

# Inland Wetlands Commission



Land Use Academy Fact Sheets

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## Legal Basis of Authority

Under Section 22a-42c of the Connecticut General Statutes (CGS) each municipality is required to establish an inland wetlands and watercourses agency (IWWA). The local legislative body may authorize an existing board or establish a new board.

Once established the IWWA must develop regulations that conform to regulations adopted by the state DEP. Local agencies may adopt additional regulations as long as they conform with the Commissioner's regulations.

## CT DEEP Role

Unlike zoning and subdivision regulation, the local wetland agency regulates activities pursuant to model state regulations developed by the DEEP Commissioner. The statutes states that the Commissioner of DEP:

1. Shall promulgate regulations to protect inland wetlands and watercourses;
2. Is empowered to regulate wetlands if a community that fails to do so; and
3. May appeal decisions of a local agency if s/he feels those decisions do not properly protect wetlands.
4. Has exclusive jurisdiction over tidal wetlands and all regulated activities undertaken by any State agency or department.
5. Will provide training for members of local IWWAs

The Commissioner is empowered to issue orders for violations if the municipality fails to do so.

## Membership

The ordinance establishing the IWWA must state the number of members and alternates, the length of their terms, the method of selection and removal, and the manner of filling vacancies.

At least one member of the IWWA or its staff must complete an Inland Wetland training program developed by DEP and set aside at least one meeting per year to receive information from the training program. However failure to do so does not affect the validity of actions taken by the IWWA.

## Powers and Duties

The following are powers and duties of Inland Wetlands and Watercourses Agencies as set forth in the CGS;

1. To establish, change or repeal inland wetlands regulations and boundaries; [22a-42a(b)]
2. To hear, consider and decide upon petitions for changes in the inland wetlands regulations or boundaries. [22a-42a(b)];
3. To hear, consider and decide upon applications for regulated activities involving inland wetlands and determine if proposed activities are exempt from the regulations. [22a-42a];
4. To enforce inland wetlands regulations and conditions of permits. [22a-42a (d), 22a-44 (a)];
5. May delegate to a duly authorized and trained agent (typically an Inland Wetland Enforcement officer), the authority to approve or extend an activity that is not located in an inland wetland when the agent finds that the activity would have minimal wetland impact;
6. To hear appeals from any decision of its duly authorized agents (see #5 above). The IWWA shall sustain,

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alter or reject that decision or require that an application be made directly to the agency.

Enforcement Officer. There is no separate wetlands appeals board.

Unlike Zoning Commissions, Inland Wetland Commissions can hear appeals on decisions of their Inland Wetlands

*\*Bracketed numbers reference sections of the Connecticut General Statutes, visit [cga.ct.gov/2023/pub/title22a.htm](http://cga.ct.gov/2023/pub/title22a.htm)*



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### Inland Wetland Key Terms and Concepts

#### Regulated Areas

##### *Inland Wetlands*

Inland wetlands are land including submerged land, not regulated under the Tidal Wetlands Act which consists of soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the USDA Natural Resources Conservation Service Soil Survey. [22a-38]

##### *Watercourses*

Watercourses are 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 this state and are not regulated by the Tidal Wetlands Act. [22a-38]

##### *Intermittent Watercourses*

Intermittent watercourses have a defined permanent channel and bank and two or more of the following:

- Evidence of scour or recent alluvium or detritus deposits;
- Standing or flowing water of a duration longer than any particular storm or;
- Presence of vegetation that grows in water or very wet soils.

##### *Upland Review Areas*

A local wetland agency regulates activities within areas around wetlands and watercourses such regulations shall:

- Be in accord with the wetlands regulations concerning activities in wetlands and;
- Apply only to activities that are likely to adversely affect the physical characteristics of a wetlands or watercourse.

#### Regulated Activities

Any operation within or use of a wetlands or watercourse involving:

- Removal or deposition of material, or
- Any obstruction,
- Construction,
- Alteration or,
- Pollution of such wetlands or watercourses

This does not include the activities permitted as of right (see below). Hence, not all activities taking place within a wetland area require a permit.

#### Activities "Permitted As of Right"

The following uses are permitted as of right in wetlands and watercourses:

1. Grazing, farming, nurseries, gardening and harvesting of crops;
2. Farm ponds of three acres or less that are essential to the farming operation.
3. Residential homes for which a building permit has been issued on or before July 1, 1987;
4. Boat anchorage or mooring;

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5. Uses incidental to the enjoyment and maintenance of residential property including maintenance of existing structures and landscaping, but not including removal or deposition of significant amounts of material from or onto a wetland or diversion or alteration of a watercourse;
  6. The operation of dams, reservoirs and similar facilities by water companies;
  7. Maintenance on existing drainage pipes on residential property where the area to be disturbed does not contain vegetation growing in water or very wet soils;
  8. Conservation of soil, vegetation, water, fish, shellfish and wildlife provided such activities do not disturb the natural and indigenous character of the wetland;
  9. Outdoor recreational activities that do not disturb the natural and indigenous character of the wetland.
  10. Maintenance of any drainage pipe which existed prior to the adoption of local wetlands regulations or July 1, 1974, whichever is earlier, provided the pipe is in a residentially zoned area and does not contain "hydrophytic vegetation," which is vegetation that is wetlands obligate.
  11. Withdrawal of water for fire emergency purposes.
- The courts have ruled that a wetlands agency may require someone claiming to be engaged in an "as of right" activity to appear before the agency and submit such information as it deems necessary to make a determination as to whether the activity is, in fact, exempt.

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### CHECK OUT THESE ONLINE TOOLS AND RESOURCES

- *CT Association of Conservation and Inland Wetland Commissions* - provides resources for Inland Wetland and Conservation commissioners. Visit [caciwc.org](http://caciwc.org)
- *CT DEP Municipal Inland Wetland Commissioners Training Program* - [ct.gov/dep](http://ct.gov/dep)
- *Online Academy* - provides online resources for those who want a quick refresher or are unable to attend a training. Visit [clear.uconn.edu/lua/online](http://clear.uconn.edu/lua/online)
- *Community Resource Inventory Online* - provides organized maps, tutorials and case examples that assist you in developing a basic inventory of your towns natural and cultural resources.
- *Connecticut's Changing Landscape* - provides data about how CT 's landscape has changed since 1985. Local Land Use officials can use this resource to evaluate the environmental, social and economic impacts of development that guide their decision making.

To learn more visit [nemo.uconn.edu/tools.htm](http://nemo.uconn.edu/tools.htm)

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#### Factors To Be Considered When Reviewing An Inland Wetlands Application

Section 22a-41(a) of the CGS states the Inland Wetland Commissioner shall take into consideration all relevant facts and circumstances when reviewing applications including, but not limited to:

1. The environmental impact of the proposed action;
2. The purpose for, and any feasible and prudent alternatives to, the proposed action;

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- feasible is defined as able to be constructed consistent with sound engineering principles.
  - prudent is defined as economically and otherwise reasonable in light of the social benefits to be derived from the proposed activity. Cost may be considered, however, a mere showing of expense will not necessarily mean an alternative is imprudent.
3. The relationship between short-term uses and the maintenance and enhancement of long term productivity of such wetland;
4. Irreversible and irretrievable loss of resources which would be involved in the proposed activity;
5. 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 activity; and
6. 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.
7. Impacts on aquatic, plant, or animal life only if such impacts will likely impact or affect the physical characteristics of the wetland or watercourse, per 22a-41(b)(d).

*For more information*

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Disclaimer: The materials contained in this fact sheet are a general, lay summary of the roles and responsibilities of local land use commissioners. They should not be relied on as a valid legal opinion or position. As such, these materials should not be used in place of consulting an attorney about the roles and responsibilities of a local land use commissioner.



*The Land Use Academy is a program of the Center for Land Use Education and Research (CLEAR). Land, Sea and Space Grant collaborating.*