

SECTION 4 - PERMITTED USES AS OF RIGHT & NONREGULATED USES

4.1 Permitted Operations and Uses - 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. 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 purposes of sale;
- b. Activities conducted by, or under the authority of the Department of Environmental Protection for the purposes of wetland and/or watercourse restoration, enhancement or mosquito control (Amend. Effective Date June 22,1999);
- c. 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 a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, which ever is earlier, 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. The individual 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 entitlement;
- d. Boat anchorage or mooring, not to include dredging or permanent dock construction;
- e. 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

substantial amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse;

- f. Construction and operation, by water companies as defined by Section 16-1 of the General Statutes or by municipal water supply systems as provided for in Chapter 102, of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-410 of the General Statutes;
- g. 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, provide such pipe is on property which is zoned 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. (Amend. Effective Date: Feb. 12, 1996)
- h. Any dredging or any erection, placement, retention or maintenance of any structure, fill, obstruction or encroachment, or any work incidental to such activities, conducted by a state agency, which activity is regulated under sections 22a-28 to 22a-35, inclusive, as amended, or sections 22a-359b to 22a-363f, inclusive, as amended, shall not require any permit approval under sections 22a-36 to 22a-35, inclusive, as amended. (Amend. Effective Date: June 22, 1999).
- i. 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 a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, of the CGS, or as of July 1, 1974, which ever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987. (Amend. Effective Date: May 15, 2011)

4.2

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

- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control

- erosion, or to encourage proper fish, wildlife and silviculture management practices;
- b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing and cross-country skiing where otherwise legally permitted and regulated.
- 4.3 All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting and/or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section shall require a permit from the Commission in accordance with Section 6 of these regulations.
- 4.4 To carry out the purposes of this section, any person proposing to carry out a permitted or non-regulated 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 Agency on a form provided by it, and provide the Agency 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 Agency or its designated agent shall rule that the proposed operation or use is a permitted or a non-regulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Agency following the meeting at which the request was received. The designated agent for the Agency may make such ruling on behalf of the Agency at any time.
- 4.5 The “*Forestry Practices Act*” passed by the Connecticut General Assembly, under CT General Statutes Section 23-65(a) through (o), provides for the municipal regulation of forest practices, provided that such regulations are found to be consistent with state regulations under the Forest Practices Act (Amend. Effective Date: June 22, 1999).
- a. Although selective cutting, timber stand improvements and other forest practices may be exempt from municipal permit requirements, this exemption must be established by the Municipal Agency or its duly authorized agent prior to the commencement of any forestry operations. A written request from the property owner must be submitted to the Agency or agent requesting it to rule whether a proposed operation is exempt and does not require a permit (Amend. Effective Date: June 22, 1999).
- b. The following information is also required to be submitted in order for the agency or agent to rule in an effective manner:
1. A location map of the property;
 2. A plan drawing showing the location of wetlands, watercourses logging roads, skidder trails and staging area locations and a description of the cutting activities proposed. In planning the project, structural improvements and other work in wetlands and watercourses should be limited to that which is

essential for the particular forest practice. Adherence to best management practices for forest practices (bmp's) is required for all projects, regardless of wetlands involvement (Amend. Effective Date: June 22, 1999).

- c. If exemption under the non-regulated uses section of these regulations is claimed, appropriate documentation in support of the claim to exemption should be submitted. Connecticut's Wetland laws envision that the person claiming exemption has the burden of demonstrating that he/she is entitled to it. (Amend. Effective Date: June 22, 1999).
- d. Any temporary or permanent structural improvements such as bridges for crossing streams, culvert installations and roadway construction within wetlands and watercourses are regulated activities and require a permit (amend. effective date: , 1999).
- e. If the agency or agent determines that the project, or a portion of it is not exempt from these regulations, a permit application must be filed. All regular application procedures and requirements shall apply. No work shall proceed prior to issuance of a permit or declaration of exemption by the Agency or Agent (Amend. Effective Date: June 22, 1999).
- f. In any case, obstruction of water flow, creating slash piles within wetlands or watercourses, skidder trails which cause significant alteration of wetlands and/or watercourses, or erosion of soils from logging roads or skidder trails, into wetlands, may result in a forestry practice being found in violation of these regulations (Amend. Effective Date: June 22, 1999).