

INLAND WETLANDS and WATERCOURSES REGULATIONS of the TOWN of SOUTHLINGTON CONNECTICUT



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SECTION 1 -- TITLE AND AUTHORITY

Section 1

1.1 The Inland Wetlands and Watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetland 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 Southington".

1.3 These regulations have been prepared by the Southington Town Inland Wetland and Watercourses Agency in accordance with the provisions of an Act Concerning Inland Wetlands and Watercourses Sections 22a-36 to 22a-45 inclusive of the General Statutes, authorized by the Council of the Town of Southington in accordance with an ordinance adopted March 25, 1974. 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.

1.4 The Agency shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with modifications, and deny permits for all regulated activities on inland wetlands and watercourses in the Town of Southington pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

SECTION 2 -- DEFINITIONS

Section 2

2.1 As used in these regulations:

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

AGENCY means the Inland Wetlands and Watercourses Agency of the Town of Southington.

AQUIC MOISTURE REGIME means groundwater table may be one foot of ground surface, characterized by an absence of dissolved oxygen.

BOGS are usually distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and high acidic conditions.

CLEAR-CUTTING means the harvest of timber in a fashion which removes all trees down to a 2" diameter at breast height.

COMMISSION MEMBER means a member of the Inland Wetlands and Watercourses Agency of the Town of Southington.

COMMISSIONER OF ENVIRONMENTAL PROTECTION means the Commissioner of the State of Connecticut Department of Environmental Protection.

CONTINUED 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.

DESIGNATED AGENT means an individual designated by the Agency to carry out its functions and purposes.

DISCHARGE means the emission of any water, substance or materials into wetlands or watercourses of the Town whether or not such substance causes pollution.

DISTURBING THE NATURAL AND INDIGENOUS CHARACTER OF THE LAND means that the activity will significantly alter the inland wetlands and watercourses by reason of removal or deposition of material, clear cutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.

ESSENTIAL TO THE FARMING OPERATION means that the activity proposed is necessary and indispensable to sustain farming activities on the farm.

FARMING means use of land for the growing of crops, raising of livestock or other agricultural use.

FEASIBLE means able to be constructed or implemented consistent with sound engineering principals.

LICENSE means the whole or any part of any permit, certificate, or approval or similar form of permission which may be required of any person by the provisions of these regulations.

MARSHES are the 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, peat, mud, debris, sand, refuse or waste.

MUNICIPALITY means the Town of Southington, Hartford County, Connecticut.

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

PERMIT means an approval to conduct a regulated activity under the licensing authority of the Agency.

PERMITTEE means the person to whom such a permit has been issued.

PERSON means any person, firm, partnership, association, corporation, company, organization, governmental or subdivisions thereof.

POLLUTION means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the Town or State by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly 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 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 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, as well as:

1. Land within 100 feet of the edge of the defined channel of the Quinnipiac River, Eight Mile, or Ten Mile River.
2. Land within 200 feet of a bog.
3. Land within 100 feet of perennial streams, including, but not limited to, Judd Brook, Misery Brook, Dayton Brook, Hamlin Brook, Roaring Brook, Pratts Brook, Patton Brook, Spring Lake Brook, Humiston Brook, and Cussgutter Brook.
4. Land within 50 feet of the centerline of an intermittent watercourse.
5. Land within 50 feet of a pond or lake.
6. Land within 50 feet of a regulated soil type.
7. Land within 200 feet of a Vernal Pool.

The Agency may rule that any other activity located within such upland review areas or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.

REGULATED AREA means:

1. Any wetlands as defined in these regulations.
2. Any watercourses 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 means any alteration of the physical, chemical, or biological properties of any of the waters of the Town including, but not limited to, change in odor, color, turbidity or taste.

SIGNIFICANT ACTIVITY means any activity, including, but not limited to, the activities specified in Section 6.4a of these regulations that may have a substantial effect on the area for which an application has been filed or on another part of the inland wetland or watercourse system.

SLOPE means the variation in the elevation of land expressed as a percent of the horizontal distance divided by the vertical distance.

SOIL SCIENTIST means an individual duly qualified in accordance with standards set by the Office of Personnel Management, formerly the U.S. Civil Service Commission.

STRUCTURE means anything constructed or erected which requires location on the ground or attachment to something having location on the ground, including buildings and foundations but excluding parking areas.

SUBMERGED LANDS means those lands which are inundated by water on a seasonal or more frequent basis.

SWAMPS are areas with soils that exhibit aquic moisture regimes and are dominated by wetland trees and shrubs.

TOWN means the Town of Southington, Hartford County in the State of Connecticut.

VERNAL POOL an often temporary body of water occurring in a shallow depression of natural or human origin that fills during spring rains and snow melt and typically dries up during summer months. Vernal pools support populations of species specially adapted to reproducing in these habitats. Such species may include wood frogs, mole salamanders (*Ambystoma* sp.), fairy shrimp, fingernail clams, and other amphibians, reptiles and invertebrates. Vernal pools lack breeding populations of fish.

WASTE means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the Town or State.

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. 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 hydrophitic vegetation.

WETLANDS means land, including submerged land not regulated pursuant to Sections 22a-28 to 22a-35, inclusive, 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 may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture. 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

Section 3

3.1 The map of regulated areas entitled “Inland Wetlands and Watercourses Map, Southington, Connecticut” delineates the general location and boundaries of inland wetlands and watercourses. Copies of this map are available for inspection at the office of the Town Clerk or the Agency. 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 Agency may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of boundaries of wetlands and watercourses.

3.1.a In addition to areas of regulated soil types, the following areas are also regulated by these Regulations:

1. Land within 100 feet of the edge of the defined channel of the Quinnipiac River, Eight Mile, or Ten Mile Rivers.
2. Land within 200 feet of a bog.
3. Land within 100 feet of perennial streams, including, but not limited to, Judd Brook, Misery Brook, Dayton Brook, Hamlin Brook, Roaring Brook, Pratts Brook, Patton Brook, Spring Lake Brook, Humiston Brook, and Cussgutter Brook.
4. Land within 50 feet of the centerline of an intermittent watercourse.
5. Land within 50 feet of a pond or lake.
6. Land within 50 feet of a regulated soil type.
7. Land within 200 feet of a vernal pool.

3.1.b The regulated distances listed above shall be calculated by employing a horizontal means of measurement. When variations in grade elevations exist, a regulated distance shall be determined by means of establishing a vertical plane at the point of regulated area and calculating the horizontal distance from the intersecting point of said plane.

3.2 To prove himself exempt from these regulations the applicant must present documentation by a soil scientist that the land in question, or a portion of it, does not have a soil type classified by the National Cooperative Soils Survey as poorly drained, very poorly drained, alluvial, or floodplain. Areas of former wetlands that have been filled or otherwise altered since the soil survey and prior to the promulgation of these regulations shall be exempt from these regulations.

3.3 The Agency or its staff shall monitor and maintain general surveillance of the regulated areas within the Town to ensure that no unauthorized regulated activities occur.

3.4 The Agency shall from time to time inventory inland wetlands and watercourses and update the inventory map delineating said wetlands and watercourses to be regulated. The Agency may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the Town. Such map amendments are subject to the public hearing process outlined in Section 13 of these regulations.

SECTION 4 -- PERMITTED USES

Section 4

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

4.1a 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 crop land, the mining of top soil, peat, sand, gravel, or similar material from wetlands or watercourses for the purposes of sale.

4.1.b A residential home for which a building permit has been issued or on a subdivision lot providing the building permit has been issued on or before July 1, 1987. The individual claiming a use of wetlands permitted as a right under this subsection shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement.

4.1.c Boat anchorage or mooring.

4.1.d Uses incidental to the enjoyment and maintenance of residential property, such property not to exceed two acres. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of material from or into a wetland or watercourse, or diversion or alteration of a watercourse.

4.1.e Construction and operation by water companies as defined in Section 16-1 or by municipal water supply systems as provided for in Chapter 102 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-38 of the General Statutes.

4.1.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 land which is zoned as residential but which does not contain hydrophitic 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 a nonregulated use 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.

4.2.a Conservation of soil, vegetation, water, fish, shellfish, and wildlife.

4.2.b Outdoor recreation including play and sporting area, golf courses, field trails, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated.

4.3 The following activities within 50 feet of an inland wetland or watercourse are regulated by these regulations:

4.3.a The disposal, storage, or treatment of hazardous and solid waste material.

4.3.b Road salt storage and loading areas.

4.4 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 that such agent has completed the comprehensive training program developed by the Commissioner pursuant to Section 22a-39, as amended. Notwithstanding the provisions for receipt and processing applications prescribed in Section 6 of these regulations, 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 fifteen days after the

publication date of the notice and the Inland Wetland Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt of such agency or its agent of such appeal. The Inland Wetland Agency, shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section Five of the Southington Inland Wetlands and Watercourses Act. The designated agent for the Agency may make such ruling on behalf of the Agency at any time.

SECTION 5 -- GENERAL REQUIREMENTS

Section 5

5.1 No person shall henceforth conduct a regulated activity in a regulated area of the Town of Southington without first obtaining a permit for such activity from the Agency.

5.1.a The construction of any portion of a septic system, including reserve area, within 50 feet of a designated inland wetland or watercourse shall require an Inland Wetland Permit.

5.2 The Agency and its staff or any specialists hired by the Agency to evaluate permit applications under these regulations shall have the right of free access to any part of the property under consideration with consent from the property owner.

5.3 Changes in regulations including boundaries shall be made pursuant to Sections 2a and 2b of "An Ordinance Establishing a Southington Inland Wetlands and Watercourses Agency", adopted March 25, 1974.

5.4 In addition to any permit or approval required by the Agency, 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-410 of the General Statutes, as amended;
- b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349 of the General Statutes, as amended;
- c. Diversion of water including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day, or any change in the instantaneous flow of any surface waters of the state where the tributary watershed area above the point of diversion is 100 acres or larger pursuant to Sections 22a-365 through 22a-378 of the General Statutes, as amended;

- d. Discharges of fill or dredged materials into the wetlands and watercourse 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.
- e. 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.
- f. Discharges into the waters of the state pursuant to section 22a-430 of the Connecticut General Statutes, as amended.

5.5 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.

5.6 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 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.

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

SECTION 6 -- APPLICATION PROCEDURES

Section 6

6.1 Any person wishing to undertake a regulated activity shall apply for a permit to the Agency.

- a. Applications should be submitted to the Agency at least 14 days prior to its regular meeting in order for the application to be included on the agenda.
- b. The application form entitled "Application for the Inland Wetlands and Watercourses Act" hereinafter called the application shall be made available by the Agency.
- c. The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the agency, immediately following the day of submission to such agency or its agent of such petition, application, request or appeal, or thirty-five days after such submission, whichever is sooner.
- d. Application must be made by the property owner of record or the duly authorized agent of such owner, such authorization to be in writing.
- e. All applications shall contain such information that is necessary for a fair and informed determination of the issues.
- f. The Agency shall, in accordance with Connecticut General Statutes sections 8-7b(f) and 22a-42b, notify the clerk of any adjoining municipality of the pendency of any application , petition, appeal, request or plan concerning any project or any site in which:
 - a. any portion of the property affected by a decision of the agency is within five hundred feet of the boundary of the adjoining municipality;
 - b. a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - c. a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
 - d. water runoff from the improved site will impact streets of other municipal or private property within the adjoining municipality

Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, appeal, request or plan.

6.2 The Agency and the applicant may hold a pre-application meeting to determine whether or not the proposed application involves a significant activity. (Whenever possible the determination relative to significant activities should be made at the pre-application meeting.)

6.3 At any time during the review period, the Agency may require the applicant to provide more information about the wetlands and/or watercourses in question and/or the proposed activity. The Agency may request that the applicant provide additional testimony, including the review and findings of a properly licensed engineer or soils scientist.

6.4 If the Agency finds, based on the information before it, that the proposal will involve a significant activity, the applicant shall be required to submit such pertinent information designated on the application form as the administrative officer signing the form deems necessary for the Agency to make a decision in the case.

6.4.a A significant impact activity means any activity, including, but not limited to, the following activities which may have a major effect or significant impact.

1. Any activity involving deposition or removal of material which will or may have a major effect or impact on the regulated area or on another part of the inland wetland or watercourse system.
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
3. Any activity which substantially diminishes the natural capacity of 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.
4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation, or sedimentation into a wetland or watercourse.
5. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area.
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
7. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

6.5 All applications shall be accompanied by information and maps as required and listed on the Application for Permit.

1. The applicant's name, home and business address and telephone numbers;
2. The owner's name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application;
3. Applicant's interest in the land;

4. The geographical location of the property which is to be affected by the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s) and wetland vegetation;
5. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls;
6. Alternatives considered by the applicant and why the proposal to alter wetlands set forth in the application was chosen;
7. A site plan showing existing and proposed conditions in relation to wetlands and watercourses;
8. Names and addresses of adjacent property owners;
9. Certification 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;
10. Authorization for the Commissioners and agents of the Agency to inspect the property, at reasonable times, both before and after a final decision has been issued;
11. Any other information the Agency deems necessary to the understanding of what the applicant is proposing;
12. Submission of the appropriate filing fee based on the fee schedule established in Section 16 of these regulations.

6.5.a If the proposed activity involves a significant activity as determined by the Agency and defined in Section 2 and 6.4.a of these regulations, additional information, based on the nature and anticipated effects of the activity including, but not limited to, the following is required:

1. Site plans for the proposed use or operation and the property 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 development drawn by a licensed surveyor, professional engineer or landscape architect registered in the State of Connecticut or by such other qualified person;
2. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage and hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;

3. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Soil Conservation Service (the Agency may require the applicant to have the wetlands delineated in the field by a soil scientist and that the field delineation be incorporated into the site plans);
4. 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;
5. 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 nor prudent;
6. Analysis of chemical or physical characteristics of any fill material;
7. Measures 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.
8. The Agency, in its sole discretion, may require additional measures in protecting and conserving regulated areas. Requirements may include the development and implementation of stilling basins and/or bio-filter ponds to pretreat site runoff, the installation of permanent boundary markers to demarcate regulated areas. The Agency shall have the authority to require the recording of restrictive covenants in the office of land records or require other reasonable measures deemed appropriate by the Agency.

6.6 The inland wetlands agency shall not hold a public hearing on an application unless the inland wetlands agency determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty-five (25) persons who are 18 years of age or older and reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the agency no later than fourteen days after the receipt of such application, or the agency finds that a public hearing regarding such application would be in the public interest. The agency may issue a permit without a public hearing provided no petition provided for in this section is filed with the agency on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open to public inspection. At such hearing any person or persons may appear and be heard and may be represented by an agent or by attorney.

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

6.8 Notice of the public hearing shall be mailed to the owner(s) of record of abutting land no less than fifteen days prior to the day of the hearing.

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

SECTION 7--DECISION PROCEDURE

Section 7

7.1 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 Agency shall take into consideration all relevant facts and circumstances, including, but not limited to:

- a. The environmental impact of the proposed regulated activity including the effects on the inland wetlands and watercourses and their natural capacity; to support desirable biological life; to prevent flooding; to supply water; to control sediment; to facilitate drainage; and to promote public health and safety;
- b. The applicant's purpose for, and any feasible and prudent alternative to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses. This should include but it is not limited to the alternative of taking no action, or postponing action pending further study; the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.
- c. The relationship between 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 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.

- e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; that no further technical improvements in the plan or safeguards for its implementation are feasible and that potential damage can result from erosion, turbidity, or siltation, loss of fish and other beneficial aquatic organisms, wildlife and vegetation; the dangers of flooding and pollution; and destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses;
- 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 and that the activity is consistent with plans for development proposed for the town, region, and state. (1) For purposes of this section, (1a) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (1b) "habitats" means areas or environments in which an organism or biological population normally lives or occurs. (2) A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- g. Measures which would mitigate the impact of any aspect of the proposed regulated activit(ies). Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to 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 wildlife, prevent erosion, assimilate wastes, facilitate drainage, and to provide recreation and open space.

7.2 The Agency shall consider the following in making its decision on the application:

- a. Evidence offered at a public hearing;
- b. Any reports from other agencies and commissions;
- c. The Agency may submit all applications involving significant activities to the Hartford County Soil and Water Conservation District.
- d. For new subdivision lots that require an Inland Wetland permit, the Commission shall consider the amount of non-wetland soils on the proposed lot. As a general guideline, 10,000 square feet of the proposed lot, exclusive of any area required for a septic system and reserve area, shall be non-wetland soils. When considering waivers of this guideline, the Commission shall consider the type of inland wetlands on the property, the location of the inland wetlands, and the proposed lot development. Upland wetland soils such as Leicester Series (LcA, LeA), Leicester, Whitman, and Ridgebury Series (LdA),

Ridgebury

Series (RdA), Whitman Series (WpA), and Wilbraham Series (WiA, WsA, and WtA) will be investigated closely on a case by case basis. (Effective 10/3/88)

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- e. The Agency may request comments on all applications from the following:
 - (a) Town of Southington, Department of Public Works and/or Building Department;
 - (b) Town of Southington, Board of Water Commissioners;
 - (c) Town of Southington or State Department of Health;
 - (d) Hartford County Soil and Water Conservation District;
 - (e) Central Connecticut Regional Planning Agency or other regional organization;
 - (f) Appropriate agencies in adjacent municipalities which may be affected by the proposed activity;
 - (g) Other technical agencies or organizations which may undertake additional studies or investigations.
- f. Information submitted with the application;
- g. All relevant facts and circumstances as they affect inland wetlands and watercourses.
- h. Non-receipt of comments from agencies and commissions listed in 7.2 above within the proscribed time shall neither delay nor prejudice the decision of the Agency.

7.3 All action on the application shall be in conformance with Section 7.1 of these regulations and shall be in writing.

a. No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications 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 receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subdivision, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw the application. The failure of the agency to act within any time period specified in this subdivision, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Agency shall be withdrawn by the applicant or denied by the Agency.

b. In the case of an application which received a public hearing pursuant to Subsection (k) of Section 22a-39, as amended by Section 2 of Public Act 95-313 or a finding by the inland wetlands and watercourse agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds that the proposed alteration or destruction of wetlands or watercourses is unavoidable and that a feasible and prudent alternative to the alteration or destruction of wetlands does not exist. In making its

finding the Commission shall consider the facts and circumstances set forth in this subsection 7.1 a-g. The finding and the reasons therefore shall be stated on the record.

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- c. In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. However, the Agency is not precluded from seeking advice from its own experts on information already in the record of the public hearing.
- d. 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 Inland Wetlands Agency, shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subdivision 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.

7.4 The Agency shall report all permit actions to the Department of Environmental Protection. (Amended 9/29/87)

7.5 The Agency shall notify the applicant of its decision within fifteen (15) days of the date of the decision and the Agency shall cause notice of its order in issuance, denial, revocation or suspension of a permit to be published in a daily newspaper having general circulation in the town wherein the inland wetland or watercourse lies. The Agency shall notify the Commissioner of Environmental Protection of all public hearings. 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.

7.6 The Agency shall file its decision with the Town Clerk and shall also cause the Town Planner to maintain a record of all applications.

- a. In an activity authorized by the inland wetland permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision and report on the application shall be filed with the Town of Southington Planning, Zoning, or Planning and Zoning Commission within fifteen days of the date of the decision.
- b. If the Agency or its agent denies the permit, or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Agency's satisfaction. The Agency shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the Agency shall be equivalent to the denial of an application for the purposes of appeal.

7.7 Any permit issued under this Section for the development of property for which an approval is required under Section 8-3, 8-25 or 8-26 shall be valid for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued under this Section for any other activity shall be valid for not less than two years and not more than five years. Any such permit shall be renewed upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years.

7.8 General provisions in the issuance of all permits:

- a. In evaluating applications in which the Agency relied in whole or in part on information provided the applicant, 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 Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Southington 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 property 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, no work pursuant to the wetland permit may begin until such approval is obtained.
- d. The permittee shall take such necessary steps consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- e. The Inland Wetland Agency may impose reasonable conditions in approving an application involving activity within a regulated area. Following the granting of conditional approval, the applicant shall be required to revise the development plan and note all conditions of approval prior to submitting such plan to the Inland Wetland Agent. All conditions of approval shall be prominently highlighted and depicted on the first page of the development plan.

7.9 If a bond is required in accordance with Section 9 of these regulations, no permit

shall be issued until such bond or insurance is provided.

SECTION 8--OTHER PERMITS AND LICENSES

Section 8

8.1 Nothing in these regulations shall obviate any requirement for the applicant to obtain any other assent, permit or license required by law or regulations by the Government of the United States or of the State of Connecticut or any other political subdivision thereof. The obtaining of such assents, permits, or licenses is solely the responsibility of the applicant.

8.2 No person shall conduct any regulated activity within an inland wetland or watercourse which requires zoning or subdivision approval without first having obtained a valid certificate of zoning or subdivision approval, special permit, special exception, or variance or other documentation establishing that the proposal complies with the zoning or subdivision requirements adopted by the municipality pursuant to Chapters 124 to 126 inclusive, or any special act. (Amended 9/29/87)

8.3 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 25-32a, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said commissioner, provided such water company or said commissioner has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the Inland Wetlands Agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven days after the date of the application. The water company and the Commissioner of Public Health, through a representative may appear and be heard at any hearing on the application.

SECTION 9--BONDING

Section 9

9.1 The applicant, upon approval of the application and prior to issuance of a permit, may be required to file a performance bond and/or a maintenance bond in an amount and with sureties and in a form approved by the Agency.

9.2 The bond and sureties shall be conditioned on compliance with all provisions of these regulations and conditions imposed on application approval.

9.3 The Agency may require the applicant to certify that it has public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount commensurate with the regulated activity.

SECTION 10--ENFORCEMENT

Section 10

10.1 Any person who shall commit, take part in or assist in any violation of any provision of these regulations or of conditions imposed by the Agency upon a permit shall be served with a written notice, stating the nature of the violation and providing a specified time within which such violation shall cease and satisfactory corrective measures shall be taken by the violator. Such violation shall be subject to the penalties provided by Section 22a-44 of the General Statutes.

10.2 The Agency or its staff shall make regular inspections of all activities for which permits have been issued under these regulations. Such activities shall be open to inspection at all reasonable times with consent from the property owner.

10.3 The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations.

10.4 If the Agency 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 Agency 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 Agency 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 Agency 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

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order is in effect, or that the order has been withdrawn. The Agency 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 Agency affirms, revises or withdraws the order. The issuance of any order pursuant to this subsection shall not delay or bar an action pursuant to Section 22a-44(b) of the General Statutes, as amended.

10.5 The Agency shall report all Agency enforcement action to the Department of Environmental Protection. (Amended 9/29/87)

SECTION 11--CONFLICT AND SEVERANCE

Section 11

11.1 Where there is a conflict between the provisions of these regulations and those of any other applicable statute, ordinance or regulations, the provision of that statute, ordinance or regulation which imposes the greater restrictions on the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.

11.2 If there is a conflict between any provision of these regulations and the provision of the act, the provisions of the act shall govern.

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

SECTION 12--EFFECTIVITY

Section 12

12.1 These regulations shall become effective upon filing in the office of the Town Clerk of Southington, Connecticut, and filing with the Commission of Environmental Protection and publication of notice of promulgation in a newspaper having general circulation in the Town.

SECTION 13--AMENDMENTS

Section 13

13.1 These regulations and the official Inland Wetlands and Watercourses Map may from time to time be amended by the Agency or by petition, in accordance with changes in the General Statutes or Regulations of the State Department of Environmental Protection, and as new information regarding soils, hydrology, or botanical species, peculiar to inland wetlands and watercourses in the Town of Southington becomes available.

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

13.3 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Southington, 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 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.

13.4 Any person who submits a petition to amend the Inland Wetlands and Watercourse Map, Southington, 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 Agency. 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 13.3, the petition shall include:

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

13.5 Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.

13.6 A public hearing shall be held on petitions to amend the regulations and the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having a general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two days, the first not more than fifteen days, nor less than ten days, and the last not less than the two days before the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.

13.7 The Agency shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and Watercourses Map within sixty-five (65) days after receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The Agency shall act upon the changes requested in such petition within (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days or may withdraw such petition. Failure of the agency to act within any time period specified in this subsection or any extension thereof, shall not be deemed to constitute approval of the petition.

13.8 The Agency shall make its decision and state, in writing, the reasons why the change

in the Inland Wetlands and Watercourses Map was made.

13.9 A copy of the notice and the proposed regulations or amendments thereto, except determinations of boundaries, shall be provided to the Commissioner of the Department of Environmental Protection at least thirty-five (35) days before commencement of a hearing on their adoption pursuant to Section 22a-42a(a).

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SECTION 14--APPEALS

Section 14

14.1 Any person aggrieved by these regulations including the Commissioner, any person owning or occupying land which abuts any portion of land involved in the decision, or any person owning or occupying land within a radius of ninety (90) feet of the wetland or watercourse involved in any regulation, order, decision or action made pursuant to 22a-45 or any order, decision or action made pursuant thereto by the Town, may within fifteen (15) days after publication of such regulation, order, decision or action, appeal to the Superior Court in Hartford County. Such appeal shall be made returnable to said court in the same manner as that prescribed for civil actions brought to said court. Notice of such appeal shall be served on the Commissioner of the Department of Environmental Protection. The Appeal shall state the reasons upon which it is predicated and shall not stay proceedings on the regulations, order, decision or action, but the court may on application and after notice grant a restraining order. Such appeal shall have precedence in the order of trial. (Amended 9/29/87)

SECTION 15- OTHER PERMITS

Section 15

15.1 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 Southington, 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 16--APPLICATION FEES

Section 16

16.1 The fee for an Inland Wetlands and Watercourses permit shall be posted in the Planning Department. The fee for such a permit associated with a single family home on a single lot shall be posted as well.

16.2 There shall be no fee for an Inland Wetlands and Watercourse Map Amendment if such amendment is part of a permit fee under Section 17.1. If not related to a 17.1 fee, the map amendment fee shall be as posted.

16.3 The fee for a Petition to Amend these regulations is as posted.

SECTION 17--RECORDS RETENTION AND DISPOSITION

Section 17

17.1 The Agency and the Town Clerk for the Town of Southington shall retain complete administrative records of Agency actions and dispose of such records in accordance with the retention/disposition schedules set forth in Subsection 17.2.

17.2 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:

<u>RECORD TITLE</u>	<u>MINIMUM RETENTION REQUIRED IN AGENCY</u>	<u>TOWN CLERK</u>
Applications (including 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 meeting and public hearings	15 years	Permanent
Tapes, audio-Inland Wetland matters	4 years	-
Notice of violation & orders	10 years	-
Text of changes adopted	Continuous update/	

in regulations	permanent	-
General correspondence issued or received	5 years	-

SECTION 18--EFFECTIVE DATE OF REGULATIONS

Section 18

18.1 These regulations including the Inland Wetlands and Watercourses Map, application forms, fee schedule and amendments thereto, shall become effective upon filing in the office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of Southington.

