

TOWN OF ANDOVER, CONNECTICUT

INLAND WETLANDS AND WATERCOURSES COMMISSION

BYLAWS

Adopted date: February 8, 2010

- Revised: March 01, 2021
September 12, 2023

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Section 1

PURPOSE AND AUTHORIZATION

- 1.1 The objectives and purposes of the Town of Andover Inland Wetlands and Watercourses Commission are those set forth in Chapter 440, Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended, and those powers and duties delegated to the Town of Andover Inland Wetlands and Watercourses Commission by the aforementioned statutes and by town ordinance. The Town of Andover Inland Wetlands and Watercourses Commission may also be delegated the responsibility of protecting other water resources in the town of Andover under other authorizing ordinances.

Section 2

NAME OF THE COMMISSION

- 2.1 The Commission is known as the Town of Andover, Inland Wetlands and Watercourses Commission, hereafter called the Commission.

Section 3

OFFICE OF COMMISSION

- 3.1 The office of the Commission is at the Town Office Building at 17 School Road, Andover, CT 06232, where all Commission records will be kept. Copies of all official documents, records, maps, etc., will be filed in the land use department. Minutes and Motions will be recorded in the office of the Town Clerk.

Section 4

MEMBERSHIP

- 4.1 The membership and the terms of membership are specified in the above stated ordinance establishing the Commission and the aforementioned general statutes. The Commission will be composed of **five (5) regular members** and **three (3) alternates** appointed in accordance with the Town Charter.
- 4.2 One regular member must be nominated by the Planning and Zoning Commission from among its own current membership. All members, including alternates, must be appointed by a majority vote of the Board of Selectmen.
- 4.3 Vacancies in the Commission's membership must be filled by the procedure prescribed in the Town Charter:
 - (a) Upon notice of a vacancy, the Chairperson must notify the major political parties and the general public of such vacancies. All recommendations for appointment must be made within 35 days after notification of the vacancy to the Board of Selectmen.
 - (b) Appointment to fill the vacancy must be made by a majority vote of the Commission membership, including alternates, within 60 days of date of notice to the Town Clerk and acceptance of the resignation by the Board of Selectmen.
 - (c) In the event the Commission fails to act within 60 days, the Board of Selectmen may then fill the vacancy.
- 4.4 Resignations from the Commission must be in writing and transmitted to the First Selectman and the Town Clerk. The Town Clerk will forward a copy to the Commission Chairperson. Said resignation will become effective upon acceptance by a vote of the Board of Selectmen, as described in the Town Charter.
- 4.5 As per the Town Charter, any Commissioner, including alternates, who, without good cause and timely notification to the Chairperson or the Vice Chairperson of the reasons for non-attendance, either fails to attend at least two-thirds of the regular meetings during any twelve consecutive months or fails to attend six consecutive regular meetings will be deemed to have resigned their office. It is the duty of the Chairperson (or, in their absence or disability or where the Chairperson's attendance is the concern, the Vice Chairperson), to promptly inform the Board of Selectmen of the vacancy.
- 4.6 The Freedom of Information Act, Chapter 14 of the Connecticut General Statutes, as amended, provides the public with rights of access to records and meetings of public agencies. Members and staff of the Commission shall familiarize themselves with this Act. The Freedom of Information Act can be accessed at <https://www.ct.gov/foi/> or by requesting a copy from the Freedom of Information Commission, 18-20 Trinity Street, Hartford, CT 06106.

- 4.7 The Wetlands and Watercourses Act, Chapter 440 of the Connecticut General Statutes, as amended, established a land use regulatory process which considers the environmental impacts of proposed development activities. Members and staff of the Commission shall familiarize themselves with this Act. The Wetlands and Watercourses Act can be accessed at https://www.cga.ct.gov/current/pub/chap_440.htm or by visiting the local library to view the Connecticut General Statutes publications.
- 4.8 The Town of Andover Connecticut Inland Wetlands and Watercourses Regulations, as amended, provides the public with the regulations that the Commission must implement and enforce for the purposes and provisions of the Inland Wetlands and Watercourses Act, as amended. Members and staff of the Commission shall familiarize themselves with these regulations. The Town of Andover Connecticut Inland Wetlands and Watercourses Regulations can be accessed at <https://www.andoverconnecticut.org/inland-wetlands-and-watercourses-commission>. A printed copy can be provided for a fee from the Town Clerk office located at the Town Office Building at 17 School Road, Andover, CT 06232.

Section 5

OFFICERS AND THEIR DUTIES

- 5.1 The officers of the Commission will consist of a Chairperson and a Vice Chairperson.
- 5.2 The Chairperson will have the duties normally conferred by parliamentary usage on such officers and generally perform other duties as may be prescribed in these bylaws. The Chairperson will be responsible for:
 - (a) Preparing the agenda of regular and special meetings.
 - (b) Providing notice of all meetings to commission members, including alternates, and relevant town staff (e.g., Town Clerk, Board Clerk, Land Use Department Administrative Assistant, and Wetlands Enforcement Officer).
 - (c) Presiding at all meetings and hearings of the Commission.
- 5.3 In addition, the Chairperson will have the authority to:
 - (a) Appoint committees as needed.
 - (b) Certify expenditures of funds up to \$100.00 without prior approval of the Commission.
 - (c) Call special meetings.
- 5.5 The Chairperson will have the privilege of discussing all matters before the Commission and of voting thereon.
- 5.6 In absence of the Chairperson, the Vice Chairperson will preside and have all the powers and duties of the chairperson as stated in these bylaws.
 - (a) In the event that the Vice Chair is acting Chairperson at the start of the meeting, he or she will remain as acting Chairperson throughout the entire meeting.
 - (b) In the event that both Chairperson and Vice-Chairperson are absent at the start of the meeting, any regular member may be elected as acting Chairperson for the meeting by a majority vote of those members present, including alternate members.

Section 6

STAFF AND THEIR DUTIES

- 6.1 The **Board Clerk**, an employed position, will be directed by the Commission through the Chairperson. The Board Clerk will:
- (a) Attend all meetings of the Commission to take the minutes and an audio recording of each meeting.
 - (b) File copies of any official documents, records, maps, etc., submitted during the meeting to the Land Use Department within 48 hours.
 - (c) Distribute meeting minutes to Commission members, alternates and staff.
 - (d) Correct and resubmit the minutes when required.
 - (e) Post motions, corrected motions, minutes and corrected minutes in the office of the Town Clerk in accordance with the Freedom of Information Act.
 - (f) In the absence of the Board Clerk due to illness, personal or disqualification reasons, the Chairperson must appoint a Recording Secretary for the interim.
- 6.2 The **Land Use Department Administrative Assistant**, an employed position, will be directed by the Commission through the Wetlands Enforcement Officer. The Land Use Department Administrative Assistant will:
- (a) Accept submissions of applications for IWW Permits, assign each such application an application number, and collect any associated application fees.
 - (b) Prepare and maintain a file for each application received which must contain all relevant information, including but not limited to:
 - i. IWWC Application For Permit
 - ii. Record of fees submitted
 - iii. Site plans and supporting documentation
 - iv. Copy of Statewide DEEP Inland Wetlands Activity Reporting Form
 - v. Copy of Summary Ruling and proof of certified mailing
 - vi. Copy of newspaper Legal Notice(s)
- All documentation must be initialed, dated and identified with the application number as of the submission date. Unless otherwise directed by the Commission, applications must be filed in the Land Use records according to property address.
- (c) Submit all Commission decisions for publication to a newspaper with substantial circulation in the municipality and in the case of denial, the reason for the denial, within fifteen (15) days of the date of the decision. Such notices must also be submitted to the Assistant Town Administrator for posting on the Town of Andover website (e.g., within the “Legal Notices” section).

- (d) Assist the Wetlands Enforcement Officer, as requested, with mailing IWWC hearing notices, Commission decision notices, and enforcement orders.

6.3 The **Wetlands Enforcement Officer (WEO)**, an employed position, will perform such duties as directed by the Commission through the Chairperson, its Regulations and its Bylaws, which will include, but are not limited to:

- (a) Assist the Commission with amendments to the IWW Regulations as requested by the Chairperson.
- (b) Attend all regular meetings, and, as requested special meetings, of the Commission. Provide a WEO Report at each Regular Meeting held by the Commission.
- (c) Assist with the submission and review of all IWW Permit Applications, including but not limited to:
 - i. Time permitting, meet with applicants prior to application submission to discuss application submittal requirements and the regulated activity (activities) proposed by the applicant as described within the application.
 - ii. Assist the Land Use Department Administrative Assistant with determining the application fee based on the proposed activity and IWW Regulation Fee Schedule.
 - iii. Collect and review applications and supporting documents for completeness and compliance with IWW Regulations.
 - iv. Advise the Commission on additional requirements, fees and/or necessary professional reviews to process and act upon a given application.
 - v. Complete site walks, when applicable, for each application for permit submitted.
 - vi. Prepare, with the assistance of the Chairperson, the legal notices and permits.
 - vii. Notify the applicant and any named parties to the proceeding of the Commission's decision within fifteen (15) days of the date of the decision, by certified mail, return receipt requested.
 - viii. Complete a State Reporting Form for any action taken by the Commission and submit to the Land Use Department Administrative Assistant for mailing to the DEEP.
 - ix. Monitor and inspect activities permitted by the IWWC.
- (d) Arrange proper and legal notice of hearings (section 10 of these bylaws) which must be published in a newspaper with a substantial circulation in the municipality.
- (e) Enforce compliance to the IWW Regulations, including:
 - i. Investigate all complaints of possible violation of the Town of Andover, Connecticut Inland Wetlands and Watercourses Regulations. Provide report of any such investigations to the Commission at the next regularly scheduled meeting.

- ii. Issue notices of violation (NOVs), Cease and Desist Orders, and/or Cease and Restore Orders as warranted.
- iii. Attend any associated enforcement proceedings (*e.g.*, Show Cause Hearings) and provide report to the Commission.
- iv. Appear at court proceedings by order of the court or at the direction of Town Administrator or the Commission.

6.4 The Commission may appoint an individual, including but not limited to the WEO, to serve as a **Duly Authorized Agent** to carry out specific functions and duties as prescribed by the Commission and as described in the Connecticut General Statutes and Section 12 of the Town of Andover Connecticut, Inland Wetlands and Watercourses Regulations. Such appointment is contingent on the individual having first completed the comprehensive training program developed by the Commissioner of Energy and Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Duties of the Duly Authorized Agent may include, but are not limited to:

- (a) The approval of a new permit or the extension of an existing permit for an activity that is not located in a wetland or watercourse, when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses.
 - i. Any such decisions must be reported to Land Use Department Administrative Assistant to be posted on the Town website and submitted for publication in a newspaper with substantial circulation in the municipality within fifteen (15) days of the date of the decision.
 - ii. A list and description of all permits approved and extensions granted shall be reported each month to the Commission at the regularly scheduled meeting.

Section 7

ELECTION OF OFFICERS

- 7.1 The first meeting in July will be an annual organization meeting, at which time officers will be elected and bylaws reviewed and made part of the minutes of the meeting. All members must be notified of the annual meeting before election of officers can take place.
- 7.2 A candidate receiving a majority vote from the Commission members present, including Alternate Members, will be declared elected and will serve for one year, beginning at the time of election and concluding on the day of the next annual election or until a successor takes office.

Section 8

MEETINGS

- 8.1 Regular meetings will be held on the first Monday of each month at 7:00 p.m. in the Andover Town Hall Community Room, unless rescheduled by the Commission. The agenda must be filed in the office of the Town Clerk not less than 24 hours before the meeting. If at any time the regular meeting date is a holiday, this regular meeting will be held on the following Tuesday unless otherwise scheduled in the yearly calendar. If it is determined to be unsafe to meet in the place designated, the meeting may be held at a place designated by the Chairperson, provided a copy of the minutes of any such meeting adequately setting forth the nature of the emergency and the proceedings occurring at such meeting be filed with the Town Clerk not later than 72 hours following the meeting.
- 8.2 A majority of the voting membership of the Commission will constitute a quorum, and the number of votes necessary to transact business will be three (3) seated members, which constitutes a majority of members of the Commission.
- 8.3 The notice of a meeting other than a regular meeting must specify the purpose of such a meeting and any other business must not be considered. The Board Clerk must give notice of the special meeting not less than 24 hours in advance of the meeting by filing in the office of the Town Clerk the agenda which must include the time and place of the meeting.
- 8.4 All Commission meetings must be open to the public unless closed by a two-thirds vote of the Commission members for an executive session.
- 8.5 Executive sessions closed to the public must be limited to types of discussions specified in the Connecticut Freedom of Information Act, Chapter 14 of the Connecticut General Statutes, as amended, including but not limited to:
 - (a) Specific employees (unless the employee agrees to an open session);
 - (b) Strategy relating to negotiations regarding pending claims to litigation;
 - (c) Security matters;
 - (d) Real estate acquisition.
- 8.6 Unless otherwise specified, Robert's Rules of Order will govern the proceedings at all Commission meetings.
- 8.7 Alternates will be seated in rotation so that they act as voting commissioners in as nearly equal a number of meetings as possible.
 - (a) Alternate members of the Commission who are seated at the beginning of a meeting must not be replaced by another member who arrives late.

- (b) Unseated alternates may take part in Commission discussions but must not vote except for election of officers.
- 8.8 Minutes of regular and special meetings must be available in the Town Clerk's office within seven (7) days of the meeting; while the (motions) actions of each member must be available in writing within 48 hours. Minutes of emergency special meetings including the reason for the meeting must be filed with the Town Clerk within 72 hours of the meeting.
- 8.9 In the event that a regularly scheduled meeting conflicts with a Town meeting, the Chairperson may, at their discretion or upon written request of three (3) or more Commission members, cancel the meeting or postpone the meeting to the next business day provided that the applicants can be given at least five (5) business days' notice of such change or cancellation.
- 8.10 Site walks or field meetings must be announced by public notice as special meetings as provided for in section 8.3 of these bylaws.
- 8.11 Attendance and participation in meetings may be in person at the designated location or by audio or audio-visual telecommunication using such means as are available to accommodate commissioners, participants and general public (*e.g.*, virtual meeting platforms). Participation by commissioners will include voting. The agenda of the meeting must provide such information as is required to accommodate remote participation.

Section 9

ORDER OF BUSINESS

- 9.1. Unless otherwise determined by the Chairperson, the order of business at regular meetings will be:
- (a) Call to Order
 - (b) Roll Call/Seating of Alternates
 - (c) Additions/Changes in Order of Agenda
 - (d) Approval of Minutes
 - (e) Public Comment
 - (f) Permit Applications
 - (g) Jurisdictional Ruling Requests
 - (h) Enforcement Actions
 - (g) Wetlands Enforcement Officer Report
 - (h) Other Commission Business
 - (i) Adjournment

Section 10

PUBLIC HEARINGS

- 10.1 Regulations for Public Hearings must be adhered to in accordance with the Town of Andover Inland Wetlands and Watercourses Regulations, and Chapter 124, Section 8-7d. of the Connecticut General Statutes, as amended.
- 10.2 When possible, public hearings shall be completed in a single session. However, the hearing may be continued (to date and place certain) where necessary for the full development of evidence, for the full participation of the parties, or for such other substantial purposes, provided that the public hearing will be completed within thirty-five (35) days from the date it commenced. If additional time is needed, the IWWC may approve a further extension, with consent of the applicant, pursuant to the procedure and limitations outlined in the CT general statutes. Verbal notice at the public hearing as to the date and place where the continuation will take place will be considered sufficient notification to interested parties.
- 10.3 Attendance and participation in hearings may be in person at the designated location or by audio or audio-visual telecommunication using such means as are available to accommodate commissioners, participants and general public. The notice and agenda for the hearing must provide such information as is required to accommodate remote participation.

Section 11

CONDUCTING THE PUBLIC HEARING

- 11.1 The hearing will be recorded by a sound-recording device, at each hearing before the Commission in which the right to appeal exists, and at each meeting in which the Commission deliberates any formal petition, application, request or appeal. Video recordings will be made in the case of virtual meetings. Proceedings of the hearing must be incorporated into the minute book of the Commission to be a permanent part of the record.
- 11.2 The Chairperson of the Commission will preside at the Public Hearing. In the event of the Chairperson's absence, the Vice Chairperson will act as presiding officer.
- 11.3 The presiding officer will read the legal notice and state the dates and newspaper(s) in which the legal notice appeared.
- 11.4 A summary of the question or issue will be stated by the presiding officer at the opening of the public hearing. Comments must be limited to the subject advertised for the hearing. The Commission members will have the privilege of speaking first. The presiding officer will describe the method of conduct of the hearing.
- 11.5 The presiding officer will first call for statements from the proponents. Open discussion will follow; insuring opponents are given equal opportunity to comment.
- 11.6 Questions and comments will be accepted only if the speaker is recognized by the presiding officer, and must be directed through the presiding officer. Recognition of speakers in virtual meetings shall be coordinated by the meeting administrator and the presiding officer.
- 11.7 All people recognized must approach the hearing table in order to facilitate proper recording of comments. Before commenting, each person shall give their name and address.
- 11.8 The presiding officer must assure an orderly hearing and must take necessary steps to maintain the order and decorum of the hearing at all times. The presiding officer has the right to terminate and reschedule the hearing in the event the discussion becomes unruly and/or unmanageable.
- 11.9 The polling of persons present at the hearing must not be allowed on any general questions presented to the Commission or Applicant at the public hearing. The hearing must be conducted only for the purpose of taking testimony to be considered in deliberations during the regular meeting of the Commission.

Section 12

THE HEARING RECORD

- 12.1 The hearing record will consist of the following:
- (a) The audio and visual recording of the hearing;
 - (b) All physical evidence and material received (*i.e.*, legal documents, reports, plans, etc.) at the hearing;
 - (c) All other reports, documents, and plans related to the hearing subject received at previous meetings.
- 12.2 Decisions must be based solely on the contents of the hearing record and in accordance with the Town of Andover Inland Wetlands and Watercourses Regulations.

Section 13

EX PARTE COMMUNICATIONS

- 13.1 Members of the Commission must not engage in *ex parte* communications with any party or person on an issue of fact or law unless all parties receive notice and an opportunity to participate. Allowing one party to introduce evidence by way of informal comment to any member of the Commission without the other parties having the opportunity to rebut or cross-examine is improper.

Section 14

CONFLICT OF INTEREST AND DISQUALIFICATION

- 14.1 Any member or alternate member of the Commission must not participate in a hearing or decision of the Commission upon any matter in which he or she (or any member of his or her family) is directly or indirectly interested personally or financially. In the event of such disqualification, such fact must be entered on the records of the Commission and a replacement must be selected from alternate members to act as a member of the Commission in the hearing and determination of the particular matter or matters in which the disqualification arose.

Section 15

COMMITTEES

- 15.1 Committees may be appointed by the Chairperson for purposes and terms that the Commission approves.

Section 16

EMPLOYEES

- 16.1 Within the limits of the funds available for its use, the Commission may recommend to the Board of Selectman the employment of such staff personnel as it sees fit to aid the Commission in its work. Appointments will be made by a majority vote of the entire membership. The Chairperson of the Commission may employ personnel and retain consultants upon the approval of the majority of the Commission members.

Section 17

PUBLIC RELATIONS

- 17.1 The Chairperson or other designee will act as the sole spokesperson for the Commission. Duties include the preparation of all news releases to be distributed to the communications media. All information releases must reflect a consensus of the views and opinions of the majority of the Commission.
- 17.2 In the matter of the press, radio, and television representatives, the Commission must comply with the Connecticut General Statutes, as amended.

Section 18

RECORDS RETENTION

- 18.1 The Commission and the Town Clerk must retain complete administrative records of the Commission actions and dispose of such records in accordance with the guidelines set forth by the Office of the Public Records Administrator of the State of Connecticut Library, in the Records Retention and Disposition Schedules.

Section 19

AMENDMENTS

- 19.1 These bylaws may be amended by two-thirds vote of the Commission's entire voting membership, including alternates, only after the proposed change has been read and discussed at a previous regular meeting, except that the bylaws may be changed at any meeting by the unanimous vote of the Commission's entire voting membership.

Section 20

EFFECTIVE DATE

20.1 These Bylaws are effective upon filing in the Office of the Town Clerk.

Section 21

DISCLOSURE STATEMENT

- 21.1 The Inland Wetlands and Watercourses Commission Bylaws are intended to provide internal procedures of the Commission and do not supersede any Town of Andover ordinance or charter, Inland Wetlands and Watercourses Regulations, or any regulation presented in the Connecticut General Statutes. In the event a conflict arises, these Bylaws will be amended immediately.