

DRAFT

**RESOLUTION AMENDING SECTION 2.1 OF THE
EAST LYME INLAND WETLANDS AND WATERCOURSES REGULATIONS**

WHEREAS, on June 8, 2020, the Town of East Lyme Inland Wetland Agency (“Agency”) initiated an Application for a text amendment to section 2.1 of the East Lyme Inland Wetland Regulations (“Regulations”) to change the Definition of a “Regulated Activity” by enlarging the distance of the boundary for a regulated activity from 100 feet from an inland wetlands and/or watercourse to 500 feet (“Application”); and

WHEREAS, the Agency has statutory authority to enact and amend inland wetlands and watercourses regulations and to determine the boundaries of inland wetlands and watercourses for the Town of East Lyme; and

WHEREAS, pursuant to General Statutes §22a-42(a) it is the purpose of the Agency to regulate activities affecting the wetlands and watercourses within the Town of East Lyme; and

WHEREAS, it is the purpose of the Regulations, in pertinent part, to preserve, protect and maintain wetlands and watercourses by minimizing their disturbance and pollution, and to maintain and improve water quality in accordance with the highest standards set by federal, state or local authority (§1.1); and

WHEREAS, the Agency has the statutory authority to regulate activities in areas around wetlands or watercourses, commonly known as the Upland Review Area (“URA”) provided such regulation is in accordance with the provisions of the Regulations adopted by the Agency and apply only to those activities which are likely to impact or affect wetlands or watercourses (C.G.S. §22a-42a(f)); and

WHEREAS, §2.1 of the Regulations defines “regulated activity” in pertinent part as any operation within or use of a wetland or watercourse involving the deposition of material, or any obstruction, construction, alteration or pollution of such wetlands or watercourses; and

WHEREAS, §2.1 of the Regulations defines the URA as “... any clearing, grubbing, filling, grading, paving, excavating, constructing depositing or removing of material and discharging storm water on the land within 100 feet measured horizontally from the boundary of any wetland or watercourse ...”; and

WHEREAS, the Agency initiated the Application to amend §2.1 to enlarge the URA from 100 feet from an inland wetlands and/or watercourse to 500 feet; and

WHEREAS, pursuant to C.G.S. §22a-42a(b) and §15 of the Regulations, a public hearing is required for any proposed amendment to the Regulations; and

WHEREAS, the Application was the subject of a properly noticed public hearing that began on July 13, 2020 and was continued to August 10, 2020, after which the public hearing was closed; and

WHEREAS, during the public hearings the Agency listened to hours of testimony. The Agency also submitted into evidence numerous documents and reports in support of its Application; and

WHEREAS, following the close of the public hearing the Agency deliberated and discussed the Application at length and considered all the evidence in the record; and

WHEREAS, during its deliberations the Agency determined that the proposed text amendment should be revised to enlarge the URA from 100 feet to 300 feet rather than 500 feet; and

WHEREAS, the revision from 500 to 300 feet is less onerous than the proposed amendment so that a new public hearing was not required; and

WHEREAS, any amendment to the Regulations must be supported by substantial evidence in the record; and

WHEREAS, enlarging the URA from 100 to 300 feet is reasonably designed to enable the commission to protect and preserve the wetlands located within East Lyme, in fulfillment of its statutory duty; and

WHEREAS the amendment enlarging the URA from 100 to 300 feet is supported by the following substantial evidence:

WHEREAS, Exhibit E, a letter of support from the East Lyme Commission for the Conservation of Natural Resources dated June 4, 2020, recommends “the Review area be extended to at least 300-feet to facilitate expert and nonpartisan review by the Inland Wetlands Agency of development projects that have the potential to degrade town wetlands, surface waterbodies, or underground drinking water aquifers”; and

WHEREAS, Exhibit CCC – Commission for the Conservation of Natural Resources 2018 Drinking Water Report, Exhibit DDD – Letter from Margret Miner Environmental Consultant to Gary Upton, Chairman and Members of the East Lyme Wetlands Agency dated July 13, 2020, Exhibit UUU – USGS 1998 Groundwater and Surface Water A Single Resource, Exhibit VVV- IPCC 2014 Freshwater Resources, Exhibit VVV – Chapter 3 Freshwater Resources, from the 2014 Synthesis Report by the Intergovernmental Panel on Climate Change, support the continued regulation of inland wetlands and watercourses; and

WHEREAS, based on the foregoing, the Agency finds that there is substantial evidence in the record to amend §2.1 of the Regulations to change the Definition of a “Regulated Activity” by enlarging the distance of the boundary for a regulated activity from 100 feet from an inland wetlands and/or watercourse to 300 feet; and

BE IT THEREFORE RESOLVED that based on the foregoing substantial evidence in the record, the Agency hereby AMENDS 2.1 of the East Lyme Inlands and Watercourses Regulations to read as follows:

“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, but shall not include the specifies activities in section 4 of these regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging storm water on the land within **300** feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity. The Agency may rule that any activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.”

This amendment shall be effective the day after legal notice of same is published.