

INLAND WETLANDS AND WATERCOURSES

REGULATIONS

OF THE

TOWN OF WINDSOR LOCKS

ESTABLISHED FEBRUARY 3, 1988



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SECTION 1
Title and Authority

- 1.1 The inland “wetlands” and “watercourses” of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The “wetlands” and “watercourses” are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion control, to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland “wetlands” and “watercourses” have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of “material”, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated “wetlands” and “watercourses”. Such non-regulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic, and recreations values and benefits of the state for its citizens now and forever more. The preservation and protection of the “wetlands” and “watercourses” from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state.

It is, therefore the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland “wetlands” and “watercourses” by: minimizing the disturbance and pollution to inland “wetlands”, “watercourses” and their associated “upland review areas”; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of “wetlands” and “watercourses” for their conservation, water purification, economic, aesthetic, recreational and other public and private uses and values; and protecting the site’s potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement. These regulations hereby provide 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.

- 1.2 These regulations shall be known as the “Inland Wetlands and Watercourses Regulations of the Town of Windsor Locks.”
- 1.3 The Inland Wetlands and Watercourses Agency of the Town of Windsor Locks was established in accordance with an ordinance adopted February 3, 1988 in the Town of Windsor Locks and is duly authorized to implement the purposes and provision of the Inland Wetlands and Watercourses Act in the Town of Windsor Locks.
- 1.4 These regulations have been adopted and may be amended from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- 1.5 The “Agency” shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, with or without modifications, or deny “permits” for all regulated activities with inland “wetlands”, “watercourses” and “upland review areas” in the Town of Windsor Locks pursuant to Sections 22-42a, inclusive, of the Connecticut General Statutes, as amended.

SECTION 2
Definitions

2.1 As used in these regulations:

“Act” means the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes as amended.

“Agency” means the Town of Windsor Locks Inland Wetlands and Watercourses Commission.

“Agency member” means a member of the Inland Wetlands and Watercourses Agency of the Town of Windsor Locks.

“Aquic soil moisture regime:” means conditions in which either naturally occurring or disturbed soils are saturated for at least a few days each year. The duration, depth, and other characteristics of the saturated conditions vary with the specific soils. Those soils exhibiting these conditions are “wetland” soils, whether naturally occurring or disturbed, not all disturbed soils will be aquic. A determination must be made by a qualified soils expert.

“Best management practice” – means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from “wetlands” or “watercourses”; proper disposal of “waste” “materials”; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of “wetlands” and “watercourses”; procedures for maintaining continuous stream flows; confining construction that must take place in “watercourses” to times when water flows are low and fish and wildlife will not be adversely affected.

“Bogs” are “watercourses” distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.

“Clear-cutting” means the harvest of timber in a fashion which “removes” all trees greater than two inches in diameter at breast height.

“Commissioner of Energy & Environmental Protection” means the commissioner of the State of Connecticut’s Department of Energy & Environmental Protection agency.

“Conservation easement” means a legal agreement running from the property owner to the Town of Windsor Locks, which agreement shall attach to and run with the land and be binding upon the property owners and his heirs, successors and assigns. The effect of the “conservation easement” shall be a legal agreement between the property owner and the Town of Windsor Locks, wherein the property owner agrees to perpetually preserve, protect, conserve and maintain in a natural scenic and open condition, all land contained within the legal description encompassing the “conservation easement”. By natural, scenic and open conditions it is hereby meant that the land must remain undisturbed (i.e. no construction; no filling or excavation; no other activities detrimental to drainage, flood control, water conservation erosion control, soil conservation or preservation of wildlife) a fee simple interest in the land contained within the “conservation easement” shall remain with the owner of the land subject to the “conservation easement” in favor of the “Town”. “Conservation easements” may, in appropriate circumstances, also run to a responsible agency or non-profit land trust.

“Continual flow” means a flow of water, which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.

“Covenant restrictive” – See “restrictive covenant”

“Deposit” means to fill, grade, dump, place, “discharge”, emit or any similar activity.

“Designated agent” means an individual designated by the “Agency” to carry out its functions and purposes.

“Discharge” means emission of any water, substances, or “material” into “wetlands” or “watercourses” whether or not such substances cause pollution.

“Disturbing the natural and indigenous character of the land” means altering the inland “wetland” or “watercourse” by reason of removal or deposition of “material”, clear cutting, alteration or obstruction of water flow, or pollution of the “wetland” or “watercourse”.

“Essential to the farming operation” means that the proposed activity is necessary and indispensable to sustain “farming” activities on the farm.

“Farming” shall be consistent with the definition as noted in section 1-1(q) of the Connecticut General Statutes. Except as otherwise specifically defined, the words “agriculture” and “farming” shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of live stock, including horses, bees, poultry, fur bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment or salvaging timber or cleared land or brush or other debris left by a storm, as an incident to such “farming” operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident of ordinary “farming” operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for “farming” purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary “farming” operations, or in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or the direct sale. The term “farm” includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges greenhouses, hoopouses, and any other temporary structures or other structures and as an incident to ordinary “farming” operations, the sale of agricultural or horticultural commodities. The term “aquaculture” means the “farming” of the waters of the state and tidal “wetlands” and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under Chapter 124.

“Feasible” means able to be constructed or implemented consistent with sound engineering principles.

“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) presence of hydrophytic vegetation.

“License” means any part of any permit, certificate of approval or similar form of permission, which may be required of any “person” by the provisions of 22a-36 to 22a-45, inclusive.

“Marshes” are “watercourses” that are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in “marshes” is at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.

“Material” means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, stone gravel, clay, “bog”, mud, debris, sand, refuse or “waste”.

“Minor structures” are incidental to the maintenance and enjoyment of residential property. Minor structures include above-ground pools, sheds, gazebos, canopies, fences, etc. Minor structures do not include in-ground pools, garages, workshops, retaining walls, or any structure used to store motorized vehicles or watercraft.

“Municipality” means the Town of Windsor Locks, Hartford County, Connecticut.

“Nurseries” means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting or experimentation.

“Permit” means the whole or any part of any certificate of approval or similar form of permission which may be required of any “person” by the provisions of these Regulations under the authority of the “Agency”.

“Permittee” means the “person” to whom such “permit” has been issued.

“Person” means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including Municipal Corporation, governmental agency or subdivision thereof.

“Pollution” means any harmful thermal, chemical, radioactive, biological, physical or visual effect upon the contamination or rendering unclean or impure of any waters of the state by reason of any “waste” or other “materials” allowed to be “discharged” or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion or sedimentation resulting from any filling, re-grading, land clearing, excavation or other earth disturbing activity.

“Prudent” – means economically and otherwise reasonable in light of the social benefits to be derived from the proposed “regulated activity” provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.

“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 “wetland” or “watercourse”, but shall not include the specified activities (ctd) in Section 4 of these regulations. Further: any clearing, grubbing, filling, grading, paving, excavating, constricting, depositing, or removal of “material” and discharging of storm water on the land within all areas within 80 feet of the boundary of such “watercourse” or any area within 40 feet of a “wetland”. The “Agency” may rule that any other 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 a “watercourse” and is a “regulated activity”.

“Remove” includes but shall not be limited to drain, excavate, mine, dig, dredge, suck, grub, clear-cut, bulldoze, dragline, blast or any similar activity.

“Rendering impure” means altering the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.

“Restrictive covenant” means a formal, written agreement which shall be recorded on the land records, with reference made thereto in any future deeds conveying the subject property, or any portion thereof, wherein the property owner agrees to perpetually preserve, protect, conserve and maintain in a natural, scenic and open conditions, meaning that the land must remain undisturbed. There shall be no construction, excavation, filling or any other activity, which is detrimental to drainage, flood control, water conservation, erosion control, soil conservation or preservation of wildlife.

“Significant impact activity” means any activity including, but not limited to, the following activities, which may have a significant impact on inland “wetlands” and “watercourse”(s).

1. Any activity involving a deposition or removal of “material” which will or may have a major effect or significant impact on the “wetland” or “watercourse” or on another part of the inland “wetland” or “watercourse” system.
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a “watercourse” system.
3. Any activity which substantially diminishes the natural capacity of an inland “wetland” or “watercourse” to: support desirable fisheries, wildlife, or other biological life; prevent flooding; supply water; assimilate “waste”; facilitate drainage; provide recreation or open space; or perform other functions.
4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a “wetland” or “watercourse”.
5. Any activity which causes a substantial diminution of flow of a natural “watercourse” or groundwater levels of a “wetland” or “watercourse”.
6. Any activity which is likely to cause or has the potential to cause pollution of a “wetland” or “watercourse”.
7. Any activity which damages or destroys unique “wetland” or “watercourse” areas having demonstrable scientific or educational value.

“Soil scientist” means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management) or its successor.

“Submerged lands” are inundated by water on a seasonal or more frequent basis.

“Swamps” are “watercourses” distinguished by the dominance of “wetland” trees and shrubs.

“Town” means the Town of Windsor Locks, Hartford County in the State of Connecticut.

“Upland review area” means areas surrounding “wetlands” and “watercourses”, determined by a municipal inland wetland agency for the purpose of informing the public and managing application review, in which “Agency” regulation shall be assumed until determined otherwise. While requiring a “permit” for specified activities within defined “upland review area” boundaries, wetland agencies still maintain their authority to regulate proposed activities located in more distant planed areas if they find that the activities are likely to impact or affect a “wetland”/or “watercourse”. “Upland review areas” are within 40 feet of a “wetland” boundary or 80 feet from the top of bank of a “watercourse”.

“Vernal pool” means a “watercourse” consisting of a confined basin depression which contains a body of standing water, usually drying out part of the year during warm weather. It can be natural or man-made, and lacks a permanent outlet or any fish population. Further, the occurrence of one or more of the obligatory species which include; the fairy shrimp, spotted salamander, Jefferson salamander, marbled salamander, wood frog and eastern spadefoot toad are necessary to conclusively define the “vernal pool”.

“Waste” means sewage or radioactive “material” or any substance, liquid, gas or solid, which may pollute, or tend to pollute any of the waters within the “Town”.

“Watercourses” means rivers, streams, brooks, waterways, lakes, ponds, “marshes”, “swamps”, “bogs”, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the “Town” or any portion thereof not otherwise regulated pursuant to Sections 22a-28 to 22a-35, inclusive, of the General Statutes as amended. Also see “Intermittent watercourses”.

“Wetlands” means land, including submerged land as defined in these regulations, not regulated by the State of Connecticut pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Services of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites or made land which possesses a saturated “aquic soil moisture regime” as defined by the USDA Cooperative Soil Survey.

SECTION 3

Inventory of Inland Wetlands and Watercourses

- 3.1 The map of “wetlands” and “watercourses” entitled “Inland Wetlands and Watercourses Map, Windsor Locks, Connecticut” delineates the general location and boundaries of inland “wetlands” and the general location of “watercourses”. Copies of this map are available for inspection in the offices of the Town Clerk, and the Building Department. In all cases, the actual character of the land, the distribution of “wetland” soil types, and locations of “watercourses” shall determine the precise location of “wetlands” and review areas. The “Agency” may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of “wetlands” and “watercourses”.
- 3.2 Any property owner who disputes the designation of any part of his or her land as a “wetland” or “watercourse” on the Inland Wetlands and Watercourses Map, may petition the “Agency” to change the designation. All petitions for map changes shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall provide proof (documented by a Registered “Soil Scientist”) that the designation is inapplicable. Documentation in accordance with Section 15, (Appeals) of these regulations may be required of the property owner when the “Agency” requires an accurate delineation of “wetlands” and “watercourses”.

- 3.3 The "Agency" or its "designated agent" shall inventory and maintain current records of all "wetlands" and "watercourses" within the "Town". The "Agency" may amend its map from time to time as information becomes available relative to more accurate delineation of "wetlands" and "watercourses" within the "Town". Such map amendments are subject to the public hearing process set forth in Section 14, (Amendments) of these regulations.
- 3.4 The "Agency" and/or its "designated agent" shall monitor and maintain general surveillance of the "wetlands", "watercourses" and surrounding areas within the Town of Windsor Locks to ensure that no unauthorized activities occur in "wetlands" and "watercourses".

SECTION 4
Permitted Uses And Non-Regulated Uses

- 4.1 These uses and operations shall be permitted in "wetlands" and "watercourses", as of right:
- a. Grazing, "farming", "nurseries", gardening and harvesting of crops and farm ponds of three acres or less "essential to the farming operation", and activities conducted by, or under the authority of the Department of Energy & Environmental Protection for the purposes of "wetland" or "watercourse" restoration or enhancement or mosquito control. The provisions of this section shall not be construed to include road construction or the erection of buildings not directly related to the "farming" operation, relocation of "watercourses" with "continual flow", filling or reclamation of "wetlands" or "watercourses" with "continual flow", clear-cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar "material" from "wetlands" or "watercourses" for the purposes of sale;
 - b. A residential home on an individual lot for which a building permit was issued prior to February 3, 1988. If the lot is part of a subdivision, the subdivision must have been approved by February 3, 1988, or a building permit issued before February 3, 1988. A "person" claiming a use of "wetlands" and "watercourses" permitted as of right under this subsection shall document the validity of said right by providing a certified copy of the building permit and plot plan showing proposed and existing topography, house, well, sewage disposal and driveway locations, and any other necessary information to document the "person's" entitlement;
 - c. Boat anchorage or mooring not to include dredging or dock construction;
 - d. Uses incidental to the enjoyment or maintenance of residential property containing a residential home and the area of said residential property, defined as equal to or smaller than the largest minimum residential lot size permitted anywhere in the "Municipality". Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of "material" from or into a "wetland" or "watercourse" or diversion or alteration of a "watercourse";
 - e. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with existing or potential public water supplies except as provided in Section 22a-401 and 22a-403 of the General Statutes.

- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this section of these regulations: "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while pipe remains in place.
- 4.2 The following operations and uses shall be permitted, as non-regulated uses in "wetlands" and "watercourses", provided they do not disturb the natural and indigenous character of the "wetland" or "watercourse" by removal or deposition of "material", alteration or obstruction of water flow, or pollution of the "wetland" or "watercourse":
- a. Conservation of soil, vegetation, water, fish, shellfish and wildlife; and;
 - b. Outdoor passive recreation including, play, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing where otherwise legally permitted and regulated.
- 4.3 Applications for proposed "minor structures" or the removal of two trees or less within an "upland review area," "wetlands," or "watercourse" may be reviewed by the "designated agent" to determine permit need.
- a. If during review of the application the "designated agent" determines that the proposed "minor structure" or tree removal is not likely to be a "significant impact activity," the "designated agent", on behalf of the "Agency," may make a determination that a permit is not required.
 - b. If during review of the application the "designated agent" determines that the proposed "minor structure" or tree removal activity is likely to be a "significant impact activity," the "designated agent" shall instruct the applicant to submit a "wetlands permit application" to the "Agency," in accordance with section 7.
- The "designated agent" for the "Agency" may make such ruling on behalf of the "Agency" at any time. The "designated agent's" determination shall be reported to the "Agency" in accordance with Section 4.4.
- 4.4 If the "designated agent" makes a ruling that the proposed operation or use is a permitted or a non-regulated activity or that a "permit" is not required:
- a. Such ruling shall be made and be provided in writing to the "Agency" no later than the next regularly scheduled meeting of the "Agency" following the meeting at which the request was received.
 - b. Such ruling, if requested, shall be provided in writing to the "person" proposing an activity no later than the next regularly scheduled meeting of the "Agency" following the meeting at which the request was received.
- 4.5 All activities in a "wetland" or "watercourse" involving any alteration or use of "wetland" or "watercourse" not specifically permitted by this section shall require a "permit" from the "Agency" in accordance with Section 6 of these regulations.

SECTION 5
Activities Regulated Exclusively By
The “Commissioner of Energy & Environmental Protection”

- 5.1 The “Commissioner of Energy & Environmental Protection” shall have exclusive jurisdiction over regulated activities in or affecting “wetlands” or “watercourses”, undertaken by a department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.2 The “Commissioner of Energy & Environmental Protection” shall have exclusive jurisdiction over tidal “wetlands” designated and regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
- 5.3 The “Commissioner of Energy & Environmental Protection” shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the “Commissioner of Environmental Protection” under section 22a-402 of the Connecticut General Statutes or a permit issued by the “Commissioner of Environmental Protection” under sections 22a-403 of the Connecticut General Statutes. Any “person” receiving such a dam repair or removal order or permit shall not be required to obtain a “permit” from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.4 The “Commissioner of Energy & Environmental Protection” shall have exclusive jurisdiction over the “discharge” of fill or dredged “materials” into the “wetlands” and “watercourses” of the state pursuant to section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under section 404 of the Federal Clean Water Act.

SECTION 6
Regulated Activities To Require A “Permit”

- 6.1 No “person” shall conduct or maintain a “regulated activity” without first obtaining a “permit” for such activity from the Inland Wetland and Watercourses Agency of the Town of Windsor Locks.
- 6.2 The “Agency” shall regulate any activity in such “wetlands”, “watercourses” or “upland review areas”, unless such operation or use is permitted or non-regulated pursuant to Section 4 of these regulations.
- 6.3 Any “person” found to be conducting or maintaining a “regulated activity” without prior authorization of the Inland Wetland and Watercourses Agency of the Town of Windsor Locks, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 13 of these regulations and any other remedies as provided by law.

SECTION 7

Application Requirements

- 7.1 Any “person” intending to undertake a “regulated activity” or renew or amend a “permit” to conduct such activity shall apply for a “permit” on a form entitled “Town of Windsor Locks Inland Wetlands and Watercourse Agency – Application for Permit.” An application shall include an application form and such information as prescribed by this section and any other information the “Agency” may reasonably require. Application forms may be obtained in the Building Department.
- 7.2 If an application to the Town of Windsor Locks Planning and Zoning Commission for subdivision or re-subdivision of land involves land containing a “wetland” or “watercourse”, the applicant shall, in accordance with section 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a “permit” to the “Agency” in accordance with this section, no later than the day the application is filed with such planning and zoning commission.
- All subdivision applications shall be required to go before the “Agency” for a Determination of Permit Need (Jurisdictional Ruling).
- 7.3 All applications shall contain prescribed information that is necessary for a fair and informed determination of the issues, as specified by the “Agency” or its “designated agent”.
- 7.4 The “Agency” and/or its “designated agent” and the applicant may hold a pre-application meeting to examine the scope of a proposed “regulated activity” or to determine whether or not the proposed application involves a “significant impact activity”. The “Agency” shall state, in writing, the reasons for a “significant impact activity” determination.
- 7.5 All applications shall include the following information in writing or on maps or drawings:
- a. The applicant’s name, home and business mailing address, telephone numbers and the applicant’s interest in the property; if the applicant is a Limited Liability Corporation or a Corporation the managing member’s or responsible corporate officer’s name, address, and telephone number;
 - b. The land owner’s name, mailing address and telephone number and written consent if the applicant is not the owner of the land upon which the subject activity is proposed;
 - a. The applicant’s interest in the land;
 - b. A location map at a scale of 1 inch = 2,000 feet identifying the geographical location of the land which is the subject of the proposed activity;
 - c. The purpose and a description of the proposed activity, and other management practices and mitigation measures which may be considered as a condition of issuing a “permit” for the proposed “regulated activity” including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority; restore, enhance and create productive “wetland” or “watercourse” resources;
 - d. An alternative which would cause less or no environmental impact to “wetlands” or “watercourses” and why the alternative as set forth in the application was chosen, all such alternatives shall be diagrammed on a site plan or drawing;

- e. A site plan at a scale that provides sufficient detail showing existing and proposed conditions, including maximum building areas in relation to “wetlands” and “watercourses” and measures proposed to mitigate the potential adverse environmental impacts. Such mitigation plans should include the “best management practice” proposed to be implemented as part of the project; identify any further activities associated with, or reasonably related to, the proposed “regulated activity” which are made inevitable by the proposed “regulated activity” and which may have an impact on “wetlands” or “watercourses”.
- f. Names and addresses of abutting property owners;
- g. Statement by the applicant that the applicant is familiar with the information provided in the application and is aware of the penalties for obtaining a “permit” by deception or by inaccurate or misleading information;
- h. If the required information cannot be legibly presented on a single site plan, then a plan at a scale of 1 inch equals 100 feet shall be submitted. All site plans shall identify the geographical location of the property and the limits of inland “wetlands” (highlighted in green), “watercourses” (highlighted in blue), “upland review areas” (highlighted in red) and soil erosion controls (highlighted in yellow) within the property boundaries. In addition, it shall identify adjacent lands, adjacent “wetlands” and “watercourses”, affected upstream and downstream areas, 100 year floodplains (with elevations if available), aquifer protection areas, soil types from the published soils survey; it shall also identify existing and proposed of the following; property lines, roads and drives, buildings and associated utilities, topography, spot elevations, lands protected as open space or by private “conservation easement’s”, vegetative covers; and other pertinent features as may be identified by the “Agency” or its “designated agent”.
- k. Authorization for the “Agency” members and their “designated agent” to inspect the property, at reasonable times, during pendency of an application and for the life of the “permit”;
- l. A title block indicating the name of the project, landowner and applicant, name and signature of the “person” preparing the plan or map, date prepared and subsequent revision dates, a legend of symbols used for each plan or map and scale;
- m. Description of the land in sufficient detail to allow identification of the inland “wetlands” and “watercourses”, calculated (1) total area (square feet) of “wetlands” and “watercourses” on the subject property and (2) total area (square feet) of “wetlands”, “watercourses” and “upland review area” that would be disturbed by the proposed regulated activities (and the subset of such area which is just “wetlands” and “watercourses”), soil type(s), and “wetland” vegetation;
- n. Any other information the “Agency” or its “designated agent” deems necessary for the review and evaluation of the application;
- o. Submission of the appropriate filing fee based on the fee schedule established in these regulations;

- 7.6 All applications involving a land use proposal subject to these regulations and also subject to subdivision, site plan review, or special use permit application may be required to contain the following additional information:
- a. All “wetland” boundaries on the subject property shall be identified by a registered or certified “Soil Scientist” and located in the field by a licensed land surveyor. All “wetland” soil types shall be classified by the “Soil Scientist”;
 - b. The “Soil Scientist” shall consecutively number the survey tapes that mark boundary lines of “wetlands” that will be or may be affected by the proposed activity.
 - c. The “Soil Scientist” shall prepare a report that includes the name of the applicant and project, the location of any limits of the property investigated, the dates of the soil investigations, a brief soil description of each soil mapping unit investigated, the set of the consecutive numbers used on survey maps to identify the “wetland” boundaries appearing on the site plan are to the best of his knowledge true and accurate;
 - d. All “watercourses” identified on the property shall be located and identified on the site plan to the satisfaction of the “Agency” or its “designated agent”;
 - e. A site plan shall be submitted at a scale of 1 inch equals 40 feet, or a scale that exhibits greater detail, indicating the following: location and limits of all “wetlands”, “watercourses” and “upland review areas”; existing and proposed conditions in relation to such “wetlands”, “watercourses” and “upland review areas”; location of prominent features within “wetlands”, “watercourses” and “upland review areas” such as bedrock outcrops, stone walls, trees, sand dunes deemed by the “Agency” or its agents to be of critical value, and existing building and drives; names of abutting property owners; soil erosion and sediment control measures; and measures to detain or retain storm water runoff or recharge groundwater; any plantings or habitat improvement; and any other measures proposed to mitigate the potential environmental impacts;
 - f. A map of sufficient scale shall be submitted indicating each surficial drainage area influencing each distinct “wetland” area or “watercourse” on the property;
 - g. A written description of the physical and vegetative characteristics shall be submitted for each distinct “wetland” area;
 - h. Any other specific information reasonably requested by the “Agency” or its “designated agent”;
 - i. Within 365 days of approval, the applicant shall submit to the “Town” Building Department, final plans as approved by the commission. Such plans shall be submitted on paper and/or mylar.
 - j. Photographs of the site, from aerial photography and/or hand held cameras shall be supplied.

- 7.7 At the discretion of the “Agency” or its agent, or when the proposed activity involves a significant impact, additional information, based on the nature and anticipated effects of the activity, may be required including but not limited to:
- a. Site plans at a scale of (1) inch: equal 40 feet (or a scale that provides sufficient detail) for the proposed land use on the subject property which will be affected indicating details of: existing and proposed conditions; “wetland” and “watercourse” and upland review area zone boundaries, and contour intervals of land and other topographic features; boundaries of land ownership; proposed regulated activities; and other pertinent features of land use being proposed on the subject property for development, which plans shall be drawn by a licensed surveyor, professional engineer, or landscape architect registered in the State of Connecticut or by such other qualified “person”;
 - b. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to “watercourses”;
 - c. Soil sample data to include all areas on the property that lie within or partly within an area believed to contain poorly drained, very poorly drained alluvial and/or flood plain soils. The data shall be shown on the site plans and identified in the field by a qualified “Soil Scientist”. The soil type identification must be consistent with the categories established by the National Cooperative Soils Study of the United States Soil Conservation Service;
 - d. Description of the ecological communities and functions of the “wetlands” or “watercourses” involved with the application;
 - e. Description of how the applicant will change; diminish or enhance the ecological communities and functions of the “wetlands” or “watercourses” involved in the application, each alternative to the proposed “regulated activity”, and why each alternative considered was deemed neither feasible nor “prudent”;
 - f. Analysis of the chemical and physical characteristics of any proposed fill “material” to establish the desired type of quality of fill “material” to be used in all “wetlands”, “watercourses” and “upland review areas”;
 - g. Measures that mitigate the impact of the proposed activity;
 - h. Maps and descriptions that identify downstream and down gradient “wetlands”, “watercourses” which are off-site and their condition, existing off-site structures on adjacent properties, and watershed or drainage area boundaries which influence the subject area;
 - i. Biological evaluation that will show the extent of the presence of plant species commonly associated with “swamps”, “bogs”, and “marshes”. Also, the evaluation can include the probable effect of the proposed activity upon those evaluated plant species and upon the indigenous animal life.
 - j. If the proposed activity may affect a “watercourse”, the applicant may be required to submit information relative to the present character and the project impact of the proposed activity upon the “watercourse”.

7.8 All applicants shall certify as to each of the following:

- a. Whether any portion of the “wetland” or “watercourse” on which the “regulated activity” is proposed is located within 500 feet of the boundary of an adjoining municipality;
- b. Whether sewer or water drainage from the project site will flow through and affect the sewage or drainage system within the adjoining municipality; and
- c. Whether water runoff from the improved site will affect streets or other municipal or private property within the adjoining municipality.

7.9 A reporting form shall be completed by the applicant during the application process, which provides the Commissioner of DEEP with information necessary to properly monitor the inventory of State wetlands. A copy of the statewide Inland Wetland Activity Reporting Form shall be part of the application and the applicant shall complete all applicable sections of said form. These completed sections to be provided as part of the application shall include all of the requested information on the form with the exception of the information pertaining to the “Agency’s” decision.

7.10 Fourteen (14) copies of all application materials including supporting documents and plans, shall be submitted to the Inland Wetland and Watercourses Commission, unless otherwise directed in writing by the “Agency” or its “designated agent.” Twelve (12) of the Fourteen (14) sets are for the Commission Members and Recording Secretary and may be reduced onto 11” x 17” sheets. Two (2) copies shall be submitted at the required scale for staff review. The applicant shall provide a copy of the complete application, at the required scale, to the Town Engineer if directed in writing by the “Agency”.

7.11 Any application to renew a “permit” shall be granted upon request of the “permit” holder unless the “Agency” finds that there has been a substantial change in circumstances, which requires a new “permit” application, or an enforcement action has been undertaken with regard to the “regulated activity” for which the “permit” was issued. No extension shall cause a “permit” to be valid for more than a total of ten (10) years per Connecticut General Statute Sec. 22a-42a. See Section 11 for information on duration of permit validity not related to renewals.

Any application to extend the expiration date of a previously issued “permit” or amend an existing “permit” shall be filed with the “Agency” at least sixty-five (65) days prior to the expiration date for the “permit” in accordance with Section 8 of these regulations. Such application for renewal, extension or amendment shall set forth the following information:

- a. The application shall state the name, address and telephone number of the “permit” holder, the address or location description of the property involved, and the dates of issuance and expiration of the “permit”;
- b. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the “permit”;
- c. The application shall describe any changes in facts or circumstances affecting the “wetlands” or “watercourses” on the property for which the “permit” was issued;

- d. The “Agency” may accept a late application to extend an expiration date of a “permit” if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the “permit” is likely to be extended and the public interest or environment will be best served by not interrupting the activity. The application shall describe the extent of work completed for the activities authorized in the “permit”;
- e. The application shall incorporate by reference the documentation and record of the original application; and
- f. The “Agency” shall evaluate the application pursuant to Section 10 of these regulations and grant the application as filed, grant it with any terms or limitations, or deny it.

SECTION 8

Application Procedures

- 8.1 All applications shall be filed for receipt with the Building Department. The application fee shall be paid at the time of filing. A schedule of fees established under Section 18 of these regulations shall be available at the Building Department office.
- 8.2 The date of receipt of any application shall be the day of the next regularly scheduled meeting of the “Agency” immediately following the date of submission or thirty-five (35) days after such submission, whichever is sooner.
- 8.3 At any time during the review period, the “Agency” may require the applicant to provide additional information about the “wetlands”, “watercourses” and “upland review areas”, which are the subject of the application or those which are affected by the proposed activity. Any changes to the original application or plan revisions must be submitted to the commissioners and staff at least 10 days prior to the next scheduled meeting. (The “Agency” shall not exceed the required sixty-five (65) day time limit in taking action on an application pending the receipt of additional information as stated in Section 1.2 of these regulations.)
- 8.4 All applications shall be open for public inspection without prejudice.
- 8.5 Incomplete applications may be denied.
- 8.6 In the case of any application to conduct or cause to be conducted a “regulated activity” upon an inland “wetlands” or “watercourse” is filed, where any portion of the “wetland” or “watercourse” on which such “regulated activity” is proposed is located within 500 feet of the boundary of Suffield, Enfield, Windsor, East Windsor, East Granby, the applicant shall give written notice of the proposed activity, by certified mail return receipt requested, to the adjacent municipal “wetland” agency on the same day of filing a “permit” application with the “Agency”. Documentation of such notice shall be provided to the “Agency”.
- 8.7 The “Agency” shall in accordance with the Connecticut General Statutes section 8-7(d), notify the clerk of any adjoining municipality of the pendency of any application to conduct a “regulated activity” when:

- a. Any portion of the property on which the “regulated activity” is proposed is located within 500 feet of the boundary of an adjoining municipality;
- b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- c. A significant portion of the sewer or water drainage from the project site will flow through and significantly affect the sewage or drainage system within the adjoining municipality; or
- d. Water runoff from the improved site will affect streets or other municipal or private property with the adjoining municipality.

Notice of the pendency of such application shall be made by certified mail, return receipt requested and shall be mailed within seven (7) days of the date of receipt of the application.

- 8.8 When an application is filed to conduct or cause to be conducted a “regulated activity” upon an inland “wetland” or “watercourse”, any portion of which is within the watershed of a water company as defined in Section 16-1 of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said commissioner provided such water company or said commissioner has filed a map showing the boundaries of the watershed on the land records of the “Municipality” in which the application is made and with the Inland Wetlands Agency of such “Municipality”. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven (7) days after the date of application. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application. Documentation of such shall be provided to the “Agency”.

SECTION 9

Public Hearings

- 9.1 The Inland Wetlands Agency shall not hold a public hearing on an application unless the “Agency” determines that the proposed activity may have a significant impact on “wetlands” or “watercourses”, a petition signed by at least twenty-five (25) persons who are eighteen years of age or older and who reside in the “Municipality” in which the “regulated activity” is proposed, requesting a hearing is filed with the “Agency” not later than fourteen days after the date of receipt of such application, or the “Agency” finds that a public hearing regarding such application would be in the public interest. The “Agency” may issue a “permit” without a public hearing provided no petition provided for in this section is filed with the “Agency” on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection.

At such hearing any “person” or persons may appear and be heard and may be represented by agent or by attorney.

- 9.2 Notice of the hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days, nor less than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected “wetland” or “watercourse” is located.

- 9.3 Notice of the public hearing shall be mailed to persons who own land that is adjacent to the land that is the subject of the hearing by the applicant no more than fifteen days and no less than ten days prior to the day of the hearing. Notice of the public hearing shall be sent by certified mail, return receipt requested. The “person” who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed. The applicant shall provide documentation that the owner(s) of adjacent land were duly notified pursuant to the regulations by submitting a copy of return receipts to the “Agency”. If an adjacent property is held in common ownership all unit owners shall be notified individually.
- 9.4 In the case of any application, which is subject to the notification provisions of Section 8.7 of these regulations, a public hearing shall not be conducted until the clerk of such adjoining municipality has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.
- 9.5 The applicant shall be responsible for displaying a sign on the property that states that an application is pending before the “Agency”. The sign shall be visible from a town street and shall be displayed at least ten (10) days before the scheduled public hearing. The applicant may obtain the sign at the Building Department, Town of Windsor Locks.

SECTION 10

Considerations for Decision

- 10.1 The “Agency” may consider the following in making its decision on an application:
- a. The application and its supporting documentation;
 - b. Public comments, evidence and testimony if a public hearing is held;
 - c. Reports from other agencies, commissions, departments and their staffs including but not limited to, the Town Office of Planning and Zoning, Public Works Department, Town Engineer, the North Central Health District, and the Building Department;
 - d. Comments on any application from the Natural Resource Conservation Service, North Central Conservation District, the Environmental Review Team, the Connecticut Department of Energy & Environmental Protection, the Capitol Region Council of Governments, agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
 - e. Non-receipt of comments from agencies and commissions listed in Section 10.1c and 10.1d above within the prescribed time shall neither delay nor prejudice the decision of the “Agency”.
- 10.2 Standards and Criteria for Decision.

In carrying out the purposes and policies of sections 22a-36 to 22a-45 of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the “Agency” shall consider all relevant facts and circumstances in making its decision on any application for “permit”, including but not limited to the following:

- a. The environmental impact of the proposed “regulated activity” on the inland “wetland” or “watercourse”, including the effects on the inland “wetland” and watercourse’s capacity to support desirable biological life, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety;
- b. The applicant’s purpose for, and any feasible and “prudent” alternatives to, the proposed “regulated activity” which alternatives would cause less or no environmental impact to “wetlands” or “watercourses”, including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application. The consideration should include, but is not limited to, the alternative of requiring actions of a different nature, which would provide similar benefits with different environmental impacts, such as using a different location for the activity;
- c. The relationship between the short-term and long-term impacts of the proposed “regulated activity” on “wetlands” or “watercourses” and the maintenance and enhancement of long-term productivity of such “wetlands” or “watercourses”, including consideration of the extent to which the proposed activity involves trade-offs between short-term environmental gains at the expense of long term losses, or vice versa, and consideration of the extent to which the proposed action forecloses or predetermines future options;
- d. Irreversible and irretrievable loss of “wetland” or “watercourse” resources which would be caused by the proposed “regulated activity”, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a “permit” for such activity including, but not limited to, measures to (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive “wetland” or “watercourse” resources. This requires recognition that the inland “wetlands” and “watercourses” of the State of Connecticut are an indispensable, irreplaceable and fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling, and removal of “material”, by the diversion, diminution or obstruction of water flow including low flows, and by the erection of structures and other uses;
- e. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property, including abutting or downstream property which would be caused or threatened by the proposed “regulated activity”, or the creation of conditions which may do so, especially those resulting from activities within the “wetland” or “watercourse”. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and “wetland” plants, the dangers of flooding and pollution, and the destruction of the economic aesthetic, recreational, and other public and private uses and values of “wetlands” and “watercourses” to the community;
- f. Impacts of the proposed “regulated activity” on “wetlands” or “watercourses” outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed “regulated activity” that are made inevitable by the proposed “regulated activity” and which are likely to impact or affect “wetlands” or “watercourses”;

- g. Measures which would mitigate the impact of any aspect of the proposed “regulated activity”. Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to “wetlands” and “watercourses” and which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wildlife, prevent flooding, supply water, control sedimentation, prevent erosion, assimilate “waste”, facilitate drainage, and provide recreation and open space;
 - h. The proposed “regulated activity” does not interfere with the drainage system of the area or does not constitute a possible flood hazard, considering the general topography of the area, the “watercourse” pattern of the vicinity and the size of the drainage areas involved; and
 - i. In applying the above standards and criteria, the “Agency” shall consider activity in the “wetland”, “watercourse” and “upland review area” with respect to its impact on the related “wetland” and/or “watercourse”. Any activity in the “wetland”, “watercourse” or “upland review area”, which is determined by the “Agency” under Section 4.4 of these regulations not to affect any “wetland” or “watercourse”, is not a “regulated activity”.
- 10.3 In the case of an application which received a public hearing pursuant to a finding by the inland “wetlands” agency that the proposed activity may have a significant impact on “wetlands” or “watercourses”, a “permit” shall not be issued unless the “Agency” finds on the basis of the record that a feasible and “prudent” alternative does not exist. In making this finding, the “Agency” shall consider the facts and circumstances set forth within section 10.2. This finding and the reasons therefore shall be stated on the record in writing in the decision of the “Agency”.
- 10.4 In the case of an application which received a public hearing and is denied on the basis of a finding that there may be feasible and “prudent” alternatives to the proposed “regulated activity” which have less adverse impact on “wetlands” or “watercourses”, the “Agency” shall propose for the record in writing the types of alternatives which the applicant may investigate, provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the “permit” or to present alternatives to the proposed “regulated activity”.
- 10.5 For purposes of this section (1) “wetlands and watercourses” includes aquatic, plant or animal life and habitats in “wetlands” or “watercourses” and (2) habitats means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6 The “Agency” shall not deny or condition an application for a “regulated activity” in an area outside “wetlands” or “watercourses” on the basis of an impact or effect on aquatic, plant or animal life unless such activity will likely impact or affect the physical characteristics of such “wetlands” or “watercourses”.
- 10.7 In reaching its decision on any application after a public hearing, the “Agency” shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the “Agency” in its decision. However, the “Agency” is not precluded from seeking advice from its own staff on information already in the record of the public hearing. A conclusion that a feasible and “prudent” alternative does not exist does not create a presumption that a “permit” should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these regulations and Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

SECTION 11
Decision Process and the Issued Permit

- 11.1 In granting a “permit” the “agency” may grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the “regulated activity”, which are designed to carry out the policy of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes. Such terms may include any reasonable measures which would mitigate the impacts of the “regulated activity” and which would (a) prevent or minimize pollution or other environmental damage (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetlands or watercourses.
- 11.2 No later than sixty-five (65) days after receipt of an application, the “Agency” may hold a public hearing on such application. At such hearing any “person” or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw the application. The failure of the “Agency” to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the “Agency” shall be withdrawn by the applicant or denied.
- 11.3 The “Agency” shall state upon its record the reasons and basis for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall incorporate a statement relative to the consideration of feasible and “prudent” alternatives.
- 11.4 The “Agency” shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt, and the “Agency” shall cause notice of its order in the issuance or denial of the “permit”, to be published in a newspaper having general circulation in the “Town” wherein the inland “wetland” or “watercourses” lies. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.
- 11.5 If a “regulated activity” authorized by the “permit” also involves an activity or project which requires zoning or subdivision approval, a special permit, or variance, a copy of the decision and report on the application shall be filed with the Windsor Locks Planning and Zoning Commission within fifteen (15) days of the date of the decision.
- 11.6 The “Agency” or its “designated agent” may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these regulations.
- 11.7 Duration of Permits:
- a. Any “permit” issued under this section for the development of property for which an approval is required under Section 8-3, 8-25, or 8-26 of the Connecticut General Statutes shall be valid for five (5) years.
 - b. Any “permit” issued under this section shall be valid for three (3) years.
 - c. The “Agency” may establish a specific time period within which any “regulated activity” shall be conducted.
 - d. For permit extension requirements see Section 7.11 of these regulations.

- 11.8 No “permit” shall be assigned, transferred, sublet or sold without the written permission of the “Agency”.
- 11.9 If a bond is required in accordance with Section 12 of these regulations, no “permit” shall be issued until such bond is provided.
- 11.10 General provisions in the issuance of all permits:
- a. In evaluating applications in which the “Agency” relied in whole or in part on information provided by the applicant, if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the “permit” may be modified, suspended or revoked.
 - b. All permits issued by the “Agency” are subject to, and do not derogate, any present or future rights or powers of the “Agency” or the “Town”, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal state, and municipal laws or regulations pertinent to the property or activity.
 - c. If the activity authorized by the issued “permit” also involves an activity or a project which requires zoning or subdivision approval, special permit, or variance, no work pursuant to the issued “permit” may begin until such approval is obtained.
 - d. The “permittee” shall take such necessary steps consistent with the terms and conditions of the “permit”, to control storm water “discharges” and to prevent erosion and sedimentation and to otherwise prevent pollution of “wetlands” and “watercourses”.
- 11.11 For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:
- a. For purposes of this section, “conservation restriction” means a limitation, whether or not stated in the form of a restriction, easement or condition in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominately in their natural, scenic or open condition or in agricultural, “farming”, forest or open space use.
 - b. For purposes of this section, “reservation restriction” means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land, including, but not limited to, the state or any political subdivision of the state or in any order of taking of such land whose purpose is to preserve historically significant structures or sites.
 - c. No “person” shall file a permit application, other than for interior work in an existing building or for exterior work that does not expand or alter the footprint of an existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction not later than sixty days prior to the filing of the permit application.

- d. In lieu of such notice pursuant to 11.11c, the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent, verifying that the application is in compliance with the terms of the restriction.
- 11.12 In the case of an application where the applicant has provided written notice pursuant to subsection 11.11c of these regulations, the holder of the restriction may provide proof to the inland wetlands agency that granting of the permit application will violate the terms of the restriction. Upon a finding that the requested land use violates the terms of such restriction, the inland wetlands agency will not grant the permit approval.
- 11.13 In the case of an application where the applicant fails to comply with the provisions of subsections 11.11c or 11.11d of these regulations, the party holding the conservation or preservation restriction may, not later than fifteen (15) days after receipt of actual notice of permit approval, file an appeal with the inland wetlands agency, subject to the rules and regulations of such "Agency" relating to appeals. The "Agency" shall reverse the permit approval upon a finding that the request land use violates the terms of such restrictions.

SECTION 12

Bonding and Insurance

- 12.1 Upon approval of the application and prior to issuance of a "permit", the applicant may at the discretion of the "Agency", be required to file a bond with such surety in such amount and in a form approved by the "Agency". The amount of the bond shall be based on an estimate provided by the applicant from a qualified company of the cost of remedial measures in the event of failure of the applicant to comply with the terms and conditions of the "permit".
- 12.2 The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the "permit".
- 12.3 All bonding for erosion and sedimentation controls must be submitted in a passbook or cash form. This will provide town staff immediate access to funds to respond to erosion and sedimentation or "wetland" emergencies. The amount of this bond is to be determined by the "Agency" commensurate with the "regulated activity" for any damage which might occur during the proposed operation or use of a "wetland".

SECTION 13

Enforcement

- 13.1 The “Agency” or its “designated agent”(s) shall have the authority to inspect property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the “Agency” or its duly authorized agent shall take into consideration the criteria for decision under section 10.2 of these regulations.

If the “Agency” or its “designated agent”(s) finds that any “person” is conducting or maintaining any activity, facility or condition which is in violation of the “act” of these regulations, the “Agency” or its “designated agent” shall follow the guidelines set forth in the “Agency’s” Enforcement Policy provided in Section 13.2 of these regulations, and may:

- a. Issue a written order by certified mail, return receipt requested, to such “person” conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order, the “Agency” shall hold a hearing to provide the “person” an opportunity to be heard and show cause why the order should not remain in effect. The “Agency” shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the “person” in writing by certified mail that the original order remains in effect, that the revised order is in effect, or that the order has been withdrawn. The “Agency” shall publish notice of its decision in a newspaper having general circulation in the “Municipality”. The original order shall be effective upon issuance and shall remain in effect until the “Agency” affirms, revises or withdraws the order. The issuance of an order pursuant to this section shall not delay or bar an action pursuant to Section 22a-44(b) of the Connecticut General Statutes, as amended;
- b. Suspend or revoke a “permit” if it finds that the applicant has not complied with the terms, conditions or limitations set forth in the “permit” or has exceeded the scope of work as set forth in the application including application plans. Prior to revoking any “permit”, the “Agency” shall issue notice to the “permittee” by certified mail, return receipt requested setting forth the facts or conduct which warrants the intended action. At the show-cause hearing, the “permittee” shall be given an opportunity to show that it is in compliance with its “permit” and any and all requirements for retention of the “permit”. The “permittee” shall be notified of the “Agency’s” decision to suspend, revoke, or maintain a “permit” by certified mail within fifteen (15) days of the date of its decision; and
- c. Issue a notice of violation to such “person” conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the “Agency”, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in “wetlands” or “watercourses”. The “Agency” may request that the individual appear at the next regularly scheduled meeting of the “Agency” and discuss the unauthorized activity, and/or provide a written reply to the notice or file a proper application for the necessary “permit”. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Section 13.1 of these regulations or other enforcement proceedings as provided by law.
- d. Call submitted bond, if applicable, in the event of failure of the applicant to comply with the terms and conditions of the “permit”.

13.2 Enforcement policy:

- a. It is the policy of the Windsor Locks Inland Wetland and Watercourses to take enforcement action on a priority basis which results in:
 - i. The cessation of activities or work that is violating the Inland Wetlands and Watercourses Regulations and the Connecticut General Statutes.
 - ii. The timely notification of on-going activities or work that is anticipated to violate the Inland Wetlands and Watercourses Regulations and the Connecticut General Statutes.
 - iii. The follow through of recognized violations to their resolution either through correction, restoration, removal, or authorization through the "permit" process.
- b. Only the Chairman of the Windsor Locks Inland Wetlands and Watercourses "Agency", or in his or her absence, the "Agency's" Vice Chairman or "designated agent"(s), has the authority to issue orders or sign correspondence initiating any other enforcement action. Only the Chairman, or in his or her absence, the Vice Chairman with the consent of the "Agency" shall have the authority to request court action by legal counsel. However, the "designated agent"(s) may seek clarification on legal issues before the "Agency". When negotiating the resolution of a violation either through restoration or the "permit" process, no agent shall have the authority to enter into agreements in any manner or close files. However, a memo or letter or other documentation at the advice of said agent(s) may secure that approval.
- c. The "designated agent" shall make a report to the "Agency" at the first meeting of each month. The report shall be in written form, consisting of the inspection log and wetlands reporting forms, and enforcement correspondence.
- d. In determining the course of action, it shall be the "Agency's" policy to consider:
 - i. The environmental harm caused or anticipated by the violation;
 - ii. The violator's knowledge of the existence of the law;
 - iii. The extent of public concern
- e. It is the policy of the "Agency" to coordinate actions with:
 - i. The Connecticut Department of Energy & Environmental Protection when their responsibilities are known to be involved;
 - ii. Other State of Connecticut agencies when their interests are known.
 - iii. Local officials including, but not limited to the following: the "Agency's" "designated agent"(s), the building inspector, the Director of Public Works, the North Central Health District Sanitarian, the Hartford County Soil and Water Conservation District, agencies in adjacent municipalities.
 - iv. Federal agencies, including but no limited to the following: U.S. Army Corps of Engineers, Environmental Protection Agency, U.S.D.A. Soil Conservation Service, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service.

- f. Through copies of enforcement correspondence, the complainant will be notified of the “Agency’s” actions when possible.
- g. It is the policy of the “Agency” to request, through its attorney, the recovery of enforcement costs in addition to the pursuit of fines above those costs when court action is required to correct the violation. When the “Agency” has evidence of a knowing violation, it may seek additional penalties as provided by state statutes.
- h. The Windsor Locks Inland Wetlands Agency and/or its appointed agents shall make regular inspections of all activities for which permits have been issued under the “Agency’s” regulations. Such activities shall be subject to inspection at all reasonable times. The owner, applicant, or their agent shall have such “permit” readily available and shall produce the same for inspection by such agents of the “Agency” upon request.

SECTION 14
Amendments

- 14.1 These regulations and the Inland Wetlands and Watercourse Map for the Town of Windsor Locks may be amended, from time to time, by the “Agency” in accordance with the changes in the Connecticut General Statutes or regulations of the State Department of Energy & Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.

An application filed with the Inland Wetlands Agency which is in conformance with the applicable Inland Wetlands Regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in Inland Wetlands Regulations (or boundaries), including changes to the Town of Windsor Locks Inland Wetlands and Watercourses Map, taking effect on or after the date of such receipt, and any appeal from the decision of such “Agency” with respect to such application shall not be dismissed by the superior court on the grounds that such change has taken effect on or after the date of such receipt. The establishment, amendment or change of boundaries of inland “wetlands” or “watercourses”, or (2) to any change in regulations necessary to make such regulations consistent with the provisions of Chapter 440 of the General Statutes as of the date of such receipt.

- 14.2 The regulations and the Town of Windsor Locks Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The “Agency” shall provide the “Commissioner of Energy & Environmental Protection” with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except determinations of boundaries, at least thirty-five (35) days before the public hearing on their adoption. Application forms and fee schedules shall be considered as part of the “Agency” regulations.

- 14.3 Petitions or applications requesting changes or amendments to the Inland Wetlands and Watercourse Map, Town of Windsor Locks, Connecticut, shall contain at least the following information:

- a. The applicant’s name, address, telephone number, and written consent to the proposed action set forth in the application;
- b. Applicant’s interest in the land;

- c. The geographic location of the property involved in the application, including a description of the land in sufficient detail to allow identification of the disputed “wetland” or “watercourse” areas;
 - d. The reasons for the requested action;
 - e. The names and addresses of abutting property owners as shown in the records of the tax assessor of the “Municipality” as of the date no earlier than thirty (30) days before the date the application is submitted to the “Agency”; and
 - f. A map, showing any proposed development of the property.
- 14.4 Any “person” who submits a petition to amend the Inland Wetlands and Watercourses map, Town of Windsor Locks, CT, shall bear the burden of proof for all requested map amendments. The “Agency” may require the property owner to present documentation by a “Soil Scientist” that the land in question does not have a soil type classified by the National Cooperative soils survey as poorly drained, very poorly drained, alluvial, or flood plain. Such documentation includes a map of the land in question signed by a soils scientist on which the flag locations defining the boundaries of the regulated soil types are depicted.
- 14.5 “Watercourses” shall be delineated by a qualified “Soil Scientist”, geologist, ecologist or other qualified individual for review by the “Agency” in making a determination.
- 14.6 A public hearing shall be held on petitions to amend the regulations and the Inland Wetlands and Watercourse Map. Notice of the hearing shall be published in a newspaper having a general circulation in the “Municipality” where the land that is the subject of the hearing is located at least twice at intervals of not less than two days, the first not more than fifteen days, nor less than ten days, and the last not less than two days before the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.
- 14.7 The “Agency” shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and Watercourses Map within sixty-five (65) days after receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The “Agency” shall act upon the changes requested in such petition within sixty-five (65) days after completion of such hearing. At such hearing, any “person” or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days or may withdraw such petition. Failure of the “Agency” to act within any time period specified in this subsection or any extension thereof shall not be deemed to constitute approval of the petition.
- 14.8 The “Agency” shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses map was made.

SECTION 15

Appeals

- 15.1 Appeal on actions of the “Agency” shall be made in accordance with the provisions of Section 22a-43 of the General Statutes, as amended.
- 15.2 Notice of such appeal shall be served upon the “Agency” and the “Commissioner of Energy & Environmental Protection”.

SECTION 16

Conflict and Severance

- 16.1 If there is a conflict between the provisions of these regulations, the provision which imposes the most stringent standard for the use of “wetlands” and “watercourses” shall govern. The invalidity of any word, clause, sentence, section, part, subsection or provision of these regulations shall not affect the validity of any other part, which can be given effect without such invalid part or parts.
- 16.2 If there is a conflict between the provisions of these regulations and the provisions of the “Act”, the provisions of the “Act” shall govern.

SECTION 17

Other Permits

- 17.1 Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulations by the Town of Windsor Locks, State of Connecticut and the Government of the United States, including any approval required by the Connecticut Department of Energy & Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

SECTION 18

Fees

18.1 Method of Payment. All fees required by these regulations shall be submitted to the “Agency” by certified check or money order payable to The Town of Windsor Locks at the time the application is submitted.

18.2 Definitions as used in this section:

“Residential Uses” means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.

“Commercial Uses” means activities carried out on property developed for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes, for profit or nonprofit.

“Other Uses” means activities other than residential and commercial uses.

18.3 The “Agency” shall collect the following fees to help defray the costs and expenses of carrying out its duties under these regulations. No application shall be granted or approved by the “Agency” unless the correct application fees have been paid, or a waiver of such has been granted. Boards, Commissions, Agencies, and Departments of the Town of Windsor Locks are exempt from all fee requirements.

Fee for Activities

\$ 15.00 Determination of Permit Need (DPN) (Jurisdictional Ruling)

The DPN fee will be deducted from the fees below if a “permit” is deemed necessary:

\$ 75.00/lot Residential Use plus Fee from Schedule A

\$150.00 Commercial Use plus Fee from Schedule A

\$150.00 Other Uses Plus Fee from Schedule A

\$100.00 Renewals, Extensions or Amendments to Existing Permits

\$300.00 Wetlands Map or Regulation Revisions

The following may be added to the above fees:

\$250.00 Drainage Basin Review

\$125.00 for each proposed additional point of impact to wetlands
(Temporary Soil and Erosion Control Points of Contact will be exempt.)

The following will be added to the above fees for each application:

\$ 60.00 State DEEP Permit Fee (effective 10.1.09 per CGS)

(To be made out to “Town of Windsor Locks” as a separate check)

“Schedule A fee”

For the purpose of calculating the permit application fee, the area in Schedule A is the total area of “wetlands” and “watercourses” and “upland review area” upon which “regulated activity” is proposed.

SQUARE FEET OF AREA

\$75.00 per 1,000 SF, < 1,000 SF

\$20.00 per 1,000 SF, 1,000 - 5,000 SF

\$14.00 per 1,000 SF, > 5,000 SF

- 18.4 As a condition of any “permit”, the “Agency” may require that the applicant engage and pay for an independent consultant to report to the “Agency” the results of project monitoring and/or inspections. The consultant must be pre-approved by the “Agency”, and said consultant shall monitor and/or inspect on a schedule determined by the “Agency”.

The consultant shall send written reports on performance on a schedule determined by the “Agency” simultaneously to the “Agency” and the Building Department, Town of Windsor Locks, 50 Church Street, Windsor Locks, Connecticut, and to the applicant.

- 18.5 The application fee may not be waived and is not refundable.
- 18.6 The “Agency” shall state upon the record the basis for all actions under this section.

SECTION 19
Effective Date of Regulations

- 19.1 These regulations including the Inland Wetlands and Watercourses Map, application forms, fee schedule and amendments thereto, shall be effective as to all applications filed for receipt as provided in Section 8.1 of these regulations on or after November 1, 2016. These regulations shall be filed in the Office of the Town Clerk and the Building Department and notice of such action shall be published in a newspaper having general circulation in the “Municipality”.

