Table of Contents

Section		Page
1	Title and Authority	2
2	Definitions	3
3	Inventory of Regulated Areas	7
4	Permitted and Nonregulated Uses	8
5	Activities Regulated by the State	10
6	Regulated Activities to be Licensed	11
7	Application Requirements	11
8	Application Procedures	14
9	Public Hearings	15
10	Considerations for Decision	16
11	Decision Process and Permit	18
12	Action by Duly Authorized Agent	20
13	Bond and Insurance	20
14	Enforcement	21
15	Amendments	22
16	Appeals	24
17	Conflict and Severance	24
18	Other Permits	24
19	Application Fees	25
20	Records Retention and Disposition	27
21	Effective Date of Regulations	28
22	Commercial Logging	29

Section 1
Title and Authority

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

1.2 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Old Lyme."

1.3 The Inland Wetlands and Watercourses Commission of the Town of Old Lyme was established in accordance with an ordinance adopted October 21, 1963 and shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act in the Town of Old Lyme.

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, or its agent, shall enforce the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities in the Town of Old Lyme pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

The following are "Inland Wetlands and Watercourses Regulations" adopted by the Commission pursuant to ordinance of the Town of Old Lyme entitled "An Ordinance Authorizing the Inland Wetlands and Watercourses Commission to Promulgate Regulations Protecting the Wetlands and Watercourses of the Town of Old Lyme" for the purposes therein enunciated and in accordance with the provisions of "The Inland Wetlands and Watercourses Act' (1972 Public Act 155 as amended).

Section 2
Definitions

2.1 As used in these regulations:

Act - the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45, inclusive of the Connecticut General Statutes, as amended.

Agency - the Inland Wetlands and Watercourses Commission of the Town of Old Lyme.

Applicant - any person, or his agents or representatives, seeking a permit to conduct, or cause to be conducted, regulated activities.

Bogs - watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

Clear-cutting - the harvest of timber in a fashion that removes all trees down to a two-inch diameter at breast height (4.5 feet).

Commission - the Inland Wetlands and Watercourses Commission of the Town of Old Lyme.

Commissioner of Environmental Protection - the commissioner of the State of Connecticut's Department of Environmental Protection.

Continual flow - a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.

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

Designated agent - an individual(s) designated by the Commission to carry out its functions and purposes.

Discharge - emission of any water, substance, or material into the wetlands or watercourses of the Town whether or not such substance causes pollution.

Disturb the natural and indigenous character of the wetland or watercourse - to alter the inland wetlands and watercourses by reason of removal or deposition of material, clearing the land, altering or obstructing water flow, or pollution.

Essential to farming operation - the proposed activity is necessary and indispensable to sustain farming activities on the farm.

Farming - use of land for the growing of crops, raising of livestock or other agricultural use.

Feasible - able to be constructed or implemented consistent with sound engineering principles.

Management practice - a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

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

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

Municipality - the Town of Old Lyme

Non-Commercial Cutting - less than 25,000 board feet and fifty(50) cords of wood in one calendar year.

Nurseries - land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.

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

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

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

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

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

Regulated activity - any activity within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, and any earth moving, filling, construction, location of any subsurface waste disposal system or clear-cutting of trees within 100 or more feet (depending on possible impact) of any wetland or watercourse, but shall not include the specified activities in Section 4 of these regulations. The Commission may rule that if any other activity located within such upland review area, or in any other non-wetland or non-watercourse area, is likely to impact or affect wetlands or watercourses, that it is a regulated activity.

Regulated area - any wetlands, watercourses, or upland review area as defined in these regulations.

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

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

Residential home - a building designed for permanent or seasonal occupancy as a dwelling and so used by one or more families.

Significant impact activity - any activity, including, but not limited to, the following activities which may have a major effect or significant impact:

a. Any activity involving deposition or removal of material that will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system.
b. Any activity that substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
c. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support desirable fisheries, wildlife, or other biological life; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
d. Any activity that is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
e. Any activity that causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area.
f. Any activity that is likely to cause 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. Such damage to be measured by standards of the Water Compliance Division of the Connecticut Department of Environmental Protection, where applicable.

Soil scientist - an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.

Submerged lands - those lands that are inundated by water on a seasonal or more frequent basis.

Swamps - areas with soils that exhibit aquic (saturated) moisture regimes and are distinguished by the dominance of wetlands trees and shrubs.

Town - the Town of Old Lyme

Upland Review Area - an area that extends one hundred (100) feet or more from all wetlands and watercourses.

Waste - sewage or any substance, liquid, gaseous, solid, or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses of the Town.

Watercourses - rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the

Connecticut General Statutes. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

Wetlands - land, including submerged land as defined in this section, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Soil 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 "Old Lyme Conservation Commission Inland Wetlands and Watercourses Inventory" "Adopted June 8, 1977" and "Revised October 28, 1986" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the office of the Town Clerk and in the Old Lyme Land Use office. In all cases, the actual character of the land, the distribution of wetland soil types, and location of watercourses shall determine the precise location of regulated areas. The Commission may use aerial photography, remote sensory 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 owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Watercourses Map, may petition the Commission to change the designation in accordance with Section 15 of these regulations. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances that support the change. The petitioner shall provide proof that the designation is inapplicable. The Commission may require such an owner to provide an accurate delineation of regulated areas in accordance with Section 15 of these regulations.

3.3 The Commission or its designated agent(s) shall maintain a current inventory of regulated areas with the town. The Commission may amend its map as more accurate information becomes available. Any person may petition for an amendment to the map. Petitioners shall bear the burden of proof for all requested map amendments. Such proof may include, but not be limited to, aerial photography, remote sensing imagery, resource mapping or other available information. Such map

amendments are subject to the public hearing process outlined in Section 15 of these regulations.

Section 4

Permitted Uses as of Right & Nonregulated Uses

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

a. Grazing, farming, nurseries, gardening, and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel, or similar material from wetlands or watercourses for the purpose 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 Town planning commission as of May 24, 1974, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the building permit was obtained on or before July 1, 1987. Any person claiming a use of wetlands permitted as a right under this subdivision shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his or her right hereunder;

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

d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in Town 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 watercourse;

e. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems 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;

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

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

a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.

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

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

4.4 To carry out the purposes of this section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse that may disturb the natural and indigenous character of the wetland or watercourse shall, prior to commencement of such operation or use, notify the Commission on a form provided by it, and provide the Commission with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The Commission or its designated agent shall rule that the proposed operation or use is a permitted or a nonregulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Commission following the meeting at which the request was received. The designated agent for the Commission may make such ruling on behalf of the Commission at any time.

Section 5

Activities Regulated by the State

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

a. Construction or modification of any dam pursuant to Sections 22a-401 through 22a-411 of the Connecticut General Statutes, as amended.
b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349a of the Connecticut General Statutes, as amended.
c. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state pursuant to Sections 22a-359 through 22a-363 or in designated tidal wetlands pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
d. Diversion of water, including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day or any piping, culverting, channelization, relocation, damming or other alteration of the location of flow of any surface waters of the state where the tributary watershed area above the point of such alteration is 100 acres or larger, pursuant to Sections 22a-365 through 22a-378a of the Connecticut General Statutes, as amended.
e. Discharges into the waters of the state pursuant to Section 22a-430 of the Connecticut General Statutes, as amended.
f. Discharge or 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.

5.2 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to Sections 22a-39 or 22a-45a of the Connecticut General Statutes.

5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Section 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.

5.4 The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under Section 22a-402 or a dam construction permit issued by the Commissioner of Environmental Protection under Sections 22a-403 or 22a-41 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or dam construction permit shall not be required to obtain a permit from a municipal wetlands agency for any action

necessary to comply with said dam order or to carry out the activities authorized by said dam permit.

Section 6
Regulated Activities to be Licensed

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

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 intending to conduct a regulated activity or to renew or amend a permit to conduct such activity, shall apply for a permit on a form provided by the Commission. The application shall contain the information described in this section and any other information the Commission may reasonably require. Application forms may be obtained in the Old Lyme Land Use office.

7.2 If an application to the Town of Old Lyme Planning 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, 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 commission.

7.3 The application shall contain such information as is necessary for a fair and informed determination thereon by the Commission.

7.4 A prospective applicant, by submitting a preliminary application, may ask the Commission for an opinion on the proposed activity.

7.5 All applications shall include the following information in writing or on maps or drawings:

a. The applicant's name, home and business mailing addresses and telephone numbers;

b. The owner's name, mailing address and telephone number and written consent of the land owner if the applicant is not the owner of the land upon which the subject activity is proposed;
c. The applicant's interest in the land;
d. The geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses (as located by a Soil Scientist), the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, 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 (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
f. Alternatives considered and subsequently rejected by the applicant and why the alternative as set forth in the application was chosen; all such alternatives shall be diagramed 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 mailing addresses of 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 or agents of the Commission to inspect the subject land, at reasonable times, both before and after a final decision has been issued;
k. A completed DEP reporting form; the Commission shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies;
l. Any other information the Commission deems necessary to the understanding of what the applicant is proposing;
m. Submission of the appropriate filing fee based on the fee schedule established in Section 19 of these regulations;
n. Whether any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
o. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
p. Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality;

q. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality; and
r. Two copies (Commission may request more) of all application materials shall be submitted to comprise a complete application unless the Commission otherwise directs an applicant, in writing.

7.6 If the proposed activity involves a significant impact activity as determined by the Commission, 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 activity and the land which will be affected thereby which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person;
b. Engineering reports and analyses and additional drawings to fully describe the proposed activity including any filling, excavation, blasting, drainage, or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be depicted on the site plans;
d. A description of how the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions;
e. A description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative, and a description of why each alternative considered was deemed neither feasible not prudent;
f. Analysis of chemical or physical characteristics of any fill material; and
g. Best Management Practices (BMP) and other measures designed to mitigate the impact of the proposed activity.

7.7 Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten (10) years.

7.8 Any application to renew or amend an existing permit shall be filed with the Commission in accordance with Section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to renew or amend such existing permit shall contain the information required under Section 7 of these regulations provided:

a. The application may incorporate the documentation and record of the prior application;
b. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
c. The application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
d. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued;
e. The Commission may, prior to the expiration of the permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity.

Section 8
Application Procedures

8.1 All applications shall be submitted to the Inland Wetlands and Watercourses Commission of the Town of Old Lyme.

8.2 When an application to conduct, or cause to be conducted, a regulated activity upon an inland wetland, watercourse, or adjacent upland area is filed and any portion of such wetland, watercourse or adjacent upland area is within five hundred (500) feet of the boundary of another municipality, the applicant shall give written notice of the application by certified mail, return receipt requested, on the same day to the inland wetlands agency of such other municipality.

8.3 The Commission shall, in accordance with Connecticut General Statutes Section 22a-42b, notify the clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:
a. Any portion of the property on which the regulated activity is proposed is located within five hundred (500) feet of the 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 system within the adjoining municipality; or,
d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Notice of the pendency of such application shall be made by certified mail, return receipt requested and shall be mailed within seven (7) days of the date of the receipt of the application.

8.4 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 16-1 of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of 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 within seven (7) days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission.

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

8.6 At any time during the review period, the applicant shall provide such additional information as the Commission may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in subsection 11.2 of these regulations.

8.7 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 an application unless the Commission determines the proposed activity may have a significant impact on wetlands or watercourses or a petition signed by at least twenty-five (25) persons requesting a hearing is filed with the Commission not later than fourteen (14) days after the date of receipt of such application, or the Commission finds that a public hearing regarding such application would be in the public interest. The Commission may issue a permit without a public hearing provided no petition provided for in this section is filed with the Commission on or before the fourteenth (14) day after the date of receipt of the application. Such hearing shall be held in accordance with the provisions of section 8-7d. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard and may be represented by agent or by attorney.

9.2 Notice of the public hearing shall be published in a newspaper having a general circulation in such municipality where the land that is the subject of the hearing is

located at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days, nor less than ten (10) days, and the last not less than two (2) days before the date set for the hearing.

9.3 The applicant shall mail notice of the public hearing to the owner(s) of record of abutting land and of any land within 100' of the subject property, no less than fifteen (15) days prior to the day of the hearing. Applicant shall send notice by certified mail and provide the Commission with proof of mailing at or before the day of the public hearing.

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

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.
c. Reports from other agencies and commissions including, but not limited to, the Town of Old Lyme:
   i. Conservation Commission
   ii. Planning, Zoning, or Planning and Zoning Commission
   iii. Building Official
   iv. Health Officer
d. The Commission may also consider comments on any application from the Connecticut River Coastal Conservation District, Inc., the Connecticut River Estuary Regional Planning Agency, and other regional planning organizations; agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
e. Non-receipt of comments from agencies and commissions listed in Subdivisions 10.1.c and d above within the prescribed time shall neither delay nor prejudice the decision of the Commission.

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

a. The environmental impact of the proposed regulated activity on wetlands or watercourses;
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 and 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 and 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 future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
e. The character and degree of injury to, or interference with, safety, health or reasonable use of property which is caused or threatened by the proposed regulated activity; 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 that received a public hearing pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Commission shall consider the facts and circumstances set forth in subsection 9.2 of this section. The finding and the reasons therefore shall be stated on the record in writing.

10.4 In the case of an application which is denied on the basis of a finding that there may be feasible and prudent 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. In its decision, the Commission shall not consider documentary evidence or other material not in the hearing record. A conclusion that a feasible and prudent alternative does not exist does not create a

presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these regulations and Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

Section 11
Decision Process and Permit

11.1 The Commission, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.

11.2 No later than sixty-five (65) days after receipt of an application, the Commission may hold a public hearing on such application. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of any periods specified in this subsection, for the holding of the hearing and for action on such application, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such application. The failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Commission shall be withdrawn by the applicant or denied by the Commission.

11.3 The Commission shall state upon its record the reasons and bases for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall, as applicable and in accordance with Section 10 of these regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives.

11.4 The Commission shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Commission shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen (15) day period, the

applicant may provide for the publication of such notice within ten (10) days thereafter.

11.5 If any activity authorized by an inland wetland permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, or variance or special exception, under Sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, (http://www.cslib.org/psaindex.htm) the Commission shall file a copy of the decision and report on the application with the Town of Old Lyme Planning and/or Zoning Commission within fifteen (15) days of the date of the decision thereon.

11.6 Any permit issued by the Commission for the development of land for which an approval is required under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five (5) years provided the Commission may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Commission for any other activity shall be valid for not less than two years and not more than five years.

11.7 No permit issued by the Commission shall be assigned or transferred unless written notice of such transfer is provided to the Commission.

11.8 If a bond or insurance is required in accordance with Section 13 of these regulations, the Commission may withhold issuing the permit until such bond or insurance is provided.

11.9 General provisions in the issuance of all permits:

a. The Commission has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission of the Town of Old Lyme, 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 by the Commission's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under Sections 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained.
d. In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
e. Permits are not transferable without the prior written notice to the Commission.

Section 12
Action by Duly Authorized Agent

12.1 The Commission may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in the wetland or watercourses when such agent finds the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Commission and shall contain the information listed under Section 7.5 of these regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9, and 11 of these regulations, such agent may approve or extend such activity at any time.

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 by such Commission of its agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these regulations.

Section 13
Bond and Insurance

13.1 Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Commission, be required to file a bond with such surety in such amount and in a form approved by the Commission.

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.

Section 14
Enforcement

14.1 The Commission may appoint an agent or agents to act in its behalf with the authority to inspect property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Commission or its duly authorized agent shall take into consideration the criteria for the 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 under these regulations.

14.3 If the Commission or its designated agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Commission or its duly authorized agent may:

a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Commission shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to Section 22a-44(b) of the Connecticut General Statutes, as amended.

b. 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 that warrants the intended action. The Commission shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and 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 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.

c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the

jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) in a notice of violation may result in issuance of the order provided in Subsection 14.3.a or other enforcement proceedings as provided by law.

d. Require a bond of any person conducting or maintaining any activity, facility or condition which is in violation of these regulations when such person has been advised to restore the site to its original state.

Section 15
Amendments

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

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

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

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

a. The petitioner's name, mailing address and telephone number;
b. The address, or location, of the land affected by the petition;
c. The petitioner's interest in the land affected by the petition;
d. Map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
e. The reasons for the requested action.

15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Old Lyme, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Commission. If such person is the owner, developer or contract purchaser of the land that is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 15.4, the petition shall include:

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

15.6 A soil scientist, geologist, ecologist or other qualified individual shall delineate watercourses.

15.7 A public hearing shall be held in accordance with the provisions of section 8-7d, as amended, on petitions to amend the Inland Wetlands and Watercourses Regulations and/or Map. Notice of the hearing shall be published in a newspaper having substantial circulation in the municipality at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days prior to the day of the hearing. A copy of such proposed boundary change shall be filed in the office of the town clerk for public inspection at least ten (10) days before such hearing.

15.8 The Commission shall act upon the changes requested in such petition within the time requirements of section 8-7d, as amended. The petitioner may consent to one

or more extensions of the periods in accordance with section 8-7d, as amended, 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 Wetlands and Watercourses map was made.

Section 16
Appeals

16.1 Appeal on actions of the Commission shall be made in accordance with the provisions of Section 22a-43 of the Connecticut General Statutes, as amended.

16.2 Notice of such appeal shall be served upon the Commission and the Commissioner of Environmental Protection.

Section 17
Conflict and Severance

17.1 If there is a conflict among the provisions of these regulations, the provision, which imposes the most stringent standards for the use of wetlands and watercourses, shall govern. The validity of any word, clause, sentence, part, subsection, or provision of these regulations shall not affect the validity of any other part that can be given effect without such invalid part or parts.

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

Section 19
Application Fees

19.1 The schedule of fees for applications to the Old Lyme Inland Wetlands and Watercourses Commission is available in the Old Lyme Land Use Office and in the Old Lyme Town Clerk's Office.

Section 20
Records Retention and Disposition

20.1 The Commission and the Town Clerk for the Town of Old Lyme shall retain complete administrative records of Commission actions and dispose of such records in accordance with the retention/disposition schedules set for in Subsection 20.2.

20.2 The public records administrator of the Connecticut State Library established the following new records retention/disposition schedules for municipal Inland Wetlands Agencies effective April 24, 1989:

Record Title	Minimum Retention Required in Commission	Town Clerk
Applications (inc. supporting materials)	10 years	—
Decision Letters	10 years	Permanent
Approved Site Plans	10 years	—
Legal Notices	10 years	Permanent
Staff and Public Written Testimony (hearing records)	10 years	—
Minutes of Meetings & Public Hearings	15 years	Permanent
Tapes, Audio-Inland Wetland Matters	4 years	—
Notices of Violation & Orders	10 years	—
Text of Changes Adopted in Regulations	Continuous Update/Permanent	—
General Correspondence Issued or Received	5 years	—

Section 21
Effective Date of Regulations

21.1 These regulations are effective on April 27, 2005.

Section 22
Commercial Logging: Cutting and Removal of Forest Tree Species

22.1 Commercial Logging activities are regulated by the Old Lyme Inland Wetlands and Watercourses Commission through the powers granted by Town Ordinance.