

ARTICLE 7 – RESOURCE REGULATIONS

SECTION 70 – FLOODPLAIN MANAGEMENT

70. FLOODPLAIN MANAGEMENT

70.1 PURPOSE

The FLOODPLAIN Management District districts exist to minimize the public and private losses due to flood conditions by controlling the *uses*, methods of construction, alteration of natural waterways and barriers, topographical features of land and erection of flood barriers.

70.2 STATUTORY AUTHORITY

Section 7-148 of the Connecticut General Statutes, as amended.

70.3 FLOODPLAIN MANAGEMENT DISTRICT MAPS

The Floodplain Management District is an area of special flood hazard identified by the Federal Emergency Management Agency (FEMA), as shown on the Federal Emergency Management Agency Flood Insurance Rate Map (FIRM Map, revised April 18, 1983) and Floodway Boundary and Floodway Map (FLOODWAY, Effective Date July 16, 1980) for the City of West Haven, Connecticut (Community-Panel Numbers 090092 0001-0004), or latest edition.

70.4 SUBJECT ACTIVITIES

No zoning, building or other permit shall be issued for a *building, use* or *structure* unless a Floodplain Development Permit has been issued in accordance with the provisions of the Floodplain Management Ordinance of the City of West Haven, Connecticut.

70.5 USES PERMITTED

Such *uses* as are allowed and in the same manner as the underlying zone shall be permitted in the Floodplain Management District, within the restrictions of the Floodplain Management Ordinance of the City of West Haven.

70.6 PERMIT PROCEDURES

Application for a Floodplain Development Permit shall be made to the Building Official, in accordance with the provisions of the West Haven Floodplain Management Ordinance.

70.7 WAIVERS

The West Haven Flood and Erosion Control Board (hereafter FECB) shall hear and decide appeals and requests for waivers from the requirements, in accordance with the standards of the West Haven Floodplain Management Ordinance.

70.8 ENFORCEMENT

The FECB or a designated agent thereof shall have the power to enforce this provision.

70.9 FEES

Each application submitted to the Board for a waiver shall be accompanied by a fee payable to the City of West Haven in accordance with Chapter 101, Section 101-1 Fees, of the Code of the City of West Haven Code of Ordinances.

SECTION 71 – COASTAL AREA MANAGEMENT

71. COASTAL AREA MANAGEMENT

71.1 PURPOSE

Review and approval of a **Coastal Site Plan** under this Section is intended to fulfill the requirements of Sections 22a-105 through 22a-109 C.G.S., commonly known as the Connecticut Coastal Management Act (hereafter CCMA). The purposes of Coastal Area Management for the land within the City of West Haven Coastal Area Management overlay district (hereafter CAM) as delineated on the City of West Haven Zoning Map are as follows:

- to ensure that activities satisfy all lawful requirements of the CCMA; and
- that potential adverse impacts of proposed activities on both coastal resources and future water-dependent development activities are acceptable; and
- to implement land use policies effectively; and
- protect and responsibly manage the coastal resources of West Haven; and
- to effectively plan for necessary capital improvements to insure the continued protection of the City's coastal resources; and
- to plan for and implement improvements and enhancements to the City's parks and open space network that balance public use and preservation of coastal resources.
- To give preference and highest priority to water dependent uses on waterfront sites.

71.2 DEFINITIONS

The terms defined below are specialized and solely found in this Section. Terms used more widely are found in Section 2. Definitions

71.2.1 **COASTAL HAZARD AREA:** Those land areas inundated during coastal storm events or subject to erosion induced by such events, including flood hazard areas as defined and determined by the National Flood Insurance Act, as amended, and all erosion hazard areas as determined by the State.

71.2.2 **COASTAL RESOURCES:** The coastal waters of the state, their natural resources, related marine and wildlife habitat and adjacent shorelands, both developed and undeveloped, that together form an integrated terrestrial and estuarine ecosystem, as defined in the CCMA. Coastal resources include the following:

- A. Coastal bluffs and escarpments
- B. Rocky shorefronts
- C. Beaches and dunes
- D. Intertidal flats
- E. Tidal wetlands
- F. Freshwater wetlands and watercourses
- G. Estuarine embayments
- H. Coastal hazard areas
- I. Developed shorefront
- J. Island
- K. Nearshore waters
- L. Offshore waters
- M. Shorelands
- N. Shellfish concentration areas

71.2.3 **COASTAL SITE PLAN:** The following site plans, plans and applications or projected located fully or partially within the coastal boundary and landward of the

COASTAL AREA MANAGEMENT

mean high water mark submitted to the Planning and Zoning Commission shall be subject to the Section 71 Coastal Area Management requirements:

1. Site Plans;
2. Subdivision or Resubdivision Plans;
3. Applications for a Special Permit;
4. Proposed municipal project referred in accordance with Section 8-24 C.G.S.

71.2.4 SHORELINE AND EROSION CONTROL STRUCTURE: Any structure the purpose or effect of which is to control flooding or erosion from tidal, coastal or navigable waters and includes breakwaters, bulkheads, groins, jetties, revetments, riprap, seawalls and the placement of concrete, rocks or other significant barriers to the flow of flood waters or the movements of sediments along the shoreline, per Section 22a-109(c) C.G.S. The term shall not include any addition, reconstruction or change or adjustment to any walled and roofed building which is necessary to comply with the requirements of the Code of Federal Regulations, Title 44, part 50, and any municipal regulation adopted there under.

71.2.5 WATER-DEPENDENT USES: Those uses and facilities which require direct access to, or location in, marine or tidal waters and which therefore cannot be located inland, including, but not limited to: marinas, recreational and commercial fishing and boating facilities, shipyards and boat building facilities, finfish and shellfish processing plants, waterfront dock and port facilities, water-based recreational uses, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or process water which cannot reasonably be located at an inland site and uses which provide general public access to marine or tidal waters.

71.3 GENERAL

The use of land, buildings and other structures within the CAM shall be established and conducted in conformity with the underlying zoning classification, subject to the additional requirements of this Section. Accordingly, such residential and non-residential uses shall be permitted as are permitted and in the same manner as permitted in the underlying zone, provided the coastal site plan review determines that the potential adverse impacts of the proposed use on both the coastal resources and future water dependent activities are acceptable within the meaning of the CCMA, as amended.

71.3.1 **Certificate of Zoning Compliance.** An application shall not be approved by the Zoning Enforcement Officer or issued until a determination is made that such *use* or *structure* has been reviewed and approved in accordance with the CCMA, as amended, or is a *use* exempt from such review as provided for below.

71.4 APPLICABILITY

Pursuant to CGS Section 22a-105, applications for activities or projects are subject to **Coastal Site Plan Review (CSPR)** requirements of this Section if:

71.4.1 The **site** is located fully or partially within the Coastal Boundary as defined by CGS Section 22a-94 and as delineated on the "Coastal Area Management Map of the City of West Haven, Connecticut" as adopted and effective August 1, 2004; and

71.4.2 The **application** is for a *certificate of zoning compliance*, a *special permit*, *special use exception*, a *variance*, *site plan review*, *subdivision* or *re-subdivision* approval, or referral of a proposed municipal project to the Planning and Zoning Commission in accordance with Section 8-24 of the CGS; and

71.4.3 The **activities** or **uses** not specifically listed in Section 71.5 as exempt require an application.

71.5 EXEMPTIONS

Pursuant to CGS Section 22a-109(b), the following activities, whether permitted as a matter of right, or subject to the site plan review process as a consequence of being subject to approval of a site plan or granting of a special permit or special use exception by the Planning and Zoning Commission, or granting of a variance from these Zoning Regulations by the Zoning Board of Appeals, shall be exempt from coastal site plan review requirements. At the request of the Applicant a written certificate of zoning compliance shall be issued subject to a fee in accordance with Section 101-1 Schedule of Fees of the West Haven City Code of Ordinances.

71.5.1 **Shoreline Flood and Erosion Control Structures** are **not** exempt.

71.5.2 Gardening, grazing and the harvesting of crops are not subject to the provisions of the Connecticut Coastal Management Act (CCMA).

The following activities are exempt:

71.5.3 **Exemption.** Minor exterior modifications that do not substantially alter the existing height, bulk, or façade of the building or structure nor in any other way degrade visual quality as defined in CGS Section 22a-93 (15) (f) shall be exempt.

71.5.4 Activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife and other coastal land and water resources, except those activities that meet the definition of a shoreline flood and erosion control structure.

71.5.5 Minor additions to or modification of existing **buildings** or detached accessory **buildings**, such as garages and utility sheds meeting the following criteria:

71.5.5.1 the addition is not located in or within fifty feet (50 feet) of the following coastal resources as defined by CGS Section 22a-93 : ***tidal wetlands, beaches and dunes, coastal bluffs and escarpments or coastal waters;***

71.5.5.2 the area of the addition shall not exceed twenty percent (20%) of the ***gross floor area*** of the existing ***building***.

71.5.6 Construction of new or modification of existing **structures** incidental to the enjoyment and maintenance of residential property including but not limited to walks, terraces, driveways, decks, swimming pools, tennis courts, docks, and detached accessory buildings, **except:**

71.5.6.1 where access along a public beach may be affected, or

71.5.6.2 where the proposed construction or modification is in or within fifty feet (50 feet) of the following coastal resources as defined by CGS Section 22a-93: tidal wetlands, beaches and dunes, coastal bluffs and escarpment, or coastal waters.

71.5.7 Construction of new or modifications of existing on-premise structures including fences, walls provided they do not meet the definition of ***shoreline flood and erosion control structure***, pedestrian walks and terraces, decks, underground utilities, essential electric, gas, telephone, water, and sewer service lines, septic systems, and other services, signs, and such other minor structures **except:**

71.5.7.1 when any work or associated activities will occur within fifty feet (50 feet) of tidal wetlands, beaches and dunes, coastal bluffs and escarpments, or coastal waters, as defined by CGS Section 22a-93.

71.5.7.2 where access along a public beach may be affected; or within a designated **coastal hazard area**.

- 71.5.8 Construction of an individual single family residential **structure** except when such **structure** is located on an island not connected to the mainland by an existing road, bridge, or causeway (i.e., on an island without motor vehicle access) or except when such **structure** is in or within one hundred feet (100 feet) of the following coastal resources as defined in CGS Section 22a-93: **tidal wetlands, beaches and dunes, coastal bluffs** and **escarpments, or coastal waters**.
- 71.5.9 Interior modifications to buildings that do not result in a change in **use** of the **building** or property.
- 71.5.10 Minor changes in use of a **building, structure**, or property except those changes occurring on property adjacent to or abutting coastal waters.

71.6 COASTAL SITE PLAN REVIEW APPLICATION REQUIREMENTS

71.6.1 A **Coastal Site Plan Review (CSPR)** application shall include **Plans** and a **Narrative** with the following information pursuant to Sections 22a-105 and 22a-106 of the General Statutes, which shall be submitted to the Commission or Board on a form prescribed by the Commission or Board:

1. **Plans:**

- showing the location and spatial relationship of **coastal resources** (see Section 71.2.1) on and contiguous to the site, and
- depicting location of the high tide line and mean high water, if applicable, A-zone and V-zone FEMA flood designations, a sediment and erosion control plan, grading plan, stormwater management plan and identification of endangered and/or threatened species on-site

2. **Narrative:**

- **describing** the entire project with appropriate plans, indicating project location, design, timing, and methods of construction; and
- **describing** the proposed methods to mitigate (minimize, not compensate) adverse effects on coastal resources and future water-dependent development activities.
- **evaluating** the potential beneficial and adverse impacts of the project on coastal resources and future **water-dependent** development activities, and
- **demonstrating** that the adverse impacts of the proposed activity, which shall be described and shown, is acceptable, and that such activity is consistent with the coastal policies of Section 22a-92 of the Connecticut General Statutes, and
- **assessing** the suitability of the project for the proposed location, and
- **assessing** the resources capability to accommodate the proposed use.

71.6.2 **Additional Materials may be Required.** The reviewing Commission or Board may require any additional supporting facts or documentation that it finds necessary to assist in a fair evaluation of the proposal.

71.7 HEARING AND NOTICE

In accordance with Section 22a-105 through 22a-109 of the General Statutes, hearing notification requirements, time limits for making a decision and decision publication and notification requirements for coastal site plans shall be the same as that set forth in the General Statutes for the type of permit or approval being requested. Pursuant to Section 22a-109(e) of the General Statutes the reviewing Commission/Board may at its discretion hold a public hearing on any application

for Coastal Site Plan approval. Public hearings shall conform to Section 8-7d of the General Statutes, as amended.

71.8 CRITERIA FOR REVIEW

In addition to determining compliance with any other applicable standards, requirements or criteria set forth by these Regulations, the Commission shall review coastal site plans for compliance with the following criteria established in Section 22a-106 of the Connecticut General Statutes:

- 71.8.1 Consistency of the proposed activity with the applicable coastal policies in Section 22a-92 of the Connecticut General Statutes;
- 71.8.2 The acceptability of potential adverse impacts of the proposed activity on coastal resources, as defined in section 22a-93(15) of the Connecticut General Statutes;
- 71.8.3 The acceptability of potential adverse impacts of the proposed activity on future water dependent development opportunities, as defined in Section 22a-93(17) of the Connecticut General Statutes; and
- 71.8.4 The adequacy of any measures taken to mitigate the adverse impacts of the proposed activity on coastal resources and future water dependent development opportunities;
- 71.8.5 The suitable mitigation of any environmental impacts to the coastal resources and the ecosystem and habitats of Long Island Sound are suitably mitigated using best available technology;
- 71.8.6 The siting of structures and uses serve to protect and harmonize with significant waterfront resources and unique characteristics of the site;
- 71.8.7 The mitigation of direct loss of significant natural resources or scenic values of the harbor area is mitigated;
- 71.8.8 Public views to and along the water are maintained and enhanced wherever possible through careful design and siting of structures; and
- 71.8.9 Except where public safety would be at risk or where public access would unreasonably conflict with a *water-dependent use* or the preservation or enhancement of significant waterfront resources, public access is promoted and appropriate public amenities are provided;
- 71.8.10 Where two or more lots are combined to form one building lot, the Commission may, in its discretion, increase the width of the required view lane;
- 71.8.11 For those situations in which the particular juxtaposition of the lot, water and public road would make providing a view lane serve no useful purpose for passersby on the public road or nearby residence(s), or in which the lot is of such a size that the distance from the public way to the water is so great that no appreciable view of the water would be provided, the Commission, in its discretion, may waive the view lane requirements of this section.

71.9 COMMISSION OR BOARD ACTION

- 71.9.1 **Action Required.** The Commission or Board shall approve, modify, condition or deny the coastal site plan for the proposed activity on the basis of the criteria listed in CGS Section 22a-106 of the General Statutes to ensure that the proposed activity is consistent with coastal policies in General Statutes and that the potential adverse impacts of the proposed activity on both coastal resources and future water dependent development opportunities are acceptable.
- 71.9.2 **Written Findings Required.** Pursuant to Section 22a-106 of the General Statutes the Commission shall state in writing the findings and reasons for its action with respect to

any coastal site plan approved, conditioned, modified or denied. Further, in approving any coastal site plan, the Commission shall make a written finding that:

- 71.9.2.1 the proposed activity as approved is consistent with the coastal policies in Section 22a-92 of the General Statutes,
- 71.9.2.2 the proposed activity incorporates as conditions or modifications all reasonable measures which would mitigate potential adverse impacts of the proposed activity on coastal resources and future water dependent development activities, and
- 71.9.2.3 the potential adverse impacts of the proposed activity on coastal resources and future water-dependent development opportunities, with any conditions or modifications imposed by the Commission, are acceptable.

71.10 NOTIFICATION AND PUBLICATON OF DECISION

A copy of the decision shall be sent by certified mail to the applicant within fifteen (15) days after such decision is rendered. A notice of decision shall be published in a newspaper having a general circulation in West Haven not more than fifteen (15) days after such decision is rendered.

71.11 FEE

Each application for coastal site plan or certificate of zoning compliance review shall be accompanied by a fee, payable to the City of West Haven, Connecticut, in accordance with the schedule of fees as established by Section 101-1 of the City Code.

71.12 VIOLATIONS

In accordance with Section 22a-108 of the General Statutes, any activity undertaken within the Coastal Boundary without the required coastal site plan review and approval, shall be considered a public nuisance and shall be subject to enforcement remedies authorized in that Section.

71.13 EXPIRATION AND EXTENSION OF CSPR PERMIT

Any coastal site plan approval for which a full building permit has not been issued within one (1) year from the approval date shall become null and void unless an extension of time for no more than one (1) additional year is applied for and granted by the body granting the original approval. No more than one extension of time may be granted.

SECTION 72 – INLAND WETLANDS AND WATERCOURSES

72. INLAND WETLANDS AND WATERCOURSES

72.1 APPLICABILITY

In reviewing any application for a subdivision, Site Plan Review, Special Permit or Exception or Building Permit, the Commissioner of Planning and Development or other appropriate official shall determine whether such application falls within the special requirements for Flood Hazard zones or Coastal Area Management as provided by Sections 70 or 71 herein above, or within the Inland Wetlands and Watercourses Regulations as provided by State Statute, City Ordinance and this Section.

72.2 PROCESS.

In the event that such application falls within the jurisdiction of the Inland Wetlands and Watercourses Regulations, the applicant shall seek simultaneous approval from the Wetlands Agency of the City of West Haven, or its successor.

72.3 TIME LIMITS.

In the event that the Inland Wetlands Agency exercises jurisdiction over any proposed construction or development, then the Planning and Zoning Commission and/or Commissioner of Planning and Development shall not approve any application until such time as the Wetlands Agency has acted, or the statutory time in which it is to act has expired, whichever shall first occur.

SECTION 73 –RESOURCE REMOVAL, FILLING AND GRADING

73.1 GENERAL PROVISIONS

In no district shall it be permitted to change the contour of any lot, plot or parcel of land by adding, removing or regrading 500 cubic yards or more of loam, topsoil, sand, gravel, clay stone or other material or increase or decrease 25% of the lot area by a depth of two feet or more, without first obtaining approval from the West Haven Planning & Zoning Commission. When any activity of filling, excavating or regrading involves 500 cubic yards or more or an increase or decrease of 25% of the lot area by a depth of two feet or more, a special permit from the Commission and any other applicable federal, state or local agencies shall be required prior to initiating the activity. Any activity involving less than 500 cubic yards but not more than 20 cubic yards of fill, excavation or regrading shall be approved by the Commission of Planning & Development in consultation with the City Engineer or other appropriate city officials. In no event shall any activity of excavation, filling or regrading of any quantity take place without approval if it affects the adjoining properties.

73.2 ADMINISTRATIVE WAIVER.

The Commissioner of Planning and Development may at his discretion after consultation with the City Engineer, Building Official or other appropriate city officials, waive this requirement if:

- 73.2.1 The change in contour is a result of a building, structural improvement, public improvement or utilities project provided sufficient information, and
- 73.2.2 Documentation is furnished as part of the building permit application and site plan review process and it is deemed that the change in contour will have no significant detrimental affect on the adjoining properties, sensitive environmental features or any public or private roadways.

73.3 SPECIAL PERMIT REQUIRED

The Commission may grant a Special Permit for any grading, filling or removal operations on a lot, plot or parcel or any portion thereof, provided it meets the conditions specified herein and is not in violation of any ordinance, statute or regulation of the State of Connecticut and/or the City of West Haven and is judged to be environmentally sound and beneficial to the citizens of West Haven.

- 73.3.1 **Application.** Before any Special Permit may be granted, a written application shall be submitted to the Commission by the property owner or authorized agent on forms provided by the Commission, together with maps and plans prepared by an engineer or surveyor licensed to practice in the State of Connecticut as prescribed by the State Board of Registration, showing the following:
 - a) The boundaries and dimensions of the property where the filling, grading or excavation is proposed and the area to be graded, filled or excavated.
 - b) Existing contours in the area to be excavated, graded or filled and the proposed contours after completion of the grading, filling or excavation, which contours shall be prepared from an actual field survey based on bench marks noted and described on the map and drawn to a scale of not less than 100 feet to the inch with a contour interval not to exceed 2 feet;
 - c) Existing and proposed drainage of the area and drainage easements or flowage rights;

- d) Surrounding streets and property lines and their elevations in regard to mean sea level;
- e) Existing and proposed structures on the premises and the finished floor elevation of the lowest floor level (basement);
- f) Proposed truck access to the fill or excavation area and disposal site particularly in relation to schools, playgrounds, and residential neighborhoods and;
- g) Contours of affected portions of adjoining properties not to exceed 5 foot intervals.

The Commission may hold a joint session with any other government commission or agency which must issue any permits for this work.

73.4 ADDITIONAL INFORMATION

The Commission may require submission of additional information on soil conditions, location and depth of rock ledge, ground water conditions, and other such information as is deemed necessary to make a reasonable review of the application.

73.5 FINDINGS REQUIRED

The Commission may grant a Special Permit for a limited time period not exceeding one (1) year, provided it makes written findings that:

- 73.5.1 Such excavation or removal, filling or grading will not result in the creation of any sharp declivities, pits, depressions, soil erosion, or fertility problems, depressed land values, or create any drainage or sewer problems or other conditions which would impair the use of the property and adjoining properties in accordance with the Zoning Regulations, and
- 73.5.2 Such excavation or removal, filling or grading will be in harmony with the general purpose and intent of the Zoning Regulations, and
- 73.5.3 The completed work shall not impair the future use of the property in accordance with the Zoning Regulations of the City of West Haven, and
- 73.5.4 The slopes and banks will not impair development and safe use of the property or adjacent property.

73.6 MANDATORY CONDITIONS OF APPROVAL

A Special Permit may be granted *only* upon the following conditions:

- 73.6.1 Screening, sifting, washing, crushing, or other processing shall not be conducted on the premises unless measures are taken to mitigate the adverse effects on noise, dust, dirt and traffic on adjoining residential districts;
- 73.6.2 No building shall be erected on the premises except as temporary shelter for machinery or for a field office;
- 73.6.3 Proper drainage shall be provided to prevent the collection and stagnation of water;
- 73.6.4 No sharp declivities, pits or depressions or soil erosion problem shall be created, and no slopes or banks created that will exceed one (1) foot of vertical rise to two (2) feet of horizontal distance;
- 73.6.5 Topsoil removed shall be stockpiled on the premises and shall be spread over the excavated area and exposed rock surfaces to a minimum depth of four (4) inches in accordance with the approved contour plan;
- 73.6.6 When grading, fill or excavation and removal operations have been completed the area shall be suitably landscaped and/or paved according to approved plans;

- 73.6.7 During the time of operation barricades or fences for the protection of the public, shall be erected as required by the Commission;
- 73.6.8 Truck access to the site shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties;
- 73.6.9. The completed work shall not impair the future use of the property in accordance with the Zoning Regulations of the City of West Haven and that slopes and banks will not impair development and safe use of the property;
- 73.6.10 The premises shall be excavated or filled and graded in conformity with the plan as approved;
- 73.6.11 No drain-off of water or diversion of any watercourse with consequent flooding takes place shifting water, drainage, or flooding conditions from the premises to another;
- 73.6.12 That the applicant shall file with the Commission a performance bond in such amount as the Commission shall deem sufficient to insure the faithful performance of the work to be undertaken pursuant to the conditions and approval, which shall be approved by the Corporation Counsel as to form and deposited with the Comptroller. No excavation or removal or grading or filling operation shall begin until such bond is accepted by the Commission.

73.7 EXTENSION OF PERMIT

The Commission may renew a permit at the time of expiration if the owner of the property or his authorized agent files with the Commission a report of an engineer or surveyor licensed to practice in the State of Connecticut certifying that the excavation already completed conforms to the approved plans.

73.8 PERIODIC REPORTS

As an additional condition for granting of a Special Permit, the Commission may require the applicant to submit periodic reports of progress of the filling, grading, excavation or removal, including contours and cross sections, prepared and certified by an engineer or a land surveyor licensed to practice in the State of Connecticut. At anytime the Commission finds that the excavation or removal is not being conducted or cannot be conducted in accordance with plans as approved, the Commission may order the applicant to cease operations and revoke the permit.

SECTION 74: SOIL EROSION AND SEDIMENT CONTROL

74.1 AUTHORITY

The SESC Regulations have been prepared and are adopted in accordance with the provisions of Public Act 83-388, entitled "An Act Concerning Soil Erosion and Sediment Control", and Sections 8-2 and 8-25 of the Connecticut General Statutes, as amended.

74.2 PURPOSES

The purpose of soil erosion and sediment control is to:

- minimize land form change that occurs as a result of development; to preserve the nature of a site;
- sustain aesthetic, recreational and fish and wildlife habitat and values;
- maintain the capability of soil to support vegetation;
- reduce sediment entering water bodies and sewers; and
- conserve and protect the water, land, air, and other environmental resources of the City.

74.3 DEFINITIONS

74.3.1 **Definition of Terms.** Certain words, terms, and phrases used in these SESC Regulations shall have the meanings presented in this section. All words used in the present tense include the future tense, and the word "used" shall be deemed to include "designed, intended, or arranged to be used". Words not defined in this Section shall be as defined in the most current edition of Merriam-Webster's Collegiate Dictionary, 11th or latest edition.

74.3.2 **AGRICULTURAL ACTIVITIES:** Cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including livestock, or the operation, management, conservation, improvement, or maintenance of a farm and its buildings, tools, and equipment.

74.3.3 **APPROVAL:** A signed, written document constituting a finding by the Planning and Zoning Commission that a ***Soil Erosion and Sediment Control (SESC) Plan*** complies with the applicable requirements of these SESC Regulations.

74.3.4 **COMMISSION:** The Planning and Zoning Commission of West Haven, Connecticut, or its designated agent (hereinafter Commission).

74.3.5 **COUNTY SOIL AND WATER CONSERVATION DISTRICT:** The New Haven County Soil and Water Conservation District established under section 22a-315(a) of the General Statutes of the State of Connecticut.

74.3.6 **DATE OF RECEIPT:** The day of the next regularly scheduled meeting of the Commission immediately following the day of submission of an Application to the Commission, provided such meeting is no earlier than three (3) business days after submission, or thirty-five (35) calendar days after such submission, whichever is sooner (Sec. 8-7d, C.G.S.).

74.3.7 **DAYS:** As required by Section 1-21(b) of the Connecticut General Statute all times specified in the SESC Regulations are in workdays.

74.3.8 **DEVELOPMENT:** Includes, but shall not be limited to, any construction or grading activities to improved or unimproved real property.

74.3.9 **DISTURBED AREA:** An area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.

74.3.10 **EROSION:** The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

- 74.3.11 FORESTRY: An on-going commercial forestry operation
- 74.3.12 GRADING: Any excavating, grubbing, filling (including hydraulic fill), removal, or stock-piling of earth materials or any combination thereof including the land in its excavated or filled condition.
- 74.3.13 INSPECTION: The periodic review of sediment and erosion control measures required by the approved SESC Plan.
- 74.3.14 SEDIMENT: Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.
- 74.3.15 SOIL: Any unconsolidated mineral or organic material of any origin.
- 74.3.16 SOIL EROSION AND SEDIMENT CONTROL (SESC) PLAN: A clear delineation of specific measures that minimize or eliminate soil erosion and sedimentation resulting from development. Such plan shall include, but is not limited to, an application form, a narrative, and a map or maps. The narrative shall describe the project, the schedule of major activities on the land, the application of conservation practices, design criteria, construction details and the maintenance program for any erosion and sediment control facilities that are installed. The map(s) shall show topography, cleared and graded areas, proposed area alterations map(s) and the location of and detailed information concerning erosion and sediment measures and facilities.

74.4 ACTIVITIES REQUIRING APPROVED SESC PLAN

- 74.4.1 **Approval or Exemption Required.** No SESC permit shall be issued for a building, use or structure unless the building, use or structure is exempted in accord with the provisions of section 4 of these SESC Regulations, or has been reviewed and approved in writing by the Commission in accordance with the provisions of the SESC Regulations.
- 74.4.2 **When Plan is Required.** A SESC Plan shall be submitted with any application for development when:
 - 1. The site of such development is one-half acre or more, unless exempted in Section 74.5 of these regulations, or when in the course of development:
 - a. More than 30% of the total lot area will be re-graded by more than two (2) feet; or
 - b. More than 800 cubic yards of soil and rock will be moved, removed or added.

74.5 EXEMPTIONS

- 74.5.1 **Defined *Agricultural Activities Exempt.*** The following agricultural activities are exempt from these SESC Regulations:
 - 1. Cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including livestock; or
 - 2. Operation, maintenance, conservation, improvement, or management of a farm and its buildings, tools, and equipment.
- 74.5.2 **Single Family Dwelling Exempt.** Construction of a single family detached dwelling that is not part of a subdivision or larger development of land shall be exempt, provided that there is no grading or excavation on the lot more than four (4) feet beyond the perimeter of the dwelling itself. It is the intent of these Regulations **not** to allow a fragmented parcel-by-parcel development of a subdivision without required erosion and sediment control provisions.
- 74.5.3 **Existing Activities Exempt.** Any regulated activity legally existing as of the effective date of these SESC Regulations shall be exempt and permitted to continue within any time limits previously established provided that no new or additional regu-

lated activity requiring Approval under these Regulations is conducted after the effective date without such Approval. If originally approved time limits expire before completion (not including any extensions of such time limits), approval shall be required for remaining work unless such extensions were approved prior to the effective date of these Regulations.

74.5.4 **Determination of Exempt Activities.** The Commission or a designated agent thereof shall have the power to determine if an activity is exempt from the SESC Regulations. Such determination shall be in writing and a file of exemptions shall be maintained.

74.5.5 **Written Determination of Exemption.** For the convenience of an applicant, lender, seller, buyer, or other interested party, a written determination of exempt activity may be requested. Such written request shall be accompanied by a fee payable to the City of West Haven in accord with §101-1 of the Code of Ordinances.

74.6 SESC PLAN REQUIREMENTS

74.6.1 **SESC Plan.** When any person intends to conduct an activity that is not specifically exempted in these regulations a Soil Erosion and Sediment Control Plan (herein after "SESC Plan") shall be filed. The SESC Plan shall include an application form, a narrative, and a map, as described below.

74.6.2 **Application Form.** The application for SESC Plan review shall be on a form provided by the Commission. The Commission may prescribe such forms, contents, and rules as it deems necessary for the filing of SESC Plans and other matters not specified in the SESC Regulations. All Application Forms shall include the following information:

- The applicant's name, address and telephone number; and
- The owner's name (if applicant is not property owner), home and business address, phone number(s) and written consent to the proposed activity set forth in the application; and
- Applicant's legal interest in the land (i.e., owner, option holder); and
- The geographical location of the property (or properties) to be affected by the proposed activity [Tax Assessor's Map and Parcel number(s)].
- 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;
- Authorization for Commission members and agents (i.e., City Engineer, Building Official) to inspect the property at reasonable times both before and after a finding has been issued.

74.6.3 **Narrative.** The narrative shall describe provisions to adequately control erosion and sedimentation and reduce the danger from storm water runoff both on and off site during and after construction based on the best available practices. Such principles, methods and practices necessary for approval are found in the Connecticut Guidelines for Soil Erosion and Sediment Control (1988 or latest edition). Alternative principles, methods and practices may be used with prior Commission approval, if recommended by the City Engineer. Emphasis shall be placed on prevention of erosion and vegetative or non-structural control measures. The narrative may be included on the site plan map(s), and shall describe the development, including the schedule for grading and construction activities, with:

- Start and completion dates; and
- Sequence of grading and construction activities; and
- Phasing of project, if applicable; and

- Sequence for installation and/or application of SESC measures; and
- Sequence for final stabilization of the project site.
- Proposed SESC measure & storm water management facility construction details.
- The installation and/or application procedures for proposed SESC measures and storm water management facilities.
- The operations and daily maintenance program for proposed SESC measures and storm water management facilities.
- The individual responsible for monitoring control measures, with office address and telephone number(s) for 24 hour a day contact.
- Provisions for contingency plans if unforeseen erosion or sedimentation problems arise, including emergency situations caused by storms.
- Any features of the site which may be particularly vulnerable to erosion, such as ridge tops, swales, and soil types and control measures specific to these features shall be noted (soil types may be found in the soil survey of New Haven County).

74.6.4 **Map.** A Map or Maps shall be filed to accompany the application required in the SESC Regulations. No Map shall be deemed complete unless it shall be in such form and contain such information as the Commission deems necessary for a fair and full determination of the issues. The Commission may require map preparation by a Connecticut licensed engineer. A site visit and field report may be deemed necessary. The Map(s) shall include, at a minimum, the following information:

- A site plan map(s). The suggested scale of the map is 1 inch = 40 feet with 1 foot contour intervals, but may be more or less detailed to meet specific site needs.
- A north arrow, street names, scale, date prepared, and name of preparer.
- Location of the proposed development and adjacent properties, including all buildings within 25 feet of the property line.
- Existing and proposed topography showing 1 foot contours, including flood zones, wetlands, watercourses, water bodies, and soil types if pertinent.
- Existing site vegetation and natural resources including major trees and proposed changes.
- Existing structures on the project site, including but not limited to paving, fencing, buildings, and archaeological sites.
- Proposed alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines.
- Location of and design details for all proposed SESC measures and storm water management facilities over the period of construction.
- Proposed SESC measure and storm water management facility construction details.

74.6.5 **A-2 Survey May Be Required.** The Commission may require a Type A-2 survey.

74.6.6 **Additional Information May Be Required.** Any other information deemed necessary and appropriate by the applicant or requested by the Commission or its designated agent shall be included in the *SESC Plan*.

74.6.7 **Information Binding.** All information submitted for review in the *SESC Plan* shall be considered factual, or in the case of an anticipated activity, binding. A failure of the applicant or any agents thereof to provide correct information or to conduct development activities within the levels anticipated in the approved SESC Plan shall be sufficient grounds for the revocation of any approval under the SESC Regulations and/ or for penalties to be imposed. Each day of violation or deception shall be considered as a separate offense.

74.7 CLASSIFICATION AND FILING FEE

Each SESC Plan application submitted to the Commission for Approval shall be accompanied by a fee payable to the City of West Haven in accord with Section 101-1 of the Code of Ordinances.

74.7.1 Staff may determine filing fee. Based upon the anticipated level of disturbance as determined from a preliminary staff review of submitted materials. A SESC Plan application shall be classified as:

Class A (Minimal Impact); or

Class B (Significant Impact); or

Class C (Significant Public Effect, Public Hearing Required).

74.7.2 Appeal. An Applicant may appeal the classification to the Commission, which shall make a final determination of Application Class as it may deem appropriate upon a review of the submitted materials, and may adjust the fee in accord with Schedule of Fees of Section 17-22 of the Code of Ordinances.

74.7.3 Changes Require Filing of Plan Amendment. Any and all proposed substantive changes in the development activity relevant to the approved SESC Plan shall be submitted to the Commission as Amendments to the Plan. The City Engineer shall review proposed changes to the approved SESC Plan and return comments to the Commission within fifteen (15) days of receipt of the referral. Amendments shall be approved or denied by the Commission in writing within thirty-five (35) days of the receipt of the Amendments unless a public hearing has been scheduled. Substantive changes shall not commence until written notification of approval is received from the Commission.

74.8 MINIMUM ACCEPTABLE CONTROL STANDARDS

74.8.1 Minimum Standards for Individual Control Measures. The Connecticut Guidelines for Soil Erosion and Sediment Control (1988 or latest edition) shall be the standard. The Commission may grant exceptions when requested by the applicant, if the City Engineer presents and recommends technically sound reasons. SESC Plans shall result in a development that minimizes erosion and sedimentation during construction; is stabilized and protected from erosion when completed; and does not cause off-site erosion and/or sedimentation.

74.8.2 Determination of Peak Flow Rates and Volumes of Runoff. The appropriate method from the Connecticut Guidelines for Soil Erosion and Sediment Control (1988 or latest edition) shall be used unless an alternative method is approved by the Commission, following the favorable recommendation of the City Engineer.

74.9 ISSUANCE OF FINDING

74.9.1 Issuance of Finding Required. The Commission shall make a finding of Approval if the SESC Plan as filed, or with conditions of approval it may impose, complies with the requirements and objectives of these SESC Regulations, or Denial if the development proposal does not comply with these SESC Regulations. A finding of approval, approval with conditions, or denial shall be made in writing within thirty five (35) days of the date of Commission receipt of the completed SESC Plan, unless a public hearing has been scheduled.

74.9.2 Extension of Time Limit for Approval Not Implied. Nothing in these regulations shall be construed as extending the time limits for the approval of any application under the Connecticut General Statutes or any other applicable legislation.

- 74.9.3 **Referral to County Soil and Water Conservation District.** Following receipt of an SESC Plan application it may be referred to the County Soil and Water Conservation District for review, which may make recommendations concerning such plan provided such review shall be completed within fifteen (15) days of Plan receipt.
- 74.9.4 **Referral to City Engineer.** Following Application receipt a SESC Plan may be referred to the City Engineer, who may return comments on the plan to the Commission within fifteen (15) days of its receipt. Such comments shall be advisory only.
- 74.9.5 **Optional Referrals.** The Commission may forward a copy of the development proposal to any other commission or review agency or consultant for review and comment.
- 74.9.6 **Commission may Require Public Hearing** at its discretion, to be held in accordance with the provisions of Sec. 8-7d C.G.S.

74.10 CONDITIONS OF PLAN APPROVAL

- 74.10.1 **Standard and Optional Conditions of Approval.** The Commission may establish such conditions of approval as binding requirements for an SESC Plan as it deems necessary to fulfill the purposes of these Regulations. In addition the following conditions shall apply to all approved SESC Plans.
- 74.10.2 **Performance Sureties.** The Commission may require a performance bond with sureties or other binding financial instrument in an amount and in a form approved by the Commission as a condition of approval of the Plan, and may cover corrective measures, if required. The bond and sureties shall be conditioned on compliance with all provisions of these Regulations and conditions of approval of the Plan.
- 74.10.3 **Public Liability Insurance Certification.** The applicant may be required to certify that he/she has public insurance against liability which might result from the proposed operation or use covering any and all damages which might occur within one (1) year of completion of such operations, in an amount to be determined by the Commission commensurate with projected operation and the potential for damage on or off site.
- 74.10.4 **City Held Harmless.** The Applicant shall hold the City of West Haven harmless from damages arising out of the regulated activities.
- 74.10.5 **Start of Work.** Site development shall not begin unless the SESC Plan is approved and those control measures and facilities in the SESC Plan scheduled for installation prior to site development are installed and functional.
- 74.10.6 **Contractors to be Informed.** The Approved SESC Plan soil erosion and sediment control measures and facilities shall be installed as scheduled and all contractors shall be made aware of the requirements of the approved SESC Plan and shall work in accordance with its provisions.
- 74.10.7 **Control Measures and Facilities Required to be Maintained** in effective condition to ensure compliance with the approved SESC Plan.

74.11 INSPECTION

- 74.11.1 **Site Inspection May Be Required for Approved SESC Plan.** Site inspections may be made by the Commission during development to ensure compliance with the approved SESC Plan. A site inspector shall determine that control measures and facilities are properly performed or installed and maintained throughout the construction period. The applicant or an agent thereof, shall have the approved SESC Plan document readily available at the job site and shall make the document available for inspection upon request.

- 74.11.2 **Reports Required in Five Working Days.** Written staff reports of inspections shall be submitted to the Commission within five (5) working days of such inspection.
- 74.11.3 **Applicant Report.** The Commission may require the applicant to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the approved SESC Plan and are being operated and maintained.
- 74.11.4 **Additional Control Measures.** If, upon inspection of the site, the site inspector determines that the control measures in place are not adequate to control erosion, additional measures may be required to be installed within a reasonable time limit as determined by the inspector. Any such request for additional control measures shall be made in writing and shall be brought to the attention of the Commission within five (5) working days of the inspection.

74.12 ENFORCEMENT

- 74.12.1 **Delegation of Enforcement.** The Commission or a designated agent (i.e., Zoning Enforcement Officer or City Plan Department or City Engineer staff) shall have the power to enforce these Regulations.
- 74.12.2 **New Plan May Be Required.** If an approved plan as implemented is determined to not properly control soil erosion and sediment generation submission of a new SESC Plan for review may be required.
- 74.12.3 **Violation if Plan Not Filed.** Any person engaged in development activities who fails to file a SESC Plan in accordance with these SESC Regulations, or who conducts a development activity except in accordance with provisions of an approved SESC Plan shall be deemed in violation of these SESC Regulations.
- 74.12.4 **Violation Penalties.** Any person who commits, takes part in, or assists in any violation of any provisions of these SESC Regulations shall be subject to all applicable penalties. The State of Connecticut Superior Court in any action brought by the Commission, the City of West Haven, or any person, shall have jurisdiction to restrain a continuing violation of these SESC Regulations or to issue orders directing that the violation be corrected or removed.
- 74.12.5 **Written Orders for Violations.** Should any person be found to be in violation of these SESC Regulations, a written Order may be issued by certified mail to that person to correct the facility or condition causing the violation. Within ten (10) days of its decision, the Commission shall notify the person of an opportunity to be heard and show cause why the Order should not remain in effect at the next regularly scheduled Commission meeting.
- 74.12.6 **Administrative Hearing for Violations.** Within ten (10) days of the completion of the administrative hearing the Commission shall notify the person by certified mail that the original Order remains in effect, has been revised, or has been withdrawn. All notices of Orders, administrative hearings, and final decisions of the Commission shall be published in a daily newspaper having a substantial general circulation in the municipality. The original Order is in effect upon issuance and remains in effect until the Commission affirms, revises or withdraws the Order.

74.13 DURATION AND EXTENSION OF APPROVAL

- 74.13.1 **Duration of Approval.** Duration of approval of an SESC Plan shall be for one (1) year, unless otherwise specified.
- 74.13.2 **Extension of Approval.** The Commission may extend Approval of a SESC Plan for an additional year upon written request from the applicant, if

requested prior to the expiration of the original approval. Such request may require amendments to the original SESC Plan or submission of a new SESC Plan if deemed necessary by the Commission. The Commission shall extend or deny the time extension within thirty-five (35) days of the receipt of what it considers to be necessary and sufficient information.

74.14 APPEALS

Any applicant aggrieved by the decision may take an appeal in accordance with any applicable provisions of the Connecticut General Statutes.

74.15 OTHER PERMITS AND LICENSES

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

74.16 FEES

Each SESC Plan submitted to the Commission for Approval shall be accompanied by a fee payable to the City of West Haven in accord with Section 101-1 of the Code of Ordinances of the City of West Haven.