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Kuehn

R E G U L A T I O N S

INLAND WETLANDS AND WATER COURSE AGENCY

CITY OF MIDDLETOWN

Public Hearing Date: August 28, 1973

Effective date: Sept. 1973

Superseded

SECTION 1 - TITLE AND AUTHORITY

Section 1.

1.1 These regulations shall be known as the "Inland Wetlands and Water Courses Regulations of the City of Middletown."

1.2 These regulations have been prepared by the Inland Wetlands and Water Course Agency in accordance with the provisions of an Act Concerning Inland Wetlands and Water Courses (Public Act 155, 1972; amended, P.A. 571, 1973), hereinafter referred to as P.A. 155, authorized by Common Council of the City of Middletown in accordance with Ordinance #17 adopted May 18, 1973.

1.3 Pursuant to P.A. 155, as amended, the Inland Wetlands and Water Course Agency shall issue, issue with modifications, and deny permits for all regulated activities on inland wetlands and water courses within the City.

SECTION 2 - DEFINITIONS

Section 2.

2.1 As used in these regulations:

- a. "The Agency" means the Inland Wetlands and Water Course Agency of the City of Middletown;
- b. "Person" means any person, firm, partnership, association, corporation, company, organization, or legal entity of any kind including municipal corporations, governmental agencies or subdivisions thereof;
- c. "Soil scientist" means an individual duly qualified in accordance with standards set by the U.S. Civil Service Commission;
- d. "Material" means any substance, solid or liquid, organic or inorganic, including, but not limited to, soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste;
- e. "Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the City of Middletown;
- f. "Pollution" means the contamination or rendering unclean or impure of any waters of the City by reason of any waste or other materials discharged or deposited therein by any public or pri-

vate sewer or otherwise so as directly or indirectly to come in contact with any waters;

- g. "Contamination or rendering unclean or impure" means any objectionable alteration of the physical, chemical, or biological properties of any of the waters of the City, including, but not limited to, change in odor, color, turbidity, taste or temperature;
- h. "Discharge" means the emission of any water, substance or material into waters of the City whether or not such substance causes pollution;
- i. "Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, bulldoze, dragline or blast;
- j. "Deposit" includes, but shall not be limited to, fill, grade, dump, place, discharge or emit;
- k. "Regulated activity" means any operation within or use of a wetland or water course involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or water courses, but shall not include the specified activities in Section 4.1 of these regulations;
 - 1. "Regulated area" means inland wetlands and water courses.
- l. "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;
 - 1. "Permit" means an approval to conduct a regulated activity under the licensing authority of the Agency.
 - 2. "Permittee" means the person to whom such permit has been issued.
- m. "Wetlands" means land, including submerged land as defined in Section 4 (15) of P.A. 155, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Soil Conservation Service of the U.S. Department of Agriculture;
- n. "Water courses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, public or private, vernal or intermittent, which are contained within, flow through, or border upon the City or any portion thereof;
- o. "Significant activity" means any activity, including, but not lim-

ited to, the activities specified in Section 6.4 a. 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 water course system.

SECTION 3 - INVENTORY OF REGULATED AREAS

Section 3.

3.1 Areas of regulated soil types are shown on the Official Inland Wetlands and Water Courses Map. In cases where an applicant disputes the designation of any part of his land as a regulated area, he shall have the burden of proving that designation inapplicable.

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.

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

3.4 The Agency shall continually inventory inland wetlands and water courses and update the Official Inland Wetlands and Water Courses Map delineating said wetlands and water courses to be regulated.

SECTION 4 - PERMITTED USES

Section 4.

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

- a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less;
- b. A residential home for which a building permit has been issued or on a subdivision lot, provided the permit has been issued or the subdivision has been approved as of the effective date of promulgation of these regulations pursuant to Section 8 (b) P.A. 155;
- c. Boat anchorage or mooring;

- d. Uses incidental to the enjoyment and maintenance of residential property, such property defined as the largest minimum residential lot site permitted anywhere in the municipality;
- e. Construction and operation by water companies as defined in Section 16-1 of the Connecticut General Statutes 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 13 and 14 of P.A. 155.

4.2 The following operations and uses shall be permitted as a nonregulated use in wetlands and water courses, provided they do not disturb the natural and indigenous character of the land:

- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife;
- b. Outdoor recreation including play and sporting areas, 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.

SECTION 5 - GENERAL REQUIREMENTS

Section 5.

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

5.2 The map of regulated areas, entitled "Official Inland Wetlands and Water Courses Map, Middletown, Connecticut," shall serve as boundaries and shall be considered a part of these regulations, and copies of said map shall be available for inspection in the offices of the City and Town Clerk and Planning and Zoning Commission (known as the Commission on the City Plan and Zoning until November 6, 1973) of the City of Middletown.

5.3 Changes in regulations including boundaries shall be made pursuant to Section 8 (b) of P.A. 155.

SECTION 6 - APPLICATION PROCEDURE

Section 6.

6.1 Any person wishing to undertake a regulated activity within

a regulated area shall apply for a permit to the Agency.

- a. The Agency requires submission of the application five (5) 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 Water Courses Act," hereinafter called the application, shall be made available in the manner specified under Section 13 of these regulations.
- c. The date of receipt of such application shall be the date of the next regularly scheduled meeting of the Agency, immediately following the date of said application, at which such application is officially received by the Agency, or thirty-five (35) days from the date of the application, 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.

6.2 There shall be a minimum \$3.00 application fee plus \$3.00 per acre for activities determined to be significant.

6.3 At any time during the review period, the Agency may require the applicant to provide more information about the wetlands and/or water courses in question and/or the proposed activity.

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.

- a. A significant activity includes, but is not limited to, an activity which may cause:
 1. Substantial turbidity, siltation or sedimentation in a stream, lake or reservoir, the destruction or impairment of an identified aquifer or recharge area, a substantial reduction of an inland wetland or water course's natural flood storage capacity, the construction or alteration of a water course channel which might result in increasing the volume or velocity of water leading to upstream or downstream flooding; or
 2. A decrease in the minimum low flow of a water course during periods of drought; or
 3. The actual or potential pollution of an aquifer or water course; or
 4. A reduction of the natural capacity of an inland wetland or water course to support desirable biological life and/

or function effectively as a part of the total wetland ecosystem including loss of productivity of an economic resource; or

5. A loss of unique areas and/or undisturbed areas valuable for scientific or educational purposes; or
6. A reduction of the area's suitability for recreation which may result from destruction of wildlife habitat, scenic values, or historic features; or
7. A conflict with the community plan of development or open space plan, which may result from incompatible uses, loss of amenities; or
8. The creation of conditions which may adversely affect the health, welfare and safety of the individual or the community, which may be incurred when unsuitable development occurs in swamps, marshes, along water courses, or in areas subject to flooding.

6.5 A public hearing is required and shall be conducted by the Agency on all applications involving a significant activity. A public hearing is optional on applications which do not involve significant activities. Public hearings shall be conducted in accordance with Section 8 (c) of P.A. 155, as amended. Notification of all public hearings shall be forwarded to the Department of Environmental Protection.

SECTION 7 - RENDERING DECISION

Section 7.

7.1 The Agency shall consider the following in making its decision on the application pursuant to Section 1.3 of these regulations:

- a. Written or oral testimony offered up to and including the public hearing date;

Any reports from other agencies and commissions;

1. The Agency shall submit all applications involving significant activities to the Middlesex County Soil and Water Conservation District.
2. The Agency may submit and request comments on all applications from the following:
 - (a). City of Middletown Conservation Commission;
 - (b). City of Middletown Planning and Zoning Commission;
 - (c). City of Middletown Public Works, including the Building Division;

- (d). City of Middletown Water and Sewer;
- (e). City of Middletown and/or State Department of Health;
- (f). Middlesex County Soil and Water Conservation District;
- (g). Midstate Regional Planning Agency or other regional organization;
- (h). Appropriate agencies in adjacent municipalities which may be affected by the proposed activity;
- (i). Other technical agencies or organizations which may undertake additional studies or investigations.

c. Information submitted with the application;

d. All relevant facts and circumstances as they affect inland wetlands and water courses.

7.2 All action on the application shall be in conformance with Section 8. of these regulations and shall be in writing.

a. Action shall be taken on the application within forty-five (45) days after the completion of a public hearing or, in the absence of a public hearing, within sixty (60) days from the date of the receipt of the application.

7.3 The Agency shall notify the applicant and the Department of Environmental Protection of its decision by certified mail within five (5) 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 water course lies.

7.4 The Agency shall file its decision with the City and Town Clerk and shall also cause the administrative officer designated by the Agency to maintain a record of all applications.

7.5 The duration of any permit granted shall be specified and subject to the calling of an additional public hearing in the discretion of the Agency. A permit shall expire if not exercised within the period of two years. All permits shall expire upon the completion of the acts specified therein. No permit shall be assigned, transferred, sublet or sold to any other person without written permission of the Agency.

SECTION 8 - GRANTING A PERMIT

Section 8.

8.1 Pursuant to Section 6 of P.A. 155, all decisions in grant-

ing a permit or granting a permit with modifications, or denying a permit, shall take into consideration all relevant facts and circumstances including, but not limited to:

- a. The environmental impact of the proposed action including the effects of the inland wetlands and water courses natural capacity: to support biological life; to prevent flooding; to supply water; to control sediment; to facilitate drainage; and to promote public health and safety;
- b. The alternatives to the proposed action: that no preferable location on the affected property or in the case of an activity of sufficient magnitude, that no other available location could reasonably be required;
- c. The relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity;
- d. Irreversible and irretrievable commitments of resources which would be involved in the proposed activity;
- e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened: that no further technical improvements in the plan or safeguards for its implementation are feasible;
- f. The suitability or unsuitability of such activity to the area for which it is proposed.

8.2 If the Agency denies the permit after application, the applicant may attempt to modify his proposal to meet the requirements of these regulations. The Agency shall determine whether the proposed modification requires the filing of a new application or portions thereof. If the Agency deems the application insufficiently modified, it shall not be required to consider the proposal for one year after the original filing.

8.3 If a bond ^{insurance} is required in accordance with Section 10. of these regulations, no permit shall be issued until such bond or insurance is provided.

SECTION 9 - OTHER PERMITS AND LICENSES

Section 9.

Nothing in these regulations shall obviate any requirement for the applicant to obtain any other assent, permit or license required by law or regulation by the Government of the United States or of the State of Connecticut or any other political subdivisions thereof.

The obtaining of such assents, permits, or licenses is solely the responsibility of the applicant.

SECTION 10 - BOND AND INSURANCE

Section 10.

10.1 The applicant, upon approval of the application and prior issuance of a permit, at the discretion of the Agency, 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.

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

10.3 The applicant may be directed to certify that he has public insurance against liability which might result from the proposed operation or use covering any and all damages which might occur within three (3) years of completion of such operations, in an amount to be determined by the Agency commensurate with the projected operation.

SECTION 11 - ENFORCEMENT

Section 11.

11.1 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, at the direction of the Agency, 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 P.A. 155.

11.2 The Agency and/or its appointed agent 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. The owner, applicant, or their agent shall have such permit readily available and shall produce the same for inspection by such agent of the Agency upon request.

11.3 The Agency may suspend or revoke a permit if it finds, after giving due notice to the permittee of the facts or conduct which warrant the intended action, and after a hearing at which the permittee is given an opportunity to show compliance with the requirements for retention of the permit, that the applicant has not complied

with the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application.

11.4 The applicant shall be notified of the Agency's decision to suspend, revoke, or maintain by certified mail within five (5) days of the date of the decision and the Agency shall cause notice of its order in revocation or suspension of a permit to be published in a daily newspaper having general circulation in the municipality where in the wetland or water course lies.

SECTION 12 - CONFLICT AND SEVERANCE

Section 12.

12.1 Where there is a conflict between the provisions of these regulations and those of any other applicable statute, ordinance or regulation, the provisions of that statute, ordinance or regulation which imposes the greatest restrictions on the use of wetlands and water courses 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 valid part or parts.

SECTION 13 - EFFECTIVITY

Section 13.

13.1 These regulations, including boundaries of inland wetlands and water courses shall not become effective or be established until after a public hearing in relation thereto is held by the Agency, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the form of a legal advertisement, appearing in a newspaper having a substantial circulation in the municipality at least twice at intervals of not less than two (2) days, the first, not more than twenty-five (25) days nor less than fifteen (15) days, and the last, not less than two (2) days, before such hearing and a copy of such proposed regulation or boundary shall be filed in the office of the City and Town Clerk for public inspection at least ten (10) days before such hearing, and may be published in full in such paper.

13.2 These regulations shall become effective upon filing in the office of the City and Town Clerk of the City of Middletown, Connecticut, after approval thereof by the Commissioner of Environmental Protection and publication of notice of promulgation in a newspaper having general circulation in the City.

SECTION 14 - AMENDMENTS

Section 14.

14.1 These regulations and the Official Inland Wetlands and Water Courses Map may, from time to time, be amended by the Agency 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 water courses in the City of Middletown becomes available.

14.2 Any application submitted to the Agency shall be judged according to the regulations in force on the date of its submission.

14.3 These regulations and the Official Inland Wetlands and Water Courses Map shall be amended in the manner specified in Section 8 (b) of P.A. 155.



A P P L I C A T I O N

I

For The

INLAND WETLANDS AND WATER COURSES ACT

CITY OF MIDDLETOWN

General information to be supplied by all applicants for a permit.

1. Name of Applicant _____
Address _____

Indicate if other than property owner.
Applicant's interest in property (lessee, licensee, etc.)

2. Name of property owner _____
Address _____

3. Location of property: _____
Include lot number(s) as shown on Tax Assessors Map

4. Description of proposed activity and location of property:
Include listing of all proposed regulated activities

5. Number of areas of wetland included in application:
Include soil drainage classification(s) or natural soils
group classification(s)

The applicant understands that this application is to be considered complete only when all information and documents required by the Agency have been submitted.

The undersigned warrants the truth of all statements contained herein and in all supporting documents according to the best of his knowledge and belief.

This form received by Agency

Date _____

By _____

Supporting documents completed
and received:

Date _____

By _____

For the Agency

Applicant

By _____

Authorized Agent

Address

Tel. _____

Site Plan and Environmental Information

The applicant shall submit a map or maps and such information concerning the proposed regulated activity(ies) as the _____ regulating agency indicates below:

1. Sheet sizes

- a. 8" x 11" or multiples thereof
 b. 24" x 36" or multiples thereof

2. Graphic scale for site plan information

	Scale required	Information required outside regulated area (List)
<input type="checkbox"/> a. Regulated area	1"=40'	
<input type="checkbox"/> b. Area directly involved in regulated activity	1"=40'	
<input type="checkbox"/> c. Property boundaries	1"=200'min.	
<input type="checkbox"/> d. Additional area _____ in width	1"=200'min.	

 3. North arrow

4. Title block in lower right corner of sheet showing:

- a. Name of project
 b. Name of owner/applicant and/or developer
 c. Date and subsequent date of revisions
 d. Legible signature of person responsible for drawing plan
 e. Legible signature of person responsible for drawing plan. Professionals certifying plan shall be appropriate to nature of activities proposed. Such site information about the proposed uses or effects of the regulated area must be certified by a licensed land surveyor, professional engineer, professional architect, or professional landscape architect, any of which must be registered in the State of Connecticut.
1. Any proposed on-site sewage disposal system shall be certified by a registered sanitary engineer.

5. Location of any water courses or inland wetlands covered by the site plan as defined in Section 2 of these regulations and in Section 4 of Public Act 155.
- a. Boundaries and symbol of soil mapping unit(s)
6. Site areas of permit and designation of each activity.
7. Existing and proposed buildings or other structures.
- a. Location
- b. Floor elevation
8. Location, size and composition of sidewalks, offstreet parking and loading, including driveway entrances and exits, parking and loading spaces and traffic islands and barriers.
- a. Per cent of regulated area to be covered with impermeable surface.
9. Location of tree stands, shrubs and other significant vegetation, both existing and planned.
10. Source of water supply.
11. Proposed method of sewage disposal.
- a. Proposed design and specifications of on-site sewage disposal certified by a sanitary engineer.
12. Design of existing and proposed storm drainage system including elevations by contour at not less than five foot intervals. Additional detail may be required.
13. Proposed grading by not less than five foot contours of any materials to be moved. Additional details may be required.
14. Location of all percolation pits, test pits and observation holes.
15. Physical Data
- a. Material to be deposited and/or excavated
1. Area
2. Volume
3. Physical composition (texture, components) of material to be deposited
4. Chemical composition of all toxic materials, whether such materials are enclosed in containers or deposited openly
5. Potential chemical reactions of deposited materials yielding toxic products or concentrations of products
6. Final height of filled area above seasonal high water table
7. Texture and composition of soil left after excavation
8. Slope of excavation
9. Depth to water table or water level if inundated after excavation

Water Course Data

IV

a. Open water characteristics

- 1. Size of ponds or lakes
- 2. Maximum depth and if possible, volume of water

b. Stream characteristics

- 1. Intermittent or permanent

c. Known flood levels to be indicated on map

d. Discharges, if any

- 1. Type
- 2. Frequency and volume
- 3. Chemical composition

e. Creation of new water bodies

7. Biological Data

Per cent of
Regulated area Dominant Species

Tree
Shrub
Grasses, weeds, etc.
Aquatic
Pasture
Cultivated Area

. Probable effects of changes on:

- a. Vegetation
- b. Wildlife

. Measures to protect regulated area from:

- a. Erosion and sedimentation
- b. Leaching of pollutants
- c. Direct discharge of pollutants
- d. Increased flooding and surface runoff hazards

. Other site information as the Agency deems necessary to meet the objectives of these regulations and Public Act 155. (List)