

**INLAND WETLANDS AND WATERCOURSES REGULATIONS  
OF THE TOWN OF WINDSOR, CONNECTICUT**

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## RECORD OF AMENDMENTS

<u>Section(s)</u>	<u>Effective Date</u>	<u>Remarks</u>
8.8	5/12/89	Revisions to fee schedule
8.8	10/11/91	Revisions to fee schedule
2.1 (u)	11/19/91	Revisions to "Regulated Activity"
11.8	12/17/93	Revisions to "Permit Duration"
Varied	7/7/98	Legislative updates
Varied	1/4/00	Revisions for DEEP consistency
7.5	11/12/02	Revision to scale of drawings accepted
7.7	11/12/02	Revision to copies for submission
19.5	11/12/02	Addition of application type
2.1 (g), (l), (m), (n)	4/1/05	Addition of definitions
2.1 (cc), (ll)	4/1/05	Revised area
7.1	4/1/05	Updated location of forms
7.3	4/1/05	Updated wording
9.3	4/1/05	Addition of mail type
11.3	4/1/05	Addition of mail type
19.5	4/1/05	Revisions to fee schedule
8.1–8.5	10/4/05	Legislative updates
9.1	10/4/05	Legislative updates
10.1–10.7	10/4/05	Legislative updates
11.2, 11.6	10/4/05	Legislative updates
15.7, 15.8	10/4/05	Legislative updates

<u>Section(s)</u>	<u>Effective Date</u>	<u>Remarks</u>
19.5	10/4/05	Revisions to fee schedule
20.2	10/4/05	Legislative updates
Varied	7/1/08	Revisions to 2006 model regulations
Varied	6/1/10	Revisions to §§ 2, 3, 7, 13, & 19
Varied	5/1/11	Revisions to §§ 1, 2, 7, 9, 10, & 11
Varied	9/22/12	Revisions to §§ 4.1, 4.2, 7.10, & 11.6
Varied	1/17/13	Revisions to §§ 11.1, 11.6, & 11.6.1
2.1 (ii)	2/4/15	Revision to "Regulated Activity"
Varied	6/2/20	Revision to §§ 2.1 (z), 10.9, 20 & 21

**Section 1**  
**Title & Authority**

- 1.1 The inland wetlands and watercourses of the state of Connecticut are 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; 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 unregulated 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 recreational 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 their disturbance and pollution; 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, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the State, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.
- 1.2 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Windsor, Connecticut."

- 1.3 The Inland Wetlands and Watercourses Commission of the Town of Windsor was established in accordance with an ordinance adopted on March 4, 1974, and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Windsor.
- 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 Inland Wetlands and Watercourses Commission of the Town of Windsor shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities in the Town of Windsor pursuant to §§ 22a-36 through 22a-45, of the General Statutes, as amended.

**Section 2**  
**Definitions**

- 2.1 As used in these regulations:
  - a. **Act** means the Inland Wetlands and Watercourses Act, §§ 22a-36 through 22a-45 of the General Statutes, as amended.
  - b. **Agency** means the Inland Wetlands and Watercourses Commission of the Town of Windsor.
  - c. **Algicide** means a substance or agent used to kill algae.
  - d. **Bog** means a watercourse distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.
  - e. **Clear-cutting** means the harvest of timber in a fashion that removes all trees to a minimum size of two inches in diameter at breast height.
  - f. **Commission member** means a member of the Inland Wetlands and Watercourses Commission of the Town of Windsor.
  - g. **Commissioner of Energy and Environmental Protection** means the Commissioner of the Department of Energy and Environmental Protection for the state of Connecticut.
  - h. **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.

- i. **Deposit** includes, but shall not be limited to: fill, grade, dump, place, discharge or emit.
- j. **Discharge** means emission of any water, substance, or material into waters of the State whether or not such substance causes pollution.
- k. **Environment** means the physical, biological, social, and economic surroundings and conditions that exist within an area that may be affected by a proposed action including land, air, water, minerals, flora, fauna, and noise.
- l. **Environmental Impact Evaluation** means a detailed written document concerning the impacts of a proposed action on the wetlands or watercourses that must include relevant descriptions of: (1) cumulative, direct and indirect effects which might result during and subsequent to the proposed action; (2) any adverse environmental effects which cannot be avoided; (3) any irreversible and irretrievable commitments of resources should the proposal be implemented; (4) the analysis of the short term and long term environmental costs and benefits of the proposed action; and (5) alternatives considered whether they avoid, minimize, or mitigate the environmental consequences.
- m. **Essential to the farming operation** means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.
- n. **Farming** shall be defined in a manner consistent with the definitions noted in § 1-1 (q) of the General Statutes.
- o. **Feasible** means able to be constructed or implemented consistent with sound engineering principles.
- p. **Fertilizer** means a solid or nonsolid substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.
- q. **Fungicide** means a substance or agent that destroys or is capable of destroying fungi.

- r. **Herbicide** means a substance or mixture of substances used to destroy a plant or to inhibit plant growth.
- s. **Integrated Pest Management Plan (IPM)** means an approach which first assesses the pest situation, evaluates the merits of pest management options and then implements a system of complementary management actions within a defined area. The goal of IPM is to mitigate pest damage while protecting human health, the environment and economic viability. Integrated Pest Management is a dynamic system that is adaptable to diverse management approaches.
- t. **License** means the whole or any part of any permit, certificate of approval or similar form of permission which may be required of any person by the provisions of General Statutes §§ 22a-36 through 22a-45.
- u. **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.
- v. **Marsh** means a watercourse that is 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.
- w. **Material** means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste.
- x. **Minimal Impact** means the least potential adverse impact from a proposed action on the wetlands or watercourses.
- y. **Mitigation measure** means: (1) limiting the degree or magnitude of the proposed adverse action, activity or effect; (2) rectifying by



repairing, rehabilitating or restoring the proposed or actual adverse impact or effect to the environment; (3) reducing or eliminating the proposed or actual impact or effect over time by preservation and maintenance operations; or (4) compensating for the proposed or actual impact or effect by replacing or providing substitute resources or environments.

- z. **Municipality** means any town, consolidated town and city, consolidated town and borough, city and borough.
- aa. **Nurseries** means places where plants are grown for sale, transplanting, or experimentation.
- bb. **Permit** see license.
- cc. **Permittee** means the person to whom a license has been issued.
- dd. **Person** means any person, firm, partnership, association, corporation, limited liability company, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- ee. **Pesticide** means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- ff. **Pollution** means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials 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 resulting from any filling or excavation activity.
- gg. **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.
- hh. **Rare Wetlands** means Mill Brook, Silver Birch Pond, Lang Bog, Goodwin 1, Spring Dam Pond, West Brook, Northwest Park Bog, Northwest Park Wetland 5, and River Island as described by Clements 1981 wetland inventory as having "habitats uncommon in this region which, because of the habitat type or functional importance are unique in Windsor."

- ii. **Regulated Activity** means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in § 22a-40 of the General Statutes. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of stormwater on the land within **150 feet** measured horizontally from the boundary of any wetland or watercourse is a regulated activity. The Agency may rule that any other activity located within such **upland review area** or in any other nonwetland or nonwatercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.
  
- jj. **Remove** includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear-cut timber, bulldoze, dragline or blast.
  
- kk. **Rendering unclean or impure** means any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity, or taste.
  
- ll. **Rodenticide** means a substance or preparation used for killing rodents.
  
- mm. **Significant impact** means any activity, including, but not limited to, the following activities, which may have a major effect:
  - 1. Any activity involving a deposition or removal of material which will or may have a substantial effect on the wetland or watercourse or on the wetlands or watercourses outside the area for which the activity is proposed.
  - 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 aquatic, plant or animal life and habitats; 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 the wetland or watercourse.
  6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse including any part of a septic system located within 100 feet of a wetland or watercourse.
  7. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.
- nn. **Soil Scientist** means an individual duly qualified in accordance with standards set by the State and Federal Offices of Personnel Management.
- oo. **Stormwater runoff** means water resulting from rain or snowmelt that runs off surfaces such as rooftops, paved streets, highways, parking lots, and other surfaces which may acquire and transport contaminants. The water eventually flows into local streams, rivers or lakes, or into a storm drain and continues through stormwater collection system until it is released untreated into a local waterbody.
- pp. **Submerged lands** means those lands that are inundated by water on a seasonal or more frequent basis.
- qq. **Swamps** are watercourses that are distinguished by the dominance of wetland trees and shrubs.
- rr. **Town** means the Town of Windsor, Connecticut.
- ss. **Upland Review Area** means the land within 150 feet measured horizontally from the boundary of any watercourse or wetland as defined in these regulations and determined by a registered soil scientist where activity may occur with the granting of a permit from the Agency. The Agency shall take into consideration all relevant facts and circumstances, including but not limited to: (1) the environmental impact that the proposed activity in the defined area will have on wetlands or watercourses; (2) feasible and prudent alternatives to the proposed activity that would cause less or no environmental impact to the wetlands or watercourses; (3) the relationship between the short-term and long-term impacts of the proposed activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses; and (4) Irreversible and irretrievable loss of wetland

or watercourse resources which would be caused by the proposed upland 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 or create productive wetland or watercourse resources.

- tt. **Vernal Pool** means a depression in the landscape that tends to fill with water during spring and late fall and become drier during the summer months. It shall be natural and lack a permanent outlet or any fish population. Further, the capability of supporting breeding and development of one or more of the obligate species which include fairy shrimp, spotted salamander, Jefferson salamander, marbled salamander, wood frog, and eastern spade foot toad is necessary to conclusively define the vernal pool.
- uu. **Waste** means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the town.
- vv. **Water quality standards** means standards consistent with the federal Clean Water Act established under Connecticut's Clean Water Act (Chapter 446k of the General Statutes) for the purpose of improving the water resources of the state by establishing broad policy and goals for permitting discharges to the waters of the State and for the abatement of pollution. They are part of a program to protect the public health and welfare, promote economic development, and to preserve and enhance the quality of State waters for present and prospective future use for public water supplies, propagation of fish and aquatic life and wildlife, recreational, agricultural, industrial and other legitimate uses.
- ww. **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 regulated pursuant to §§ 22a-28 through 22a-35 of the General Statutes. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a

particular storm incident, and (c) the presence of hydrophytic vegetation.

- xx. **Wetlands** means land, including submerged land as defined in this section, not regulated pursuant to §§ 22a-28 through 22a-35 of the General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites that possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

### **Section 3 Inventory of Regulated Areas**

- 3.1 The map of wetlands and watercourses, entitled "Inland Wetlands and Watercourses Map, Windsor, Connecticut," delineates the **general** location and boundaries of inland wetlands and the **general** location of watercourses. Other maps used to determine wetlands include the 1977 or 1978 Metropolitan District Plane Rectangular Coordinate System 1,000 foot Grid, the National Flood Insurance Program Flood Insurance Rate Map Panel #090041-0005D dated September 26, 2008, and the Town of Windsor Assessor's Geographic Information System. Copies of the Inland Wetlands and Watercourses Map for the Town of Windsor shall be made available for inspection by the Town Clerk, the Town Assessor, and the Agency. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and location of watercourses. 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 person may petition the Agency for an amendment to the Inland Wetlands and Watercourses Map for the Town of Windsor. All petitions for such a map change shall be submitted in writing and shall include all relevant facts and circumstances that support the change. The petitioner shall bear the burden of proof regarding the proposed map amendment. Such proof may include aerial photography, remote sensing imagery, resource mapping or other available information. The Agency may require such person to provide an accurate delineation of regulated areas in accordance with Section 15 of these regulations.
- 3.3 The Agency or its designated agent shall maintain a current inventory of regulated areas within the town. The Agency may amend the Inland

Wetlands and Watercourses Map for the Town of Windsor as more accurate information becomes available.

- 3.4 All amendments of the Inland Wetlands and Watercourses Map for the Town of Windsor are subject to the public hearing process outlined in Section 15 of these regulations.

**Section 4**  
**Permitted Uses as a Right & NonRegulated Uses**

- 4.1 The following operations and uses shall be permitted in inland 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 and Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision shall not be construed to include the following: 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, clear cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale.
  - b. A residential home (1) for which a building permit has been issued, or (2) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to General Statutes § 22a-42a (b), or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subsection unless the building permit was obtained on or before July 1, 1987.
  - c. Boat anchorage or mooring, not to include dredging or dock construction.
  - d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the town provided that in the event there are no zoning regulations establishing minimum residential lot sites in the town, the largest minimum lot size shall be two acres. 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 onto a wetland or watercourse or diversion or alteration of a watercourse.

- e. Construction and operation, by water companies as defined in § 16-1 of the General Statutes or by municipal water supply systems as provided for in Chapter 102 of the General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in §§ 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 § 22a-42a of the General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subsection, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.
- g. Withdrawals of water for fire emergency purposes.

4.2 The following operations and uses shall be permitted, as nonregulated 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.
- b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing, shellfishing and cross-country skiing where otherwise legally permitted and regulated.
- c. The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, "dry hydrant" means a nonpressurized pipe system that: (1) is readily accessible to fire department apparatus from a proximate public road, (2) provides for the withdrawal of water by suction to such fire department apparatus, and (3) is permanently installed into an existing lake, pond or stream that is a dependable source of water.

- 4.3 All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with Section 6 of these regulations or, for certain regulated activities located outside of wetlands and watercourses, from the duly authorized agent in accordance with Section 12 of these regulations.
- 4.4 To carry out the purposes of this section, any person proposing a permitted operation and use or nonregulated operation or use shall, prior to commencement of such operation or use, notify the Agency on a form provided by it, and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The Agency or its designated agent shall rule that the proposed operation or use or portion of it is a permitted or a nonregulated use or operation or that the proposed operation or use is a regulated activity and a permit is required.

## **Section 5 Activities Regulated by the State**

- 5.1 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over regulated activities and other activities, in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the state of Connecticut, except any local or regional board of education, pursuant to §§ 22a-39 or 22a-45a of the General Statutes.
- 5.2 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to §§ 22a-28 through 22a-35 of the General Statutes.
- 5.3 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Energy and Environmental Protection under § 22a-402 of the General Statutes or a dam construction permit issued by the Commissioner of Energy and Environmental Protection under §§ 22a-403 or 22a-41 of the General Statutes. Any person receiving such dam repair or removal order or dam construction permit shall not be required to obtain a permit from the Agency for any action necessary to comply with said dam order or to carry out the activities authorized by said dam permit.

## **Section 6 Regulated Activities to be Licensed**



- 6.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Agency.
- 6.2 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, or violating any other provisions of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these regulations and any other remedies as provided by law.

## **Section 7**

### **Application Requirements**

- 7.1 Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity shall apply for a permit on a form provided by the Agency. The application shall contain information described in this section and any other information the Agency may reasonably require. Application forms may be obtained in the Windsor Planning Department or from the Agency.
- 7.2 If an application to the Town of Windsor Planning, Zoning, or Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with §§ 8-3(g), 8-3c, or 8-26 of the General Statutes, as applicable, 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, zoning, or planning and zoning commission.
- 7.3 The application shall contain such information as is necessary for a fair and informed determination thereon by the Agency. All supporting information for an application shall be submitted to the Agent no later than noon six days prior to the date of the meeting. Information received after that date shall be considered untimely and will be postponed to the next meeting.
- 7.4 A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity.
- 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, and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation, the managing members' or corporate officers' names, addresses, and telephone numbers.

- b. The owner's name, mailing address and telephone number and written consent of the land owner if the applicant is not the owner of the land upon which the subject activity is proposed.
- c. The applicant's interest in the land.
- d. The geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, a computation of the area (in acres or square feet) of wetland or watercourse to be disturbed, soil types, and wetland vegetation.
- e. The purpose and a description of the proposed activity, proposed erosion and sedimentation controls to comply with the 2002 Connecticut Erosion and Sedimentation Control Guidelines, 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.
- f. Alternatives which would cause less or no environmental impact to wetlands or watercourses considered by the applicant and why the alternative as set forth in the application was chosen; all such alternatives shall be diagramed on a site plan or drawing. An environmental impact evaluation may be required by the Agency to determine if the impact of the activity is significant.
- g. A site plan showing existing and proposed conditions in relation to wetlands and watercourses and identifying 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.
- h. The names and addresses of adjacent property owners within 100 feet of the property.
- i. A statement that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information.
- j. An authorization for the commission members and agents of the Agency to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit.

- k. A completed Department of Energy and Environmental Protection reporting form; the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Energy and Environmental Protection in accordance with § 22a-39-14 of the Regulations of Connecticut State Agencies; Submission of documentation verifying that Department of Energy and Environmental Protection's Natural Diversity Database has been checked for the presence of any state-listed species or significant natural communities on the property.
- l. Any other information the Agency deems necessary to the understanding of what the applicant is proposing.
- m. submission of the appropriate filing fee based on the fee schedule established in Section 19 of these regulations.

7.6 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, including, but not limited to the following, is required:

- a. Site plans for the proposed activity and the property which will be affected, which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and proposed activity drawn to a 1" = 40' or 1" = 100' scale by a licensed surveyor, professional engineer, or landscape architect licensed by 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 and the proposed erosion and sedimentation control plan.
- c. Calculations for a 100-year storm in sensitive areas (e.g., the Mill Brook watershed).
- d. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the United States Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be depicted on the site plans.
- e. Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activities on these communities and wetland

functions; Biological Inventory if the affected property is believed to include any portion of a swamp, bog or marsh, the applicant shall submit an inventory of the extent of the presence of plant species and native obligate species in the form of an environmental impact evaluation as defined in Section 2.1 (l).

- f. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application, and each alternative which would cause less or no environmental impact to wetlands or watercourses, and a description of why each alternative considered was deemed neither feasible nor prudent.
- g. Analysis of chemical or physical characteristics of any fill material.
- h. Management practices and other measures designed to mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.
- i. Results from Baseline Water Quality testing from an independent laboratory to comply with Connecticut Surface Water Quality Standards, effective December 17, 2002, completing all tests for Class A criteria.
- j. A Stormwater Quality Management Plan providing analysis and evaluation using calculations of water pollutant mass loadings between storm events and water pollutant concentrations (milligrams per liter) generated from traffic, parking lots, and other surfaces during storm event designations acceptable to the Agency (e.g. one year, five year, etc.). The applicant shall identify and use known pollutant models for the calculations. The Stormwater Quality Management Plan shall include the best available management practices and technologies preferred for treating unacceptable pollution loads and concentrations including all maintenance practices and schedules.
- k. The Agency may require that applicants provide an Integrated Pest Management Plan to mitigate the adverse effects from any activity, which may use herbicides, pesticides, algaecides, fungicides, rodenticides, and fertilizers within a regulated activity.

7.7 The applicant shall certify whether:

- 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. traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
  - c. sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
  - d. water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- 7.8 Two copies of all application materials and ten copies of the engineered drawings reduced to 11" x 17" for Agency review shall be submitted to comprise a complete application or as is otherwise directed, in writing, by the Agency. One page of the engineered drawing shall show only stormwater management and proposed treatment.
- 7.9 Any application to renew or amend an existing permit shall be filed with the Agency at least sixty-five days prior to the expiration date for the permit in accordance with Sections 8 of these regulations. Any application to amend or renew such an existing permit shall contain the information required under section 7 of these regulations provided:
- a. The application may incorporate the documentation and record of the original application.
  - b. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized by the permit.
  - c. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or the property for which the permit was issued.
  - d. The Agency may accept an untimely application to extend the 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 renewed and the public interest or environment will be best served by not interrupting the activity. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit.

- e. 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.
- 7.10 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, provided that no permit shall be valid for no more than ten years, and further provided that any permit issued prior to July 1, 2011, that did not expire prior to May 9, 2011, shall be valid for no more than fourteen years.
- 7.11 For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:
- a. For purposes of this subsection, "conservation 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 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 predominantly in their natural, scenic, or open condition or in agricultural, farming, forest, or open space use.
  - b. For purposes of this subsection, "preservation 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 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 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 on an existing building that does not expand or alter the footprint of such 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, including, but not limited to, any state agency that holds such restriction, not later than sixty days prior to the filing of the permit application.

- d. In lieu of such notice pursuant to subdivision 7.11 (c) of these regulations, the applicant may submit a letter to the Agency from the holder of such restriction or from the holders' authorized agent, verifying that the application is in compliance with the terms of the restriction.

**Section 8**  
**Application Procedures**

- 8.1 All petitions, applications, requests or appeals shall be submitted to the town's Inland Wetlands and Watercourses Agent.
- 8.2 When an application to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse is filed any portion of which is within the watershed of a water company as defined in § 16-1 of the General Statutes, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed on the town's land records and with the Agency. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency.
- 8.3 The Agency shall, in accordance with General Statutes § 8-7d (f), notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:
  - a. any portion of the property affected by a decision of the Agency is within 500 feet of the boundary of the 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 on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
  - d. water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, appeal, request or plan.

- 8.4 The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to the Agency or its Agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner.
- 8.5 At any time during the review period, the Agency may require the applicant to provide additional information about the regulated area or regulated activity that is the subject of the application, or wetlands or watercourses affected by the regulated activity. Requests for additional information shall not stay the time limitations as set forth in Section 11.2 of these regulations.
- 8.6 All applications shall be open for public inspection.
- 8.7 Incomplete applications may be denied.

## **Section 9 Public Hearings**

- 9.1 The 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 or a petition signed by at least twenty-five persons who are eighteen years or older and who reside in the town, 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 to thereto shall be open for public inspection. At such hearing, any person may appear and be heard.
- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each municipality where the affected wetland and watercourse is located.
- 9.3 Notice of the public hearing shall be mailed, **by the applicant**, to the owner(s) of record within 100 feet of the property line no less than fifteen days prior to the day of the hearing. Such notice shall be made by certified mail, return receipt requested or a stamped certificate of mailing from the United States Postal Service. Documentation of such notice shall be provided to the Agency.



- 9.4 In the case of any application which is subject to the notification provisions of Section 8.3 of these regulations, a public hearing shall not be conducted until the clerk of each relevant adjoining municipality has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

**Section 10**  
**Considerations for Decision on Permits**

- 10.1 The Agency may consider the following in making its decision on an application:
- a. The application and its supporting documentation.
  - b. Reports from other agencies and commissions, including but not limited to the following commissions or officials of the town:
    1. the Conservation Commission;
    2. the Planning, Zoning, or Planning or Zoning Commissions;
    3. the Building Official;
    4. the Health Officer; and
    5. the Town Engineer.
  - c. The Agency may also consider comments on any application from the North Central Connecticut Conservation District, the Capitol Region Council of Governments, or other regional organizations (e.g., Connecticut River Watershed Council); agencies in adjacent municipalities that may be affected by the proposed activity, or other technical agencies or organizations that may undertake additional studies or investigations.
  - d. Nonreceipt of comments from agencies and commissions listed in subdivisions 10.1 (b) and (c) above within the prescribed time shall neither delay nor prejudice the decision of the Agency.
  - e. For an application for which a public hearing is held, public comments, evidence, and testimony.
- 10.2 Criteria of Decision. In carrying out the purposes and policies of §§ 22a-36 through 22a-45 of the General Statutes, including matters relating to regulating, licensing, and enforcing of the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances, including, but not limited to the following:

- a. The environmental impact of the proposed regulated activity on wetlands or watercourses.
- b. The applicants' 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.
- c. The relationship between the short-term, long-term, and cumulative impacts of the proposed regulated activity on wetlands and the maintenance and enhancement of long term productivity of such wetlands or watercourses.
- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by 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 (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.
- 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 activity, or the creation of conditions which may do so. 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 which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.

- 10.3 In the case of an application that received a public hearing pursuant to a finding by the 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 in subsection 10.2. The finding and the reasons therefore shall be stated on the record in writing.
- 10.4 In the case of an application which 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 wetland or watercourses, the Agency shall propose on 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 or 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. 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 this application is consistent with the purposes and policies of these regulations and §§ 22a-36 through 22a-45 of the General Statutes.
- 10.8 In the case of an application where the applicant has provided written notice pursuant to subdivision 7.11 (c) or (d) of these regulations, the holder of the restriction may provide proof to the 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 Agency shall not grant the permit approval.
- 10.9 In the case of an application where the applicant fails to comply with the provisions of subsections 7.11 (c) or (d) of these regulations: (1) the party holding the conservation or preservation restriction, other than a state

agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the Agency, subject to the rules and regulations relating to appeals, and, if such an appeal is filed, the Agency shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction; or (2) the state agency that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the Agency, subject to the rules and regulations relating to appeals and, if such an appeal is filed, the Agency shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.

- 10.10 Nothing in subdivisions 7.11 (c) or (d) of these regulations shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit application will occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction.

## **Section 11 Decision Process & Permit**

- 11.1 The Agency, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed, grant it upon other terms, conditions, limitations or modifications of the regulated activity which are designed to carry out the purposes and policies of the Act, or deny the application. 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 wetland or watercourse resources. Such terms may include restrictions as to the time of year in which a regulated activity may be conducted, provided the Agency, or its agent, determines that such restrictions are necessary to carry out the policy of §§ 22a-36 through 22a-45 of the General Statutes.
- 11.2 No later than sixty-five 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 days of its commencement and action shall be taken on applications within thirty-five days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five 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 any such period shall not be for longer than sixty-five days or may withdraw such 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 must either be withdrawn by the applicant or denied by the Agency.

- 11.3 The Agency shall state upon its record the reasons and bases for its decision and shall incorporate a statement relative to the consideration of feasible and prudent alternatives.
- 11.4 The Agency shall notify the applicant and any person entitled to such notice of its decision within fifteen days of the date of the decision by certified mail, return receipt requested, or a stamped certificate of mailing from the U.S. Postal Service, and the Agency shall cause notice of its order in the issuance or denial of the permit, in a newspaper having general circulation in the town. In any case in which such notice is not published within such fifteen-day period, the applicant may provide for the publication of such notice within ten days thereafter.
- 11.5 If an activity authorized by the inland wetland permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, or variance or special exception, under §§ 8-3 (g), 8-3 (c), or 8-26 of the General Statutes, the Agency shall file a copy of the decision and report on the application with the Town of Windsor Planning, Zoning, or Planning and Zoning Commission within fifteen days of the date of the decision thereon.
- 11.6 Any permit issued by the Agency for the development of land for which an approval is required under chapter 124, 124b, 126 or 126a of the General Statutes shall be valid until the approval granted under such chapter expires or for ten years, whichever is earlier. Any permit issued by the Agency for any activity for which an approval was not required under chapter 124, 124b, 126 or 126a shall be valid for not less than two years and not more than five years.
- 11.6.1 Notwithstanding the provisions of Section 11.6 of these regulations, any permit issued by the Agency prior to July 1, 2011, that was in effect and did not expire prior to May 9, 2011, shall be valid for a period not less than nine years after the date of such approval.
- 11.7 If the Agency denies a permit, the application shall not be resubmitted unless the proposal is modified in a fashion that substantially changes the impacts which resulted in the denial. Such submittal shall take the form of a new application.

- 11.8 No permit shall be assigned or transferred without the written permission of the Agency.
- 11.9 If a bond or insurance is required in accordance with Section 13 of these regulations, no permit shall be issued until such bond or insurance is provided.
- 11.10 General provisions in the issuance of all permits:
- a. The Agency has relied in whole or in part on information provided by the applicant and 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 subject land or activity.
  - c. If the activity authorized by the Agency's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exemption under §§ 8.3 (g), 8-3 (c), or 8-26 of the General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained.
  - d. In constructing the authorized activities, the Permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetland and watercourses.

## **Section 12**

### **Action by Duly Authorized Agent**

- 12.1 The Agency may delegate to its duly authorized agent the authority to approve or extend a 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 provided such agent has completed the comprehensive training program developed by the Commissioner of Energy and Environmental Protection pursuant to § 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under Section 7.5 of these regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing

applications prescribed in Sections 8, 9, and 11 of these regulations, such agent may approve or extend such an activity at any time.

- 12.2 Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within fifteen days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these regulations.

### **Section 13 Bond & Insurance**

- 13.1 The Agency may require as a permit condition the filing of a cash bond in such amount approved by the Agency.
- 13.2 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.
- 13.3 The Agency may require the applicant to certify that it has public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which might occur within two years of completion of such operations, in an amount to be determined by the Agency commensurate with the regulated activity.
- 13.4 The formula for calculating the wetland performance bond amount will be the total of the applicable following items:
- a. \$2,500 per detention basin;
  - b. \$60 per catch basin; and
  - c. \$0.50 per square foot of disturbance within a wetland, watercourse or in the closest fifty feet to either a wetland or watercourse.

The applicant shall be liable for all adverse environmental damage resulting from violation of the permit in accordance with the Town ordinances.

## **Section 14 Enforcement**

- 14.1 The Agency may appoint an agent or agents to act in its behalf with 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.
- 14.2 The Agency or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued with the consent of the property owner or the authorized agent of the owner during the life of the permit.
- 14.3 In the case in which a permit has not been issued or a permit has expired, the Agency or its agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- 14.4 If the Agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility, or condition which is in violation of the Act or these regulations, the Agency or its duly authorized agent 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 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 days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a 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 town. 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 § 22a-44 (b) of the General Statutes, as amended.
  - b. 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 to discuss the unauthorized activity, and/or provide a written reply to the notice or filing a proper application for the necessary permit. Failure to carry out any action directed in such a notice of violation may result in issuance of the order provided in subdivision (a) of this subsection or other enforcement proceedings as provided by law.

- 14.5 The Agency may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application, including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the Permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a public hearing to provide the Permittee 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 personal service or certified mail within fifteen days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the town.

### **Section 15 Amendments**

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Windsor may be amended from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the State Department of Energy and Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2 An application filed with the Agency which is in conformance with these regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in these regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of the Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to 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 the Act as of the date of such receipt.

- 15.3 These regulations and the Inland Wetlands and Watercourses Map for the Town of Windsor shall be amended in the manner specified in § 22a-42a of the General Statutes, as amended. The Agency shall provide the Commissioner of Energy and 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 days before the public hearing on their adoption. Application forms and fee schedules shall be considered as part of the Agency regulations.
- 15.4 Petitions requesting changes or amendments to the Inland Wetlands and Watercourses Map for the Town of Windsor shall contain at least the following information:
- a. the applicant's name, address, and telephone number;
  - b. the owner's name (if not the applicant), address, telephone number, and a written consent to the proposed action set forth in the application;
  - c. the applicant's interest in the land;
  - d. a map showing the geographic location of the property involved in the petition and the existing and proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations;
  - e. the reasons for the requested action; and
  - f. the names and addresses of adjacent property owners.
- 15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map for the Town of Windsor shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Agency. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 15.4, the petition shall include the following:
- a. The name, mailing address, and telephone number of the owner(s) of such land and the owner(s) agent or other representative(s).
  - b. The names and mailing addresses of the owners of abutting land.

- c. Documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types.
  - d. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- 15.6 Watercourses shall be delineated by a soil scientist, geologist, ecologist, or other qualified individual.
- 15.7 A public hearing shall be held on petitions to amend the Inland Wetland and Watercourses Map for the Town of Windsor. Notice of the hearing shall be published in a newspaper having 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 of such hearing. All materials including maps and documents relating to the petition shall be open for public inspection.
- 15.8 The Agency shall hold a public hearing on a petition to amend the regulations or the Inland Wetlands and Watercourses Map for the Town of Windsor within sixty-five days after receipt of such petition. The hearing shall be completed within thirty-five days after commencement. The Agency shall act upon the changes requested in such petition within sixty-five 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 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.
- 15.9 The Agency shall make its decision and state, in writing, the reasons why the change to the Inland Wetlands and Watercourses Map for the Town of Windsor was made.

## **Section 16 Appeals**

- 16.1 Appeal on actions of the Agency shall be made in accordance with the provisions of § 22a-43 of the General Statutes, as amended.

16.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Energy and Environmental Protection.

**Section 17**  
**Conflict & Severance**

17.1 If there is a conflict among the provisions of these regulations, the provision that imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision, 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.

17.2 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 18**  
**Other Permits**

18.1 Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits, or licenses required by law or regulation by the town, the Government of the State of Connecticut, or the Government of the United States, including but not limited to any approval required by the Connecticut Department of Energy and Environmental Protection or the United States Army Corps of Engineers. Obtaining such assents, permits, or licenses is the sole responsibility of the applicant.

**Section 19**  
**Application Fees**

19.1 Method of Payment. All fees required by these regulations shall be submitted by check or money order payable to the Town of Windsor at the time the application is filed with the Agency.

19.2 No application shall be granted or approved by the Agency unless the correct application fee is paid in full or unless a waiver has been granted by the Agency pursuant to subsection 19.7 of these regulations.

19.3 The application fee is not refundable.

19.4 Definitions. As used in this section:

- a. "Residential use" means activities carried out on property developed for permanent housing or being developed to be occupied permanent housing.

- b. “Commercial use” 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.
- c. “Other Uses” means activities other than residential uses or commercial uses.

19.5 The Agency shall collect the following fees to help defray the costs and expenses of carrying out its duties under these regulations:

a. **Regulated Activities:**

Summary Ruling:

Residential: \$100 per lot, plus fee from schedule A.

Recreational: \$100 per acre of regulated area affected by the proposed activity.

Commercial, Industrial, Residential Multi-Family, or Other Use: \$300, plus fee from schedule A.

Plenary Ruling:

Residential: \$200 per lot, plus fee from schedule A.

Recreational: \$200 per acre of regulated area affected by the proposed activity.

Commercial, Industrial, Residential Multi-Family, or Other Use: \$600, plus fee from schedule A.

Complex Application Fee: The Agency may charge an additional fee sufficient to cover the cost of reviewing and acting on complex applications. Such fee may include, but is not limited to, the cost of retaining experts to analyze, review, and report on issues requiring such experts. The Agency or the duly authorized agent shall estimate the complex application fee which shall be paid pursuant to section 19.1 of these regulations within 10 days of the applicant's receipt or notice of such estimate. Any portion of the complex application fee in excess of the actual cost shall be refunded to the applicant no later than 30 days after publication of the Agency's decision.

b. **Permitted and Nonregulated Uses:**

Permitted Uses as of Right: \$0.

Nonregulated Uses: \$0.

An application is expected to be completed and presented to the Commission as a courtesy and to discuss Best Management Practices.

- c. **State Reporting Fee:** \$60.
- d. **Modification by homeowner to owner-occupied lot:** \$25.
- e. **Permit Revisions or Modification:** \$90.
- f. **Wetlands Permit Renewal:** \$70.
- g. **Amendments to the Inland Wetlands and Wetlands Map for the Town of Windsor:** \$250 plus fee from schedule B.
- h. **Regulation Amendment Petitions:** \$250, exclusive of any costs associated with notices or regulation advisories required by DEEP.
- i. **Public Hearing Fee:** \$250.
- j. **Compliance Inspections:** Upon discovery of a violation of the approved wetlands plan or of an illegal wetlands activity, it may be necessary for additional inspections to be conducted by the Wetlands Agent or other technical staff in order to correct the violations noted. In such cases, the owner of the land or the person causing the violation will be charged for the additional inspection services conducted by the town. Fees for such services will be determined based on actual salary costs, fringe benefits, and any compliance with the wetland regulations. Minimum \$25 per inspection.
- k. **SCHEDULE A.** \$100 per acre. For the purpose of calculating the permit application fee, the area in schedule A is the total area of wetlands and watercourses and upland regulated area upon which a regulated activity is proposed.
- l. **SCHEDULE B.** For the purpose of calculating the map amendment petition fee, linear feet in schedule B is the total length of the wetlands and watercourses boundary subject to the proposed boundary change.

LINEAR FEET

- |    |                 |       |
|----|-----------------|-------|
| a. | Less than 500   | \$250 |
| b. | 500 to 1,000    | \$500 |
| c. | More than 1,000 | \$750 |

m. **Violations:**

As approved by town ordinance:

- Failure to appear before the Commission when directed: \$25.
- Carrying on activities without a permit, or carrying on activities not authorized by a permit in the upland review area, which do not pose an immediate danger to a wetland or watercourse: \$75.
- Carrying on activities without a permit, or carrying on activities not authorized by a permit in the upland review area, which may pose an immediate danger to a wetland or watercourse: \$150.
- Carrying on activities without a permit, or carrying on activities not authorized by a permit in a wetland or watercourse which cause limited and/or correctable damage to the wetland or watercourse: \$200.
- Excavating in, filling or draining of any portion of a wetland or watercourse without a permit: \$750.
- Carrying on activities without a permit, or carrying on activities not authorized by a permit, which cause sediment to flow into any wetland or watercourse or otherwise cause the pollution of any portion of a wetland or watercourse: \$750.

n. Cease and Desist Order: \$250 minimum.

19.6 Exemption. Boards, commissions, councils, and departments of the town are exempt from all fee requirements.

19.7 Waiver. The applicant may petition the Agency to waive, reduce, or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this subsection. The Agency may waive all or part of the application fee if the Agency determines that:

- a. the activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, or

- b. the amount of the application fee is clearly excessive in relation to the cost to the town for reviewing and processing the application.

The Agency shall state upon its record the basis for all actions under this subsection.

**Section 20**  
**Effective Date of Regulations**

- 20.1 These regulations shall become effective upon filing with the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the town.