

The image shows a wide, multi-tiered dam or waterfall structure made of concrete. Water is cascading over the top edge, creating a soft, blurred effect. Below the dam, the water flows into a pool, surrounded by lush green grass and some small plants. In the background, a dense forest of trees with vibrant autumn foliage in shades of orange, yellow, and green is visible. The sky is not clearly visible, but the overall scene is bright and scenic.

# Inland Wetland & Watercourses Commission Proposed Regulation Informational Workshop

Town of Salisbury 3/1/2021



# Workshop Structure

- Informational Presentation – No public input this evening
- This presentation and supplemental materials will be available on the Town website in the next few days. Stay tuned to the Inland Wetland's page [Inland Wetlands & Watercourses Commission \(Previously Conservation Commission\) | Salisbury, CT](#) Please, review the supplemental materials posted.
- A recording of the meeting will also be available on the Town Website for those who could not attend this evening. Virtual commission meetings are always recorded and available at [Inland Wetlands & Watercourses Commission | Salisbury, CT](#)

# A Brief History of the Inland Wetlands & Watercourses Commission

- The Connecticut Inland Wetlands and Watercourses Act (IWWA) (1972)
- Town of Salisbury adopts an ordinance establishing the Conservation Commission (1972)
- Town of Salisbury adopts an ordinance establishing separate Conservation and Inland Wetlands Commissions (2020)

# What is the Inland Wetland and Watercourses Commission (IWWC) and what does it do?

- The Salisbury Inland Wetlands & Watercourses Commission, is comprised of seven regular members and two alternates who are all Salisbury residents appointed by the Board of Selectmen. The members volunteer for their community and are responsible for implementing and enforcing the Connecticut IWWA through regulations adopted by the municipal inland wetlands agency.

*The purpose of sections 22a-36 to 22a-45, inclusive, to protect the citizens of the state by... providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.*

# What are inland wetlands and do they always have to be wet?

- Connecticut defines wetlands by soil type
  - Poorly drained, very poorly drained, alluvial and floodplain





# Types of watercourses include:

Marshes, swamps, bogs, lakes, rivers, vernal pools and intermittent watercourses

Intermittent watercourses are delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics:

(A) Evidence of scour or deposits of recent alluvium or detritus,

(B) the presence of standing or flowing water for a duration longer than a particular storm incident, and

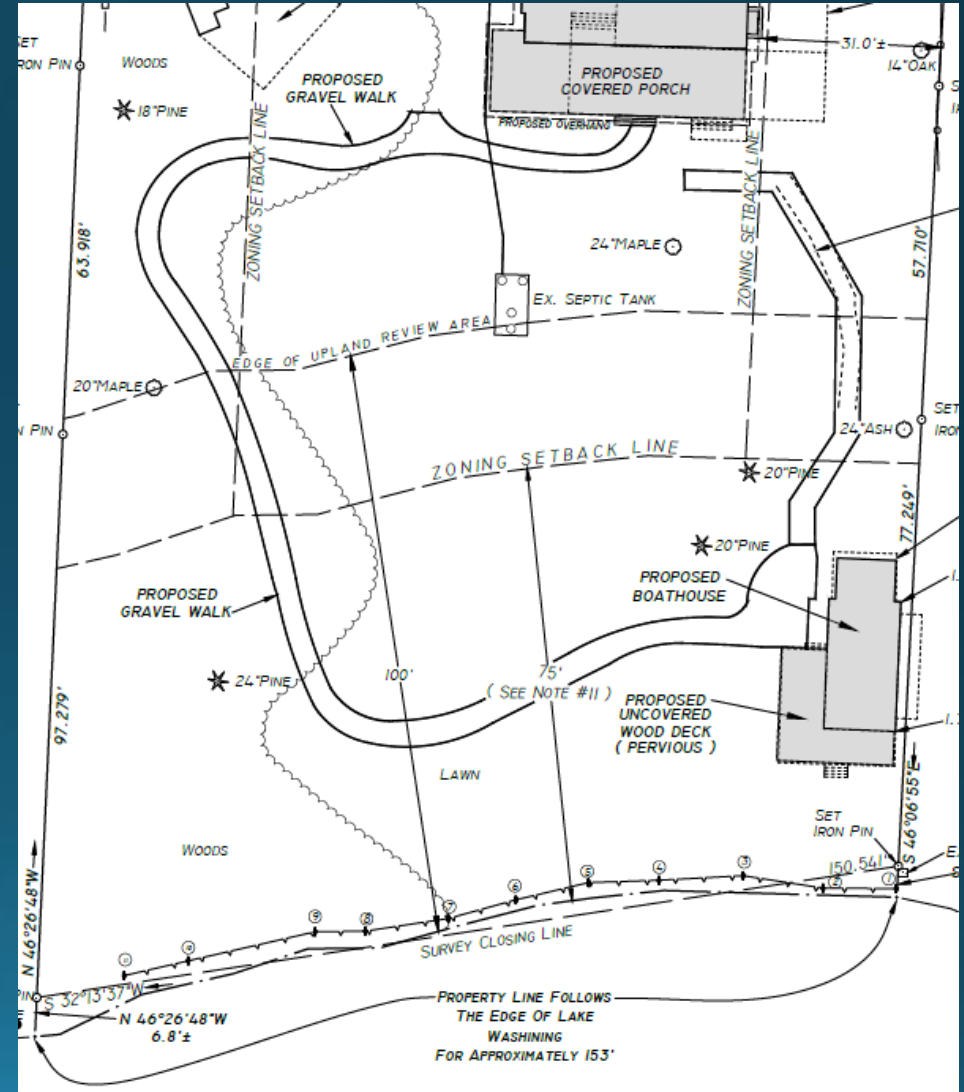
(C) the presence of hydrophytic vegetation;



<https://blog.epa.gov/2016/07/26/intermittent-river-ecology/>

# What is an Upland Review Area(URA)?

- Upland Review Area (URA) is an area outside of but adjacent to wetland areas and watercourses. It is designed to assist the Commission to better protect the wetland or watercourse by ensuring that when regulated activities occur, Best Management Practices (BMPs) are implemented. These BMPs reduce the potential that silt, sediment, nutrients and other pollutants resulting from the activity do not have a negative impact on the wetland resource.
- A URA is **not a prohibitory setback or ecological buffer** nor is it an “unconstitutional” taking of land but rather an area where certain activities may be regulated because of the activities likely impact or effect on the nearby wetlands or watercourses.



# Which activities need a permit?

Many activities within the URA require a permit. These activities may include but are not limited to:

- Disturbing the ground by removing or depositing material for any construction
- Installing a structure on or above the surface such as a residence, deck, pool or shed
- Installation or expansion of lawns, driveways and hardscape areas
- Maintenance of ponds and streams
- Landscaping or maintenance in which a significant amount of material is removed or deposited, or when water is diverted or altered in or from a wetland or watercourse.

The IWWC may rule that any other activity occurring within a URA is likely to impact or affect wetlands and watercourses and is a regulated activity.



# Are there any exemptions?

- “As of right” or “nonregulated” activities
  - The Inland Wetlands and Watercourses Act omits certain activities from the definition of regulated activity. These activities, do not require a permit. However, this determination **cannot** be made by the person proposing and/or conducting the activity, it **must** be made by the municipal inland wetlands commission.
- Declaratory Rulings
  - A declaratory ruling is made when someone request a review of their proposed activity to determine if it is as of right or nonregulated. A form requesting a declaratory ruling must be completed. As with applications for regulated activities, it is the responsibility of the person proposing and/or conducting the activity to demonstrate to the satisfaction of the IWWC that their activity is exempt.
  - These activities involve certain agricultural, residential maintenance, conservation, and recreational uses of inland wetlands and watercourses.

# What can be done without a permit?

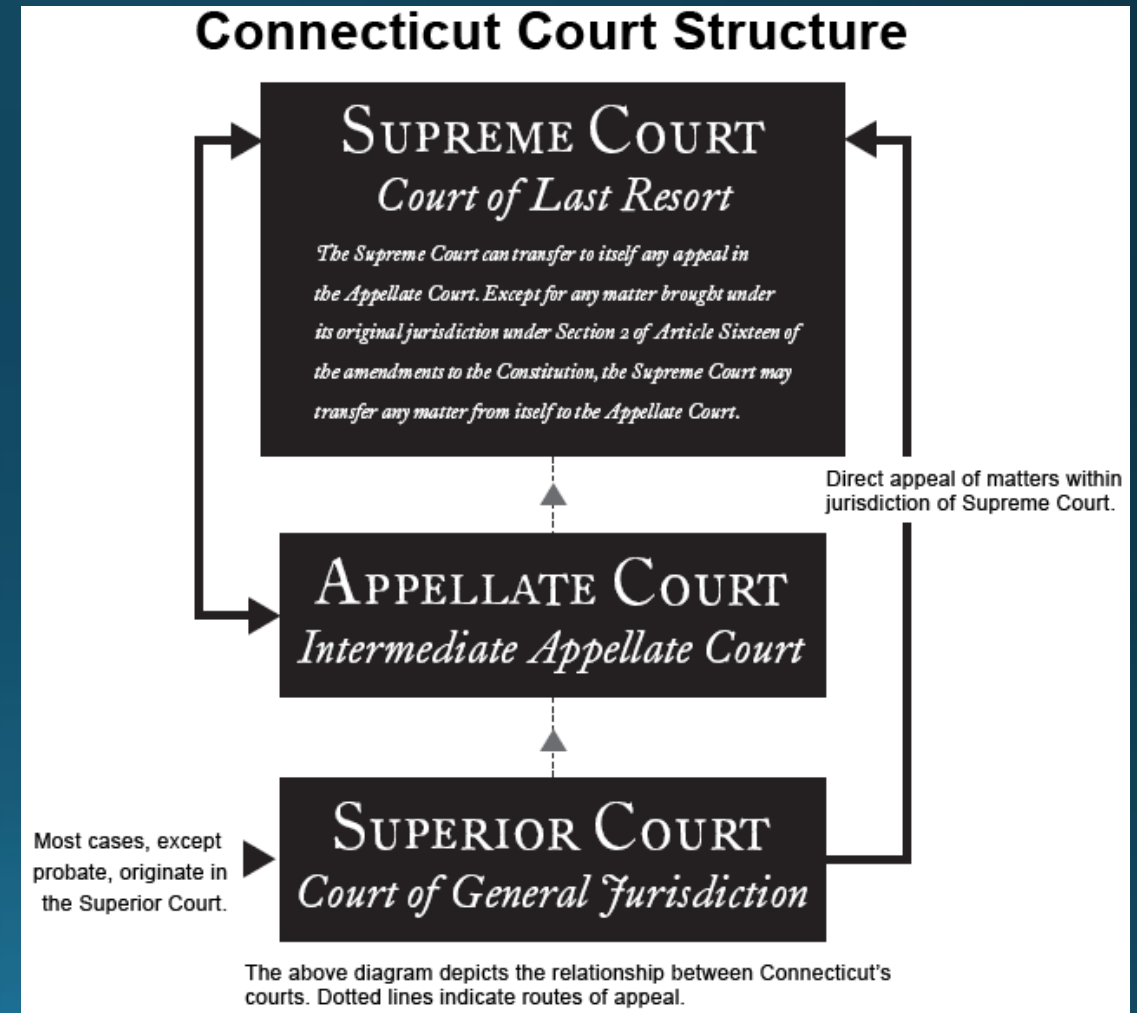
- Grazing, farming, nurseries, gardening, harvesting of crops and farm ponds up to three acres which are essential to farming operations
- Boat anchorage or mooring
- Maintenance of residential property without removing or depositing significant amounts of material or diverting water
- Outdoor recreation activities such as playing fields, golf courses, hiking trails, camping, hunting, fishing, horseback riding, skiing and water sports as long as they do not disturb, alter, obstruct or pollute the wetland or watercourse.

THESE ACTIVITIES MAY REQUIRE A DECLARATORY RULING

# About the Rewrite

- Required versus elective revisions
  - DEEP Legislation and Regulation Advisories, Commission Name
  - Definitions, Fees, URA
- “Superior is Inferior”
  - Inland Wetland Agencies are not only bound by State Statute but also the decisions of both the Supreme and Appellate Courts.
  - In contrast, the decisions of the Superior Court (trial court) bind only the parties to the lawsuit.

NOTE: REFER TO DRAFT REGULATIONS





# Elective Changes

- Definitions
  - Clearing (New)
  - Grubbing (New)
  - Highly Erodible Soils (New)
  - Ordinary High Water Mark (New)
  - Regulated Activity (Modified)
  - Slope (New)
  - Upland Review Area (New/Modified)



<https://evocorp.net/wp-content/uploads/2015/03/grubbing.jpg>

# Upland Review Area Definition

Current Page 25

Appendix C:

The Salisbury Conservation Commission may rule that any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of stormwater on land within the following upland review areas is a regulated activity:

- 1) on land within 100 feet, measured horizontally, from the boundary of any wetland or watercourse, provided
- 2) if the slope of such land exceeds 5%, within the distance measured horizontally from the boundary of the wetland or watercourse equal to 100 feet plus an additional 5 feet for each 1% increase in slope greater than 5%, but not more than 200 feet
- 3) on land containing highly erodible soils

Proposed Definition of  
Upland Review Area

Section 2:

“Upland review area” means an area of land that lies outside of inland wetlands and watercourses, but within which the Commission may regulate certain activities in order to determine whether those activities may have a deleterious impact on an inland wetland or watercourse.

# Regulated Activity Definition

## Current Page 3: Definition of Regulated Activity

"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, and any earth moving, clearing, filling, grading, paving, excavating, construction, depositing or discharging of storm water on land or clear cutting of trees within 75 feet of wetlands and watercourses, but shall not include the specified activities in Section 4 (22a-40 of the Connecticut General Statutes) of these regulations. The location of any active portion of any subsurface waste disposal system within 150 feet of the mean waterline of any watercourse or 75 feet of all wetlands measured horizontally from the boundary of any wetland or watercourse is deemed a regulated activity.

## Proposed Definition of Regulated Activity:

"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. The term "regulated activity" shall include, but is not limited to, any earth moving, clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of storm water on the land or clear cutting of trees within the following upland review areas:



# Upland Review Area Implications

1. Within 200 feet measured horizontally from the ordinary high water mark of Lake Wononscopomuc, Lake Wononpakook, Lake Washining and Lake Washinee; or (NEW)
2. Within 100 feet measured horizontally from the ordinary high water mark of any other watercourse or the boundary of any wetland, except that, if the proposed activity is the installation of any portion of a subsurface waste disposal system, the upland review area shall extend 150 feet from the ordinary high water mark of any watercourse; (MODIFIED)
3. Any areas of highly erodible soils.
4. If the Commission finds that any other activity located outside an inland wetland or watercourse is having or is likely to have a detrimental impact on an inland wetland or watercourse, the Commission may determine that such activity is a regulated activity. Notwithstanding any of the foregoing provisions, the term “regulated activity” shall not include any of the specified activities in Section 22a-40 of the Connecticut General Statutes (permitted uses As of Right -see section 4 of these regulations). (MODIFIED)

NOTE: REFER TO MUNICIPAL URA DOCUMENT

# To be continued...

- PLEASE PLEASE PLEASE consolidate comments. If possible, designate a representative or two that can refer questions to Abby Conroy, Land Use Administrator so that those may be addressed in a concise and organized manner at the next workshop. This is an informal opportunity for the Commission to hear from the constituents prior to referral to outside agencies and holding a formal public hearing for adoption.