITS (ARP) POLICY,**  
**JULY 2001**

Weston Conservation Commission

**has approved for review**

**A Proposal for an Process to Allow the Conservation Commission's Agent to Issue Minimal Impact Administrative Review (ARP) Permits to Applicants comments on the ARP will be accepted by the commission before and at at a Public Hearing, July 11, 2001, 7:30 p.m. Weston Town Hall Commission Room**

**Submitted by**

Tom Failla, **Chair**

**Acknowledgement and Appreciation for their efforts on the ARP go to:**

**Commissioners Paul Green, Cory Attra and former Commissioner Ellen Mason Conservation Planner Fred Anderson, Conservation Administrator Joan Lewis, Town Attorney Ken Bernhard and Assistant Town Attorney Pat Sullivan**

**Wetlands and Watercourses, Conn. State Statutes Sec. 22a-42a(c)(2) (Revised 1/1/99):**

*An inland wetlands agency may delegate to its duly authorized agent the authority to approve or extend 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 wetland or watercourse provided such agent has completed the comprehensive training program developed by the commissioner pursuant to section 22a-39. Notwithstanding the provisions for receipt and processing applications prescribed in subdivision (1) of this subsection, such agent may approve or extend such an activity at any time. 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 inland wetlands agency within 15 days after the publication date of the notice and the inland wetlands agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such agency or its agent of such appeal. The inland wetlands agency shall, at its discretion, sustain, alter or reject the decision of its agent or require an application for a permit in accordance with subdivision (1) of subsection (c) of this section.*

**Proposal Overview**

This proposal recommends a method for Weston homeowners to obtain administrative review permits (ARP) to conduct regulated activities with minimal impact on wetlands and watercourses within the Town of Weston.

This method may result in a shorter time frame between application and permit issuance than going before the full commission for review. However, because of a required 15-day waiting period after public notification of an intent to issue an ARP, the method ordinarily will take three or more weeks before a permit is issued. Applications that go before the full commission usually take between six weeks and a few months depending on their complexity.

The ARP is not the preferred route for emergencies. Emergencies need to be brought to the attention of the Conservation Planner and Commission Chair to determine whether an emergency exists and what the commission's initial response will be subject to review by the full commission as necessary and appropriate.

Under the proposal, minimal impact ARPs would be issued by the Commission's duly authorized agent, who must be certified by the Connecticut Department of Environmental Protection (DEP) according to state statute.

In developing the ARP method, the Conservation Commission has sought the expertise of its members, one of whom has completed the DEP's agent certification requirements, its Conservation planner, who is DEP certified to serve as an agent, the Town Attorney's office and nearby communities who have instituted similar minimal impact ARPs.

Various drafts have been reviewed and discussed by the full commission at its regular meetings between March 2000 and May 2001. The Conservation Commission has reviewed the document with the Town Attorney. It also has transmitted copies to the Town Administrator and Board of Selectmen prior to conducting a public hearing.

Following receipt of comments at the public hearing, the Commission will assess the need, if any, to make further changes before deciding whether to adopt an ARP for minimal impact permits and appoint a duly authorized agent.

### **General Description of the Administrative Review Process**

Under the Commission's normal permitting process, the Commission's agent (the intention is to confer this authority on the Conservation Planner) conducts initial reviews of all applications for permits before they are received by the full commission for determination.

This proposal describes a method by which the agent may issue ARP permits to homeowners who apply to undertake activities that involve minimal environmental impact. This new process may decrease the time it takes for homeowners to get necessary permits. It may also reduce the number of applications that come before the full commission and allow members to concentrate their time on projects with significant impacts.

The agent must determine whether the activity has minimal impact based on a thorough and objective scientific and technical review, as specified in state statutes and state and local regulations. The review involves study of project plans, the site, consideration of reasonable and prudent alternatives and the Commission's current practice of what constitutes minimal impact.

Should the agent find that the proposal has minimal impact, then the agent may issue an administrative permit. The permit must carry the Commission's standard conditions and any other prudent requirements to minimize impact to wetlands and watercourses that are indicated as a result of the agent's review.

Prior to the permit taking effect, the agent must provide notice of intent to issue a permit for the activity. The notice shall be dated and include a brief description of the activity, the address and location where it will take place and all conditions.

The agent will arrange on a timely basis to have the Conservation Administrator post the notice of intent to issue a permit on the official town bulletin board and, if available, on the Town cable government access channel and the town web site. The agent will also arrange for the Commission's office administrator to send the notice to abutting property owners and to have a legal notice published, on a timely basis, in a major circulating daily **or** weekly newspaper serving Weston. The cost of posting and publishing the notice of intent shall be covered by the application fee charged to the applicant, which will be the same amount as if the applicant were going before the full commission. Work covered by the permit will not be allowed to commence until after 15 days passes from the newspaper publication date in which the notice of intent appears.

Upon learning of the agent's intent to issue a permit, any person may appeal the agent's action in writing directly to the Commission at the office of the Commission in Town Hall. For an appeal to be valid it must state an environmental concern regarding wetlands and/or watercourses and be received at the Commission's office in Town Hall within 15 days of the newspaper publication date in which the notice of intent appears.

A valid appeal will automatically cause the agent to bring the appeal and the application to the full commission. The commission will determine whether the ARP is sustained or altered. If the commission rejects the agent's ARP decision the application should then *follow* the normal process for receipt and review by the full commission. The commission will take up such matters at its next meeting, provided such meeting is no earlier than three business days after receipt of the appeal. If the applicant prefers not to proceed at this point, the Commission must be notified in writing by the applicant. If, in the event of an appeal, the Commission shall, at its discretion, sustain or alter the decision of its agent, it will provide legal notice of its action in a major circulating daily serving Weston. Any appeal of an action to sustain or alter the agent's decision thereafter will be in accordance with Connecticut State Statutes.

When a homeowner is granted a minimal impact permit, the applicant has an obligation to notify the Commission's agent should there be any change or modification to the original proposal. In accepting the permit, the applicant agrees to be held strictly and unconditionally liable for the full restoration of the property to pre-permit conditions if the terms of the approval are violated, whether this occurs knowingly or unknowingly.

### **Definition of Minimal Impact**

By definition, minimal impact means a "minor regulated activity" that occurs within the regulated area but not in a wetland or watercourse and has no more than minimal impact on any a wetland or watercourse as determined by the agent's objective review based on scientific and technical facts. In considering whether a proposed activity has a minimal impact, the agent may question whether it involves the following items, among others:

- Change in the footprint of existing structures
- Additions or expansions of structures
- New, expanded or failed septic systems
- Removal or installation of underground storage tanks
- Wells for potable water, irrigation or other uses.
- Distance from and natural buffers/transition areas between wetlands or watercourses
- Size and location of decks, docks, patios, swimming pools and tennis courts
- Driveways, roads and other impervious surfaces
- Bridges, crossings, dams, berms, basins, pools, ponds, fountains or cascades
- Diversions of water, intermittent water ways, vernal pools
- Roof leaders, footing drains and other methods for collecting and transmitting water
- Removal of leaves, groundcover, rocks or other erosion inhibiting materials from wooded areas, clearing of grasses, brush, trees, stumps and scouring of the earth.
- Changes to grades, contours, drainage or natural or man-made features including rock outcrops, steep slopes, major boulders and stone or earthen walls or edifices.
- Use of herbicides, defoliant or other chemicals.

### **Step-by-Step Procedure**

1. The process begins with the applicant completing a regular Commission application and submitting drawings and maps to scale showing elevations and describing the activity, its scope and the location on the property in relation to wetlands and watercourses.
2. At the time of application or following the agent's initial site inspection, the applicant may request a minimal impact administrative review and shall state in writing the environmental reasons for making the request.
3. The applicant must also submit with the application form stamped envelopes addressed to abutting property owners and the normal application fee to cover administrative costs including publication of legal notices.

4. If the application is not complete, the planner will inform the applicant and note that the application will not be reviewed until all information and fees are submitted.
5. If the Commission's agent is satisfied that the application is complete, the agent then can proceed with a review for a minimal impact administrative permit application.
6. After the agent has made a complete review of the application, including site visit(s) to validate the information presented, the agent may then determine that the application involves minimal impact to wetlands and watercourses.
7. If a determination of minimal impact is made, the agent shall provide notice of intent to issue a minimal impact administrative permit to the Town Clerk and have the Commission's administrator arrange to mail the notice to abutting property owners and a major circulating local daily and weekly newspapers serving Weston for prompt publication.
8. If a written appeal of the agent's intent to issue a minimal impact administrative permit is made, then the Commission will consider the appeal and determine whether to uphold the agent's decision or receive the application for its normal review process as long as the application is complete.
9. At any time, the applicant may withdraw a permit application as long as it is done in writing.
10. If no appeal is made, the agent may then issue a written permit. The permit must be posted at the work site and work on the permitted project may commence according to the permit conditions.

### **Commission Controls**

At each Commission meeting, the agent will provide the Commission with lists of notices of intent, permits issued and permits appealed. In addition to monthly listings to the commission, the agent will also submit an annual written report on this administrative review process. The report will include:

- Listings of all notices of intent, all permits issued and any permits appealed
- Brief summaries of the activities permitted
- Brief assessments on the status of each permit issued
- Recommendations, as appropriate, for any changes or improvements to the process.

The Town Attorney has also recommended that in the first year of implementing this process that the Commission undertakes informal monthly reviews with the agent to evaluate the effectiveness of the process and whether any adjustments are needed.



**APPENDIX E**  
**FORMS & PROCEDURES**

**FORTHCOMING**

# TOWN of WESTON, CONNECTICUT



Incorporated 1787

Planning & Zoning Commission

## LEGAL NOTICE DECISION

Notice is hereby given that the Weston Planning & Zoning Commission approved, at its regular meeting on Monday, March 21, 2011, the following amendment to the Zoning Regulations, Section 350.1, For Sale or Lease Signs, to be effective upon publication.

**350.1 For Sale or Lease Signs:** One sign advertising the sale or lease of real property shall be permitted, provided such sign is located on said property and is set back at least ten feet from any side or rear property line. Such sign shall consist of support post and crossbeam and a single primary placard measuring no more than four square feet. Notwithstanding the foregoing, up to two ancillary placards may hang from, or otherwise be affixed to the primary placard, provided such ancillary placards shall measure no more than two square feet in the aggregate. Each sign shall be removed no later than the consummation of the particular sale or lease transaction for which it was installed.

Copies of the regulation are also available in the office of the Planning & Zoning Commission located in the Town Hall Annex, 24 School Road and in the Town Clerk's Office in the Town Hall, 56 Norfield Road.

Dated at Weston, Conn. March 21, 2011

By: Stephan Grozinger, Chairman  
Weston Planning & Zoning Commission

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